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Bank of England Notice

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UNITED NATIONS ACT 1946

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**SERBIA AND MONTENEGRO (SUSPENSION OF SANCTIONS)**

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23 November 1995

This Notice draws attention in convenient form to certain provisions of the United Nations Security Council resolution number 1022 of 1995 suspending, subject to certain exceptions, the financial sanctions imposed on the Federal Republic of Yugoslavia. It grants permission on behalf of H M Treasury and pursuant to the Serbia and Montenegro (United Nations Sanctions) Order 1992 and the Serbia and Montenegro (United Nations) (Channel Islands) Sanctions Order 1992. The permission granted in this Notice may at any time be varied or revoked by or on behalf of H M Treasury.

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## **INTRODUCTION**

- 1 On 22 November 1995 the United Nations Security Council passed resolution number 1022 of 1995 ("the resolution").
- 2 Paragraph 1 of the resolution provides for the suspension with immediate effect of measures in previous Security Council resolutions concerning the Federal Republic of Yugoslavia namely, 757 (1992), 787 (1992), 820 (1993), 942 (1994), 943 (1994), 992 (1995), 988 (1995), 1003 (1995) and 1015 (1995) and paragraphs 1 and 2 of the resolution provide for the suspension of measures in Security Council Resolution 942 (1994) concerning the Republic of Bosnia Herzegovina as from a future date to be determined.
- 3 Paragraph 5 of the resolution states that so long as these measures remain suspended or are subsequently terminated by Council action, all funds previously frozen pursuant to resolutions 757 (1992) and 820 (1993) may be released by States in accordance with law, provided that any such funds that are subject to any claims, liens, judgements or encumbrances, or which are the funds of any person, partnership, corporation or other entity found or deemed insolvent under law or the accounting principles prevailing in such State, shall remain frozen until released in accordance with applicable law.
- 4 Paragraph 5 of the resolution also states that obligations of States related to the freezing of funds contained in resolutions 757 (1992) and 820 (1993) shall be suspended pursuant to paragraph 1 with respect to all funds not currently frozen until the measures concerned are terminated by subsequent Council action.
- 5 The financial sanctions imposed on the Federal Republic of Yugoslavia by resolutions 757 (1992) and 820 (1993) have been given effect in relation to the United Kingdom and the Isle of Man and the Channel Islands by the Serbia and Montenegro (United Nations Sanctions) Order 1992 (S.I. 1992/1302) and the Serbia and Montenegro (United Nations Sanctions) (Channel Islands) Order 1992 (S.I. 1992/1308) ("the relevant Orders").
- 6 The relevant Orders prohibit the making available of funds to or for the benefit of any person connected with Serbia or Montenegro except with permission granted by or on behalf of the Treasury. The effect of the relevant Orders and the circumstances in which permission may be given for payments are explained in the Bank of England Notice dated 8 June 1992 as amended by Supplement No 1 dated 26 June 1992, Supplement No 2 dated 26 April 1993 and Supplement No 3 dated 31 August 1995.
- 7 By virtue of the relevant Orders, on the taking of a decision of the Security Council which has the effect of suspending the operation of resolution 757 (1992), the operation of the Orders shall be suspended in accordance with that decision and particulars of that decision shall be published by the Secretary of State by a notice in the London, Edinburgh and Belfast Gazettes.
- 8 Accordingly, the financial sanctions implemented by the relevant Orders are now suspended subject to certain exceptions in accordance with and to the extent provided by the resolution. Permission is still required for the release of funds in Serbian Accounts as provided for in this Notice. This Notice describes the consequences.

## **DEFINITIONS**

- 9 In this Notice, the following terms have the following meanings:
  - (a) "encumbered funds" means any funds in Serbian Accounts at the date of the resolution which are subject at that date to any encumbrances;
  - (b) "encumbrance" means any claim, lien, judgement or other encumbrance;
  - (c) "free funds" means funds in Serbian Accounts at the date of the resolution which are not encumbered funds;
  - (d) "funds of insolvent persons" means funds in Serbian Accounts at the date of the resolution in relation to which the relevant connected person has been declared bankrupt or has been the subject of a winding up order made by the court or a winding up resolution passed by creditors under the law of any part of the United Kingdom or any corresponding declaration, order or other procedure under the law of any other State;
  - (e) "new funds" means funds of connected persons not in Serbian Accounts at the date of the resolution.
- 10 Any term defined in the Bank of England Notice of 8 June 1992 has the same meaning in this Notice.

## **Release of free funds**

- 11 Permission is hereby given for the release of any free funds in Serbian Accounts at the date of the resolution.

### **Retention of encumbered funds and the funds of insolvent persons**

- 12 Permission will not be given for the release of encumbered funds unless and until it is agreed between the relevant connected person and any person claiming in respect of an encumbrance or ordered by any court with appropriate jurisdiction that the encumbrance will be discharged or released, whether from the encumbered funds or otherwise.
- 13 Permission will not be given for the release of the funds of insolvent persons until entitlement to those funds is agreed or ordered in the course of the relevant insolvency proceedings.
- 14 Permission for the release of encumbered funds or the funds of insolvent persons will only be given in conformity with any agreement or order described in paragraphs 12 and 13.

### **New funds**

- 15 Dealings with new funds are not subject to any restriction while the partial suspension of the financial sanctions imposed by resolutions 757 (1992) and 820 (1993) continues. Institutions and persons holding such funds are required to place such funds in separate accounts from encumbered funds.

### **Sanctions relating to Bosnia Herzegovina**

- 16 The financial sanctions relating to Bosnia Herzegovina imposed by Security Council resolution 942 (1994) and given effect by the Former Yugoslavia (United Nations Sanctions) Order 1994 (S.I. 1994/2673) and the Former Yugoslavia (United Nations Sanctions) (Channel Islands) Order 1994 (S.I. 1994/2675) and described in the Bank of England Notice of 27 October 1994 remain in force. The release of funds in Serbian Accounts or the making of a payment by a person subject to such Orders to or for the benefit of a Bosnian Serb connected person as defined in paragraph 5 of such Notice therefore continues to be prohibited.

### **Suspension**

- 17 The Bank of England Notice dated 8 June 1992 as amended is hereby suspended while the partial suspension of the financial sanctions imposed by resolutions 757 (1992) and 820 (1993) continues.

### **Applications and enquiries**

- 18 Applications for permissions and enquiries concerning the interpretation of this Notice should be addressed to the Bank of England, Threadneedle Street, London EC2R 8AH and marked for the attention of the Sanctions Emergency Unit. Applications may also be made by facsimile transmission (0171 601 4309). Telephone enquiries may be made to 0171 601 4607/3848/4768/3500.