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OSCE'S FUTURE CONTRIBUTION TO INTERNATIONAL
ENERGY SECURITY CO-OPERATION**

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**Session I: Existing energy arrangements and mechanisms, and
other initiatives in energy security**

Regarding the draft Convention on Ensuring International Energy Security

In July 2009, I had the honour to speak at the OSCE Chairmanship Conference on Strengthening Energy Security in the OSCE Area, held in Bratislava, and the current presentation may be thought of as a kind of follow-up to the previous one. On that earlier occasion I spoke of the fact that Russia attaches special significance to the international legal aspects of this most important issue. This is because it considers energy security to be one of the key factors in building an effective energy supply system and is taking essential steps to strengthen the security of supplies in many areas, such as enhancing technical and technological reliability in extraction and transport, developing transport infrastructure, diversifying export routes, developing production of liquefied natural gas, and establishing energy stockpiles and reserves.

This circumstance was reflected in the widely known initiative by Russian President Dmitry Medvedev, about which he spoke following its introduction in April 2009: the Conceptual Approach to the New Legal Framework for Energy Cooperation (Goals and Principles). It contains, in particular, a proposal for the elaboration of a new, universal, international legally binding instrument, which would cover all aspects of global energy co-operation and be destined to become an essential element of the new system of ensuring energy security.

In furtherance of the ideas set out in the Conceptual Approach, Russian experts elaborated the draft Convention on Ensuring International Energy Security, which will shortly be submitted to experts of all interested States and international organizations for discussion. It is expected that all comments and constructive proposals by partners and potential parties to the Convention will be heard and, as far as possible, taken into account during such discussions.

Currently, the proposed Convention is still being drafted; revisers and translators are still working on it. For that reason, in today's first official report on the document, I intend to

limit myself to a fairly brief and general presentation – in essence, a summary – while of course mentioning certain provisions that seem to be the most important.

In terms of structure, the draft Convention consists of a preamble, ten parts and two annexes.

The preamble, *inter alia*, stresses the effort to give the new framework document the character of a universal, multilateral, open and equal international agreement; notes the high degree of vulnerability of the energy infrastructure and the need to protect the environment and resolve climate change issues; recognizes the mutual responsibility of energy-producing countries, countries of transit, and energy consumers for global energy security; and declares the intention to allocate risks fairly among the parties.

The first part of the draft Convention, in order to avoid ambiguity in interpretation, introduces definitions of terms which, on the whole, differ little from the traditional ones. I will mention the proposed definition of “international energy security” as “that state of the global energy system in which consuming countries are assured of a reliable and uninterrupted supply of energy materials and products (EMP) in conditions that are satisfactory to all participants in the global energy market, with minimal harm to the environment and with a view to ensuring sustainable economic and social development for the world community”. The first part also states our understanding of the goals of the Convention, in the following terms: “...to lay down principles and minimal legally binding requirements for the parties, and to create a basis for elaborating detailed rules of long-term international energy co-operation aimed at ensuring international energy security, while taking into account the interests of all participants in the world energy supply system”.

The second part of the draft Convention sets out general principles of international energy co-operation by which parties to the Convention are expected to be governed, as well as a number of general provisions. The proposed principles include, in particular, the transparency and predictability of energy policies, strategies and legislation; the security of EMP supplies and predictability of demand for them; and State sovereignty over national natural resources. Mention may also be made of the declaration of respect for the right of States to establish or participate in organizations representing the interests of different sectors of the energy chain.

In the application of the declared principles, the parties intend, unless otherwise stated, to ensure the openness of and non-discriminatory access to international energy markets and to promote their competitiveness; to support an optimal stable balance between the demand for and supplies of EMP; to foster scientific and technical co-operation in the energy field; to enhance the efficiency of production, processing, transport and use of EMP; to ensure the unhindered delivery of energy resources to international markets; to help solve the energy problems of the poorest segments of the population in developing countries; and to create reasonable reserve capacity with regard to production and transport of EMP.

Other articles in the second part of the draft Convention are devoted to openness and consultation, diversification in the broad sense of the word, stability and predictability of energy markets, the assets exchange principle, and helping to strengthen interdependence and co-operation among players in the global energy market. The articles on ensuring physical security of critical energy infrastructure and countering threats of international terrorism, as well as actions to be taken by the parties in emergency situations, deserve separate mention.

The third part of the draft Convention covers extremely important but fairly traditional provisions concerning the promotion and protection of investments in the energy sector. What is outlined here are minimum standards for the investment regime and the protection of investments, procedures for the settlement of disputes between a party and an investor from another party, issues concerning expropriation and nationalization, compensation for damages, and such like. On the whole, the provisions in this part are, in our opinion, similar to the corresponding provisions of the World Trade Organization and the practice of concluding bilateral investment promotion and protection agreements.

International trade issues are reflected in the fourth part of the draft Convention. It acknowledges the desire of the parties to promote the development of open and competitive EMP markets with a view to developing global trade in energy resources and ensuring international energy security. Conformity with the applicable provisions of the Agreement Establishing the World Trade Organization is declared as the main principle governing trading in EMP. Minimum requirements are also proposed for trade in EMP, including the abolition of existing import customs duties and the prohibition of the introduction of new ones, as well as the prohibition of quantitative restrictions (and measures having a similar effect) with regard to energy materials and products.

Provisions regarding trade in energy technologies are dealt with in a separate article. Pursuant to this article, the parties do not restrict access to energy technologies or their transfer on a commercial basis, while ensuring the protection of intellectual property rights and meeting commitments regarding the non-proliferation of nuclear weapons. They also facilitate the proliferation of innovative technologies to ensure more effective extraction, production, transport and use of EMP while reducing the harm caused to the environment.

The fifth part of the draft Convention focuses on transit issues. Here it is declared that the parties, in accordance with the principle of freedom of transit, are taking measures to ensure unhindered and non-discriminatory transit of EMP. A separate article is concerned with the construction of transport facilities for EMP intended for transit. An article on transit guarantees prohibits the transit country party and its entities from interrupting or reducing the EMP transit flow so long as the relevant agreements on transit make no provision for such a right. The last provision in this part, which is concerned with transit through a regional economic integration organization (REIO) and the States making up that organization, extends the definition of transit and the Convention's transit provisions to both the REIO and each of these States.

The sixth part of the draft Convention focuses on environmental protection. Specifically, it sets out the commitment of the parties to reduce to a minimum harmful effects on the environment occurring as a result of the activities of their fuel and energy companies within or outside the borders of their territory, taking the position that expenses incurred in dealing with the consequences of pollution should in principle be borne by the polluter.

A separate article obligates the parties to individually and jointly develop measures to strengthen the quality of the international legal, organizational and financial regime for preventing major accidents in the offshore prospecting, extraction and transport of oil and for dealing with the consequences of such accidents.

One of the provisions in the seventh part prohibits any party from discriminating with respect to the form of ownership (State or private) of other parties' companies engaged in activities on its territory, while at the same time not preventing the party from appointing or supporting State or private monopolies in accordance with its own legislation.

Another article in this part outlines legitimate and moreover fairly standard grounds for exemptions from commitments, which any party to the Convention may introduce.

The eighth part of the draft Convention envisages the possibility of drafting and adopting legally binding protocols to the Convention, which may be signed at the same time or after the signing of the Convention. In that connection, only parties to the Convention may become a party to a protocol. These protocols serve to provide more detail and to refine and clarify the Convention's provisions, and cannot contradict them. The protocols apply only to those parties to the Convention that have become a party to the protocol in question and must not infringe on the rights of the other parties to the Convention that have not signed the protocol.

The ninth part describes the institutions responsible for implementing the Convention. It is proposed that the Convention's supreme body will be its Conference, headed by the Chairman of the Conference and convened annually to resolve the most fundamental issues, for example, regarding the application of the Convention's provisions, the holding of negotiations on the drafting of protocols to the Convention and the admission of new participants. The day-to-day activities involved in the implementation of the Conference's decisions may be carried out by the Secretariat of the Convention, headed by a Secretary General. The parties make annual contributions to the organization's budget to finance the work of the Secretariat, including the holding of its Conferences.

The last part contains an article describing the proposed procedure for the settlement of disputes between the parties regarding the interpretation and application of the Convention's provisions. In the event that negotiations on disputed issues fail, the procedure provides for the creation and use of an arbitration court.

Other articles in this part cover formal aspects connected with the adoption of amendments to the Convention, the signing, ratification, adoption or approval of the Convention, accession to it, withdrawal from it, its entry into force, and so on.

Lastly, the draft Convention contains two annexes, which are integral parts of the Convention. The first annex provides a complete list of energy materials and products to be covered by the Convention. The second annex provides an extensive list of possible protocols to the Convention.

In conclusion, I should like to stress once more that we are fully aware that the information presented today on the draft Convention can give only a first impression of our proposal and can in no way be regarded as an official document. I repeat: the complete text of the draft Convention will be distributed in the near future. We are then looking forward to real discussions so as to eliminate any differences of opinion among the potential parties to the Convention and simply to improve the text.

Thank you for your attention.