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Council Regulation (EEC) No 990/93 of 26 April 1993 concerning trade between the European Economic Community and the Federal Republic of Yugoslavia (Serbia and Montenegro)

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COUNCIL REGULATION (EEC) No 990/93 of 26 April 1993 concerning trade between the European Economic Community and the Federal Republic of Yugoslavia (Serbia and Montenegro)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Whereas the Community and its Member States have decided to recognize the independence of the Republic of Bosnia-Herzegovina as of 7 April 1992;

Whereas this Republic became a Member of the United Nations as from 23 May 1992;

Whereas the prolonged direct and indirect activities of the Federal Republic of Yugoslavia (Serbia and Montenegro) in, and with regard to, the Republic of Bosnia-Herzegovina are the main cause for the dramatic developments in the Republic of Bosnia-Herzegovina;

Whereas a continuation of these activities will lead to further unacceptable loss of human life and material damage and to a further breach of international peace and security in the region;

Whereas the United Nations Security Council has repeatedly expressed its serious concern about the rapid and violent deterioration of the situation in the Republic of Bosnia-Herzegovina;

Whereas the President of the Republic of Bosnia-Herzegovina has requested the international community to assist his country against the intervention of the Federal Republic of Yugoslavia (Serbia and Montenegro) in the internal affairs of the Republic of Bosnia-Herzegovina;

Whereas the Bosnian Serb party has hitherto not accepted, in full, the peace plan of the International Conference on the Former Yugoslavia in spite of appeals thereto by the Security Council;

Whereas the Community and its Member States, meeting within the framework of political cooperation, have decided that measures have to be taken to dissuade the Republics of Serbia and Montenegro from further violating the integrity and security of the Republic of Bosnia-Herzegovina and to induce the Bosnian Serb party to cooperate in the restoration of peace in this Republic;

Whereas further violations of the existing embargo on the Federal Republic of Yugoslavia (Serbia and Montenegro), in particular by the transit through this Republic and by activities carried out between this Republic and the Serb-controlled areas of Bosnia-Herzegovina and the United Nations Protected Areas in the Republic of Croatia have to be prevented;

Whereas the United Nations Security Council, acting pursuant to Chapter VII of the Charter of the United Nations, has adopted Resolution 820 (1993), in order to strengthen the embargo of the Federal Republic of Yugoslavia (Serbia and Montenegro), decided upon in Resolutions 713 (1991), 757 (1992) and 787 (1992);

Whereas, under these conditions, the Community has to strengthen the embargo of the Federal Republic of Yugoslavia (Serbia and Montenegro) as established by Council Regulations (EEC) No 1432/92 (1) and (EEC) No 2656/92 (2);

Whereas the Community and its Member States have agreed to have recourse to a Community instrument, inter alia, in order to ensure a uniform implementation throughout the Community of certain of these measures;

Having regard to the Treaty establishing the European Economic Community and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

HAS ADOPTED THIS REGULATION:

Article 1

1. As from 26 April 1993, the following shall be prohibited:

- (a) the introduction into the territory of the Community of all commodities and products originating in, coming from, or having transited through, the Federal Republic of Yugoslavia (Serbia and Montenegro);
- (b) the export to, or the transit through, the Federal Republic of Yugoslavia (Serbia and Montenegro) of all commodities and products originating in, coming from, or having transited through the Community;
- (c) the entry into the territorial sea of the Federal Republic of Yugoslavia (Serbia and Montenegro) by all commercial traffic;
- (d) any activity the object or effect of which is, directly or indirectly, to promote the transactions mentioned under (a), (b) or (c);
- (e) the provision of non-financial services to any person or body for purposes of any business carried out in the Republics of Serbia and Montenegro.

2. As regards air transport and transport by sea and inland waterways respectively, the terms of the prohibition are as follows:

- (a) permission shall be denied to any aircraft to take off from, land in, or overfly, the territory of the Community if it is destined to land in, or has taken off from, the territory of the Republics of Serbia and Montenegro;
- (b) vessels, in which a majority or controlling interest is held by a person or undertaking in or operating from the Federal Republic of Yugoslavia (Serbia and Montenegro), shall be considered, for the purpose of this Regulation and related legislation, vessels of this Republic, regardless of the flag under which the vessel sails.

Article 2

The prohibitions of Article 1 shall not apply to:

- (a) the export from, or transit through, the Community to the Federal Republic of Yugoslavia (Serbia and Montenegro) of medical supplies and foodstuffs, notified to the Committee established pursuant to Resolution 724 (1991) of the United Nations Security Council;
- (b) the export from, or transit through, the Community to the Federal Republic of Yugoslavia (Serbia and Montenegro) of essential humanitarian supplies, which are approved on a case-by-case basis under its 'no objection' procedure by the said Committee;
- (c) the introduction into the territory of the Community of commodities and products which originate in, or come from, the Federal Republic of Yugoslavia (Serbia and Montenegro) and were exported from this Republic before 31 May 1992 or which have entered legally for transit through this Republic before 26 April 1993;
- (d) transits through the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) which are authorized by the said Committee, and provided that, in case of transit on the Danube, each vessel involved is subjected to effective monitoring while passing along the Danube between Vidin/Calafat and Mohacs;
- (e) telecommunications, postal services, legal services consistent with this Regulation and services, whose supply may be necessary for humanitarian or other exceptional purposes and which are approved on a case-by-case basis by the said Committee;
- (f) the entering by commercial maritime traffic of the territorial sea of the Federal Republic of Yugoslavia (Serbia and Montenegro) which is authorized on a case-by-case basis by the said Committee or which constitutes a case of force majeure;
- (g) any activity whose object or effect is, directly or indirectly, to promote the activities mentioned under this Article.

Article 3

As from 26 April 1993, the following shall be prohibited:

- (a) the introduction into the territory of the Community of all commodities and products

originating in, coming from, or having transited through, the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia-Herzegovina under the control of Bosnian Serb forces;

(b) the export to, or transit through, the aforementioned areas, of all commodities and products originating in, coming from, or transiting through, the Community;

unless properly authorized by the Government of the Republic of Bosnia-Herzegovina or the Government of the Republic of Croatia respectively.

Article 4

The prohibition imposed by Article 3 shall not apply to the export to, import from, or transit through, the areas concerned of essential humanitarian supplies, including medical supplies and foodstuffs distributed by international humanitarian agencies.

Article 5

The following activities shall be subject to prior authorization to be issued by the competent authorities of the Member States:

(a) exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) of medical supplies, foodstuffs and essential humanitarian supplies in accordance with Article 2 (a) and (b) of this Regulation;

(b) transits in accordance with Articles 2 (d) and 3;

(c) exports to, and imports from, the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia-Herzegovina under the control of Bosnian Serb forces in accordance with Article 3.

Article 6

Article 1 shall apply notwithstanding any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence granted before 31 May 1992.

Article 7

The provisions of Articles 1, 3, 5 and 6 do not apply to the activities related to Unprofor, the conference on the former Yugoslavia or the European Community Monitor Mission.

Article 8

All vessels, freight vehicles, rolling stock and aircraft in which a majority or controlling interest is held by a person or undertaking in or operating from the Federal Republic of Yugoslavia (Serbia and Montenegro) shall be impounded by the competent authorities of the Member States.

Expenses of impounding vessels, freight vehicles, rolling stock and aircraft may be charged to their owners.

Article 9

All vessels, freight vehicles, rolling stock, aircraft and cargos suspected of having violated, or being in violation of, Regulation (EEC) No 1432/92 or this Regulation shall be detained by the competent authorities of the Member States pending investigations.

Article 10

Each Member State shall determine the sanctions to be imposed where the provisions of this Decision are infringed.

Where it has been ascertained that vessels, freight vehicles, rolling stock, aircraft and cargos have violated this Regulation, they may be forfeited to the Member State whose competent authorities have impounded or detained them.

Article 11

This Regulation shall apply within the territory of the Community, including its air space and in any aircraft or vessel under the jurisdiction of a Member State, and to any person elsewhere who is a national of a Member State and any body elsewhere which is incorporated or constituted under the law of a Member State.

Article 12

Regulations (EEC) No 1432/92, (EEC) No 2656/92 and (EEC) No 2655/92 are hereby repealed.

Article 13

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 26 April 1993.

For the Council The President B. WESTH