Decision Enacting the Law on the Council of Ministers of Bosnia and Herzegovina

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, as well as the smooth running of the common institutions";

Recalling further Article III. of the Annex to the Declaration of the Peace Implementation Council issued at Madrid on 16 December 1998, in which the Peace Implementation Council

identified as a key task “Making the common institutions effective, in the role set out for them in the GFAP” and went on to indicate support for the High Representative in working with the authorities of Bosnia and Herzegovina to “reform the operation, in accordance with its constitutional procedures, of the Council of Ministers in order to improve its ability to take decisions and implement them in a business-like and efficient fashion.” The Annex concerned continued by stating that this could be best achieved, inter alia by extending the period of chairmanship;

Recalling in addition the communiqué issued by the Steering Board of the Peace Implementation Council at Brussels on 7 December 2000 in which the necessity of co-operation in the building of a functioning state, particularly through an effective Council of Ministers which was fully supported politically and financially by the Entities and capable of interaction on a basis of equality with other states and international organisations, was emphasised;

Considering that in order to give Bosnia and Herzegovina stable effective government the Council of Ministers and its decision making processes require to be reformed;

Further considering that the government of Bosnia and Herzegovina requires greater continuity so that the authorities of Bosnia and Herzegovina can speak authoritatively and with consistency;

Considering also the Decision of the Constitutional Court of Bosnia and Herzegovina (Case Number U 1/99) in respect of “Request for Evaluation of Constitutionality of the Law on the Council of Ministers” (Law on the Council of Ministers of Bosnia and Herzegovina and the Ministries of Bosnia and Herzegovina” (Official Gazette of Bosnia and Herzegovina, Number 4/97)), in which the Constitutional Court observed that the Constitution of Bosnia and Herzegovina clearly establishes, in the person of the Chair of the Council of

Ministers upon his/her appointment, “the traditional function of a Prime Minister designate”;

Recognizing in the light of the above that the Chair of the Council of Ministers may normally be referred to as “Prime Minister” of Bosnia and Herzegovina in recognition of the governmental functions in fact exercised by him/her;

Taking into account the text of a draft “Law on the Council of Ministers of Bosnia and Herzegovina” produced in November 2002 by representatives of political parties elected into the House of Representatives of the Bosnia and Herzegovina Parliamentary Assembly and into which the contributions of all participants were distilled;

Conscious of the need to bring a law based on such draft into force without delay in order to facilitate the establishment of the newly mandated government of Bosnia and Herzegovina following upon the elections of 5 October 2002;

Further conscious of the fact that a Law on Ministries of Bosnia and Herzegovina will require adoption as soon as possible hereafter in order to permit harmonisation with the provisions of the law hereinafter enacted.

Bearing in mind the totality of the matters aforesaid the High Representative hereby issues with immediate effect the following

DECISION

Enacting the Law on the Council of Ministers of Bosnia and Herzegovina

1. The Law which follows, and which forms an integral part of this Decision shall come into effect as provided for in Article 47 thereof on an interim basis, until such time as the Parliamentary Assembly of Bosnia and Herzegovina adopts this Law in due form, without amendment and with no conditions

attached.

2. This Decision shall be published without delay in the Official Gazette of Bosnia and Herzegovina.

LAW ON THE COUNCIL OF MINISTERS OF BOSNIA AND HERZEGOVINA

Sarajevo, 2 December 2002

Paddy Ashdown
High Representative