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A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO YUGOSLAVIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO YUGOSLAVIA (SERBIA AND MONTENEGRO) AS DECLARED IN EXECUTIVE ORDER 12808 ON MAY 30, 1992, AND WITH RESPECT TO KOSOVO AS DECLARED IN EXECUTIVE ORDER 13088 ON JUNE 9, 1998, PURSUANT TO 50 U.S.C. 1703(c)

JUNE 30, 1999.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

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To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Yugoslavia (Serbia and Montenegro) as declared in Executive Order 12808 on May 30, 1992, and with respect to Kosovo as declared in Executive Order 13088 on June 9, 1998.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 29, 1999.*

REPORT TO CONGRESS ON THE NATIONAL EMERGENCIES
WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA
(SERBIA & MONTENEGRO) AND KOSOVO

On May 30, 1992, by Executive Order 12808, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy and economy of the United States constituted by the actions and policies of the Governments of Serbia and Montenegro, blocking all property and interests in property of those Governments. President Bush took additional measures to prohibit trade and other transactions with the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)"), by Executive Orders 12810 and 12831, issued on June 5, 1992, and January 15, 1993, respectively.

On April 25, 1993, I issued Executive Order 12846, blocking the property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in FRY (S&M), and prohibiting trade-related transactions by U.S. persons involving those areas of the Republic of Bosnia and Herzegovina controlled by the Bosnian

Serb forces and the United Nations Protected Areas in the Republic of Croatia. On October 25, 1994, because of the actions and policies of the Bosnian Serbs, I expanded the scope of the national emergency by issuance of Executive Order 12934. On November 22, 1995, the United Nations Security Council passed Resolution ("UNSCR") 1022, immediately and indefinitely suspending U.N. economic sanctions against the FRY (S&M). On October 1, 1996, the United Nations passed UNSCR 1074, terminating U.N. sanctions against the FRY (S&M) and the Bosnian Serbs in light of the elections that took place in Bosnia and Herzegovina on September 14, 1996. Both UNSCR 1022 and UNSCR 1074, however, provided that funds and assets previously blocked pursuant to sanctions against the FRY (S&M) that are subject to claims and encumbrances, or that are the property of persons deemed insolvent, shall remain blocked until "released in accordance with applicable law." This provision was implemented in the United States on December 27, 1995, by Presidential Determination No. 96-7, which directed the Secretary of the Treasury to suspend the application of sanctions on the FRY (S&M) and to continue to block property previously blocked.

On June 9, 1998, by Executive Order 13088, I declared a national emergency to deal with the unusual and extraordinary

threat to the national security and foreign policy of the United States constituted by the actions and policies of the Governments of the FRY (S&M), and the Republic of Serbia with respect to Kosovo. Executive Order 13088, with certain exceptions, blocked all property and interests in property of the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Montenegro within the United States or within the possession or control of U.S. persons, and prohibited all new investment in the territory of the Republic of Serbia by U.S. persons, and the approval or other facilitation by U.S. persons of other persons' new investment in the territory of the Republic of Serbia.

On April 30, 1999, I took additional steps with respect to the national emergency declared in Executive Order 13088 by issuing Executive Order 13121 (64 *FR* 24021, May 5, 1999). Executive Order 13121 blocks all property and interests in property of the Governments of the FRY (S&M), the Republic of Serbia, and the Republic of Montenegro within the United States or within the possession or control of U.S. persons. The Order also revoked section 2 of Executive Order 13088, which had permitted U.S. persons to engage in certain financial transactions within the territory of the FRY (S&M). Executive

Order 13121 added a new section 2 to Executive Order 13088, which prohibits trade transactions involving the FRY (S&M). These orders now prohibit (1) the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, to the FRY (S&M) or the Government of the FRY (S&M), the Government of the Republic of Serbia, or the Government of the Republic of Montenegro, of any goods (including petroleum and petroleum products), software, technology (including technical data), or services; (2) the importation into the United States, directly or indirectly, of any goods, software, technology (including technical data), or services from the FRY (S&M) or owned or controlled by the Government of the FRY (S&M), the Government of the Republic of Serbia, or the Government of the Republic of Montenegro; and (3) any transaction or dealing by a U.S. person, wherever located, in goods, software, technology (including technical data), or services, regardless of country of origin, for exportation, reexportation, sale, or supply to, or exportation from or by, the FRY (S&M) or the Government of the FRY (S&M), the Government of the Republic of Serbia, or the Government of the Republic of Montenegro. This prohibition includes, without limitation, purchase, sale, transport, swap, or brokerage transactions in such items, and approving, financing, insuring, facilitating, or

guaranteeing any such transactions. Any transaction by a U.S. person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions of the Order, and any conspiracy formed to violate the prohibitions of the Order, are prohibited.

Executive Order 13121 directs the Secretary of the Treasury, in consultation with the Secretary of State, in implementation of the Order, to (1) give special consideration to the circumstances of the Government of the Republic of Montenegro and persons located in and organized under the laws of the Republic of Montenegro; (2) give special consideration to the humanitarian needs of refugees from Kosovo and other civilians within the FRY (S&M); and (3) authorize commercial sales of agricultural commodities and products, medicine, and medical equipment for civilian end use in the territory of the FRY (S&M) under appropriate safeguards to prevent diversion to military, paramilitary, or political use by the Government of FRY (S&M), the Government of the Republic of Serbia, or the Government of the Republic of Montenegro. The Order became effective at 12:01 a.m., EDT, May 1, 1999.

The present report is submitted pursuant to 50 U.S.C. 1641(c) and 1703(c) and, with respect to the national emergency declared in Executive Order 12808, covers the period from November 30, 1998 through May 29, 1999, and with respect to the national emergency declared in Executive Order 13088, covers the period from December 9, 1998 through June 8, 1999. 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 12808 as modified by Executive Order 12810, Executive Order 12831, Executive Order 12846, and Executive Order 12934, and the declaration of national emergency in Executive Order 13088, as amended by Executive Order 13121.

1. The declaration of the national emergency in Executive Order 12808 on May 30, 1992, and the declaration of a national emergency in Executive Order 13088 on June 9, 1998, were 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 ("IEEPA")(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 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).

2. The Office of Foreign Assets Control ("OFAC"), acting under authority delegated by the Secretary of the Treasury, implemented the sanctions imposed under the foregoing statutes in the FRY (S&M) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR Part 585 (the "Regulations") and the FRY (S&M) Kosovo Sanctions Regulations, 31 CFR Part 586 (the "Kosovo Sanctions Regulations") (63 *Fed. Reg.* 54575, October 13, 1998).

On May 5, 1999, OFAC issued a Notice revoking provisions of the Kosovo Sanctions Regulations that were inconsistent with the additional sanctions imposed in Executive Order 13121. By the Notice of May 5, 1999, OFAC also issued General License No. 2 authorizing trade transactions involving the Republic of Montenegro that would otherwise be prohibited by Executive Order 13121. These include (1) the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, destined for end-use in the

Republic of Montenegro (except by the Government of the FRY (S&M) or the Government of the Republic of Serbia) or the Government of the Republic of Montenegro, of any goods (including petroleum and petroleum products), software, technology (including technical data), or services; (2) the importation into the United States, directly or indirectly, of any goods, software, technology (including technical data), or services originating in the Republic of Montenegro or owned or controlled by the Government of the Republic of Montenegro; and (3) any transaction or dealing by a U.S. person, wherever located, in goods, software, technology (including technical data), or services, regardless of country of origin, for exportation, reexportation, sale, or supply to, or exportation from or by, the Republic of Montenegro or the Government of the Republic of Montenegro. A copy of the Notice is attached to this report.

On May 20, 1999, OFAC issued General License No. 3, authorizing all transactions ordinarily incident to the exportation of goods (including petroleum and petroleum products), software, or technology (including technical data) from the United States or reexportation of U.S.-origin goods, software, or technology from a foreign country to any person in the FRY (S&M), to the Government of the FRY (S&M), to the

Government of the Republic of Serbia, provided that the following terms and conditions are met: (1) the exportation or reexportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 *et seq.)* and IEEPA; (2) the exportation or reexportation is financed by a financial institution in a third country that is neither a U.S. person nor a person whose property is blocked pursuant to the Kosovo Sanctions Regulations, or by cash payment in advance, or by open account financing not to exceed 90 days net. General License No. 3 also provides that financial institutions that are U.S. persons, prior to confirming or advising, or accepting or paying drafts draft under, or reimbursing themselves for payment made under, any letter of credit, or making any other payment or transfer of credit in connection with any exportation or reexportation licensed pursuant to this general license, or engaging in any other transactions authorized in this general license shall satisfy themselves that: (1) each such transaction is incident to a bona fide exportation or reexportation and is customary in the normal course of business, and that the value of such exportation or reexportation reasonably corresponds to the sums of money involved in financing such transaction; and (2) the exportation or

reexportation and any financing therefore are made pursuant to all the terms and conditions of this general license.

General License No. 3 does not authorize: (1) the financing of any transaction from a blocked account; (2) any transaction by a financial institution in the United States or by any U.S. person, wherever located, under, or with respect to an exportation or reexportation financed by, a letter of credit issued by a person whose property is blocked pursuant to the Kosovo Sanctions Regulations; (3) any transaction by a U.S. person related to the reexportation of non-U.S.-origin goods, software, or technology from a foreign country to any person in the FRY (S&M) or to the Government of the FRY (S&M) or to the Government of the Republic of Serbia; or (4) any transaction by a U.S. person related to the sale or supply within the same foreign country of goods, software, or technology to the Government of the FRY (S&M) or to the Government of the Republic of Serbia, except as incidental to an exportation or reexportation authorized pursuant to paragraph (a) of this general license; or (5) the opening or operation by any U.S. person of a correspondent account for a financial institution whose property is blocked pursuant to the Kosovo Sanctions Regulations.

For the purposes of General License No. 3, the terms "foreign country" and "third country" include the Republic of Montenegro. A copy of General License No. 3 is attached to this report.

3. Over the past two and a half years, the Departments of State and the Treasury have worked closely with European Union member states and other U.N. member nations to implement the provisions of UNSCR 1022 and UNSCR 1074. In the United States, retention of blocking authority pursuant to the extension of a national emergency provides a framework for administration of an orderly claims settlement. This accords with past policy and practice with respect to the suspension of sanctions regimes.

4. During this reporting period, OFAC issued five specific licenses pursuant to the Regulations authorizing transactions pertaining to the FRY (S&M) or property in which it has an interest. In addition, OFAC issued a total of 65 specific licenses pursuant to the Kosovo Sanctions Regulations. Specific licenses were issued (1) to unblock wire transfers involving generally small amounts of individuals' purely personal funds; (2) to authorize receipt of payment for legal services; (3) to authorize certain transactions relating to air

safety policy; and (4) to authorize certain administrative transactions by other U.S. government agencies.

During the past six months, OFAC has continued to oversee the maintenance of FRY (S&M) accounts blocked pursuant to 31 CFR Part 585, and records with respect to: (1) liquidated tangible assets and personalty of the fifteen blocked U.S. subsidiaries of entities organized in the FRY (S&M); (2) the blocked personalty, files, and records of the two Serbian banking institutions in New York previously placed in secure storage; and (3) remaining blocked FRY (S&M) tangible property, including real estate. Pursuant to the Kosovo Sanctions Regulations, 31 CFR Part 586, OFAC blocked 341 transactions totaling nearly $5 million during this reporting period. Most of the blockings were of funds transfers originating from, or destined for, Serbian banks.

D.C. Precision, Inc. v. United States, et al., 97 Civ. 9123 CRLC, was filed in the Southern District of New York on December 10, 1997, alleging that the Government had improperly blocked D.C. Precision's funds held at one of the closed Serbian banking agencies in New York. This case is still pending.

5. OFAC has continued to work closely with the U.S. Customs Service and other cooperating agencies to investigate alleged violations of the sanctions imposed pursuant to Executive Order 12808, as modified, and Executive Order 13088, as amended. On April 15, 1999, a U.S. citizen was sentenced in the Southern District of Florida to six months in prison and ordered to pay a $6,000 criminal fine as the result of a guilty plea entered on October 23, 1998. The Miami, Florida, businessman entered a guilty plea for himself and his corporation to one count of violating IEEPA for the export of aircraft parts to Serbia. The U.S. citizen, his corporation, and two nationals of the FRY (S&M) were named in a 13-count indictment on February 13, 1997, charging them with conspiracy to purchase three Cessna propeller aircraft, a Cessna jet aircraft, and various aircraft parts in the United States and export them to the FRY (S&M) in violation of U.S. sanctions and the Regulations. Timely interdiction action prevented the export of the aircraft from the United States. The two foreign nationals are fugitives residing outside the United States.

Since my last report, OFAC has collected three civil monetary penalties totaling more than $54,000 for violations of the sanctions. These violations involved prohibited exports of

goods and services, contract dealings, and payments to the Government of the FRY (S&M), persons in the FRY (S&M), or to blocked entities owned or controlled by the Government of the FRY (S&M). The violators included one U.S. financial institution, one company, and one individual. Additional 14 cases are undergoing penalty action for violation of the Regulations, and additional 24 cases are undergoing penalty action for violation of the Kosovo Sanctions Regulations.

6. The expenses incurred by the Federal Government in the six-month period from November 30, 1998, through May 29, 1999, and the six-month period from December 9, 1998, through June 8, 1999, that are directly attributable to the declaration of the national emergencies in Executive Orders 12808 and 13088 are estimated at approximately $470,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in OFAC and its Chief Counsel's Office, and the U.S. Customs Service), the Department of State, the National Security Council, and the Department of Commerce.

7. The resolution of the crisis and conflict in the former Yugoslavia that has resulted from the actions and policies of the Government of the FRY (S&M), and of the Bosnian Serb forces and the authorities in the territory that they controlled, will not be complete until such time as the Peace Agreement is implemented and the terms of UNSCR 1022 have been met. Therefore, on May 27, 1999, I continued for another year the national emergency declared on May 30, 1992, as expanded in scope on October 25, 1994, and will continue to enforce the measures adopted pursuant thereto.

The declaration of the national emergency with respect to the FRY (S&M) and the Republic of Serbia contained in Executive Order No. 13088 was made in reaction to the unacceptable actions and policies of the Belgrade authorities in Kosovo, and continues to apply. The current situation in Kosovo is fragile and, as yet, unresolved. It is of particular importance that developments in Kosovo should not disrupt progress in implementing the Dayton peace agreement. This threat to the peace of the region constitutes an unusual and extraordinary threat to the national security of the United States.

With this in mind and in support of UNSCR 1099 and UNSCR 1203, on May 27, 1999, I continued for another year the national emergency declared on June 9, 1998, and will continue to enforce the measures adopted pursuant thereto. Therefore, I shall continue to exercise the powers at my disposal with respect to the measures against the Government of the FRY (S&M), the Government of the Republic of Serbia, and the Government of the Republic of Montenegro, as well as against 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).