

Speech by Principal Deputy High Representative Donald Hays at the American Chamber of Commerce Lunch

Ladies and Gentlemen,

It's a pleasure to be here. Today I'd like to talk about the BiH business environment. I know it's a subject we all care deeply about. It is my full-time concern.

I would like to start on an upbeat note. Things are getting better here and the business environment has improved. – not just in small or peripheral ways, but in significant ways that make it easier to do business in this country, to open up new companies here and to create new jobs.

Let's take a look at some notable developments

- work is proceeding on rationalizing and modernizing the customs service under the new Indirect Taxation Administration
- Preparations are underway to introduce VAT, possibly by late 2005
- 15 business chambers will shortly be established around the country to deal with bankruptcy, enforcement of civil judgments and other business related judicial issues
- Legislation currently before parliament, or about to be sent to parliament includes
 - a law on Business Registration that will streamline and standardize business registration procedures throughout BiH
 - a law on Procurement that will codify and regulate

procurement and tackle the pervasive and pernicious problem of rigged tenders

- a law on Accounting and Auditing that will create a framework for establishing European accounting and auditing standards in BiH, and set up an independent commission to supervise the profession
- a law on Public Enterprises that will codify the governing structure of BiH public companies
- a law on the Investment of Public Funds, that will reign in the exuberance with which some managers of public companies have hitherto doled out loans and gifts to their friends
- a Bankruptcy Law – which the Federation Parliament is discussing this afternoon – that will breathe life into the privatization process, and safeguard jobs into the bargain

That's just a sampling of the kind of legislation now making its way through the political system that will significantly improve the BiH business environment.

And there are other promising developments. By the end of this month, as most of you will know, the 15 new commercial chambers attached to regular courts will be up and running. These chambers are staffed by experts in business law; their task is to reduce the huge backlog of commercial cases and set in place a system in which commercial disputes can reasonably be expected to be resolved in weeks or months rather than years. This has obvious practical benefits for businesses – and it has benefits beyond that: the length of time it takes to register a company and the length of time it takes to get a court decision on a business dispute are two of the most common barometers used by prospective investors when assessing a country's business environment. In both these cases the BiH barometer will shortly move from “inclement” to “mild.”

I might point out that setting up these chambers has involved a considerable amount of legislative legwork. The Cantonal

and RS Laws on Courts were amended in October 2002 and Entity Civil Procedure Laws and Laws on Enforcement were enacted in 2003 – implementation of these last two is being facilitated through a USAID-funded project aimed at Fostering an Investor and Lender Friendly Environment (FILE). In addition, the RS and Federation Laws on Bankruptcy and Liquidation were enacted in 2002 and 2003 respectively. The process shows that with sustained IC engagement (the Laws on Courts were initially amended through a Decision of the High Representative) and with clear advantages to be attained at the end, it is possible to orchestrate positive change in BiH.

Another common deterrent to inward investment is the status of a country's internal debt. Until now this has been a kind of country secret never to be mentioned. The BiH authorities have internal liabilities to the tune of more than 20 billion KM. This has been an albatross around the neck of every official charged with charting a realistic economic strategy.

But now, the State and Entity governments have agreed on a plan to manage the handling of this debt, arranging a system of payments that will favor the most vulnerable element of society first, and effectively removing this issue from the list of major impediments to sustained economic growth.

A major effort by the IC in cooperation with all three governments also underway to unblock the privatization process which has so far delivered only modest economic benefits but which could act as a major forward impetus for the economy if properly managed.

And, of course, the Bulldozer Initiative has sustained an offensive against pointless and growth impeding bureaucracy in BiH for more than a year and a half now and delivered impressive results. Fifty reforms were secured under Phase I; 50 new reforms are now being processed under Phase II, and Phase III is about to be launched. And importantly, the Bulldozer process has created a dialogue – practically non-existent before – between BiH businesspeople and the political

establishment, a dialogue between those who make the laws and issue the regulations and those who are obliged to live with the consequences.

That's the good news.

It's substantial; a lot of it's new; and I think it's important to get this message out.

I do not have a sense, however – and I am interested to know what the assessment of people in this room may be on this issue – that businesspeople in BiH – foreign businesspeople and BiH businesspeople – are absolutely confident that the corner has been turned, that BiH is truly open for business.

Here I would say, measure what has been done against the cynicism I detected two years ago when I told all of you how things were going to change. You have to make a leap of faith and join in the effort to change this economic reality. It is clear to me that this country is not going to secure economic take-off unless its politicians start to understand that the global economy is a fiercely competitive place to be. It may be that that kind of understanding is beginning to spread. But equally, this country is not going to secure economic take-off unless its businesspeople start to believe that BiH has a natural place in that fiercely competitive global economy. I frequently berate politicians publicly for failing to aggressively venture out and capture investment (investment doesn't come to you, you have to go out and shepherd it home). But I wonder whether businesspeople in BiH have themselves been sufficiently aggressive in this respect – whether there is a vision among most entrepreneurs and managers that this country not only can become self-sustainable economically but that it can do much better than that – it can prosper. It can in the space of a generation become rich.

Let me just say that I recently met with some of the 1,400

farmers in the Zvornik area and what they are doing on their own to promote farming is phenomenal. That kind of sustained forward economic momentum comes from the right conditions, but it also comes from the right frame of mind – you need to have confidence.

What is needed is a new consciousness. I believe it is already evident in some other parts of the region. The sooner it spreads to BiH the better. Perhaps Southeast Europe can emulate the successful model of Southeast Asia, which moved from a state of relative economic backwardness in the 1950s and 60s (plagued by regional unrest and chronic armed conflict) to a period of hyper-growth in the 1980s and 90s.

Southeast Europe can seize a prosperous place in the global economy and BiH can be in the vanguard of that, but only if there is confidence – among businesspeople as well as among politicians.

I know that some if not all of you are skeptical. The fact of the matter is that some of the laws I have listed have taken months to get as far along the road to enactment as they have – and in some cases that's not very far at all. One thing of which there is an acute shortage among BiH decision makers is a sense of urgency.

But we are in a new policy phase – the Feasibility Study and PfP membership program have combined to focus the attention of the political establishment. It understands that reform is not an option but a necessity and because NATO and the EC have laid down a clear path that must be followed, the growing commitment to reform is being channeled into a specific and coherent legislative agenda.

I agree with you: this is not happening fast enough, nor is it happening with nearly enough vigor – but it's happening. There is movement and we must try to turn that movement into momentum.

Businesspeople can help to do that, by generating a sense of commercial confidence that rubs off on the political class. There are already success stories – companies that have lifted themselves up, dusted themselves down and secured steady and lucrative markets, inside and outside BiH for their product lines. That is a trend that should be better documented. There is every reason to be concerned about the state of the BiH economy – but likewise there is every reason to believe that, if the reforms now being promoted are implemented, the BiH economy could shortly move into the foothills of prosperity.

Today, I call on each of you to take a moment in your very busy lives and make a difference in this country. Identify an impediment to business, pass it to our bulldozer coordinators, and speak out to the press about good news and bad concerning the economy. There has to be public pressure for change if change is to happen.

Thank you