

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

No. ??/2022

On establishments in sections authorised for trade among CEFTA Parties

Adopted on

PREAMBLE

The Joint Committee

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;

Having regard to Article 12(2) and 12(3) of the CEFTA 2006 on '*Sanitary and Phytosanitary Measures*';

Having resolved to eliminate obstacles to their mutual trade, in accordance with the provisions of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as "WTO"), and to progressively establish closer trade relations among the CEFTA Parties, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures;

Having resolved to conduct their mutual trade relations in accordance with the rules and disciplines of the WTO, whether or not a CEFTA Party is a WTO Member;

Taking into account 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;

Recognising that no provision of this Decision may be interpreted as exempting the CEFTA Parties from their obligations under any other international agreement, especially under the WTO Agreements;
Having resolved to strengthen trade and economic relations and mutual understanding among CEFTA Parties;

Considering that the CEFTA Parties are determined to improve the safety of traded goods, without negatively affecting trade flows;

Taking into account that, at present, the regulatory framework to trade in products of animal origin in the CEFTA Parties and within the EU relies on *Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety*, *Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the*

hygiene of foodstuffs, Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, and Commission Implementing Regulation (EU) 2021/632 of 13 April 2021 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to official controls at border control posts;

Considering that Article 6 (3) of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs notes that “food business operators shall ensure that establishments are approved by the competent authority, following at least one on-site visit, when approval is required: (a) under the domestic law of the Member State in which the establishment is located; (b) under Regulation (EC) No 853/2004”;

Considering that Article 4(1) of Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin provides that “Food business operators shall place products of animal origin manufactured in the Community on the market only if they have been prepared and handled exclusively in establishments: (a) that meet the relevant requirements of Regulation (EC) No 852/2004, those of Annexes II and III of this Regulation and other relevant requirements of food law; and (b) that the competent authority has registered or, where required in accordance with paragraph 2, approved”;

Considering that Article 148 of Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products on ‘Relation with Regulations (EC) No 852/2004 and (EC) No 853/2004 regarding approval of food business establishments’ establishes that establishments handling, preparing or producing products of animal origin for which requirements are laid down in Regulation (EC) No 853/2004, must be approved by the competent authority;

Noting that the Sections of Annex III to Regulation (EC) No 853/2004 define the product-specific hygiene requirements;

Considering the requirements under Regulation (EC) No 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene;

Considering the requirements under Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption;

Considering the requirements under Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases;

Considering that within CEFTA Parties, currently two types of approved and registered establishments exist, namely establishments in sections authorised by the EU for export to the EU and sections authorised for trade under veterinary agreements between two or more CEFTA Parties; and

Considering that the CEFTA Parties intend to pursue an additional common approach by establishing the concept of establishments in sections authorised by CEFTA for trade among all CEFTA Parties;

has decided as follows:

Article 1 **Definitions**

- (1) "Establishment" means any establishment for the preparation and handling of food of animal origin, feed, and animal by-products approved or registered under relevant regulation within a CEFTA Party.
- (2) "Goods" means any food of animal origin, feed, and animal by-products.
- (3) "Establishment in authorised sections" means an establishment operating in a section authorised for trade among all or between certain CEFTA Parties.
- (4) "Section" means a specific food, feed, or animal by-product section, as referenced in the Sections of Annex III to *Regulation (EC) No 853/2004*.

Article 2 **Scope and Objective**

- (1) This Decision provides the regulatory framework for establishments for the preparation and handling of goods within certain sections authorised for trade among CEFTA Parties.
- (2) Unless special circumstances prevail, goods traded by an establishment under a section authorised for trade among all or certain CEFTA Parties shall not be subject to any particular import requirements.

Article 3 **Establishments in sections authorised for trade among CEFTA Parties**

For purposes of trade among CEFTA Parties, business operators may be authorised for trade among all or certain CEFTA Parties:

- (a) when an establishment falls under a section authorised by the EU; or
- (b) when an establishment falls under a section authorised for trade among certain CEFTA Parties; and/or

- (c) when an establishment falls under a section authorised by CEFTA for trade among all CEFTA Parties in accordance with this Decision.

Article 4

Establishments in sections authorised by the EU

- (1) Establishments in sections that have been authorised by the EU for exports to the EU shall be authorised for trade among all CEFTA Parties.
- (2) The CEFTA Secretariat shall automatically replicate and keep up to date the list of EU-authorised sections in CEFTA Parties for trade among all CEFTA Parties and the related establishments.
- (3) For non-harmonised consignments, within 3 working days of the listing or delisting on EU TRACES NT, a CEFTA Party shall include or remove an establishment on the list of authorised establishments maintained by the CEFTA Secretariat.

Article 5

Establishments in sections authorised for trade through veterinary agreements

- (1) Establishments in sections authorised for trade through veterinary agreements between two CEFTA Parties shall be authorised for trade between those CEFTA Parties.
- (2) CEFTA Parties shall be responsible to maintain and keep up to date a list of establishments in sections authorised for trade through veterinary agreements between certain CEFTA Parties.

Article 6

Establishments in CEFTA-authorised sections

- (1) For establishments in sections that are not authorised for trade among all or only authorised for trade with certain CEFTA Parties under Articles 4 and 5 of this Decision, CEFTA Parties may request CEFTA to authorise the establishments in a certain section of an individual CEFTA Party for trade with all other CEFTA Parties in accordance with the requirements set out in this Article.
- (2) CEFTA shall grant the authorisation of a section for trade with all CEFTA Parties by means of a Decision of the CEFTA Joint Committee.
- (3) The Decision of the CEFTA Joint Committee shall be accompanied by appropriate evidence and guarantees that the respective CEFTA Party ensures compliance of establishments within that section with the relevant regulatory requirements.
- (4) Establishments in the relevant section must comply with that CEFTA Parties' regulatory requirements.

- (5) The Decision of the Joint Committee authorising a section in an individual CEFTA Party for trade with all other CEFTA Parties shall be prepared by an authorisation mission, taking into account the following elements:
- (a) The requesting CEFTA Party's regulation in the section concerned;
 - (b) The structure and organisation within the requesting CEFTA Party concerned and its control services, the powers available to them, the guarantees that can be provided with regard to the application and enforcement of the regulation of the requesting CEFTA Party applicable to the section concerned, and the reliability of the official certification procedures;
 - (c) The performance within the requesting CEFTA Party of adequate official controls and other activities to assess the presence of hazards for human, animal or plant health, for animal welfare or, in relation to GMOs and plant protection products, also for the environment;
 - (d) The regularity and rapidity of information supplied by the requesting CEFTA Party on the presence of hazards for human, animal or plant health, for animal welfare or, in relation to GMOs and plant protection products, also for the environment;
 - (e) The guarantees given by the requesting CEFTA Party that:
 - (i) Conditions applied to the establishments from which animals or goods are exported to the other CEFTA Parties in line with the relevant requirements;
 - (ii) A list of the establishments referred to in point (i) is drawn up and kept up to date;
 - (iii) The list of establishments referred to in point (i) and updates thereof are communicated to CEFTA Joint Committee without delay; and
 - (iv) The establishments referred to in point (i) are the subject of regular and effective controls by the requesting CEFTA Party;
 - (f) The findings of controls performed by the requesting CEFTA Party; and
 - (g) The monitoring plans for the detection of substances or residues thereof.
 - (h) Any other relevant information or data on the capability of the requesting CEFTA Party to ensure that only animals or goods, which provide the same or an equivalent level of protection as that afforded by the relevant regulatory requirements, are exported from that CEFTA Party.
- (6) The CEFTA Secretariat shall maintain a list of sections in each CEFTA Party authorised for trade with all CEFTA Parties. The respective CEFTA Parties shall maintain a list of establishments operating within that section and authorised for trade with all CEFTA Parties.

- (7) The CEFTA Secretariat shall delete the reference to a CEFTA Party's section from the list referred to in Article 3(2) where the conditions for inclusion on the list cease to be met. CEFTA Parties shall ensure that the list of establishments operating within a covered section remains up to date.

Article 7

Experts for authorisation missions for a CEFTA-authorized section

- (1) Upon the request of the CEFTA Secretariat and prior to an authorisation mission, each CEFTA Party shall nominate and submit to the CEFTA Secretariat a list of potential experts for the authorisation mission (hereinafter referred to as "Experts"). Each CEFTA Party shall nominate at least one expert for each of the following profiles:
- (a) Animal health and animal welfare;
 - (b) Public health and food safety;
 - (c) Official controls; and
 - (d) Certification.
- (2) By nominating the experts, the CEFTA Party concerned engages itself that any expert selected for the CEFTA authorisation mission shall represent CEFTA and not the administration of any CEFTA Party.
- (3) Before any authorisation mission, the selected experts 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 statements shall be kept on record by the CEFTA Secretariat.
- (4) The Experts must be capable of preparing an authorisation mission report in English. In order to be eligible for the authorisation mission, they must sign a statement that they shall act as team leader and/or prepare an authorisation mission report, if so requested by the CEFTA Secretariat. The nomination of experts shall be accompanied by the curricula vitae of the nominated Experts.

Article 8

Request for an authorisation mission for a CEFTA-authorized section

- (1) A CEFTA Party shall send the request for the authorisation of a section for trade with the other CEFTA Parties to the CEFTA Secretariat. The request shall be accompanied by information about the section for which authorisation for trade with all other CEFTA Parties is requested.
- (2) Before initiating the authorisation procedure, the CEFTA Secretariat shall send a detailed questionnaire to the requesting CEFTA Party, which must be completed prior to the authorisation

mission. The CEFTA Secretariat and any CEFTA Party via the CEFTA Secretariat may request further information or clarification.

- (3) The information referred to in paragraphs 1 and 2 of this Article shall be shared only with the individuals participating in the authorisation mission.

Article 9

Initiation of the authorisation procedure for a CEFTA-authorized section

- (1) Once the CEFTA Secretariat has received all the necessary information for initiating the authorisation procedure, it shall seek nominations for experts from all CEFTA Parties except the requesting CEFTA Party in accordance with Article 7 of this Decision. The CEFTA Secretariat shall select one expert from each nominating CEFTA Party for the authorisation mission.
- (2) The team of experts determines by simple majority the person who will take the role of team leader and the expert drafting the authorisation report. The team may determine by simple majority that the report is drafted by another member of the team than the team leader.
- (3) The requesting CEFTA Party nominates itself the officials attending the recognition mission. These officials are not acting as experts, but are entitled to attend, and contribute to, the deliberations of the experts. These officials shall have expertise on the relevant issues.
- (4) The experts 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 approval mission. The officials nominated by the requesting CEFTA Party shall also sign the confidentiality statement referred to in Article 7(3) of this Decision.

Article 10

Authorisation mission for a CEFTA-authorized section

- (1) The experts shall determine during their mission, and, where necessary, subsequently, all the relevant facts necessary for the authorisation of a section in light of the applicable regulatory requirements within that CEFTA Party, taking into account the aspects referred to in Article 6(5) of this Decision and prepare a mission report, recommending or not the authorisation of the relevant section for trade with all other CEFTA Parties. Such recommendation must be supported by the simple majority of the Experts.
- (2) After the authorisation mission, and possibly after further information requests have been fulfilled, the CEFTA Secretariat shall submit the draft mission report to the CEFTA Subcommittee on Agriculture including Sanitary and Phytosanitary Issues.

- (3) In case the mission report does not recommend the authorisation of the relevant section and indicates instances of non-compliance with relevant regulation, the approval shall not be granted. The requesting CEFTA Party shall prepare an action plan to address the instances of non-compliance and shall agree with the experts on a follow up mission. Paragraphs 1 to 4 of this Article shall apply mutatis mutandis to such follow up missions.
- (4) The CEFTA Subcommittee on Agriculture including Sanitary and Phytosanitary Issues shall take note of the outcome of the mission and, in case of a positive recommendation, prepare the Decision of the CEFTA Joint Committee.
- (5) The CEFTA Secretariat shall bear the costs related to the authorisation mission.

Article 11
Emergency measures

- (1) In case of non-compliance with the minimum health requirements provided in Article 3 of this Decision or other cases of serious risks for public health identified through official controls, a CEFTA Party remains competent to take the appropriate measures.
- (2) If necessary for reasons of public health, food safety, animal health or animal welfare, CEFTA Parties are competent to, ultimately, suspend or revoke an approval or registration for an establishment within the respective CEFTA Party.
- (3) If an approval or registration is suspended or revoked, the respective establishment shall no longer be listed on the list of establishments in authorised sections.

Article 12
Entry into force

This Decision shall enter into force on the day of its adoption.

Adopted in ..., on XX 2022, in the presence of all CEFTA Parties.