

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

No. 3/2014

Establishment of CEFTA Open Fund

Adopted on 21 November 2014

The Joint Committee,

Having regard to the Agreement on Amendment of and Accession to the Central European Free Trade Agreement, CEFTA 2006, (hereinafter the "Agreement") done in Bucharest on 19 December 2006.

Having taken into account the necessity of ensuring uninterrupted functioning of CEFTA Structures, in particular the sustainable functioning of CEFTA Secretariat,

Having regard to substantially increase in the activities undertaken by the CEFTA Secretariat with a deepened scope which requires a financial facility that can be mobilised in order to support its institutional capacity,

Having regard to the intention of CEFTA Parties to benefit from the savings recorded from the contributions of CEFTA Parties by creating such financial facility which will serve the objectives above,

Having regard to the effective and successful implementation of the EU aligned procurement rules in the framework of the CEFTA Project Facility by the CEFTA Secretariat,

Has decided:

Article 1

Pursuant to Article 40 (2) to the Agreement, CEFTA Open Fund is established under management of the CEFTA Secretariat in accordance with the attached Terms of Reference.

The Terms of Reference of the CEFTA Open Fund are annexed to this Decision and shall form an integral part of it.

Article 2

Budget of CEFTA Open Fund created from the savings of CEFTA Parties contributions and future contributions except the EU.

This decision was adopted by all CEFTA Parties in the presence of their representatives, except by Bosnia and Herzegovina which made a reservation regarding (completion of) its internal procedure.

This decision enters into force on the date following the date of the receipt of the written communication (notice) with which Bosnia and Herzegovina confirms to the Chair in Office, that internal procedures for the adoption of this decision have been fulfilled.

Adopted in Skopje on 21 November 2014

Annex to the Decision No.1/2014

TERMS OF REFERENCE OF CEFTA OPEN FUND

1. Overall Objective

The overall objective of CEFTA Open Fund is to support functioning of CEFTA Structures through the efforts of strengthening and sustaining institutional capacity of the CEFTA Secretariat.

2. Specific Objectives

The specific objective is to utilise the savings recorded from financial contributions of CEFTA Parties in the areas which are not eligible for EU financial assistance but directly related to the institutional capacity of the Secretariat.

3. Expected Results

The CEFTA Secretariat is able to respond to any challenge in the period between 2014 and 2020 and to sustain its institutional existence in an uninterrupted way through taking most appropriate actions under the principle of sound financial management.

4. Contracting Authority

The Contracting Authority of CEFTA Open Fund will be the CEFTA Secretariat. The officer who is authorised to sign contracts thereof is Director of the Secretariat.

5. Procurement Rules

The procurement rules which are employed in the CEFTA Project Facility will also be implemented in the tendering/contracting of the Open Fund. The Secretariat agreed the EC Procurement Rules which are applicable for contracts having the allocated budget below EUR 200,000. In particular, the competitive negotiated procedure is applied for contracts having the budget between EUR 199,999 and EUR 10,000. The EC rules of direct contracting are applied for contracts having the budget below EUR 10,000.

6. Budget

The allocated budget of CEFTA Open Fund is 360,000 EUR for three years of implementation of the Open Fund and is opened for contributions from bilateral donors.

7. Disbursement

The disbursement of the Open Fund will be according to the annual financing programme adopted by the Joint Committee.

8. Programming of the Open Fund

8.1. Identification and formulation

The priority areas together with individual projects and projects under which activities can be financed by the Open Fund will be identified by the CEFTA Secretariat and proposed to the Joint Committee as part of the Annual Activity Programme of the CEFTA Secretariat. The annual financing programme of the Open Fund takes effect once it is approved by the Joint Committee.

The CEFTA Secretariat will be responsible to formulate the priority areas into individual projects which can be contracted by the Open Fund.

CEFTA Parties will be informed through its Contact Points about projects to be contracted and financed by the Open Fund.

8.2. Tendering

The tendering will be carried out by the CEFTA Secretariat. The Secretariat will be the Contracting Authority of the Open Fund on behalf of the CEFTA Parties. The tendering will follow the applicable EC Procurement Rules and Procedures.

No works or grants contracts will be financed by the Open Fund. Supplies can be concluded in exceptional cases.

8.3. Implementation and Execution

The implementation of the Open Fund will fully be under the responsibility of the CEFTA Secretariat on behalf of the CEFTA Parties.

No contract under the Open Fund can be signed for implementation longer than 12 months or having the budget above EUR 199,999.

8.4. Monitoring and Reporting

All relevant monitoring activities in relation to the implementation of contracts signed in the framework of the Open Fund will be undertaken by the Secretariat. All contractors will be obliged to produce reporting as required by their respective terms of reference/contracts.

The Secretariat will prepare its own reports regarding tendering, contracting and implementation of the Open Fund. The reports to be prepared and submitted to the Parties will be as follows:

Half year report: The report will list all activities tendered and contracted until 1 June of the current year, including the names of contractors, and contracted amounts. The same report will also include the contracts signed in previous years but under implementation, if any, in the current year. For the contracts under implementation, the report includes the information on disbursements, and short summary about the implementation. The report will be submitted to Deputy Ministers Meeting of that year.

Annual Report: The report will list all activities tendered, contracted and under implementation until 31 December of the current year, including the names of Contractors, contracted budgets, disbursed amounts, and short summary of the implementation of each contract. Contracts signed in previous years will also be reported, if their implementation continues. The report will be submitted to the members of the CEFTA Joint Committee.

8.5. Auditing

The Open Fund will be part of the yearly regular external auditing of the CEFTA Secretariat.

9. Components

Component 1: Management Advisory Service to the Secretariat

In the new period, the Secretariat might need to hire a number of different advisory services to take its institutional functions. Such advisory services would be as such:

Human resources: The Secretariat employs international staff who has time-limited contracts. In the case of any vacancy appeared among those staff, international recruitment tender needs to be launched. Hiring human resources and funding all the recruitment related costs would therefore be necessary to ensure recruitment be completed on time and in accordance to the procedure.

Legal counsel: Regarding legal issues which are not directly related to the implementation of the Agreement, the Secretariat does not have any legal counsel for the moment. However, the number of contracts which the Secretariat is to sign will increase substantially in the new period. Thus, a legal counselling would be necessary to defend the institutional interest of the Secretariat in any dispute which may arise with its staff, sub-contractors and any other legal or natural person.

Management Advisory: The Secretariat might need to employ senior advisors to assist the management of the CEFTA Secretariat in organisational, promotional and any other technical activities.

Component 2: Outreach and Visibility

Establishing relations with other regional organisations or attending international meetings to represent CEFTA would be necessary. At these meetings related to the implementation of the CEFTA Agreement, such as meetings organised by WTO or WCO, missions are to be financed by the Open Fund.

Furthermore, some of the actions taken in CEFTA by the Secretariat might be required to be better outreached to the private sector or academia in the CEFTA region. To support such outreach activities, the Open Fund would be used. This might including publishing printed materials, organising outreach events etc.

Up to 1/3 of the Open Fund may be spent for the travel and accommodation of one representative per CEFTA Party to the official meetings.

Contingency Rule

In case of delays appeared in securing the financial assistance or collecting the contributions from CEFTA Parties for the functioning of the Secretariat, the Director will have an access to the Open Fund to balance the operational budget of the Secretariat for a period until the financial assistance secured or due contributions made. The Director will inform CEFTA Chair in Office in writing before having access to such contingency funds.