Decision which ties both the Republika Srpska and the Federation of BiH into final and binding arbitration on the Inter Entity Boundary Line in the Sarajevo suburbs of Dobrinja I and IV

In the exercise of the powers vested in me 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 Art. 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 Federation of Bosnia and Herzegovina and the Republika Srpska have failed to solve the long standing problem of the Inter Entity Boundary Line between Dobrinja I and Dobrinja IV by mutual consent within the ambit of Annex 2 of the General Framework Agreement for Peace in Bosnia and Herzegovina, and that a dispute exists in relation thereto;

Considering that the difficulties faced inter alia by those wishing to return to their homes in Dobrinja are and remain so serious that it is incumbent on me as High Representative to ensure a resolution of the said dispute;

Taking into account the letters dated 8 September 2000 and 13 November 2000 which I addressed to the Federation of Bosnia and Herzegovina and to the Republika Srpska directing them to enter into a binding arbitration as provided for in Annex 5 (Agreement on Arbitration) to the General Framework Agreement for Peace in Bosnia and Herzegovina, and their failure to comply with such direction which would have provided a solution to the said dispute;

Noting further that the resolution of the aforesaid problem will not only have a positive impact on the return to their homes of Dobrinja residents, but will also create a positive environment for the full implementation of Annex 7 (Agreement on Refugees and Displaced Persons) to the General Framework Agreement for Peace in Bosnia and Herzegovina which in Article II.1 urges the Parties to the Agreement to "create in their territories the political, economic and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons";

All this considered and borne in mind I hereby issue the following:

DECISION

Decision which ties both the Republika Srpska and the Federation of BiH into final and binding arbitration on the Inter Entity Boundary Line in the Sarajevo suburbs of Dobrinja I and IV

1. That there shall be a binding arbitration between the Federation of Bosnia and Herzegovina and the Republika Srpska to resolve the dispute between them regarding the Inter-Entity Boundary Line between Dobrinja I and Dobrinja IV.
2. That Mr Justice Diarmuid P Sheridan is hereby appointed as the sole Arbitrator for the resolution of the said dispute.
3. That the issue for the said Arbitrator to decide is the appropriate and precise delineation of the Inter-Entity Boundary Line between Dobrinja I and Dobrinja IV for consultation with and notification to the IFOR (SFOR) Commander as a delineation deemed to have been come to by mutual consent for the purposes of an agreed adjustment as aforesaid.
4. The Arbitrator shall, so as to provide a fair and impartial adjudication between the parties in the matter under dispute, take account of:
    - the line as described on the map identified in Annex 2 to the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP);
    - the *de facto* line operated since the signing of the GFAP;
    - the views of residents and displaced persons and refugees wishing to return to their pre war homes;
    - any decisions or judgments of courts or judicial bodies relating to the issues in dispute;
    - all relevant legal and equitable principles.
5. The Arbitrator shall determine all procedural issues and requirements necessary for the arbitration.

6. The Arbitrator may invite observations from and grant audience to groups and institutions, in addition to the parties to the dispute, if those groups and institutions satisfy him that they have a legitimate interest in the issue.
7. The State of Bosnia and Herzegovina shall be entitled to make observations to and appear before the Arbitrator, and the Arbitration Award shall be deemed for all purposes material to Annex 2 of the GFAP to have been reached with the agreement of the said State.
8. The authorities of the State of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and of the Republika Srpska shall co-operate fully with the Arbitrator and allow him full access to all documents, maps, territorial areas and buildings as may be determined by the Arbitrator to be material for his work.
9. The Arbitration Award shall be communicated to me before issuance with a view to having it published in the Official Gazette of Bosnia and Herzegovina and in the Official Gazettes of the Federation of Bosnia and Herzegovina and of the Republika Srpska.
10. The Arbitration Award issued by the Arbitrator shall be final and binding on the State of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska and shall be deemed for all purposes material to Article II of Annex 2 to the GFAP to be the "mutual consent" and "agreed adjustment" referred to in Article II thereof and in numbered paragraph 3 hereof.
11. In the event that the Parties, or any one or more of them referred to in Annex 2 to the GFAP, have not, within seven days of the publication referred to in numbered paragraph 9 hereof, consulted and provided notification as required pursuant to Article II of the said Annex (and referred to in numbered paragraph 3 hereof), I shall forthwith take all such steps as are

required on their part to be taken to enable the Inter-Entity Boundary Line to be adjusted (if necessary) so as to accord with the said Arbitration Award. All such steps as I may take as aforesaid shall bind the said Parties absolutely.

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

Sarajevo, 5 February 2001	Wolfgang Petritsch
	High Representative

Office of the High Representative