

Decision Extending mandate of Mr. Peter Nicholl as an initial Chairman of Governing Board of the Indirect Taxation Authority

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on the Civilian Implementation of the Peace Settlement; and considering in particular Article II.1. (d) of the last said Agreement, according to the terms of which the High Representative shall "Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation";

Recalling paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid "by making binding decisions, as he judges necessary" on certain issues including (under sub-paragraph (c) thereof) "measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities";

Noting that the Peace Implementation Council in its Declaration from Brussels on 24 May 2000, within the context of emphasising the critical economic reforms required to create a single economic space and enable private sector growth, *inter alia* called on the authorities of Bosnia and Herzegovina to identify and establish adequate domestic funding sources for the State budget, and further urged the authorities of Bosnia and Herzegovina to proceed with broad-based reform of the taxation and customs systems;

Considering the communiqué issued by the Steering Board Political Directors of the Peace Implementation Council on 21 November 2002, in which Bosnia and Herzegovina was called on urgently to adopt economic reforms including: "The unification of the customs system to end duplication and fraud", and "The introduction of VAT at the State level to simplify taxation, make it more efficient and help reduce the overall tax burden";

Considering further the Declaration of the Steering Board of the Peace Implementation Council issued on 30 January 2003, which proclaimed in relation to the economic reform process, that "introduction of a single customs administration and Bosnia and Herzegovina-wide Value Added Tax (hereinafter VAT) were an essential part of this reform process";

Further noting the communiqué issued by the Steering Board Political Directors of the Peace Implementation Council on 15 March 2006, in which Bosnia and Herzegovina's authorities are called upon to ensure their support for the Indirect Taxation Authority and its Governing Board;

Bearing in mind that the implementation of the Law on Value Added Tax ("Official Gazette of Bosnia and Herzegovina" 9/05, and 35/05) commenced on 1 January 2006, and therefore the existence of the relevant administration is a vital component to ensure proper implementation of value added tax, and that, especially in the initial phase of implementation, prompt reactions and responses by the Governing Board of the Indirect Tax Authority may be necessary;

Conscious of the communiqué of the Steering Board of the Peace Implementation Council issued on 23 June 2006, in which it is emphasized that the BiH authorities should resolve the dispute over revenue allocation as a matter of urgency.

Noting of the communiqué of the Steering Board of the Peace Implementation Council issued on 7 December 2006 in which the Steering Board expressed its concern that despite its previous urgings for a satisfactory resolution to the issue of VAT revenue allocation, the Governing Board of the Indirect Taxation Authority has so far failed to identify a way to resolve the matter in a systematic manner.

Recalling Article 28 of the Law on Indirect Taxation System in Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina 44/03 and 52/04), which provides for the appointment of an additional member of the Governing

Board to serve as Chairman thereof and requires that the said individual possess the expertise in the relevant field and have demonstrated a standard of honesty and integrity in the conduct of his/her work;

Recalling further the Decision of the High Representative No. 177/04, ("Official Gazette of Bosnia and Herzegovina" No. 3/04 of 19 February 2004), appointing the first Chairman of the Governing Board of the Indirect Taxation Authority for an initial period of one year, and Article 2 thereof which provide for the possibility to renew the appointment at the discretion of the High Representative;

Bearing in mind the Decision of the High Representative No. 20/06 of 5 July 2006, ("Official Gazette of Bosnia and Herzegovina" No. 54/06), appointing Mr. Peter Nicholl as an initial Chairman of the Governing Board of the Indirect Taxation Authority until and including 31 December 2006, under the same conditions as established and defined in the Decision of the High Representative No. 177/04 on the Appointment of the First Chairman of the Governing Board of the Indirect Taxation System;

Considering the Decision of the High Representative No. 31/06 of 19 December 2006 ("Official Gazette of Bosnia and Herzegovina" No. 01/07), which extended the mandate of Mr. Peter Nicholl as an initial Chairman of the Governing Board of the Indirect Taxation Authority until and including 31 May 2007, and which foresaw the appointment of a succeeding Chairman prior to the expiration of the Mr. Nicholl's extended mandate;

Mindful of the Council of Ministers' inability to appoint an initial Chairman to succeed Mr. Peter Nicholl in the Governing Board of the Indirect Taxation as required by Article 1, paragraph 2 of the Decision of the High Representative No. 31/06, and in accordance with the procedure set forth by Article 28, paragraph 3 of the Law on Indirect Taxation ;

Ever conscious of the need to ensure the uninterrupted stewardship of the Indirect Taxation Authority through timely appointments of the initial Chairman of the Governing Board of the Indirect Taxation System;

Having borne in mind the totality of the matters aforesaid, the High Representative issues the following:

DECISION

Extending mandate of Mr. Peter Nicholl as an initial Chairman of Governing Board of the Indirect Taxation Authority

Article 1

This Decision herewith appoints Mr. Peter Nicholl as an initial Chairman of the Governing Board of the Indirect Taxation System (hereinafter: "Chairman), as provided for by Article 28, paragraphs 1 and 2, of the Law on Indirect Taxation System in Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina 44/03 and 52/04), until and including 13 January 2008.

Article 2

Mr. Peter Nicholl shall continue to operate as Chairman under the same conditions as established and defined in the Decision of the High Representative No. 177/04 on the Appointment of the First Chairman of the Governing Board of the Indirect Taxation System.

Article 3

The initial Chairman shall, notwithstanding the provisions of any law to the contrary, have full immunity for all time from all proceedings brought before any court in respect of actions carried out by him by virtue of the mandate bestowed upon him by this Decision and in the course of duties carried out hereunder, before any court whatsoever.

Article 4

This Decision shall enter into force forthwith and shall be published without delay in the Official Gazette of Bosnia and Herzegovina, in the Official Gazette of the Federation of Bosnia and Herzegovina, and in the Official Gazette of Republika Srpska.

Sarajevo, 31 May 2007

Dr. Christian Schwarz-Schilling
High Representative