DRAFT

Pursuant to Article 15 of the Indirect Taxation Authority Act (BiH Official Gazette No. 89/05), and Article 61 Paragraph 2 of the Administration Act (BiH 'Official Gazette No. 32/02 and 102/09), for the purpose of effecting the customs and tax exemptions referred to in Article 26 of the Framework Agreement between Bosnia-Herzegovina and the Commission of European Communities on the rules for cooperation to implement EC financial assistance to Bosnia-Herzegovina under the Instrument for Pre-Accession Assistance (IPA) (BiH Official Gazette – International Agreements No. 6/08), with the consent of the Delegation of the European Union to Bosnia-Herzegovina, the Bosnia-Herzegovina Ministry of Finance and Treasury and the Bosnia-Herzegovina Ministry of Foreign Trade and Economic Relations, the Director of the Indirect Taxation Authority hereby issues the following

INSTRUCTION

on the procedure for claiming customs duties and tax exemptions in accordance with the Framework Agreement between Bosnia and Herzegovina and the Commission of European Communities on the rules for cooperation to implement EC financial assistance to Bosnia-Herzegovina under the Instrument for Pre-Accession Assistance (IPA)

CHAPTER I. GENERAL PROVISIONS

Article 1
(Scope)

This Instruction establishes the procedure in which the exemption from import duties and value added tax ("VAT") chargeable on importation, releasing goods for free circulation into the customs territory of Bosnia-Herzegovina ("BiH") and exemption from VAT chargeable on goods and services supplied within BiH shall be claimed in accordance with Article 26 of the Framework Agreement between Bosnia-Herzegovina and the Commission of the European Communities on the rules for cooperation to implement EC financial assistance to Bosnia-Herzegovina ("Framework Agreement") under the Instrument for Pre-Accession Assistance (IPA).

Article 2
(Claiming Exemptions)

The exemptions referred to in Article 1 above shall be claimed at the time of executing contracts for IPA-funded projects in line with the Framework Agreement.

CHAPTER II. VERIFYING THE CERTIFICATE ON EXEMPTION FROM IMPORT DUTIES AND VAT CHARGEABLE ON GOODS AND SERVICES AND VERIFYING THE BILL OF GOODS

Article 3
(Verifying the Certificate and the Bill of Goods)

(1) Once an IPA-funded contract has been signed with the Delegation of the European Union to BiH ("EUD"), the EUD shall supply the contractor with a blank copy of the Exemption Certificate pertinent to import duties and VAT chargeable on importation, as well as to exemption from VAT chargeable on goods and services supplied within BiH for the purposes of IPA-funded projects under

the Framework Agreement, i. e. the form attached hereto as the Attachment 1 ("EUD IPA Certificate"), along with detailed instructions regarding the exemption procedure to which the supplied copy of the Certificate pertains.

(2) On receiving IPA funds, the Contractor shall file with the EUD three identical copies of the completed IPA ECD Certificate referred to in Paragraph 1 above using the form provided in the Attachment 1 hereto. Where goods are imported under an IPA-funded project, the Contractor shall, in addition to the Certificate, supply the EUD with the following documents:

a) the Bill of Goods to be imported, in three copies, which is to include the details of the type, quantity and value of the imported goods, the signature and seal of the importer and/or vendor, the title, name and seal of the end user of the goods; a blank space shall be provided for the ministry (responsible for verifying the Bill of Goods prior to importation) to affix its signature and seal, and
b) the original copy of the statement given by the end user of the imported goods.

(3) The EUD shall issue one EUD IPA Certificate per contract signed for an IPA-funded project, in three copies, verifying that the respective contract is implemented under the IPA. The EUD shall affix its control number and date of verification on each of the three copies of the Certificate, as well as the EUD signature and seal; one copy shall be retained by the EUD, while two copies shall be returned to the Contractor. Where goods are imported, the EUD shall retain one copy of the Bill of Goods to be imported, while all the original copies of the Bill of Goods shall be returned to the Contractor.

(4) The Certificate on exemption from import duties and VAT chargeable on importation and the Certificate on exemption from VAT chargeable on goods and services supplied within BiH for the purposes of IPA-funded projects the implementation of which is based on the "shared management' scheme under Article 5 Paragraph 2 Item c) of the Framework Agreement, shall be issued by the Bosnia-Herzegovina Ministry of Finance and Treasury; one certificate in three copies shall be issued per contract signed for an IPA-funded project using the form provided in the Attachment 2 hereto ("MFT IPA Certificate").

(5) A BiH-based contractor that has been awarded a project implementation contract referred to in Paragraph 4 above shall submit to the BiH Ministry of Finance and Treasury a completed MFT IPA Certificate in three identical copies using the form provided in the Attachment 2 hereto. Where goods are imported for an IPA-funded project, the Contractor shall, in addition to the Certificate, supply the BiH Ministry of Finance and Treasury with the following documents:

a) the Bill of Goods to be imported, in three copies, which is to include the details of the type, quantity and value of the imported goods, the signature and seal of the importer and/or vendor, the title, name and seal of the end user of the goods; a blank space shall be provided for the ministry (responsible for verifying the Bill of Goods prior to importation) to affix its signature and seal, and
b) the original copy of the statement given by the end user of the imported goods.

(6) The BiH Ministry of Finance and Treasury shall issue one MFT IPA Certificate per contract in three copies for an IPA-funded project, as referred to in Paragraph 4 above, to certify that the contract is implemented under the IPA. Following the verification as required in the contract documents, the BiH Ministry of Finance and Treasury shall affix its control number and date of verification on each of the three copies; two signed and stamped copies shall be returned to the Contractor, while one copy shall be retained by the Ministry. Where goods are imported, the BiH Ministry of Finance and Treasury shall also retain one copy of the Bill of Goods to be imported, while all the original copies of the Bill of Goods shall be returned to the Contractor.

(7) The Bill of Goods imported under a contract for any IPA-funded project in line with the Framework Agreement, which is to include the details listed in Paragraph 2 Item a) or Paragraph 5 Item a) above, shall be verified by the responsible Ministry to which the end user of the goods or person entitled to exemption from import duties granted in respect of IPA-funded projects is accountable to or by a ministry that is, in any respect, responsible for the matter or area which the IPA-funded project under which the goods are being imported concerns. Where there is no such responsible ministry, the Bill of Goods shall be verified by the BiH Ministry of Foreign Trade and Economic Relations, which shall keep track thereof.

Article 4
(Records and reports)

(1) The EUD and BiH Ministry of Finance and Treasury shall maintain an official register of issued EUD IPA certificates and MFT IPA certificates as referred to in Article 3 Paragraph 3 and Paragraph 6 above.

(2) The EUD and BiH Ministry of Finance and Treasury shall submit to the Sarajevo Regional Centre, Department for Taxes, Taxpayer Services Group monthly reports on issued EUD IPA certificates and MFT IPA certificates concerning importation and goods and services supplied within BiH, as referred to in Article 3 Paragraph 3 and Paragraph 6 above, no later than on the 20th day of a month for the previous month. The monthly report shall contain the following details:

a) the control numbers affixed on EUD IPA certificates and MFT IPA certificates,
b) the number, date and value of the contract referred to in Article 3 Paragraph 1 and Paragraph 4 above,
c) the titles of IPA-funded projects,
d) the Contractor's name address and VAT number (where applicable),
e) the name of the foreign contractor's representative and number,
f) the total value of the goods or services in BAM, without VAT.

CHAPTER III. EXEMPTION FROM IMPORT DUTIES AND VAT CHARGEABLE ON RELEASING GOODS FOR FREE CIRCULATION

Article 5
(Exemption from import duties and VAT)

(1) Goods imported and released for free circulation into the customs territory of Bosnia-Herzegovina under IPA-funded projects shall be exempted from import duties (customs duties, customs registration) and VAT under Article 26 Paragraph 2 Item a) of the Framework Agreement.

(2) Private effects and household items for personal use imported by natural persons (and by the members of their immediate families), apart from those locally employed, who have been employed for performing tasks stipulated by an agreement on technical cooperation, shall be exempted from import duties (customs duties, customs registration) and VAT under Article 26 Paragraph 2 Item d) of the Framework Agreement provided their private effects and household items are either re-exported or sold in the country in accordance with the rules in force in BiH, upon the termination of the contract.

(3) The exemptions referred to in Paragraph 1 and Paragraph 2 above shall be effected at the customs office in the territory of BiH to which the goods subject to exemption have been presented and to which the person entitled to exemption shall lodge the following documents:

a) in respect of the exemption referred to in Paragraph 1 above:
   1) the Customs Declaration (SAD) for releasing the concerned goods for free circulation, where the procedure code „4200" shall be affixed on the first partition of the field 37; this Declaration shall be treated as an exemption application provided it is completed in accordance with the rules for completing the customs declaration; also, the procedure code „210" shall be affixed on the second partition of the field 37 (the code marking the exemption from import duties and VAT related to IPA funds under Article 26 Paragraph 2 Item a) of the Framework Agreement, as per the MFT IPA Certificate), whichever is required.
   2) the EUD IPA Certificate or the MFT IPA Certificate (whichever is required) issued under Article 3 above. The control number affixed on the required certificate shall be inserted in the field 44 of the customs declaration next to the document code „IPA", and
   3) the Bill of Goods subject to the Certificate referred to in Line 2) herein, including the details and certification referred to in Article 3 Paragraph 2 Item a) above. Such Bill of Goods shall be lodged in two original copies; the customs office shall return to the person entitled to exemption one certified copy (indicating the number and date of the relevant customs declaration), and shall retain the other copy and the customs declaration.

b) in respect of the exemptions referred to in Paragraph 2 above:
   1) the Customs Declaration for releasing the concerned goods for free circulation, where the procedure code „4200" shall be affixed on the first partition of the field 37; this Declaration shall be treated as an exemption application provided it is completed in accordance with the rules for completing the customs declaration; also, the procedure code „211" shall be affixed on the second partition of the field 37 (the code marking the exemption from import duties and VAT related to IPA funds under Article 26 Paragraph 2 Item d) of the Framework Agreement), save for the goods that can be released for free circulation as exempted from import duties and VAT on the basis of an oral custom declaration,
   2) a certificate issued by the EUD certifying that the person entitled to exemption has been hired to perform tasks stipulated by a contract on technical cooperation under the IPA, and
   3) a manifest of goods to be imported, in two copies, signed by the person entitled to exemption; the customs office shall return to the person entitled to exemption one certified copy (indicating the number and date of the relevant customs declaration), and shall retain the other copy and the customs declaration.

(4) If the goods exempted under Paragraph 1 and Paragraph 2 above are not imported as a single shipment but as split shipments, the customs declaration referred to in Paragraph 3 above shall be lodged per shipment with the same customs office where the procedures of importation and exemption were initiated. Such customs office shall monitor the importation by consecutively checking-out the type, quantity and value of imports per customs declaration, indicating the number and date of the corresponding customs declaration on the submitted Bill of Goods to be imported and the certificate referred to in Paragraph 3 Item a) Line 2) above, or on the Manifest of Goods referred to in Paragraph 3 Item b) Line 3) above.

(5) A decision to grant exemption from import duties and VAT on the grounds of the customs declaration lodged under Paragraph 3 above shall be made in the form of a note to be inserted by the customs office in the field C (for example, „Exempted under Article 26 Paragraph 1 Item a) of the IPA Framework Agreement" or „Exempted under Article 26 Paragraph 1 Item d) of the IPA Framework Agreement", whichever the case may be), provided the customs declaration and its supporting documents contain all required details, whereupon the exemption application filed by the person entitled to exemption shall be endorsed. The customs office shall make the same note in the inspection document corresponding to the customs declaration.

(6) The goods referred to Paragraph 1 and Paragraph 2 above, which have been exempted from import duties and VAT chargeable prior to releasing goods for free circulation, shall not be used for any other purpose but the one in respect of which the exemption has been granted, unless the person entitled to exemption has served a prior notice on the relevant customs authority or has paid import duties and VAT.

CHAPTER IV. EXEMPTION FROM VAT CHARGEABLE ON GOODS AND SERVICES SUPPLIED WITHIN BiH

Article 6
(Exemption from VAT)

(1) Pursuant to Article 26 Paragraph 1 Item b) of the Framework Agreement and Article 29 Paragraph 2 of the Value Added Tax Act (BiH Official Gazette No. 9/05, 35/05 and 100/08), goods and services supplied within Bosnia-Herzegovina under IPA-funded projects shall be exempted from VAT.

(2) The exemption from VAT referred to in Paragraph 1 above shall be effected:
a) where supplies are made under a contract signed with the EUD for an IPA-funded project, on the grounds of the EUD IPA Certificate referred to in Article 3 Paragraph 3 above,
b) where supplies are made under a contract for an IPA-funded project that is implemented under the "shared management" scheme under Article 5 Paragraph 2 Item c) of the Framework Agreement, on the grounds of the MFT IPA Certificate referred to in Article 3 Paragraph 6 above.

Article 7
(Invoicing)

(1) A registered tax payer – supplier of goods and services referred to in Article 6 above shall issue an invoice exclusive of VAT. The invoice shall contain the following clause: "Exempted from VAT under Article 29 Paragraph 2 of the Value Added Tax Act – the EUD IPA Certificate No. ... (indicate the control number of the Certificate) or the MFT IPA Certificate No. ... (whichever certificate is required).

(2) For the purpose set forth under Paragraph 1 above, the contractor shall hand over to the supplier of goods and services a copy of the relevant certificate referred to in Article 6 Paragraph 2 above.

CHAPTER V. TRANSITIONAL AND FINAL PROVISIONS

Article 8
(VAT Refunds)

The Contractor who paid VAT under an IPA-funded project implemented under the "shared management" scheme as referred to in Article 5 Paragraph 2 Item c) of the Framework Agreement, shall be entitled to a VAT refund under Article 29 Paragraph 1 Item 4 of the Value Added Tax Act.

Article 9
(Integral Parts of the Instruction)

The following shall be considered integral parts of this Instruction:

a) Attachment 1 as referred to in Article 3 Paragraph 1 above – the form of the Certificate on exemption from import duties and VAT, and on exemption from VAT chargeable on goods and services supplied within BiH under IPA-funded projects in line with the Framework Agreement (the EUD IPA Certificate), and
b) Attachment 2 as referred to in Article 3 Paragraph 5 above – the form of the Certificate on exemption from import duties and VAT, and on exemption from VAT chargeable on goods and services supplied within BiH under an IPA-funded project implemented under the „shared management" scheme in line with the Framework Agreement (the MFT IPA Certificate).

Article 10
(Superseding)

This Instruction shall supersede the Instruction on claiming customs duties and tax exemption under the Framework Agreement between Bosnia and Herzegovina and the Commission of the European Communities on the rules for cooperation to implement EC financial assistance to Bosnia-Herzegovina under the Instrument for Pre-Accession Assistance (IPA) (BiH Official Gazette No. 42/09) as of its effective date.

Article 11
(Entry into Force)

This Instruction shall enter into force on the eighth day as of the date of its publication in the Bosnia-Herzegovina Official Gazette.

No: 01-02-2-1675 /11
Date: 25 August 2011

ACTING DIRECTOR
MIRO DŽAKULA, MSc

End of translation
Banja Luka, 17 October 2011

CERTIFIED COURT INTERPRETER FOR THE ENGLISH LANGUAGE
STALNI SUDSKI TUMAČ ZA ENGLESKI JEZIK
Gordana Ivančević
BANJA LUKA

I hereby confirm that this translation is true to its original in the English/Serbian language

Потврђујем да овај превод у потпуности одговара оригиналу који је састављен на енглеском/српском језику

GORDANA IVANČEVIĆ
Certified Court Interpreter/Translator for the English language

ГОРДАНА ИВАНЧЕВИЋ
Стални судски тумач за енглески језик