Remarks by the High Representative and Brcko Supervisor at the 18 September 2009 Press Conference on Brcko, OHR, Sarajevo

High Representative Inzko

Good afternoon and thank you for coming. I am here to announce that I have just signed a series of decisions intended to make the entities and the state fulfill certain of their outstanding obligations under the Brcko Final Award. My Principal Deputy and the Supervisor of Brcko District, Raffi Gregorian, will fill you in on the details.

I want to say at the outset that I am not happy that I have had to use my powers in this way, because I am having to enact into law issues which the entities should have done nine years ago.

In September 2000, the entities signed a memorandum of understanding with then Supervisor Matthews and the Mayor of Brcko on “the implementation of entity obligations from the Final Arbitral Award for Brcko.”

A month later they signed a series of specific agreements covering a whole range of these entity obligations, and again in September 2001 additional agreements were signed.

Let me point out that the same parties that were in the RS and Federation governments then are the same ones in power in the entities today. Despite that, no serious effort was ever made then or now to implement these signed agreements related to entity obligations under the Final Award.

Their nearly decade-long lack of action certainly calls into question how serious is their commitment to Dayton, the Final Award, and the rule of law. The best that can be said about the entities' failure to fulfill their obligations is that it was irresponsible.

This is all the more the case given that none of the outstanding issues are especially difficult to solve or have any serious political consequences. Quite the contrary: the only serious consequences arise from not implementing the agreements.

Over the intervening years, Supervisor Gregorian and his predecessors repeatedly raised these issues with the entities in person and in writing. Promises were made to them, but never kept, including this year.

In March, after the Brcko constitutional amendment was adopted, the Peace Implementation Council Steering Board politely reminded the entities of these obligations and noted they were necessary for completing the Final Award.

The entities did nothing.

Instead, they took an illegal decision to deprive Brcko of its fair share of proceeds from the sale of BiH's share of gold obtained through the SFRY succession treaty.

We urged the Council of Ministers to correct this mistake in

order to avoid a legal dispute being brought before the Arbitral Tribunal, which would inevitably delay a decision on ending Supervision.

In June the Peace Implementation Council Steering Board took a provisional decision to end Supervision subject to this mistake being corrected and the entities fulfilling their remaining obligations on mutual debts, change of entity citizenship, and regulation of electricity in Brcko.

The Steering Board set a deadline of 15 September for these obligations to be fulfilled, because they agree with the Supervisor there was no need to extend Supervision merely to wait another nine years for the entities not to fulfill their obligations.

The entities and the state did nothing.

So in July the Supervisor and OHR proposed remedies on these issues to the entities and the state.

The responses were inadequate and late, and the deadline passed without any of the necessary remedies being adopted into law.

And so it is that I acted in accordance with the Supervisor's conditions as approved unanimously by the PIC Steering Board in June.

The entities and the state must now be seen to adhere to these decisions, for that is the only way in which the Supervisor will be in a position to notify the Arbitral Tribunal that the entities have met their obligations under the Final Award—a notification which is the vital last step for the Steering Board to formally terminate Supervision in November.

Thank you. I will now hand you over to Dr. Gregorian.

PDHR/Supervisor Gregorian

Thank you, High Rep.

Today's decisions include consist of, all of which are necessary for me to inform the Arbitral Tribunal that the entities have met their obligations:

First: Amendments to the state and both entity laws on citizenship which provide a mechanism by which District residents may change their entity citizenship. This is a requirement from Paragraph 1 of the August 1999Annex to the Final Award. However, the mechanisms for changing entity citizenship applies to all BiH citizens.

Second: Amendments to the state and both entity laws on electricity. When the state electricity transmission and regulatory system was established, Brcko was inadvertently left out of it. Over the years, the RS continued to provide electricity to Brcko, but it has been without the necessary legal framework.

Based on recommendations from local and international experts, EPs from each entity will be obliged to provide Brcko with electricity on a 50:50 basis, unless they agree otherwise. The State Electricity Regulatory Commission (DERK) will assume responsibility for regulating matters such as tariffs, which is entirely consistent with the intention of the Final Award and subsequent agreements on provision of electricity to Brcko District.

I would like to take this opportunity now to make an important point about the nature of electricity distribution in the Brcko District. The distribution assets are owned by the state Transmission Company, or TRANSCO. You will be aware that there have been a number of problems with TRANSCO due to RS efforts to block the effective operation of the company. The RS has been trying for more than a year to dissolve TRANSCO, even though the law does not allow for this to even

be considered for several years, and only then with the agreement of both entities.

If anything happens to TRANSCO, de facto or de jure, all its equipment and property in the District will thereafter belong either to the state or the District. Or, stated differently, no company or authority of either entity will be able to exercise control over the District. To allow it would be a violation of the Final Award, the addendum to the Final Award, and the Constitution of BiH.

Third: a BiH law on distribution of succession assets. This is the law which the BiH Council of Ministers adopted on Monday. Previous asset distributions had been done on the basis of law, as required by the Constitution. This law corrects the mistake made by the Fiscal Council in March and the Council of Ministers in April which distributed the funds without legislative approval and at the expense of Brcko, which is a violation of the Final Award and the June 2007 Addendum to the Final Award.

The law gives 3% to Brcko, 10% to the state of BiH, 58% to the Federation, and 29% to the Republika Srpska.

With respect to the matter of debts, the Mayor of Brcko has officially informed me that both the Federation and the RS have agreed with the District on the amounts to be paid to Brcko District as settlement of outstanding debts. I will therefore suspend issuing a Supervisory Order on this matter as long as the Entities conclude a binding, written undertaking by 1 October to repay the agreed amounts in due course.

These solutions are fair and they are sustainable. If the entities and the state adhere to these solutions, then I will be able to notify the Arbitral Tribunal that the conditions for ending the Tribunal itself have been met: (a) the entities have fulfilled their obligations and (b) that District

institutions are functioning effectively and apparently permanently, the latter condition having been met earlier this year.

Thank you. I will be happy to take some questions now.