

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

No 1/2019

**Establishing the validation procedure for the mutual recognition of CEFTA
Parties' national Authorised Economic Operators' Programmes with regard to
the safety and security (AEOS)
Adopted on 18 December 2019**

The Joint Committee

Preamble

Having regard to Articles 40.4 and 41.5 of Annex 1 to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement Consolidated Version of the Central European Free Trade Agreement CEFTA 2006 (hereinafter referred to as "CEFTA") done in Bucharest on 19 December 2006, in particular Articles 3(3), 25, and 27 of CEFTA Additional Protocol 5 (hereinafter referred to as "AP 5");

Having regard to Annex III of CEFTA Additional Protocol 5 setting up the requirements according to which the status of Authorised Economic Operator shall be granted by each CEFTA Party in line with, and facilitations to be granted to, Authorised Economic Operators as specified thereby;

Having resolved to eliminate the obstacles to their mutual trade, in accordance with the provisions of the Marrakesh Agreement Establishing the World Trade Organisation (hereinafter referred to as "WTO"), and to progressively establish closer trade relations;

Having resolved to conduct their mutual trade relations in accordance with the rules and disciplines of the WTO, whether or not they are Members of the WTO;

Taking into full account of the importance of the positive contribution of trade facilitation to economic development;

Emphasising the role of the EU alignment process in each CEFTA Party offering a common standard as reflected in Articles 3(3), 25, 26 and Annex III of the AP 5 triggering the mutual recognition of programmes, documents, and inspections among CEFTA Parties;

Considering that no provision of this Decision may be interpreted as exempting the CEFTA Parties from their obligations under other international agreements, especially the WTO;

Having resolved to strengthen trade-economic relations and mutual understanding among CEFTA Parties;

Acknowledging the importance of international cooperation, and also the strive to expand regional cooperation;

Considering that the CEFTA Parties are determined to improve safety and security in the trade in goods entering or exiting their territories, without hampering trade flows;

Seeking to facilitate trade development through the introduction of modern forms and methods of inspection;

Acknowledging the need to exchange data by employing electronic instruments with the aim of strengthening and improving the quality of risk analysis by CEFTA Parties;

Underlining the necessity of investment on information and communication technologies to facilitate the electronic exchange of information among CEFTA Parties, as required by this Decision;

Emphasising the importance of a complete review to be undertaken by each CEFTA Party confirming the readiness of its information and communication technology infrastructure for the implementation of the provisions of this Decision requiring the electronic exchange of data at the national level;

Expressing the readiness of CEFTA Parties to cooperate with the European Union and other international donors willing to provide financial assistance to the necessary investments to cater to the information and communication technology needs of CEFTA Parties for the implementation of the Decision; and

Considering that CEFTA Parties have an adequate level of professional secrecy and personal data protection;

Considering that Mutual Recognition of AEOs is a key element of the WCO SAFE Framework of Standards to strengthen end-to-end security of supply chains and to multiply benefits for traders; by mutual recognition of AEOs the customs administrations involved agree to recognise the AEO authorisation issued under the other programmes and to provide reciprocal benefits to AEOs of the other programmes;

Considering that CEFTA Parties should nominate experts for validation missions to other CEFTA Parties in order to allow for mutual recognition of AEOs; these experts will represent the CEFTA Secretariat and not their home administration.

Has decided as follows

Article 1

Scope

- 1.1 This Decision shall apply to the validation procedure for the mutual recognition of CEFTA Parties' national Authorised Economic Operators' Programmes with regard to the safety and security (AEOS).
- 1.2 The definitions in Article 1 of the AP 5 shall apply.
- 1.3 The CEFTA Parties endeavour to provide, in line with the WCO SAFE framework of standards and the relevant EU provisions, the benefits for AEO with regard to safety and security as provided in Articles 9 to 11 of Annex III of the AP 5.
- 1.4 With regard to the protection of professional secrecy and personal data the principles of Article 27 of the AP 5 shall apply.
- 1.5 The CEFTA Secretariat shall provide all the necessary logistical and organizational support for the validation procedure under this Decision.

Article 2

Conditions for starting the validation procedure for the mutual recognition

- 2.1 In order to be eligible for starting the validation procedure for the mutual recognition (hereinafter referred to as "validation procedure"), a CEFTA Party must have:
 - a) ratified the AP 5,
 - b) introduced, in line with Article 3(3) and Annex III of the AP 5, legal provisions and put in place an operational AEO programme with regard to safety and security, including an appropriate self-assessment questionnaire (SAQ), appropriate validation audits for applicants for AEOS status, the benefits laid down in paragraph 1.3 of Article 1 of this Decision for holders of an AEOS authorisation, and an IT system for storing and transmitting AEOS data,
 - c) trained officials who will be able to explain the national legal provisions and how they are applied in practice on AEOS and the relevant IT system in English,
 - d) nominated an official and a deputy acting as AEOS contact point, these officials shall have the required legal, procedural and IT knowledge,
 - e) nominated to the CEFTA Secretariat experts for validation missions to other CEFTA Parties, in accordance with paragraph 2.2 of this Article.
- 2.2 Each CEFTA Party shall nominate and send to the CEFTA Secretariat, within 60 days from the date of its adoption, a list of the following number of experts, as candidates for validation missions (hereinafter referred to as "validators") to other

CEFTA Parties, with the following profiles, to the extent that such experts are available:

- a) two officials with the required legal and procedural knowledge,
- b) two risk management officials,
- c) two customs auditors (with the required IT knowledge), and
- d) two officials with the required knowledge of supply chain safety and security.

- 2.3 By nominating the validators, the CEFTA Party concerned engages itself to authorize that any validator selected for the CEFTA validation mission shall represent the CEFTA Secretariat and not the administration of the CEFTA Party.
- 2.4 Before any validation mission, the selected validators shall sign a statement that they will act in an impartial manner, that they will respect the required confidentiality, and that there is no conflict of interest. The statement shall be kept at the CEFTA Secretariat.
- 2.5 The officials referred to in points a) – d) of paragraph 2.2 of this Article must be capable of preparing a validation mission report in English. In order to be placed on the list of the validators (hereinafter referred to as “the list”), they must sign a statement that they will act as a team leader and/or prepare a validation mission report, if requested by the CEFTA Secretariat. The list shall be accompanied by the CVs of the nominated validators.
- 2.6 In order to keep the list updated, the CEFTA Parties shall regularly send the updates to the CEFTA Secretariat, together with the documents referred to in paragraph 2.2 and 2.5 of this Article.

Article 3

Application for starting the validation procedure

- 3.1 The application shall be sent to the CEFTA Secretariat and be accompanied by the transmission of:
 - a) all the relevant legal provisions, instructions and guidelines in English, and correlation tables between domestic Customs legislation and the EU acquis relevant for AEO Programmes,
 - b) the organisational structure for granting, monitoring, suspending and revoking AEOs authorisations,
 - c) the text of the application/authorisation form and the self-assessment questionnaire (SAQ) in English,
 - d) a description in English of the IT system for storing and transmitting the data on AEOs, including the data security and data protection mechanisms,

- e) the name and the position of the AEOS contact point and the deputy acting AEOS contact point, as defined in point d) of paragraph 2.1 of Article 2 of this Decision, as well as of the name and position of the officials who will be available for the validation procedure in their own Customs administration as defined in point c) of paragraph 2.1 of Article 2 of this Decision,
 - f) a written engagement to exchange with other CEFTA Parties and the CEFTA Secretariat supply chain security and risk management information,
 - g) the rules for the dialogue with, and information of, economic operators, including reports or other documents related to such meetings for the last three years,
 - h) the list of AEOS companies from which the validation team will select at least three, from whom the requesting CEFTA Party shall obtain the written agreement for an on-site visit to their premises by the validators, observers, and officials from the requesting CEFTA Party.
- 3.2 Before initiating the validation procedure, the CEFTA Secretariat, or CEFTA Parties via the CEFTA Secretariat, may request further information or clarification.
- 3.3 The information referred to in paragraphs 3.1 and 3.2 of this Article shall be shared only between the persons participating in the validation mission referred to in Article 5 of this Decision.

Article 4

Initiation of the validation procedure

- 4.1 Once the CEFTA Secretariat has received all the necessary information for initiating the validation procedure, it proceeds as follows:
- a) It selects from the list for each CEFTA Party at least one of their experts, taking into account that in the validation team there should be at least one expert for each of the profiles laid down in points a) – d) of paragraph 2.2. of Article 2 of this Decision,
 - b) it nominates or invites one or several observers with the required knowledge and experience accompanying the validators. These observers shall have access to all the information gathered during the validation procedure. The observers shall be experts on AEO issues or representatives from the CEFTA Secretariat. The experts on AEO issues shall not be from the CEFTA Parties.
- 4.2 The team of nominated validators determines by simple majority the person who will take the role of the team leader and the validator drafting the validation report. The team may determine by simple majority that the report is drafted by another member of the team than the team leader.
- 4.3 The requesting CEFTA Party nominates itself the officials attending the validation mission. These officials are not acting as validators but are entitled to attend, and

contribute to, the deliberations of the validators and observers. These officials need to fulfil the conditions referred to in point c) of paragraph 2.1 of Article 2 of this Decision.

- 4.4 The validators, the observers and the officials nominated by the requesting CEFTA Party are bound by the professional obligation to protect confidential information, in particular with regard to business secrets and risk-information, gathered during the validation mission. Besides the validators, also the observers and the officials nominated by the requesting CEFTA Party shall sign the statement referred to in paragraph 2.4 of Article 2 of this Decision.

Article 5

The validation mission and subsequent information gathering

- 5.1 The validators shall determine during their mission, and where necessary subsequently, all the relevant facts, including a verification of whether the rules transmitted to the CEFTA Secretariat are applied, and provide a mission report, recommending or not the mutual recognition of the AEOS Programmes. Such recommendation must be supported by the simple majority of the validators.
- 5.2 The observers shall draft an opinion on the validation process.
- 5.3 After the validation mission, and possibly after further information requests have been fulfilled, in case there are no divergences between the validation report which recommends mutual recognition of the AEOS Programmes and the opinion of the observers' the CEFTA Secretariat shall submit the draft validation mission report to the CEFTA Committee of Trade Facilitation.
- 5.4 If divergences persist between the report and the opinion a consultation period of 14 calendar days shall apply. After the consultation period has expired, the CEFTA Secretariat shall submit the, possibly amended, draft validation mission report and the, possibly amended, observers' opinion, which are recommend mutual recognition of the AEOS Programmes, to the CEFTA Committee of Trade Facilitation.
- 5.5 In case substantial divergences remain after the period referred to in paragraph 5.4 of this Article and if the opinion of the observers is positive, the opinion shall be submitted to the CEFTA Committee of Trade Facilitation.
- 5.6 In case the validation report and the observer`s opinion are negative or in case the observer`s opinion is negative, the requesting CEFTA Party can submit a new application no earlier than one year after the validation mission.
- 5.7 The CEFTA Secretariat shall bear the costs related to the validation mission.

Article 6

Recognition of the AEOS Programme

- 6.1 In case the validation report and the observers' opinion are positive or in case the observers' opinion is positive, the decision on mutual recognition of the AEOS Programme the CEFTA Committee of Trade Facilitation shall recommend it to the Joint Committee for adoption.
- 6.2 Upon the adoption by the Joint Committee, each CEFTA Party shall comply with paragraph 8.1 of Article 8 of this Decision as of the 30th day after the notification of the relevant AEOS list by the CEFTA Secretariat.

Article 7

Procedure after a CEFTA Party's AEOS Programme has been recognised

- 7.1 Once a CEFTA Party has been recognised as fulfilling the conditions for mutual recognition of its AEOS Programme, it shall submit to the CEFTA Secretariat the data referred to in Article 26 of the AP 5 for each holder of an AEOS authorisation.
- 7.2 The CEFTA Secretariat shall make the information referred to in paragraph 7.1 of this Article available on its website, insofar as the economic operator concerned has agreed to such publication.
- 7.3 The CEFTA Parties shall ensure, through a common format, that their import and export clearance systems are capable of recognising the AEOS from other CEFTA Parties, so that the applicable benefits can be granted.
- 7.4 Whenever a change of the information transmitted in accordance with paragraph 7.1 of this Article occurs or new applicants have been granted an authorisation, an update is immediately sent electronically to the CEFTA Secretariat which makes it immediately available on its website, and to the CEFTA Parties concerned.

Article 8

Mutual recognition and exceptions

- 8.1 AEOS from a CEFTA Party whose AEOS Programme has been recognised shall be granted the same benefits as AEOS who have been granted an authorisation in the CEFTA Party in which the customs clearance takes place. If a CEFTA Party has not yet adopted its own AEOS Programme, it shall at least grant the benefits referred to in Articles 9 to 11 of Annex III AP 5.

- 8.2 The CEFTA Parties shall make available on their website in English the benefits they grant to AEOS from other CEFTA Parties which have been recognised. These benefits shall be the same as those granted to AEOS within their own customs territory.
- 8.3 In case a CEFTA Party determines that an AEOS from another CEFTA Party whose AEOS Programme has been recognised has infringed the customs rules, it shall immediately inform, with the relevant facts the CEFTA Party which granted the AEOS authorisation and the CEFTA Secretariat, so that the CEFTA Party which granted the AEOS authorisation can suspend or revoke the authorisation. The CEFTA Secretariat shall inform all other CEFTA Parties.
- 8.4 The CEFTA Party which discovered the infringement as well as other CEFTA Parties are entitled not to apply the AEOS benefits to the economic operator concerned, until the competent CEFTA Party has suspended or revoked the AEOS authorisation, or decided that the AEOS authorisation can be maintained.

Article 9

Coordination and training

- 9.1 The CEFTA Secretariat shall organise regular meetings of AEOS contact points and deputy AEOS contact points, procedural, audit, risk and IT experts in order to:
- a) promote and improve the AEOS programmes of the CEFTA Parties, including the elaboration of awareness raising material,
 - b) coordinate and standardise the processes and the AEOS application/authorisation form,
 - c) align the data, their format, and IT requirements for the storage and transmission of information concerning AEO, including fall-back solutions and tests,
 - d) promote a common framework for risk management to be applied on AEOS,
 - e) develop, improve and enhance common AEOS guidelines, and self-assessment questionnaires,
 - f) lay down the functional and technical specifications of the CEFTA AEO database and its interface,
 - g) lay down the functional and technical specifications for the storage and exchange of supply chain security and risk management information,
 - h) resolve conflicts between CEFTA Parties with regard to AEOS Programmes and their application,
 - i) establish procedural rules and any other technical details concerning validation missions.
- 9.2 The CEFTA Secretariat shall organise training sessions for officials involved in AEOS Programmes as well as public events promoting the AEOS concept in the CEFTA Parties.

9.3 The CEFTA Secretariat shall bear the costs referred to in paragraphs 9.1 and 9.2 of this Article, provided enough funding is available.

Article 10
Review and updates

This Decision shall be reviewed after two years following its adoption and may be amended by the CEFTA Joint Committee.

Article 11
Entry into force

This decision enters into force on the date of its adoption and shall apply on 1 April 2020.

Adopted in Tirana on 18 December 2019 in the presence of representatives of all CEFTA Parties.