Mr Chairman, Ladies and Gentlemen, it is a great pleasure to address this distinguished forum, and to make these brief remarks on the future role of the Energy Charter Treaty in promoting competitive, secure and sustainable natural gas supply.

I would like to begin by mentioning some of the developments in natural gas markets that should help to determine a perspective on the Energy Charter.

Firstly, cross-border trade in natural gas is growing faster than consumption, so the gas business is not only expanding, it is becoming more and more international.

Secondly, because of the declining indigenous resources in Europe, much of the future investment in gas production and infrastructure will have to take place outside the European Union.

A third observation is that more than three-quarters of the international gas trade last year was through pipelines, many of which cross many national borders and national jurisdictions. This puts a premium on international cooperation to ensure reliable energy transit.

Finally, I would like to question one assumption that you sometimes hear about the future, namely that we can expect to see gradual movement along the entire gas value chain towards the market model developed by the European Union. Convergence towards this model will certainly be the case for some regions proximate to the EU and which have a perspective on EU membership; the Energy Community Treaty in Southeast Europe is an impressive example of this approach. However, in my view, when looking further afield at the sources of Europe’s imported energy, such as Russia and the countries of the Caspian region, there are much higher barriers to the export of the European acquis – particularly with prices for hydrocarbons where they are today.

Against this background, I think that the role of the Energy Charter comes into sharper definition. Under conditions of growing globalisation of capital and energy markets, there is an increasing need for a common framework – agreed by all states along the energy value chain – to provide a necessary degree of legal security for investment and reliable cross-border flows and to promote the efficient production and use of energy.

There is also a continuous need for a dialogue with partners all along this chain, and with this in mind I would like to welcome the fact that the Russian Gas Society is now an associate member of Eurogas.
Finding an international consensus on issues of energy is not always an easy task, especially when the objective is to conclude a binding instrument of international law. The Energy Charter Treaty is therefore a singular achievement in international cooperation, representing – as the Russian Ministry of Foreign Affairs pointed out in an explanatory document last year – “the result of mutual compromises and ‘give and take’ ... and the aim of the negotiating parties to find a balance of interest”.

This Treaty has now been in force for eight years, and I am convinced that the ‘balance of interest’ found in the Treaty remains the right one. I also strongly welcome the fact that the continued relevance of the principles of the Energy Charter was reaffirmed by the leaders of the G-8 at the recent St Petersburg summit.

But what does this mean in practice? What are the ‘principles of the Energy Charter’ and what contribution does the Treaty make? I would like to take a moment to answer these questions.

At the level of principle, the Energy Charter is based on the conviction that the best guarantee of energy security is the operation of more open and transparent energy markets, and a climate favourable to the flow of investment capital, technology and energy. The Charter also recognises the necessity to increase the efficiency of energy use and minimise its environmental impact, remembering that the cleanest and most secure energy is that which is not used at all.

With regard to investment, a starting point for the Energy Charter is an explicit recognition of national sovereignty over energy resources. It is for national governments to decide whether and how to exploit their natural resources, and the extent to which their energy sectors are open to foreign investment. The Treaty is not an instrument that creates investment opportunities for companies by forcing open access to resources, nor does it seek to prescribe a particular structure of national energy markets.

But once an investment is made in the energy sector, the Treaty does have a clear role in protecting foreign investors against key non-commercial risks, such as discriminatory treatment, direct or indirect expropriation and the breach of individual investment contracts. This additional degree of legal security is backed up by mechanisms for dispute settlement, and is particularly important in the energy sector, where projects are highly strategic and capital-intensive and where risks have to be assessed over a long time horizon.

Experience over the eight years since the Treaty entered into force suggests that these risks to energy investment are real, and that in some countries the risks are increasing alongside greater state involvement in the operation of the energy sector. Against this background, I would like to underline that the Energy Charter has a robust and growing track record of facilitating the resolution of investment disputes.

A rising number of disputes between upstream energy investors and their host states is related in part to the increasing overall volume of foreign investments. But it can also be attributed to the strengthened position that some resource-owning countries feel during a time of high energy prices. In this environment, the Energy Charter’s protection of the sanctity of contract and promotion of consistency and transparency
in the treatment of foreign investors are particularly important to ensure the implementation of commercially and technologically risky projects.

Another factor affecting investments in energy production is the availability of dependable options for transportation to paying markets. Across Eurasia, with its multiple land borders, a vital part of the solution is a multilateral mechanism to ensure reliable energy transit.

With fifty-one member states, the Energy Charter is well placed to tackle this issue because of its broad geographical coverage, and because the Treaty establishes common obligations to which all member countries subscribe. Parties to the Treaty are under an obligation to facilitate energy transit, and not to interrupt or reduce existing flows. As production areas become ever more distant from the main consumer markets, this aspect of the Charter’s role will only increase in strategic value both for Europe’s consumers and for producers seeking long-term access to the European market.

Mr Chairman, I would also like to say a few words about the position of Russia in relation to the Energy Charter, and also touch upon the geographical scope of the Charter’s work and the prospects for accession of new member states.

As many of you are aware, there has been a vigorous debate this year about the Energy Charter and the issue of ratification of the Treaty by Russia. You may also be aware that Russia has some longstanding questions about the application of the Treaty’s provisions on transit, and we are engaged in clarifying these technical issues with our member countries.

However, there has also been a broader public and political debate over the course of this year – and here the Energy Charter has become associated with a wide variety of topics that have no link, or only the most tenuous connection, to the actual substance of the Treaty.

A prime example of such a misconception is the issue of third-party access to pipelines. It has become almost axiomatic in the public debate – both inside and outside Russia – that ratification of the Treaty by Russia would require opening up access to the domestic pipeline network, including export pipelines. This is mistakenly seen as a prime justification for external pressure on Russia, and – to influential sectors of Russian opinion – has provided a reason to resist that pressure.

The issue of access to networks is worthy of serious debate – and this is a topic that we address among our member states. However, it is simply not the case that the Energy Charter Treaty requires mandatory third party access to pipeline networks – in fact, the possibility of such an interpretation of the Treaty is explicitly excluded.

This sort of misunderstanding – and this is not the only example – has not taken the debate about the Energy Charter forward. In relation to Russia, the priority for the Charter will be to continue with a pragmatic and realistic discussion on the issues covered by the Treaty, in the expectation that this will strengthen the arguments for applying the provisions in full. In relation to the broader debate on international
energy security, the priority is to raise awareness about the real implications of the Charter’s work.

Mr Chairman, the challenges addressed by the Energy Charter are not limited to a select group of countries. These are global issues, and the Energy Charter is also responding to interest from other countries outside its traditional constituency.

The Energy Charter is an open organisation, and has been strongly influenced in recent years by the general trend towards globalisation. The Asian dimension of the Charter has in particular become prominent, as countries across this region look for instruments to meet their own energy challenges. This is why I hope that the Charter will soon be in a position to welcome the accession of Pakistan to the Treaty, and why countries across South and Southeast Asia are showing an increasing interest in the process. It is also why I am convinced that the Energy Charter will play a distinctive and expanded role in promoting energy security in the future.

Thank you for your attention.