

Balkans Briefing

Washington/Brussels, 10 October 2000



SANCTIONS AGAINST THE FEDERAL REPUBLIC OF YUGOSLAVIA (AS OF 10 OCTOBER 2000)

I. INTRODUCTION

As governments embark on the process of lifting sanctions against the Federal Republic of Yugoslavia (FRY), following the victory of opposition candidate Vojislav Kostunica in Presidential elections held on 24 September 2000, this briefing paper sets forth a comprehensive list of sanctions currently in place against the FRY and the current status of FRY participation and/or membership in international organisations.

II. THE UNITED NATIONS

A. Arms Embargo

United Nations Security Council Resolution (UNSCR) 1160, adopted on 31 March 1998 in response to mounting state-perpetrated violence in Kosovo, established a comprehensive arms embargo on the FRY.¹

B. Membership

Since 1992, when the UN determined that the Socialist Federal Republic of Yugoslavia (SFRY) had been dissolved and that each new country which emerged from the break-up should apply for separate membership, the "rump" Federal Republic of Yugoslavia (FRY) has not achieved UN membership, which includes voting rights in the UN General Assembly and full committee participation. The FRY government has insisted that it is the sole successor of the former SFRY, a claim never accepted by the UN.

¹ Under UNSCR 1160 all countries were prohibited from selling or supplying arms or arms-related material to Yugoslavia. UNSCR 1160 also authorised the establishment of a sanctions committee to monitor compliance with the resolution.

III. UNITED STATES

A. "The Outer Wall"

The so-called outer wall of sanctions, passed by the United States Congress in response to the repeated violations of international law by the FRY in its prosecution of the war in Bosnia, commits the U.S. to blocking FRY membership in international organisations² and financial institutions³ as well as the normalisation of U.S. diplomatic relations with the FRY until the following conditions are met: full compliance with the Dayton Peace Accords and the International Criminal Tribunal for the former Yugoslavia in The Hague; resolution of the status of Kosovo and all successor state issues resulting from the dissolution of the former Socialist Federal Republic of Yugoslavia; progress toward democratisation, and respect for human rights and the rule of law.⁴ The outer wall also restricts trade credits and investment assistance from the EU and certain other countries.

B. Trade and Investment

On 9 March 1998, the countries of the Contact Group,⁵ with the exception of Russia, agreed to impose economic sanctions on the FRY in response to the "ongoing excessive use of force by FRY security forces in Kosovo." The U.S. implemented that decision through the issuance on 9 June 1998 by President Clinton of Executive Order (EO) 13088, which blocked all property and property interests of the Governments of FRY (Serbia and Montenegro), and banned all new American investment in Serbia.⁶ Such exceptions as humanitarian assistance for refugees for Kosovo, or the commercial sale of agricultural products, medicine or medical equipment intended for civilian use, require licenses issued by the Bureau of Export Administration of the U.S. Department of Commerce.⁷

On 30 April 1999, in response to actions by Yugoslav and Serbian security forces in Kosovo, and to strengthen the hand of the international community in persuading Yugoslav President Slobodan Milosevic to accept a negotiated resolution of the Kosovo conflict, President Clinton issued EO 13121, which strengthened the provisions of EO 13088 by not only blocking all property and property interests in the FRY and prohibiting new American investment in Serbia, but by banning as well all import and export activity between the U.S. and the FRY. Montenegro was

² Including the Organisation for Security and Co-operation in Europe, the Southeastern Europe Co-operative Initiative, and NATO's Partnership for Peace program.

³ Including the International Monetary Fund, The World Bank, The European Bank for Reconstruction and Development, and access to lending from these institutions.

⁴ Omnibus Appropriations Act of 1998, Section 594, passed by the U.S. Congress on 21 October 1998.

⁵ The United States, Russia, Britain, France, Germany and Italy

⁶ Fact sheet issued 8 September 2000 by the U.S. Department of State.

⁷ U.S. Department of the Treasury, Office of Foreign Assets Control publication, "What You Need to Know About U.S. Sanctions, A Summary involving the Federal Republic of Yugoslavia," 17 August 1999. Other exceptions, such as the re-exportation of non-U.S. goods, software, and technology, or an American's foreign sale of those goods, must be licenses by OFAC. Again, Montenegro is excluded from these export restrictions.

subsequently exempted from sanctions under both executive orders.⁸ After the end of the Kosovo conflict in June 1999, the UN-run province of Kosovo was exempted, as well.

C. Restrictions on Aid

After the NATO action President Clinton stated that no American reconstruction or financial assistance would be given to the Yugoslav Government until Milosevic was out of power. The U.S. Congress as well prohibited all but democratisation assistance to Serbia.⁹

D. Visa Ban

The U.S. Department of the Treasury, through its Office of Foreign Asset Control (OFAC), instituted a visa ban on ranking FRY and Serbian government officials, as well as on members of military or paramilitary forces responsible for repressive actions against the civilian population in Kosovo.¹⁰ Any assets of these individuals in U.S. institutions either within the United States or overseas are also to be frozen and seized under the OFAC measure.

E. Restrictions on Assistance to Countries Providing Sanctuary to Indicted War Criminals

On 18 July 2000, the U.S. Congress re-authorized the limitation on U.S. assistance to areas in which local governments are known to be harbouring indicted war criminals.¹¹

IV. EUROPEAN UNION

A. Oil Embargo

On 1 May 1999, the Council of the European Union adopted a regulation prohibiting the sale and supply to the FRY of petroleum and of certain petroleum products in response to continued violations by the Yugoslav government of UN Security Council Resolutions and the ongoing repression of the FRY's own citizens. This ban was eased in the autumn of 1999, when the EU's "Fuel for Democracy" program began to supply opposition-controlled municipalities with heating oil.

The oil embargo was lifted on 9 October 2000 at an EU Foreign Ministers' meeting in Luxembourg following Vojislav Kostunica's confirmation as Yugoslav President on 7 October.

⁸ Ibid.

⁹ FY2000 Foreign Operations appropriations, Section 537.

¹⁰ Fact sheet issued 8 September 2000 by the U.S. Department of State.

¹¹ Section 565 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, U.S. Senate, 18 July 2000.

B. Ban on Trade and Investment and Freezing of Assets

The trade sanctions against Serbia imposed in 1992 during the Bosnian war were lifted with the signing of the Dayton Peace Agreement in 1995. However, an 'outer wall' of sanctions – blocking the rump Yugoslavia's access to multilateral funding and international finance – remained in place. When violence escalated in Kosovo in 1998, further measures were implemented, which revoked access to trade preferences; introduced new restrictions on the supply or sale of equipment which might be used in internal repression¹²; and established a freeze of funds held abroad by the FRY and Serbian Governments¹³ as well as a ban on all new investment.¹⁴

A series of additional restrictive measures against the Belgrade regime was passed from April 1999. The ban on export goods was further extended in EC Common Position 99/318/CFSP of 10 May 1999 to include goods, services and technology that could be used to repair damage to assets, infrastructure or equipment following the NATO-led air strikes. The scope of the freeze of funds was extended to apply to the same 800 or so individuals defined under the visa ban list (see below)¹⁵ who were deemed to be closely tied with the Milosevic regime.

EC Council regulation No 1294 of 15 June 1999 extended the freezing of assets to include certain assets other than funds and financial resources, and prohibited all financial transactions with persons or companies "owned and controlled by, or acting for, or on behalf of the FRY/Serbia."¹⁶

On 6 April 2000 a further amendment to Council Regulation 1294 was passed by the Council of the European Union which restricted far more severely any economic activity with Serbia based companies and with Serbian or Yugoslav-owned or controlled firms based outside Serbia.¹⁷ The amended regulation prohibited financial transaction with all Serbian firms that had not been pre-cleared by the EU

¹² Council Regulation (EC) No 926/98 of 27 April "concerning the reduction of certain economic relations with the Federal Republic of Yugoslavia" (Official Journal L 130 , 01/05/1998p. 001-004)

¹³ Common Position (EC) 98/326/CFSP (1), 7 May 1998.

¹⁴ Common Position (EC) 98/374/CFSP of 8 June 1998 defined by the Council on the basis of Article J.2. of the Treaty on European Union "concerning the prohibition of new investment in Serbia" (Official Journal L 165, 10/06/1998 p 0001-0001.

¹⁵ Council Decision (EC) of 10 May implementing Common Position of 10 May 1999/318/CFSP "concerning additional restrictive measures against the Federal Republic of Yugoslavia" (Official Journal L 123, 13/05/1999 p.0001-0002)

¹⁶ Council Regulation (EC) No 1294/1999 of 15 June 1999 "concerning the freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia" (Official Journal L 153, 19/06/1999 p 0063-0082)

¹⁷ Council Regulation (EC) No 723/2000 of 6 April amending Regulation of EC No 1294/1999 "concerning a freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia" (Official Journal L 086, 07/04/2000 p. 0001-004)

Commission and published in a carefully formulated "white list" for companies and individuals considered untainted by regime manipulations.¹⁸

Serbian firms or individuals could be included on the EU white list if they were able to demonstrate their ability to withhold capital and revenues from the FRY or Serbian Governments. Enterprises and individuals engaged in banking and financial services, energy and fuel supplies, the transport of petrochemicals, the production and/or trade in iron, steel, and military or police equipment were regarded as functioning in industries under the close control of the regime and were therefore excluded from consideration for inclusion on the white list. The new regulations exempted Kosovo and Montenegro from the financial transaction.¹⁹

On 1 July 2000, an initial "white list" containing 190 companies was published as Annex IV to the EU Sanctions regulations. That list has been under constant review and a number of regulations and refinements have since been made. Implementation of the white list has not been consistently monitored or enforced, in part because the enforcement capacity of the EU is quite limited, in part because each EU member nation has its own system and/or agency dealing with the implementation and enforcement of such regulations.

At their 9 October meeting, EU Foreign Ministers agreed in principle to lift all trade and financial sanctions against FRY except those aimed directly at former Yugoslav President Milosevic and his associates. Further work will be required, however, before this decision can be put into effect. As a first step, it is expected that the "white list" of companies exempt from financial restrictions will be expanded.²⁰

C. Visa Restrictions

On 10 May 1999, as part of a package of restrictive measures, a visa ban was instituted by the EU against a list of 800 close associates of Slobodan Milosevic. On 1 June 1999, this legislation was harmonised with the U.S.-implemented visa ban to meet the same criteria as those used by OFAC of the U.S. Department of the Treasury (see above).

D. Ban on International Flights to and from Yugoslavia

As of 10 May 1999 a flight ban was put into force which prohibited all commercial flights to and from Yugoslavia (excluding Kosovo and Montenegro). This flight ban was suspended a year later as part of a larger EU effort to lighten the burden of sanctions on ordinary Serbs.

¹⁸ Council Regulation (EC) No 723/2000 of 6 April 2000 amending Regulation (EC) No 1294 "concerning a freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia" (Official Journal L 086, 07/04/2000 p.0001-0004)

¹⁹ Council Regulation (EC) No 1294/1999 of 15 June 1999, cited above.

²⁰ Economist Intelligence Report, 9 October 2000

The flight ban was lifted by decision of EU Foreign Ministers' meeting in 9 October.

E. Participation of Non-EU Countries

The following 14 non-EU nations also adopted the EU sanctions regime: Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, Iceland, Liechtenstein, and Norway.

V. POST-ELECTION POSITIONS REGARDING SANCTIONS

A. United Nations

Lifting the arms embargo will require a measure taken by the UN Security Council. As regards UN membership, U.S. ambassador to the UN Richard Holbrooke has stated that the U.S. will support an application for membership by the new Yugoslav government if it applies as a newly independent state, which would mean abandoning prior FRY claims to be the sole successor state to the SFRY.²¹

B. United States

President Clinton and other U.S. officials have consistently said that steps would be taken to lift sanctions upon Vojislav Kostunica's installation as FRY President and Slobodan Milosevic's departure from power.²² However, the "outer wall" sanctions and the restrictions on assistance to areas harbouring war criminals are written into U.S. law and cannot be removed until the U.S. President certifies that the performance conditions have been, or are in fact being, met. Moreover, U.S. officials, like their European counterparts, have been cautious about promising to lift the ban on financial transactions with persons or companies tied to the Milosevic regime, out of fear that some of those individuals, in their efforts to secure their own future, may attempt to get their hands either on their own assets or on those of public companies.²³

C. European Union

During their 2-3 September 2000 meeting in Evian, France, EU foreign ministers agreed to retain EU sanctions on Serbia, but again expressed concern about the impact of sanctions on the Serbian people and reiterated, in part, as an incentive to the Serbian electorate, that Serbia would be welcomed back quickly into the family of nations once a democratic government came to power.

²¹ *Washington Post*, 7 October 2000.

²² "We have made clear that it has to be a fully democratic government and that Milosevic should not have a role in it.... And as we talk about lifting the sanctions, I think that is obviously one of the things we have in mind." U.S. Secretary of State Madeline K. Albright, *Washington Post*, 7 October 2000.

²³ *Washington Post*, 7 October 2000.

Upon the clear victory of Vojislav Kostunica in the 24 September presidential elections, the EU quickly reiterated its pre-election commitment to proceed with the lifting of its oil embargo and the already-suspended flight ban and to work toward the swift lifting of other sanctions against the FRY. Assistance to democratically-led municipalities is likely to be stepped up immediately, in anticipation of a rough winter ahead. However, European diplomats have suggested that the financial and trade restrictions against firms and individuals connected with the former regime will remain in place for some time, as will the EU visa ban and asset freeze targeting those indicted for war crimes and Milosevic's inner circle.²⁴

Washington/Brussels, 10 October 2000

²⁴ External Relations Commissioner for the EU Chris Patten, *Washington Post*, *New York Times*, 7 October 2000.