Implementing Agency: Ministry of Transport and Communications

Project: Western Balkans Trade and Transport Facilitation Project - P162043; Loan No.: 8929-MK

Assignment Title: Review of the existing national legal and regulatory framework for implementation of the country specific commitments under the CEFTA AP5 and AP6 and EU Acquis where relevant

Reference No.: WBTTFP-8929-MK-311A-CS-Individual Consultant

**Terms of Reference**

**Review of the existing national legal and regulatory framework for implementation of the country specific commitments under the CEFTA AP5 and AP6 and EU Acquis where relevant**

**WBTTF-8929-MK-311A**

*(Selection of Individual Consultant / Open national procedure)*

January, 2023

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# PROJECT BACKGROUND

**Project Name -** Western Balkans Trade and Transport Facilitation (WBTTFP)

**Financing -** International Bank for Reconstruction and Development (IBRD)

**Beneficiary Country** - Republic of North Macedonia

**Beneficiary Agency -** Ministry of Transport and Communications (MoTC).

### BACKCROUND

The World Bank Group (WBG) is supporting the Western Balkans Trade and Transport Facilitation Project (WBTTF) project by providing finance for implementing specific commitments under the CEFTA – Additional Protocol 5 (AP5) and Additional Protocol (AP6) and European Union (EU) Acquis in North Macedonia to improve market access in services and foster regional investments in the Western Balkans (WB). The WB countries aim tobuild a Common Regional Market (CRM), based on EU rules. Establishing the CRM will contribute to putting the region on the map for global investors seeking to reduce the distance to the EU markets and diversify their suppliers, thereby creating jobs, offering greater choices at lower prices for its consumers, and enabling people to work throughout the region. This larger regional market will be a stepping stone for WB Countries firms to better integrate into the European value chains and strengthen their competitiveness in the European and global marketplace. Western Balkans Six Countries (WB6) share a common ambition: a democratic, prosperous region that promotes open societies based on shared values of pluralism, solidarity and justice, underpinned by a strong rule of law. Western Balkans is determined to work together to fulfil this ambition and rise to the economic, societal, environmental, security and political challenges faced by the region. WB6 are confident that the only appropriate answer to these challenges lies in regional cooperation and integration in the European Union (EU). The WB6 are confident that the implementation of this agenda will have a transformative effect, shortening the time for recovery and rekindling new sources of sustainable growth for the future. A strong economic base remains a key determinant of future prosperity and places the Western Balkans firmly on the European stage. Now more than ever, the Western Balkans needs to accelerate regional economic integration and deepen economic cooperation with the EU, towards the CRM.

In light of this, the WB Countries are putting forward an **Action Plan 2021-2024 for a CRM** to be implemented by the end of 2024. This ambitious agenda is made up of targeted actions in four key areas:

***- regional trade area: free movement of goods, services, capital and people***, including crosscutting measures, such as the Green Lanes, to align with EU-compliant rules and standards and provide opportunities for companies and citizens;

***- regional investment area***, to align investment policies with the EU standards and best international practices and promote the region to foreign investors;

***- regional digital area***, to integrate the Western Balkans into the pan-European digital market; and

 ***- regional industrial and innovation area***, to transform the industrial sectors, shape value chains they belong to, and prepare them for the realities of today and challenges of tomorrow

### PURPOSE

The purpose of these Terms of Reference is to define the scope of work and tasks of the experienced local Consultant, to be selected to support the Project Implementation Unit (PIU) of the WBTTF and the national authorities in North Macedonia in achieving the priorities under Berlin Process` CRM Action Plan 2021-2024. The Regional Cooperation Council (RCC) and CEFTA Secretariats are leading regional organizations to facilitate the implementation of this Action Plan, while other regional and/or international structures are included in specific actions in line with their scope of work and programme. In this respect, the country has set up a PIU to help with the execution, implementation and monitoring of the WBTTF project activities and will require specific and additional Technical Assistance for the development and implementation of the requirements under the specific project Component related to CEFTA Common Regional Market and Free Movement of Services.

# OBJECTIVES

### OVERALL OBJECTIVE

The WBTTFP Phase 1 in North Macedonia includes a combination of investments, technical assistance and regulatory and institutional reforms. It primarily focuses on adoption and implementation of a National Single Window (NSW) solution, improvements in border crossings in selected trade corridors, Border Crossing Points (BCP) at Deve Bair and BCP at Kjafasan, deployment of an Intelligent Transport System (ITS) on the A1 motorway, which is part of Corridor X, and technical assistance.

The objective of WBTTFP is to reduce trade costs and increase transport efficiency and it comprises four components:

- Facilitate cross-border movement of goods;

- Enhance transport efficiency and predictability;

- Improve market access in services and foster regional investments and

- Project implementation support and provision of additional technical support.

The Component 3 of the WBTTF project supports the implementation of commitments to improve market access in services and foster regional investments. Activities under this component consist of technical assistance to implement the regulatory and institutional reforms needed to comply with the country’s specific commitments to CEFTA AP6 on Trade in Services and the Multiannual Plan. The CEFTA countries have concluded technical discussions for a consolidated offer on services liberalization in December 2016.The AP6 was adopted in December 2019 by the Joint Committee. The North Macedonia has ratified this Protocol in December 2020 and adopted it in 2021. Market access commitments in the AP6 cover most services sectors and countries have made specific commitments across most sectors and the four modes of service delivery. In parallel countries have started working on mutual recognition of professional qualifications, which are part of the horizontal EU Acquis all countries will have to comply with under the Services directive (together with the right of establishment) \*. Trade in services is–more than trade in goods–influenced by a wide range of domestic regulations (e.g., licensing requirements, competition framework, network services regulations, universal access provisions, etc.). The quality of regulations (and the corresponding enforcing agency/institutions) is therefore a key determinant of whether services trade (and investment) liberalization will translate into economic and social gains. A good understanding of the regulatory situation – at a horizontal as well as sector specific levels – and ensuring it is adequate will be critical as countries engage in services sector liberalization. This component will also support specific measures and reforms undertaken by the countries to implement the Acquis and prepare their economy to enter the single market.

(\*) Recognition of professional qualifications is based on the Directive 2005/36 (PQ directive), not 2006/123 (services directive). They are both, part of the acquis chapter 3. On the other hand, tourism initiative is based on the Services directive.

### SPECIFIC OBJECTIVE

Specific objectives of the assignment are to support the relevant stakeholders in the process of policy making, by conducting a detailed ‘as-is’ overview in respect to the selected priority areas from the CRM Action Plan and theirs expected results (below);

**Table No.1**

|  |  |  |
| --- | --- | --- |
| ***Priority area*** | ***Regional actions - Free movement of services*** | ***Expected results*** |
| **1.****Tourism** | 1. Adopt CEFTA framework for trade in tourism services addressing key barriers, including mutual recognition of licenses | Addressing key trade barriers on the basis of reciprocity, including: licenses, insurance requirements, establishment requirement, technical standards, etc.; |
| 2. Align and adopt voluntary quality of service standards for adventure and cultural tourism among WB6 and with relevant EU/international guidelines and standards | Common or mutually recognized voluntary standards of services, product delivery guidelines, self-regulatory industry guidelines and requirements; |
| ***Priority area*** | ***Regional actions - Free movement of People*** | ***Expected results*** |
| **2. Portability of social rights and removal of working permits** | 1. Western Balkans Agreement on Social Insurance | Feasibility Study/Assessment of current state of play completed;Regional WG established;Western Balkans Agreement on Social Insurance signed; Regional procedures adopted;Number of people benefiting from the Agreementincreased; |
| 2. Western Balkans Agreement on Removing Work Permits for intracompany transfers and service suppliers | Agreement on Removing Work Permits for intracompany transfers and service suppliers concluded; intracompany transfers in the WB increased; facilitated inter-Party supply of services;Implement CEFTA rules on movement of natural persons, including relevant provisions of the Additional Protocol 6 on Trade in Services and Decision on work permits. |

1. To prepare a detailed analysis regarding the current “as-is” situation in respect to the selected priority areas and expected results (below);

2. To identify the necessary activities (such as policy, legal and regulatory changes, capacity building) that need to be undertaken by the responsible institutions (to achieve the situation “to be”, estimated timeframe and budget for their implementation) to successfully implement the following selected actions from the WB6 CRM 2021- 2024:

3. To prepare a gap analysis on licensing process for travel agencies and for catering service providers and its categorization as well as the way of registration and operation of tourist and hospitality facilities (including legal and natural persons) in line compliance with Directives from European legislation. The analysis should contain review of the EU legislation, review of the current state of national legislation, comparative experiences from CEFTA countries and provision of policy and legal recommendations for overcoming the current gaps.

4. To prepare an analysis of the national legislation (regulating the temporary mobility of workforce) the country with compliance with the Directives from the European legislation. The analysis should contain comparative experience from CEFTA countries, an overview of the current state of the national legislation, necessary reforms as well as financial implications that would arise in the event of a change in the legal solutions that are related to the systems in the country regarding the employment and residence of foreigners. The analysis should take into account the obligations that the country has undertaken in the area of temporary employment of foreigners or social insurance with certain bilateral or multilateral agreements as well as the agreement with CEFTA.

# LOGISTICS AND TIMING

### LOCATION FOR REQUIRED SERVICES OF THE CONSULTANT

This assignment will be 100% implemented in the country of assignment. The consultant is responsible for securing office space and necessary working equipment during assignment`s implementation.

The Consultant is obliged to held three meetings (for Inception, Midterm and Final Report) with Project Steering Committee (SC) on Conferences with presents of all participants – SC members. The Consultant will bear the cost for the organization and logistic of the Conferences that will be held during the project duration. The Consultant should conduct meetings with relevant stakeholders in the country for data collection, consultations, and workshops.

Taking into consideration current situation related to COVID-19 outbreak and possible restrictions, home-based work, as well as video communication for meetings could be allowed and must be prior approved by the Client (MoTC and Project Implementation Unit (PIU)).

### COMMENCEMENT DATE & PERIOD OF IMPLEMENTATION

The intended commencement of the Services is Mart 2023 and the period of implementation will be 8 (eight) months. Total estimated number of working days is 120 days in period of 8 months. Consultant shall start with the Services 7 days after contract award.

All Deliverables/Reports should be delivered to the Client (MoTC and Project Implementation Unit (PIU)) and Project Steering Committee, as draft reports for review, comments and approval.

Draft Final Report will be prepared no later than 15 days before end of the assignment and delivered to the Client and Project Steering Committee for review, comments and approval.

The selected procurement method of the service will be Selection of Individual Consultant / Open national procedure, in accordance with the World Bank’s “Procurement Regulations for IPF Borrowers” dated July 2016, revised November 2017 and August 2018 (“Procurement Regulations”).

The standard form of the Contract will be a Lump sum contract.

# PROJECT MANAGEMENT

In order to successfully coordinate project implementation, two levels of the project management and coordination structure will be created:

* + - 1. Project Steering Committee (PSC), to manage project, approve deliverables and make decisions on all important project implementation aspects, and
			2. Project Implementation Unit (PIU), which was already established at MoTC, aiming to support the project implementation.

### PROJECT STEERING COMMITTEE

**Project Steering Committee (SC)** shall be established with overall responsibility to review regularly the project implementation, review the timely fulfilment of the Work plan in all aspects and to propose any major strategic decisions to the Ministry of Economy. The Project Steering Committee will be chaired by a high-level representative from Ministry of Economy (state advisor, state secretary or Deputy Minister) appointed by the Minister. The Project Steering Committee has a minimum of five (5) voting members and relevant deputies, who are nominated representatives from the Ministry of Economy, Ministry of Labor and Social Policy, Ministry of Internal Affairs, and nominated representatives from other relevant institutions as identified by the Consultant. The Project Steering Committee shall invite members without voting power to participate in the PSC meetings (such as Business sector, Academia etc.). Representative of the PIU will also be a nonvoting member of the Steering Committee.

The role and main functions of the Project Steering Committee will include:

– To provide strategic direction to the Consultant

– To assess project progress and monitor all activities of the project;

– To consider the Consultant’s Inception Report, other Reports and Final Report, assess the recommendations and approve all Reports by majority votes;

– To jointly discuss any critical points or bottlenecks for further project implementation and to propose and discuss remedy actions to be taken in order to tackle problems;

– To ensure close co-operation between the relevant institutions, social partner organizations, local authorities and other relevant actors, taking into account the complexity of the project and ensuring transparency.

With regard to the constitution of the PSC, at the first meeting the Rules of procedures (RoP) proposed by the Consultant should be adopted by the Project Steering Committee.

The Project Steering Committee will have regular meetings according to the Rules of procedure.

The Consultant will ensure proper functioning of the Project Steering Committee, organizing the meetings, preparing and circulating the agenda, writing and distributing the minutes, and follow-up/implementing the committee decisions. The date of the SC meetings, the agenda and the necessary documents shall be set and circulated among the interested parties tentatively with a reasonable time in advance (i.e., approximately 15 days in advance) according to the RoP. The Consultant has to keep them in a file as project documentation. These tasks will be performed in co-ordination with the Ministry of Economy and the PIU.

### PROJECT IMPLEMENTATION UNIT (PIU)

The Project Implementation Unit – PIU was already established at MoTC. The PIU shall provide the Consultant with any existing information and documentation at its disposal which may be relevant to the performance of the contract. The PIU will provide initial coordination and liaison with all appropriate government agencies, the community, and other stakeholder.

# SCOPE OF THE ACTIVITY

In order to carry out the activity, the Consultant is required to:

* Review the national related policies and legislation, as well as other relevant project documents i.e. CEFTA’s Agreement on Amendment of and Accession to CEFTA,
* Prepare Inception Report defining the methodological approach, list of activities and analysis report outline,
* Identify key relevant institutions and organize meeting with those in order to obtain relevant information on the progress made in respect to each of the actions required
* Based on the findings, prepare a detailed “as-is” analysis (divided into 2 sеparate reports ) regarding the current situation related to the specified sectors defined by the Common Regional Market action plan 2021-2024 and identified within thisToR. In the Analysis Report the Consultant will provide the current situation “as is” and recommendations and proposals for situation “to be” respecting the national legislation and European standards and best practice. The Consultant should identify in great detail specific activities that need to be undertaken to achieve the situation “to be”, responsible institutions, estimated timeframe and budget for their implementation.
* Analyse the licensing process for travel agencies and for catering service providers and its categorization in North Macedonia as well as the way of registration and operation of tourist and hospitality facilities (including legal and natural persons) in line compliance with Directives from European legislation and analyze other experiences from CEFTA countries and provide policy and legal recommendations for overcoming the current gaps.
* Analyse the national legislation (regulating the temporary mobility of workforce) in the country in line with compliance with the Directives from the European legislation and CEFTA agreements, requirements and analyze other experience from CEFTA countries. Based on this, provide policy and legal recommendations for overcoming the current gaps.
* Participate on the workshop with the relevant stakeholders in order to present the findings from Analysis. Participate on Project Steering Committee meetings and regularly update about the progress made and milestones achieved.
* Support the Client with drafting and finalizing the Terms of Reference for providing Technical assistance to implement the AP5 and AP6 regulatory and institutional reforms and to support specific measures and reforms undertaken to implement the EU Acquis.

# REPORTS, DELIVERABLES and PAYMENT SCHEDULE

### 6.1 REPORTING

Key Reports are listed below:

* Inception Report
* Midterm progress report which comprises detailed analysis of activities implemented;
* Final report

The Consultant will submit the reports/deliverables in English and Macedonian language in 3 hard copies and 3 copies on CD in each language.

Reports/deliverables will ensure the facilitation and progress of completions of the Contract through effective engagement in order to ensure that all activities are completed on time and with respecting the required quality.

The Client shall provide comments within 7 days from the draft report delivery. The Consultant should address the comments within 7 days of received comments.

### 6.2 INCEPTION REPORT

Inception report with methodology of Consultant’s activities is expected 4 weeks after commencing the Contract.

Inception report shall comprise of:

* A detailed revised work plan, timetable and the method of execution of the project including list of activities and outputs,
* Indicators of Achievement
* Plan for stakeholder engagement and data gathering
* A list and analysis of problems that may arise during the execution of the projects,
* Outline of the output reports

### 6.3 MIDTERM PROGRESS REPORT

After the fourth month since the project kick off, the Consultant will prepare midterm ~~quarterly~~ progress report in which will elaborate the activities implemented, progress made in producing the required outputs vis-à-vis timetable, issues faced and risk management actions undertaken and short plan for finalization of remaining activities.

The Midterm Progress Report should be accompanied with respective information on the status of the drafts of the project deliverables and outputs including:

* As-is Report in respect to CRM’s priority areas which will also include recommendations for further actions aimed at reaching to-be objective;
* Analysis report for the tourism sector (as described in point 2.2);
* Analysis report social insurance and temporary mobility of workforce (as described in point 2.2);

For each programmatic area the consultant should develop a report describing:

* situation “as is”
* institution(s) responsible for implementation
* Changes needed to achieve the expected results in term of legal and regulatory environment
* Capacity building needs of the responsible institution(s), such as training, IT systems, etc.
* Estimated timeframe for implementation
* Estimated budget
* Implementation risks and mitigation measures
* Information on the consultation process, feedback received and how that was addressed in the recommendations
* detailed recommendations on the results to be achieved in order to implement the proposed regulatory/policy changes, specify the roadmap of approvals needed in order to adopt the new policies/regulations, institutions involved/timeframe/resources/etc. needed to implement the changes.

### 6.4 FINAL REPORTS

The Final report should contain a complete overview of all activities carried out during the project, difficulties encountered, actions undertaken to overcome these difficulties, in case of delays explanation on the reasons for the delays.

The Final report should also provide:

- feasibility/complexity of the implementation, number of involved institutions/type of required legal instrument/etc. and

-a simple measure of impact/availability number of beneficiaries expected to be affected by the proposed reform.

Draft Final Report shall be provided by the latest 15 days before completion of the assignment. Comments on Draft Final Report shall be provided by the latest 7 days after the reception and Final Report shall be delivered by the latest 7 days after the reception of the comments on the draft final report. Final Report shall incorporate any comments received from the concerned parties on the draft Final Report.

The Final Report shall comprise all project Deliverables.

**6.5 PROJECT DELIVERABLES**

Project deliverables are the following:

* Inception Report
* Midterm progress report
* Final Report

### 7. [SCHEDULE OF DELIVERABLES AND PAYMENT SCHEDULE](#_6.4_Final_report)

List of reports/deliverables expected with correlation to the Consultant activities are presented in the following table:

**Table No. 2**

|  |  |  |
| --- | --- | --- |
| Deliverable | Delivery date (starting from contract signing) | Payment  |
| Inception Report | On the end of week 4  | **30%**after Client’s approval |
| Midterm progress report  | On the end of week 20 | **30%**after Client’s approval |
| Final Report | 15 days before end of duration of the Contract | **40%**after Client’s approval |

All reports shall be provided in English and Macedonian language.

# 8. [KNOWLEDGE, EXPERIENCE, SKILLS AND COMPETENCIES](#_6.4_Final_report)

* Еducational qualifications: At least a University Degree in: Economy/Management/Financial/Social Policy/Education/Law or other relevant education;
* Area of professional expertise: international trade and investment policies formulation and implementation and knowledge and direct experience in the EU association processes;
* Years of experience: Minimum of 15 years’ professional experience in managing/monitoring complex projects in private sector and public administration; international trade and investment policies formulations; experience in the EU association processes; strategic planning and managing implementation actions in Western Balkans or other regions.
* Additional desirable qualifications: experience in implementation of CEFTA activities;

Required skills and competencies:

* Experience with at least 1 assignment/project on implementation of the regional free trade agreements;
* Knowledge of national legislation on related policies in trade, investment, internal market and tourism in Western Balkan region;
* Self-Planning & Organizing; Communication; Teamwork; Initiative; Problem Solving;
* Excellent Knowledge of English language,

Core Competencies for the Consultant:

* Demonstrates professional competence to meet responsibilities and post requirements and is conscientious and efficient in meeting commitments, observing deadlines and achieving results;
* Result-oriented: Plans and produces quality results to meet the set goals, generates innovative and practical solutions to challenging situations;
* Communication: Excellent communication skills, including the ability to convey complex concepts and recommendations clearly;
* Teamwork: Ability to interact, establish and maintain effective working relations in a culturally diverse team;
* Ability to establish and maintain productive partnerships with regional and national partners and stakeholders;
* Fluency in MS office and data processing tools.