Remarks of Brcko Supervisor Dr. Raffi Gregorian at his February 16, 2010 press conference, Brcko Final Award Office.

Next week the Political Directors of the Peace Implementation Council Steering Board will meet in Sarajevo to review the situation in Bosnia and Herzegovina.

It now has been almost exactly five months since the High Representative issued decisions intended to create the conditions for ending supervision for Brcko by acting on matters where the state and entities had failed to act.

Those conditions were either set 11 years ago when the Final Award was issued—such as on entity citizenship or mutual debts—or were brought about by the state and entities failing to take into consideration Brcko and the Final Award when acting in the area of electricity or distribution of SFRY succession assets.

Discussions with the entities about settlement of mutual debts has continued, and payments to Brcko of its share of proceeds from succession assets began several weeks ago in accordance with state law. But issues related to entity citizenship and incorporating Brcko into the electricity system of BiH remained blocked by the SNSD-led government in Banja Luka.

On the international side, we had all hoped that the SNSD-led coalition would have come into compliance with the Brcko Final Award by last November and so permit a decision on ending Supervision. Instead, the SNSD escalated its confrontation

with the international community by calling a referendum and threatening to pull officials out of state institutions.

But in the hope that there could at least be progress on Brcko, over the last two months, with the backing of the PIC, I have been in touch with and met senior SNSD and RS officials to answer any legitimate questions or concerns they had about citizenship and electricity to encourage them to come into compliance, and so allow me to inform the Arbitral Tribunal that the Final Award was complete.

The adoption by the RSNA last week of the HR's amendments to the law on citizenship, which allow Brcko residents to choose or change their entity citizenship in line with paragraph 1 of the 1999 Annex to the Final Award, although nearly 11 years late, was a positive step and gave us hope the SNSD-led coalition might also do the same for amendments related to electricity. Ambassadors of the PIC SBA and myself encouraged them to do so.

Unfortunately, for reasons only the SNSD-led coalition with DNS and SP understand, they continue to refuse to allow Brcko to become part of the legal regulatory framework for electricity supply, distribution, and transmission in BiH. By so doing they consciously choose to keep the RS from fulfilling its final legal obligations and so remain in "serious non-compliance" with both the Brcko Final Award and in defiance of Dayton.

But what is the problem with electricity? Why did the HR need to act in September?

Some six years ago, when BiH acted to meet the EU requirements for establishing a country-wide electricity market, Brcko was left out. Over the last six years the RS has supplied 100% of Brcko's electricity needs, but the arrangements were entirely outside the law and the framework for the rest of the country. Electricity was supplied on the basis of "memoranda of

understanding” based on political goodwill from the RS.

This meant that in the event of any dispute with the RS over prices or supply, nothing was enforceable in a court of law. Brcko’s electricity supply has been subject to political whim, rather than the law. Moreover, Brcko’s public utility company had no license to purchase electricity. In short, by excluding Brcko from the BiH regulatory framework, Brcko has been an energy vassal to Banja Luka, which, given all the talk about a referendum over the past four years, is not an arrangement that gives confidence with regard to the independence of the District after the end of Supervision.

The end result of the actions by the SNSD-led coalition is to punish Brcko residents by driving up electricity prices by keeping Brcko out of BiH’s legal electricity framework.

They have done this in two ways. First, they have illegally blocked the State Electricity Regulatory Commission from issuing Brcko a license to purchase electricity and prevented it from setting tariffs for electricity prices in Brcko.

Second, by preventing the enforcement of the laws enacted by the High Representative, they deprive Brcko District residents of electricity supply as a public service. That is, they want to make sure that there is no legal obligation to provide electricity to Brcko!

Moreover, by refusing to obey the law, the SNSD-led coalition also deliberately made it impossible for Brcko to conclude a contract with Elektroprivreda RS to provide 100% of electricity to Brcko for the whole year. This means that Brcko residents will now not only have to pay for the higher electricity prices being charged by the RS this year, but they will also have to pay higher prices because of the need to obtain electricity from other providers. The bottom line is that the SNSD’s actions will cause Brcko residents to pay higher electricity prices.

You will recall that in December I said that I will not allow Brcko to be subjected to energy blackmail.

During my meeting with the EPRS director and senior SNSD officials, including Mayor Pajic, it became clear that there is some other reason why they want to maintain the previous method of providing electricity to Brcko outside the rule of law. Indeed, during that meeting the EPRS director threatened to increase prices for Brcko even beyond the announced price rise for RS residents.

Why? Because by their own admission they have always been charging Brcko residents more than RS residents. It is absolutely unclear how that price was calculated. One of possible explanations would be that Brcko residents were charged twice for distribution costs.

Clearly, some people want to retain the ability to charge you twice for the same thing.

I will not allow that.

Therefore, I will be ordering the following steps to be taken:

First, the District will secure the necessary funds from reserves to subsidize price increases in excess of normal, regulated price increases for 2010, with priority for those who are socially vulnerable.

Second, that any civil and criminal responsibility of Mr. Vladimir Dokic, the chairman of SERC, be established, including Mr. Dokic's potential responsibility for any financial damage to the District caused by his obstruction of the state law. The fact that the chairman of a state independent regulator has chosen to obey political instructions is not only shameful but it also constitutes a responsibility for not abiding by the laws in force.

Third, there shall be an audit of electricity prices from EPRS

to Brcko for the last 5 years in order to determine the amount that the Brcko District would have paid if treated as a tariff consumer. The HR's Decisions allowed Brcko residents to be treated as tariff consumers and thus as any other residents in BiH. Once the audit is completed, I will then be able to assess to what extent the EPRS took advantage of the absence of a proper regulation of the District's electricity supply at the time.

Fourth, once the facts have been clearly established, I will consider all options with regard to making Brcko District financially whole again, so that any funds needed to pay for an increase above normal price rises, will be restored to the District reserves from those responsible for the added expense. Brcko residents should not have to pay the price for other people enriching themselves by breaking the law.

Do not be fooled by those who will try to suggest that the rise in electricity prices is anyone's responsibility other than those in power in the RS today. The SNSD coalition had five months to come into compliance with the HR's decisions, and I even offered options for renegotiating contracts if they did so. The SNSD chose not to, despite even a written appeal from ambassadors of the Peace Implementation Council Steering Board. This is a clear indication that the RS has a specific interest to obstruct Brcko's integration not only into the system of electricity supply but also into the system of electricity and gas transmission. This is possibly because of the intentions stated in RSNA documents to privatize the fiber-optic cable network attached to the state electricity transmission system.

Lastly, Brcko's experience of overpaying for electricity because of its exclusion from the legal framework serves as a clear warning with regard to the building of any gas pipeline through Brcko District without necessary coordination. The absence of a proper legal framework in the gas sector is being misused to the detriment of all citizens, including those

residing in Brcko District. There is every indication that the SNSD-led coalition wishes to control the supply of gas through Brcko in the same way as they have done with electricity, and Brcko residents will again pay the price.

The Athens Energy Community Treaty, to which BiH is a party, commits all parties to create a unified space for trade in electricity and gas. While assuming this international obligation, BiH has failed to establish a unified regulatory framework for energy – gas included – within its own borders. Despite numerous warnings, this task has not been completed as a result of obstructions from the RS.

Let me take this opportunity, then, to put all relevant entity and state authorities on notice: Brcko District, being by its very nature "inter-entity" territory, means the state has responsibility as enumerated in Article III, paragraph 1 of the constitution of Bosnia and Herzegovina. This means that the construction of any gas pipeline through Brcko in the absence of a proper legal and regulatory framework and coordination, will be highly questionable in terms of the constitution, Dayton, the 1999 Final Award, and the 2007 addendum to the Final Award.

Now let me share with you what I have told various leaders here in Brcko and in Banja Luka: the simplest, fastest and most legal way to solve this problem is to gazette the decisions of High Representative. As I have already described to you they were offered the opportunity to adopt them in the RSNA and they turned it down. I think we all hope that this problem is a one off affair and that in preparation for next year they will come into compliance with the law and negotiate proper legal supply of electricity for Brcko.

Thank you very much.