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# Message to the Congress on the Federal Republic of Yugoslavia (Serbia and Montenegro). (Pres. Bill Clinton)

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(Serbia and Montenegro)

July 18, 1995

To the Congress of the United States:

On May 30, 1992, in Executive Order No. 12808, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States arising from actions and policies of the Governments of Serbia and Montenegro, acting under the name of the Socialist Federal Republic of Yugoslavia or the Federal Republic of Yugoslavia, in their involvement in and support for groups attempting to seize territory in Croatia and the Republic of Bosnia and Herzegovina by force and violence utilizing, in part, the forces of the so-called Yugoslav National Army (57 FR 23299, June 2, 1992). I expanded the national emergency in Executive Order No. 12934 of October 25, 1994, to address the actions and policies of the Bosnian Serb forces and the authorities in the territory of the Republic of Bosnia and Herzegovina that they control. The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c). It discusses Administration actions and expenses directly related to the exercise of powers and authorities conferred by the declaration of a national emergency in Executive Order No. 12808 and Executive Order No. 12934 and to expanded sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S/M)") and the Bosnian Serbs contained in Executive Order No. 12810 of June 5, 1992 (57 FR 24347, June 9, 1992), Executive Order No. 12831 of January 15, 1993 (58 FR 5253, Jan. 21, 1993), Executive Order No. 12846 of April 25, 1993 (58 FR 25771, April 27, 1993), and Executive Order No. 12934 of October 25, 1994 (59 FR 54117, October 27, 1994).

1. Executive Order No. 12808 blocked all property and interests in property of the Governments of Serbia and Montenegro, or held in the name of the former Government of the Socialist Federal Republic of Yugoslavia or the Government of the Federal Republic of Yugoslavia, then or thereafter located in the United States or within the possession or control of U.S. persons, including their overseas branches.

Subsequently, Executive Order No. 12810 expanded U.S. actions to implement in the United States the United Nations sanctions against the FRY (S/M) adopted in United Nations Security Council ("UNSC") Resolution 757 of May 30, 1992. In addition to reaffirming the blocking of FRY (S/M) Government property, this order prohibited transactions with

respect to the FRY (S/M) involving imports, exports, dealing in FRY-origin property, air and sea transportation, contract performance, funds transfers, activity promoting importation or exportation or dealings in property, and official sports, scientific, technical, or other cultural representation of, or sponsorship by, the FRY (S/M) in the United States.

Executive Order No. 12810 exempted from trade restrictions (1) transshipments through the FRY (S/M), and (2) activities related to the United Nations Protection Force ("UNPROFOR"), the Conference on Yugoslavia, or the European Community Monitor Mission.

On January 15, 1993, President Bush issued Executive Order No. 12831 to implement new sanctions contained in U.N. Security Council Resolution 787 of November 16, 1992. The order revoked the exemption for transshipments through the FRY (S/M) contained in Executive Order No. 12810, prohibited transactions within the United States or by a U.S. person relating to FRY (S/M) vessels and vessels in which a majority or controlling interest is held by a person or entity in, or operating from, the FRY (S/M), and stated that all such vessels shall be considered as vessels of the FRY (S/M), regardless of the flag under which they sail.

On April 25, 1993, I issued Executive Order No. 12846 to implement in the United States the sanctions adopted in UNSC Resolution 820 of April 17, 1993. That resolution called on the Bosnian Serbs to accept the Vance-Owen peace plan for the Republic of Bosnia and Herzegovina and, if they failed to do so by April 26, called on member states to take additional measures to tighten the embargo against the FRY (S/M) and Serbian controlled areas of the Republic of Bosnia and Herzegovina and the United Nations Protected Areas in Croatia. Effective April 26, 1993, the order blocked all property and interests in property of commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S/M), including property and interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are or thereafter come within the possession or control of U.S. persons.

On October 25, 1994, in view of UNSC Resolution 942 of September 23, 1994, I issued Executive Order No. 12934 in order to take additional steps with respect to the crisis in the former Yugoslavia. (59 FR 54117, October 27, 1994.) Executive Order No. 12934 expands the scope of the national emergency declared in Executive Order No. 12808 to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions and policies of the Bosnian Serb forces and the authorities in the territory in the Republic of Bosnia and Herzegovina that they control, including their refusal to accept the proposed territorial settlement of the conflict in the Republic of Bosnia and Herzegovina.

The Executive order blocks all property and interests in property that are in the United States, that hereafter come within the United States,

or that are or hereafter come within the possession or control of United States persons (including their overseas branches) of: (1) the Bosnian Serb military and paramilitary forces and the authorities in areas of the Republic of Bosnia and Herzegovina under the control of those forces; (2) any entity, including any commercial, industrial, or public utility undertaking, organized or located in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; (3) any entity, wherever organized or located, which is owned or controlled directly or indirectly by any person in, or resident in, those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; and (4) any person acting for or on behalf of any person within the scope of the above definitions.

The Executive order also prohibits the provision or exportation of services to those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or to any person for the purpose of any business carried on in those areas, either from the United States or by a U.S. person. The order also prohibits the entry of any U.S.-flagged vessel, other than a U.S. naval vessel, into the riverine ports of those areas of the Republic of Bosnia and Herzegovina under the control of Bosnia Serb forces. Finally, any transaction by any U.S. person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in the order is prohibited. Executive Order No. 12934 became effective at 11:59 p.m., e.d.t., on October 25, 1994.

2. The declaration of the national emergency on May 30, 1992, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on May 30, 1992, pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and the expansion of that National Emergency under the same authorities was reported to the Congress on October 25, 1994. The additional sanctions set forth in related Executive orders were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, section 1114 of the Federal Aviation Act (49 U.S.C. App. 1514), and section 5 of the United Nations Participation Act (22 U.S.C. 287c).

3. There have been no amendments to the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 585, since the last report. The Treasury Department had previously published 853 names in the Federal Register on November 17, 1994 (59 FR 59460), as part of a comprehensive listing of all blocked persons and specially designated nationals ("SDNs") of the FRY (S/M). This list identified individuals and entities determined by the Department of the Treasury to be owned or controlled by or acting for or on behalf of the Government of the FRY (S/M), persons in the FRY (S/M), or entities located or organized in or controlled from the FRY (S/M). All prohibitions in the Regulations pertaining to the Government of the FRY (S/M) apply to the entities and individuals identified. U.S.

persons, on notice of the status of such blocked persons and specially designated nationals, are prohibited from entering into transactions with them, or transactions in which they have an interest, unless otherwise exempted or authorized pursuant to the Regulations.

On February 22, 1995, pursuant to Executive Order 12934 and the Regulations, Treasury identified 85 individuals as leaders of the Bosnian Serb forces or civilian authorities in the territories in the Republic of Bosnia and Herzegovina that they control. Also on February 22, Treasury designated 19 individuals and 23 companies as SDNs of the FRY (S/M). These designations include FRY (S/M)connected companies around the world that are being directed from Cyprus, two Cypriot-owned firms that have had a central role in helping establish and sustain sanctions-evading FRY (S/M) front companies in Cyprus, and the head of the FRY (S/M)'s Central Bank who is also the architect of the FRY (S/M) economic program.

Additionally, on March 13, 1995, Treasury named 32 firms and eight individuals that are part of the Karic Brothers' family network of companies as SDNs of the FRY (S/M). Their enterprises span the globe and are especially active in former East Bloc countries. These additions and amendments, published in the Federal Register on April 18, 1995 (60 FR 19448), bring the current total of Blocked Entities and SDNs of the FRY (S/M) to 938 and the total number of individuals identified as leaders of the Bosnian Serb military or paramilitary forces or civilian authorities in the territories in the Republic of Bosnia and Herzegovina that they control to 85. A copy of the notice is attached.

Treasury's blocking authority as applied to FRY (S/M) subsidiaries and vessels in the United States has been challenged in court. In Milena Ship Management Company, Ltd. v. Newcomb, 804 F.Supp. 846, 855, and 859 (E.D.L.A. 1992) aff'd, 995 F.2d 620 (5th Cir. 1993), cert. denied, 114 S.Ct. 877 (1994), involving five ships owned or controlled by FRY (S/M) entities blocked in various U.S. ports, the blocking authority as applied to these vessels was upheld. In IPT Company, Inc. v. United States Department of the Treasury, No. 92 CIV 5542 (S.D.N.Y. 1994), the district court also upheld the blocking authority as applied to the property of a Yugoslav subsidiary located in the United States. The latter case is currently on appeal to the Second Circuit.

4. Over the past 6 months, the Departments of State and Treasury have worked closely with European Union (the "EU") member states and other U.N. member nations to coordinate implementation of the U.N. sanctions against the FRY (S/M). This has included visits by assessment teams formed under the auspices of the United States, the EU, and the Organization for Security and Cooperation in Europe (the "OSCE") to states bordering on Serbia and Montenegro; continued deployment of OSCE sanctions assistance missions ("SAMs") to Albania, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Hungary, Romania, and Ukraine to assist in monitoring land and Danube River traffic; support for the International Conference on the Former Yugoslavia ("ICFY") monitoring missions along the Serbia-Montenegro-Bosnia border; bilateral contacts between the United States and other countries for the purpose of

tightening financial and trade restrictions on the FRY (S/M); and ongoing multilateral meetings by financial sanctions enforcement authorities from various countries to coordinate enforcement efforts and to exchange technical information.

5. In accordance with licensing policy and the Regulations, FAC has exercised its authority to license certain specific transactions with respect to the FRY (S/M) that are consistent with U.S. foreign policy and the Security Council sanctions. During the reporting period, FAC has issued 109 specific licenses regarding transactions pertaining to the FRY (S/M) or assets it owns or controls, bringing the total as of April 25, 1995, to 930. Specific licenses have been issued (1) for payment to U.S. or third-country secured creditors, under certain narrowly-defined circumstances, for pre-embargo import and export transactions; (2) for legal representation or advice to the Government of the FRY (S/M) or FRY (S/M)-located or controlled entities; (3) for the liquidation or protection of tangible assets of subsidiaries of FRY (S/M)located or controlled firms located in the U.S.; (4) for limited transactions related to FRY (S/M) diplomatic representation in Washington and New York; (5) for patent, trademark and copyright protection in the FRY (S/M) not involving payment to the FRY (S/M) Government; (6) for certain communications, news media, and travel-related transactions; (7) for the payment of crews' wages, vessel maintenance, and emergency supplies for FRY (S/M) controlled ships blocked in the United States; (8) for the removal from the FRY (S/M), or protection within the FRY (S/M), of certain property owned and controlled by U.S. entities; (9) to assist the United Nations in its relief operations and the activities of the U.N. Protection Force; and (10) for payment from funds outside the United States where a third country has licensed the transaction in accordance with U.N. sanctions. Pursuant to U.S. regulations implementing UNSC Resolutions, specific licenses have also been issued to authorize exportation of food, medicine, and supplies intended for humanitarian purposes in the FRY (S/M).

During the past 6 months, FAC has continued to oversee the liquidation of tangible assets of the 15 U.S. subsidiaries of entities organized in the FRY (S/M). Subsequent to the issuance of Executive Order No. 12846, all operating licenses issued for these U.S.-located Serbian or Montenegrin subsidiaries or joint ventures were revoked, and the net proceeds of the liquidation of their assets placed in blocked accounts.

In order to reduce the drain on blocked assets caused by continuing to rent commercial space, FAC arranged to have the blocked personalty, files, and records of the two Serbian banking institutions in New York moved to secure storage. The personalty is being liquidated, with the net proceeds placed in blocked accounts.

Following the sale of the M/V Kapetan Martinovic in January 1995, five Yugoslav-owned vessels remain blocked in the United States. Approval of the UNSC's Serbian sanctions Committee was sought and obtained for the sale of the M/V Kapetan Martinovic (and the M/V Bor, which was sold in June 1994) based on U.S. assurances that the sale would comply with four basic conditions, which assure that both U.S. and U.N. sanctions

objectives with respect to the FRY (S/M) are met: (1) the sale will be for fair market value; (2) the sale will result in a complete divestiture of any interest of the FRY (S/M) (or of commercial interests located in or controlled from the FRY (S/M)) in the vessel; (3) the sale would result in no economic benefit to the FRY (S/M) (or commercial interests located in or controlled from the FRY (S/M)); and (4) the net proceeds of the sale (the gross proceeds less the costs of sale normally paid by the seller) will be placed in a blocked account in the United States. Negotiations for the sale of the M/V Bar, now blocked in New Orleans, are underway and are likely to be concluded prior to my next report.

Other than the M/V Bar, the four remaining Yugoslav-owned vessels are beneficially owned by Jugooceanija Plovidba of Kotor, Montenegro, and managed by Milena Ship Management Co. Ltd. in Malta. These vessels have many unpaid U.S. creditors for services and supplies furnished during the time they have been blocked in the United States; moreover, the owner appears to have insufficient resources to provide for the future upkeep and maintenance needs of these vessels and their crews. The United States is notifying the UNSC's Serbian Sanctions Committee of the United States's intention to license some or all of these remaining four vessels upon the owner's request.

With the FAC-licensed sales of the M/V Kapetan Martinovic and the M/V Bor, those vessels were removed from the list of blocked FRY entities and merchant vessels maintained by FAC. The new owners of several formerly Yugoslav-owned vessels, which have been sold in other countries, have petitioned FAC to remove those vessels from the list. FAC, in coordination with the Department of State, is currently reviewing the sale terms and conditions for those vessels to ascertain whether they comply with U.N. sanctions objectives and UNSC's Serbian Sanctions Committee practice.

During the past 6 months, U.S. financial institutions have continued to block funds transfers in which there is an interest of the Government of the FRY (S/M) or an entity or undertaking located in or controlled from the FRY (S/M), and to stop prohibited transfers to persons in the FRY (S/M). Such interdicted transfers have accounted for $125.6 million since the issuance of Executive Order No. 12808, including some $9.3 million during the past 6 months.

To ensure compliance with the terms of the licenses that have been issued under the program, stringent reporting requirements are imposed. More than 279 submissions have been reviewed by FAC since the last report, and more than 125 compliance cases are currently open.

6. Since the issuance of Executive Order No. 12810, FAC has worked closely with the U.S. Customs Service to ensure both that prohibited imports and exports (including those in which the Government of the FRY (S/M) or Bosnian Serb authorities have an interest) are identified and interdicted, and that permitted imports and exports move to their intended destination without undue delay. Violations and suspected

violations of the embargo are being investigated and appropriate enforcement actions are being taken. There are currently 37 cases under active investigation. Since the last report, FAC has collected nine civil penalties totaling nearly $20,000. Of these, five were paid by U.S. financial institutions for violative funds transfers involving the Government of the FRY (S/M), persons in the FRY (S/M), or entities located or organized in or controlled from the FRY (S/M). Three U.S. companies and one air carrier have also paid penalties related to exports or unlicensed payments to the Government of the FRY (S/M) or persons in the FRY (S/M) or other violations of the Regulations.

7. The expenses incurred by the Federal Government in the 6-month period from November 30, 1994, through May 29, 1995, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to the FRY (S/M) and the Bosnian Serb forces and authorities are estimated at about $3.5 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, the U.S. Coast Guard, and the Department of Commerce.

8. The actions and policies of the Government of the FRY (S/M), in its involvement in and support for groups attempting to seize and hold territory in the Republics of Croatia and Bosnia and Herzegovina by force and violence, and the actions and policies of the Bosnian Serb forces and the authorities in the areas of Bosnia and Herzegovina under their control, continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The United States remains committed to a multilateral resolution of the conflict through implementation of the United Nations Security Council resolutions.

I shall continue to exercise the powers at my disposal to apply economic sanctions against the FRY (S/M) and the Bosnian Serb forces, civil authorities, and entities, as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

William J. Clinton

The White House, July 18, 1995.