FRAMEWORK AGREEMENT ON TAXES AND CUSTOMS DUTIES APPLICABLE TO PROJECTS FUNDED BY THE GENERAL BUDGET OF THE EUROPEAN COMMUNITIES

The European Community, hereinafter referred to as "the Community" represented by the Commission of the European Communities, hereinafter referred to as "the Commission",
of the one part, and

The Islamic republic of Afghanistan, hereinafter referred to as "the Beneficiary",
of the other part,

and together jointly referred to as "the Parties"

Have agreed as follows:

Article 1
Purpose

This Framework Agreement foresees provisions concerning taxes and customs duties applicable to projects in the area of development cooperation wholly or partially financed by the General Budget of the European Communities in the Islamic Republic of Afghanistan (hereinafter referred to as "the projects").

In the framework of the projects the Beneficiary shall apply to procurement contracts (services, supplies and works contracts) and grants taxes and customs arrangements no less favourable than those granted to States or international organizations for the purposes of development cooperation.

This Framework Agreement does not apply to income tax, without prejudice to any bilateral or multilateral agreements signed by the Beneficiary.

This Framework Agreement is in compliance with the national legislation of the Beneficiary. In case of conflict between this Framework Agreement and the national legislation of the Beneficiary, this Framework Agreement shall prevail.

Article 2
The Contracting Authority

Within the scope of the present Framework Agreement all contacts will be signed by the Contracting Authority. The Contracting Authority shall be either:

– the European Commission; or

– a representative of the Beneficiary authority in national or regional projects; or

– the Imprest Administrator of Programme Estimates; or

– the grant contractor in case of procurement for the purpose of the project; or
– an international organization with which a contribution agreement has been signed; or
– a delegated body acting on behalf of the European Commission.

Article 3
Taxes and customs arrangements

The following provisions concerning taxes and customs arrangements shall apply to contractors and sub-contractors:

Value added tax

The activities within the purpose of the projects shall not be subject to value added tax, sales tax, business receipts tax or any other charges having equivalent effect or any specifically project related tax levied by the Beneficiary.

Customs duties

The activities within the purpose of the projects shall not be subject to customs duties or any other charges having equivalent effect levied by the Beneficiary.

In particular this exemption shall entail the following provisions:

– Enterprises which must import professional equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission;

– Professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted free of fiscal, import and customs duties and of other charges having equivalent effect;

– Personal and household effects imported for personal use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect;

– Imports under supply contracts shall be admitted without customs duties, import duties, taxes or fiscal charges having equivalent effect.

Documentary stamp and registration duties

The contracts shall not be subject to documentary stamp or registration duties or any fiscal charges having equivalent effect. However, such contracts shall be registered in accordance with the laws and regulations of the Beneficiary and a fee corresponding to the service rendered may be charged for it.
Fuels and oils

Fuels and oils shall be subject to fiscal rules applicable under the national legislation of the Beneficiary. Any related tax shall be paid by contractors and subcontractors.

Article 4
Co-operation and consultation between the Parties

The Beneficiary shall take all necessary measures to ensure proper implementation of this Framework Agreement.

Any questions relating to the execution or interpretation of this Framework Agreement shall be the subject of consultation between the Parties.

Article 5
Amendments

Any amendment to this Framework Agreement shall be made in writing.

Article 6
Dispute

Any dispute concerning this Framework Agreement which cannot be settled by consultation between the Parties may be settled by arbitration at one of the Parties’ request. In this case the Parties shall each designate an arbitrator within 30 days of the request for arbitration. Failing that, either Party may ask the Secretary-General of the Permanent Court of Arbitration (The Hague) to designate a second arbitrator. The two arbitrators shall in turn designate a third arbitrator within 30 days. Failing that, either Party may ask the Secretary-General of the Permanent Court of Arbitration to designate the third arbitrator.

Unless the arbitrators decide otherwise, the procedure laid down in the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organisations and States shall apply. The arbitrators’ decisions shall be taken by a majority within a period of three months. Each Party shall be bound to take the measures necessary for the application of the arbitrators’ decision.

Article 7
Suspension and termination

Where the Beneficiary fails to carry out an obligation set out in this Framework Agreement and does not take remedial action in due time, the Commission may suspend or terminate the implementation of this Framework Agreement.

Either Party, following consultations, may for its part rescind this Framework Agreement by giving 6 months notice in advance.

In case of suspension or termination, this Framework Agreement shall continue to apply in respect to on-going obligations deriving from contracts signed hereunder.
Article 8
Addresses

All communications concerning the implementation of this Framework Agreement shall be in writing and be sent to the following addresses:

a) for the Commission

Delegation of the European Commission to
Islamic Republic of Afghanistan
Charahi Sadarat, Opposite the Ministry of Interior,
Shar-e-Naw, Kabul, Afghanistan

b) for the Beneficiary

Ministry of Foreign Affairs
Islamic Republic of Afghanistan
Kabul, Afghanistan

Article 9
Entry into force

This Framework Agreement shall enter into force on the date of exchange of the last notification act confirming the completion by the Beneficiary of its domestic procedures necessary for its entry into force. The provisions of this Framework Agreement shall be applied to all contracts signed from the date of signature by both Parties, insofar as they do not contradict existing legislation of the Beneficiary.

Done in 3 original copies in the English language, 2 copies being handed to the Commission and 1 to the Beneficiary.

FOR THE COMMISSION

Dirk BUDA
Chargé d’Affaires a.i.

FOR THE BENEFICIARY

Dr. Rangin Dadfar SPANTA
Minister of Foreign Affairs

April 20, 2009