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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 585

Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations; Partial Suspension of Sanctions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This rule amends the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations to authorize prospectively all transactions with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) otherwise prohibited, while assets previously blocked remain blocked. The rule also permits the return to nonblocked remitters of certain funds transfers interdicted during the period of the sanctions. Certain other interdicted transfers are directed to be deposited into blocked accounts.

EFFECTIVE DATE: January 16, 1996.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing, tel.: 202/622-2480, Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622-2490 or William B. Hoffman, Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

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Background

On November 21, 1995, in Dayton, Ohio, the presidents of the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)"), the Republic of Bosnia and Herzegovina, and the Republic of Croatia initialled the General Framework Agreement for Peace in Bosnia and Herzegovina and the Annexes thereto (collectively, the "Peace Agreement"), which was signed by the parties in Paris on December 14, 1995. On November 22, the United Nations Security Council passed Resolution 1022 (the "Resolution"), immediately and indefinitely suspending economic sanctions against the FRY (S&M). Sanctions against the Bosnian Serb forces and authorities and the areas of the Republic of Bosnia and Herzegovina that they control remain in effect until their troop withdrawal to agreed borders. In addition, the Resolution provides for the release of funds and assets previously blocked pursuant to sanctions against the FRY (S&M), provided that such funds and assets that are subject to claims and encumbrances, or that are the property of persons deemed insolvent, remain blocked until "released in accordance with applicable law." The Resolution further provides that the unblocking of assets must be effected without prejudice to the claims of successor states to the Former Socialist Federal Republic of Yugoslavia. Finally, the Resolution provides for the reimposition of sanctions against the FRY (S&M) if either the FRY (S&M) or the Bosnian Serbs fail significantly to meet their obligations under the Peace Agreement.

Suspension of Sanctions

In light of the Resolution, and pursuant to the requirements of section 1511(e)(2) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), the President has issued Presidential Determination No. 96-7 of December 27, 1995, directing the Secretary of the Treasury to take appropriate action to suspend the application of the sanctions imposed pursuant to Executive Orders No. 12808 of May 30, 1992, 12810 of June 5, 1992, 12831 of January 15, 1993, and 12846 of April 25, 1993. Therefore, the Office of Foreign Assets Control is amending the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (the "Regulations"), by adding § 585.525 to the Regulations to authorize prospectively those transactions previously prohibited with respect to the FRY (S&M). With the exceptions set forth below, property and interests in property previously blocked remain blocked until provision is made to address claims or encumbrances with respect to such property and interests in property, including the claims of the successor states of the former Yugoslavia. The United States is currently examining options to address claims.

Debt Trading Involving FRY (S&M) Interests

Debt for which the former National Bank of Yugoslavia or a bank located in the FRY (S&M) bears joint or several liability remains blocked and secondary market trading remains governed by 585.509, except for prospective transactions of U.S. persons involving debt that was not subject to U.S. jurisdiction immediately prior to the suspension of sanctions against the FRY (S&M) on January 16, 1996. Thus, pursuant to § 585.509(b), trading is not permitted in debt representing original borrowings of Serbian or Montenegrin banks, or of the former National Bank of Yugoslavia where another original obligor cannot be determined, that was held in the United States or in the possession or control of a U.S. person immediately prior to January 16, 1996. Trading by U.S. persons in such debt that was not subject to U.S. jurisdiction immediately prior to January 16, 1996,

such as Serbian or Montenegrin debt held abroad by non-U.S. persons, is not prohibited because the debt was not property blocked by U.S. law.

Similarly, the conditions in § 585.509(a) and (d)(1) and (d)(2) on trading in blocked debt representing original obligations of banks in Bosnia, Croatia, Macedonia or Slovenia, continue to apply to such debt held within the United States or in the possession or control of a U.S. person immediately prior to January 16, 1996. Debt eligible for trading under these provisions, however, may now also be traded with persons whose property and interests in property were blocked pursuant to § 585.201(a), (b) or (d) prior to January 16, 1996 (including the Government of the FRY (S&M) and entities organized or located in the FRY (S&M)). The certification and reporting requirements of § 585.509(c) and (d)(3) no longer apply with respect to trading in such debt with or on behalf of these persons. U.S. persons continue to be prohibited from trading in such debt with persons blocked pursuant to § 585.201(c) (pertaining to the Bosnian Serbs).

Funds Transfers

The Regulations are further amended to add § 585.526, authorizing by general license the unblocking and return to remitters of funds which came into the possession or control of U.S. financial institutions through wire transfer instructions or check remittances that were not destined for an account established by a blocked person on the books of a U.S. financial institution. Such funds may not, however, be returned if they were remitted by or through the Government of the FRY (S&M) or another person whose property or interests in property were blocked pursuant to § 585.201 of the Regulations prior to the suspension of sanctions.

The authorization contained in § 585.526 does not apply to transfers of funds originally destined for credit to accounts established by blocked persons on the books of U.S. financial institutions. Such funds are directed to be transferred for credit to such accounts, to be maintained in a blocked status.

Finally, it is emphasized that the authorizations contained in §§ 585.525 and 585.526 do not apply to property and interests in property of the Bosnian Serb forces and authorities and entities organized or located in those areas of the Republic of Bosnia and Herzegovina under their control; entities owned or controlled directly or indirectly by any person in, or resident in, those areas;

and any person acting for or on behalf of any of the foregoing.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612, does not apply.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign investments in United States, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Specially designated nationals, Transportation, Yugoslavia.

For the reasons set forth in the preamble, 31 CFR part 585 is amended as set forth below:

1. The authority citation for part 585 continues to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 50 U.S.C. 1601-1651; 50 U.S.C. 1701-1706; E.O. 12808, 57 FR 23299, 3 CFR, 1992 Comp., p. 305; E.O. 12810, 57 FR 24347, 3 CFR, 1992 Comp., p. 307; E.O. 12831, 58 FR 5253, 3 CFR, 1993 Comp., p. 576; E.O. 12846, 58 FR 25771, 3 CFR, 1993 Comp., p. 599; E.O. 12934, 59 FR 54117, 3 CFR, 1994 Comp., p. 930.

Subpart E — Licenses, Authorizations, and Statements of Licensing Policy

2. Section 585.525 is added to subpart E to read as follows:

§ 585.525 Authorization of certain new transactions with respect to the FRY (S&M).

(a) Notwithstanding the provisions of subpart B of this part, transactions and activities otherwise prohibited by §§ 585.201(a)(b) & (d) (blocked property), 585.204 (imports), 585.205 (exports), 585.206 (dealing in exports and imports), 585.207 (transportation-related transactions), 585.208 (aircraft), 585.209 (performance of contracts), 585.210 (transfer of funds), 585.211 (sporting events), 585.212 (scientific and technical cooperation, cultural exchanges), 585.215 (detention of conveyances and cargo), 585.217(a) (entry of U.S. vessels into territorial waters), 585.218(a) (insofar as that paragraph relates to trade in the United Nations Protected Areas of Croatia), and the restrictions on certain travel-related transactions (including those for commercial travel) delineated in § 585.512, are hereby authorized on or after January 16, 1996, provided that no

such transaction results in a debit to an account blocked prior to December 27, 1995, or a transfer of property blocked prior to December 27, 1995, unless such debit or transfer is independently authorized by or pursuant to this part.

(b)(1) All provisions of § 585.509 continue to apply to debt for which the National Bank of Yugoslavia or a bank located in the FRY (S&M) bears joint or several liability and which, immediately prior to January 16, 1996, was held in the United States or was within the possession or control of a U.S. person, except that the certification and reporting requirements contained in § 585.509(c) and (d)(3) no longer apply to transactions with or for the benefit of persons with respect to whom the blocking provisions of § 585.201(a), (b) and (d) have been suspended pursuant to this section.

(2) Transactions by U.S. persons involving debt for which the National Bank of Yugoslavia or a bank located in the FRY (S&M) bears joint or several liability but that was not held in the United States or within the possession or control of a U.S. person immediately prior to January 16, 1996 are authorized, provided that no debit or transfer to a blocked account is authorized.

(c) Transactions and activities prohibited by §§ 585.201(c) (blocked property), 585.217(b) (entry of U.S. vessels into riverine ports), 585.218(a) (insofar as that paragraph relates to trade in Bosnian Serb-controlled areas of Bosnia and Herzegovina), and 585.218(b) (services to Bosnian Serb-controlled areas), remain prohibited and are not authorized by this section.

(d) The authorizations contained in this section do not eliminate the need to comply with regulatory requirements not administered by the Office of Foreign Assets Control, including aviation, financial and trade requirements administered by other federal agencies.

4. Section 585.526 is added to subpart E to read as follows:

§ 585.526 Authorization for release of certain blocked transfers by U.S. financial institutions.

(a) U.S. financial institutions are authorized to unblock and return to the remitting party funds which came into their possession or control through wire transfer instructions or check remittances that were not destined for an account on the books of a U.S. financial institution, which account was established by a person whose property or interests in property were blocked immediately prior to January 16, 1996 pursuant to § 585.201 (a "blocked person"), provided that the funds may not be so unblocked and returned if they

were remitted by or through a blocked person.

(b)(1) Nothing in this section authorizes the unblocking and release of funds destined for credit:

(i) to accounts established by blocked persons on the books of U.S. financial institutions; or

(ii) to Beogradska Banka d.d. New York Agency or Jugobanka d.d. New York Agency for further credit to account holders. Both banks are blocked persons.

(2) Funds described in paragraph (b)(1) of this section that are not already

held in an account described in paragraph (b)(1)(i) must be transferred to such an account by January 29, 1996, where the funds must be maintained in blocked status pursuant to § 585.201.

Nothing in this section authorizes transfers involving property or property interests blocked pursuant to § 585.201(c) (blocking property and interests in property of the Bosnian Serb forces and authorities in the areas of the Republic of Bosnia and Herzegovina such forces control; entities organized or located in those areas; entities owned or controlled directly or indirectly by any

person in, or resident in, those areas; and any person acting for or on behalf of any of the foregoing persons).

Dated: January 4, 1996.

Steven I. Pinter,

Acting Director, Office of Foreign Assets Control.

Approved: January 5, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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