DECISION OF THE JOINT COMMITTEE OF THE CENTRAL EUROPEAN FREE TRADE AGREEMENT 2006

No. 2/2021

On the provision of data by the CEFTA Parties to the CEFTA Secretariat

Adopted on 2 July 2021

PREAMBLE

The Joint Committee

Having regard to Article 40.4 of Annex 1 to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement (CEFTA 2006), done in Bucharest on 19 December 2006;

Having regard to the commitments under the CEFTA 2006;

Having regard to the commitments under the CEFTA Additional Protocol 5 on trade facilitation (hereinafter referred to as, "AP 5");

Having regards to the commitments under the Additional Protocol 6 on Trade in Services (hereinafter referred to as, "AP 6"), adopted on 18 December 2019;

Acknowledging the importance of gathering data to monitor and evaluate the implementation of commitments by the CEFTA Parties;

Acknowledging that the CEFTA Secretariat requires access to certain aggregated multivariate statistical analyses based on non-business-sensitive data;

Recognising that CEFTA Parties wish to maintain an adequate level of confidentiality, professional secrecy, and data protection;

Has decided as follows:

Article 1
Definitions

(1) "*Data*" means any information, whether or not processed or analysed, and documents, reports and other communications in any format, including electronic, or certified or authenticated copies thereof, which is collected to prepare the aggregated statistical reports.

(2) "*Raw Data*" means any data directly collected from a source and not processed or aggregated.

(3) "*Aggregated Data*" means data combined from several measurements and where groups of observations are replaced with summary statistics based on those observations.

(4) "*Business-sensitive Data*" means any Raw Data that contains information that would pose a risk to a business operator if released to a competitor or the general public.

(5) "*Competent Authorities*" means the CEFTA Parties' relevant authorities, such as, but not limited to, those responsible for Customs, services, food safety, animal and plant health, and quality.

(6) "*Contractor*" means any services provider contracted by the CEFTA Secretariat to support the CEFTA Parties' competent authorities to prepare and generate aggregated statistical reports for the CEFTA Secretariat.

(7) "*Confidential Information*" means any and all information which is disclosed directly or indirectly, electronically, visually, or in a written or other tangible form and that is marked or otherwise identified in writing as "*Confidential*" at the time of disclosure. Confidential Information includes, but is not limited to, technology, know-how, trade secrets, patented or copyrighted information, computer programs, software, software documentation, formulas, data, inventions, algorithms, techniques, processes, business information, marketing plans, strategies, financial information, forecasts, budgets, third party confidential information and customer and prospective customer lists and information.

(8) "*SEED*" means the system and platform for the Systematic Exchange of Electronic Data (SEED), the SEED+, or any future iterations thereof.

Article 2
Scope and objective

(1) The CEFTA Parties shall collect data, as further defined in the Annexes to this Decision.

(2) The CEFTA Parties shall provide certain non-business sensitive data, as further defined in the Annexes to this Decision, to the CEFTA Secretariat.

(3) The data to be gathered shall be determined by the CEFTA Secretariat in light of the specific needs to monitor and evaluate the implementation of trade facilitation instruments.

Article 3
Implementation by the CEFTA Secretariat

(1) The CEFTA Secretariat shall be in charge of the collection, analysis, and publication of the data defined in the Annexes to this Decision.

(2) When necessary, the CEFTA Secretariat shall engage with a Contractor to assist the CEFTA Parties' Competent Authorities to prepare and generate the relevant data. For purposes of defining the services to be provided by the Contractor, as well as the applicable terms and conditions that apply, the CEFTA Secretariat shall enter into an agreement with the Contractor, in line with the scope defined in the Annexes to this Decision.

Article 4
Cooperation between Competent Authorities and the Contractor

(1) The Competent Authorities shall prepare and generate the relevant data autonomously or in cooperation with a Contractor designated by the CEFTA Secretariat.

(2) The Competent Authorities shall base their cooperation with the Contractor on an agreement with the Contractor using the template prepared by the CEFTA Secretariat.

Article 5
Confidentiality

(1) Any Raw Data shall remain confidential.

(2) The CEFTA Secretariat shall ensure that the contract with the Contractor and that any agreement between the Contractor and the CEFTA Parties' relevant competent authorities provide rules on confidentiality.

Article 6
Annexes and review

(1) The Joint Committee shall adopt Annexes to this Decision.

(2) The adopted Annexes shall be reviewed periodically. The review shall be undertaken by the CEFTA Secretariat and, if necessary, the CEFTA Secretariat shall propose any amendments for adoption to the Joint Committee.

Article 7
Entry into force

(1) This Decision enters into force on the date of its adoption and shall apply from 1 September 2021.

(2) Adopted in Skopje on 2 July in the presence of representatives of all CEFTA Parties.

Annex 1 to Decision No. 2/2021

On the provision of Customs data by the CEFTA Parties to the CEFTA Secretariat

Article 1
Definitions

(1) "*Data*" means any information, whether or not processed or analysed, and documents, reports and other communications in any format, including electronic, or certified or authenticated copies thereof, which is collected to prepare the aggregated statistical reports.

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(3) "*Aggregated Data*" means data combined from several measurements and where groups of observations are replaced with summary statistics based on those observations.

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(5) "*Competent Authorities*" means the CEFTA Parties' relevant authorities, such as those responsible for Customs, services, food safety, animal and plant health, and quality.

(6) "*Contractor*" means any services provider contracted by the CEFTA Secretariat to support the CEFTA Parties' competent authorities to prepare and generate aggregated statistical reports for the CEFTA Secretariat.

(7) "*Confidential Information*" means any and all information which is disclosed directly or indirectly, electronically, visually, or in a written or other tangible form and that is marked or otherwise identified in writing as "*Confidential*" at the time of disclosure. Confidential Information includes, but is not limited to, technology, know-how, trade secrets, patented or copyrighted information, computer programs, software, software documentation, formulas, data, inventions, algorithms, techniques, processes, business information, marketing plans, strategies, financial information, forecasts, budgets, third party confidential information and customer and prospective customer lists and information.

(8) "*SEED*" means the system and platform for the Systematic Exchange of Electronic Data (SEED), the SEED+, or any future iterations thereof.

Article 2
Collection and provision of data by Competent Authorities

The CEFTA Parties Competent Authorities shall make available data collected under the systematic exchange of electronic data (e.g., the Systematic Exchange of Electronic Data (SEED), the SEED+ or any future iterations thereof).

Article 3
Type of data reports

The following types of Aggregated Data reports shall be created from the Raw Data contained in the SEED system:

a) Number of trucks
   Number of loaded and empty trucks (freight means of transport) crossing the Border Crossing Point(s) (BCP(s)) / Common Crossing Point(s) (CCP(s)) in CEFTA.

b) Number of Customs declarations/documents
   Number of consignments in trucks (freight means of transport) crossing the Border Crossing Point(s) (BCP(s)) / Common Crossing Point(s) (CCP(s)) in CEFTA.

c) Waiting Time at Border Crossing Point(s) (BCP(s)) / Common Crossing Point(s) (CCP(s))
   Average waiting times of the trucks (freight means of transport) at the Border Crossing Point(s) (BCP(s)) / Common Crossing Point(s) (CCP(s)) in CEFTA.

d) Risk management
   Number of notifications per common risk profiles, percentage of customs controls of the consignments, and percentage of discrepancies.

e) Data on AEOs

Article 4
Data series

The Aggregated Data shall be provided as one or a combination of several of the following data series:

a) Type of goods series
   Goods types are determined by tariff classification (HS code), up to HS8 level; and/or

b) Geographical series
   Geographical series determined by the Border Crossing Point (BCP) / Common Crossing Point (CCP) or group of Border Crossing Points) (BCPs) / Common Crossing Points (CCPs);

c) Time series (determined the by following periods: week, month, year); and

d) Type of economic operators, such as AEOs.

Article 5
Report format

The Aggregated Data reports shall be provided periodically electronically by the CEFTA Parties' Customs Administration.

Article 6
Use of data

(1) The Raw Data shall only be used for aggregated multivariate statistical analyses.

(2) Aggregated Data reports collected from the CEFTA Parties' Customs Administrations' servers shall be used for the purposes of monitoring and evaluating the implementation of trade facilitation instruments.

(3) The CEFTA Secretariat may publish the Aggregated Data referred to in Articles 3 and 4 of this Annex.

Article 7
Automation of generation and dissemination of statistical reports

The CEFTA Parties shall pursue the automation of the generation and dissemination of Aggregated Data reports in the context of future improvements of the SEED system.

Article 8
Technical support for the preparation of statistical reports

(1) If necessary, the CEFTA Parties' Customs Administrations shall be assisted by a Contractor to prepare and generate the Aggregated Data reports.

(2) For the purposes of providing technical support for the generation and the automation of the generation of statistical reports, the CEFTA Parties' Customs Administrations may allow the Contractor to access the SEED system remotely through a Virtual Private Network (VPN) connection.

(3) Any person accessing the Raw Data shall sign a statement of confidentiality.

(4) Remote access shall be limited to certain employees of the Contractor and subject to the conditions laid out in the Agreements between the Contractor and the CEFTA Parties' Customs Administrations.

Article 9
Data protection and confidentiality

(1) The Contractor shall not disclose or communicate any Confidential Information or any information derived from it to any third party except as permitted by this Annex.

(2) The Contractor shall promptly notify the respective CEFTA Parties' Customs Administrations of any unauthorised disclosure or use of Confidential Information by any recipient of the data and shall provide the respective CEFTA Parties' Customs Administrations all reasonable assistance in connection with any action by or on its behalf to prevent or stop such disclosure or use, and/or to obtain compensation for such disclosure or use.

(3) The Contractor shall not reverse engineer, decompile, copy or export any Confidential Information.

(4) The Contractor shall take reasonable precautions to protect the Confidential Information.

(5) This Confidentiality Agreement imposes no obligation upon the Parties with respect to Confidential Information which either Party can establish by legally sufficient evidence: (a) was rightfully within the possession of the recipient of the data without restriction on disclosure prior to it being furnished to the recipient of the data by the Customs Administrations or their agents; (b) is or has become in the public domain through no act or failure to act on the part of the Recipient; (c) is rightfully disclosed or made available to the recipient of the data on a non-confidential basis by a third party having the right to disclose it without an obligation of confidentiality; (d) is independently developed by the recipient of the data without reference to any Confidential Information or the participation of any person who has had access to the Confidential Information.

(6) The Contractor may disclose Confidential Information to the extent necessary to comply with any applicable law, order, regulation, ruling, subpoena or order of a Party's authority or tribunal with competent jurisdiction, provided, however, that the respective CEFTA Parties' Customs Administrations is notified prior to any disclosure so that it may seek appropriate protection or limitation of the disclosure. The Contractor and the CEFTA Secretariat shall provide reasonable cooperation to the respective CEFTA Parties' Customs Administration and its legal counsel in seeking such protection or limitation of the disclosure.

(7) The data is provided "*as-is*" and the respective CEFTA Parties' Customs Administrations makes no representation or warranty of any kind with respect to the suitability, accuracy, or completeness of the Confidential Information, or with respect to non-infringement of third party rights.

(8) The respective CEFTA Parties' Customs Administrations shall not be liable for any action or inaction in reliance upon any Confidential Information. The Contractor does not acquire any license, right, title or interest in the Confidential Information except the limited right to use the Confidential Information in accordance with the above provisions.

(9) All Confidential Information furnished under the above provisions shall remain the property of the respective CEFTA Parties' Customs Administration and shall be returned immediately upon a request by the respective CEFTA Parties' Customs Administration. Any summaries, compilations or extracts of Confidential Information prepared by the Contractor or the CEFTA Secretariat shall be deemed Confidential Information and shall be subject to the terms of this Agreement.

(10) The obligation to protect Confidential Information shall survive the expiration or termination of the agreements between the Competent Authorities, the Contractor, and the CEFTA Secretariat and continues indefinitely or until the Confidential Information no longer meets the requirements being confidential information under this Annex.