



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 31.05.1999
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Proposal for a

COUNCIL REGULATION (EC)

prohibiting the sale, supply, provision and export of certain goods, services and technology to the Federal Republic of Yugoslavia in order to prevent repairing of certain damage

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 26 April 1999, the Council decided that the sanctions against the Federal Republic of Yugoslavia and the Republic of Serbia should be extended. The extension includes, *inter alia*, a ban on exports of goods, services and technology which are suitable for repairing damage to assets, infrastructure or equipment which enable the Government of the Federal Republic of Yugoslavia to conduct its policy of internal repression. This was confirmed in Common Position 99/318/CFSP.
2. The present Commission proposal is for a Regulation implementing this export ban. In its Article 1, it describes the prohibited transactions, which comprise the sale, supply, provision and export of goods, services and technology identified to be suitable for that purpose.
3. In drawing up a list of goods, services and technology, the Commission has tried to limit the list as much as possible to goods, services and technology which play a crucial role in the functioning of the targeted damaged installations. However, the list may contain items which are used or intended for uses other than the repair of the damage covered by this Regulation. To deal with such cases, the Commission proposes a decision making procedure which will allow authorising exceptions to the prohibition. The same procedure may help to deal with developments in damage caused to installations in the Federal Republic of Yugoslavia.
4. Together with the usual provisions concerning circumvention of the prohibitions, the scope of the Regulation and the exchange of information between Member States and the Commission, the proposed Regulation contains a provision to ensure that the Regulation be effective as soon as possible (Article 6(2)). It is, therefore, proposed that the sanctions for violation of the Regulation shall be those determined pursuant to Council Regulation (EC) No 926/98, as long as Member States have not introduced, where necessary, the national legislation in this respect.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 301 thereof,

Having regard to Common Position 99/318/CFSP, defined by the Council on the basis of Article 15 of the Treaty on European Union, concerning additional restrictive measures against the Federal Republic of Yugoslavia¹,

Having regard to the proposal from the Commission,

- (1) Whereas the Council, in the light of the continued violation by the governments of the Federal Republic of Yugoslavia and of the Republic of Serbia of the relevant UN Security Council resolutions and the pursuance of extreme and criminally irresponsible policies, including repression against its own citizens, which constitute serious violations of human rights and international humanitarian law, expressed its strong and continuing support for maximum pressure from the international community on President Milosevic and his regime;
- (2) Whereas, therefore, no goods, services or technology suitable to repair damage to certain assets, infrastructure and equipment which enable the Governments of the Federal Republic of Yugoslavia and of the Republic of Serbia to conduct their policy of internal repression, should be sold, supplied, provided or exported to the Federal Republic of Yugoslavia;
- (3) Whereas this measure falls under the scope of the Treaty establishing the European Community;
- (4) Whereas therefore, and notably with a view to avoiding distortion of competition, Community legislation is necessary for the implementation of this measure, as far as the territory of the Community is concerned; whereas such territory is deemed to encompass, for the purpose of this Regulation, the territories of the Member States to which the Treaty establishing the European Community is applicable, under the conditions laid down in that Treaty;

¹ OJ L 123, 13. 5.1999, p. 1.

- (5) Whereas a procedure should be provided for amending the list of goods, services and technology subject to the prohibition, in particular in order to ensure a high degree of enforceability and to take into account developments in the Federal Republic of Yugoslavia;
- (6) Whereas, in exceptional situations, it may be necessary to authorise the sale, supply or provision of goods, services or technology subject to the prohibition, for reasons of Community interest and a procedure should be laid down to that end;
- (7) Whereas there is a need for the Commission and Member States to inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

It shall be prohibited to sell, supply, provide or export to any person or body in the Federal Republic of Yugoslavia, or to any person or body for the purpose of any business carried on in, or operated from, the territory of the Federal Republic of Yugoslavia,

- (a) the goods listed in Part A of Annex 1, whether or not originating in the Community;
- (b) services or technology listed in Parts B and C of Annex 1, the object or effect of which is the repair of damage in the Federal Republic of Yugoslavia caused by the air forces in which Member States participate.

Article 2

The participation, knowingly and intentionally, in related activities, the object or effect of which is, directly or indirectly, to circumvent the provisions of Article 1 shall be prohibited.

Article 3

In accordance with the provisions of Article 4 of this Regulation the Commission shall be empowered

- (a) to amend the Annexes to this Regulation;
- (b) with a view to the protection of the interests of the Community, to grant specific or general authorisations to sell, supply, provide or export the goods, services or technology referred to in Article 1, to the Federal Republic of Yugoslavia.

Any request by a legal or natural person for an authorisation referred to in this Article, shall be made to the Commission through the appropriate competent authorities of the Member States listed in Annex 2 to this Regulation.

Article 4

For the purposes of the implementation of Article 3, the Commission shall be assisted by the Committee composed of the representatives of the Member States and chaired by the representative of the Commission, established under Council Regulation (EC) No 2271/96², in accordance with the following provisions.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver the opinion on the draft within a time limit, which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 205 (2) of the Treaty in the case of decisions, which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures, which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Article 5

The committee referred to in Article 4 may examine any question concerning the application of this Regulation, which may be raised either by the chairman or by a representative of a Member State.

Article 6

Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions must be effective, proportionate and dissuasive.

Pending the adoption, where necessary, of any legislation to this end, the sanctions to be imposed where the provisions of this Regulation are infringed shall be those determined by the Member States in accordance with Article 5 of Council Regulation (EC) No 926/98³.

² OJ L 309, 29.11.1996, p.1

³ OJ L 130, 1.5.1998, p. 1.

Article 7

The Commission and the Member States shall inform each other of the measures taken under this Regulation and supply each other with any other relevant information at their disposal in connection with this Regulation, such as breaches and enforcement problems, judgements handed down by national courts or decisions of relevant international fora.

Article 8

This Regulation shall apply

- within the territory of the Community including its airspace,
- on board any aircraft or any vessel under the jurisdiction of a Member State,
- to any person elsewhere who is a national of a Member State, and
- to any body which is incorporated or constituted under the law of a Member State.

Article 9

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 Brussels,

For the Council
The President

ANNEX 1

List of goods, services and technology referred to in Article 1

Part A. Goods

CN code	Product description
7304 10 10, 7304 10 30, 7304 10 90	Line pipe of a kind used for oil and gas pipelines
<i>ex</i> 7308 10 00	Iron/steel structures, bridges and bridge sections
<i>ex</i> 7309 00 30, <i>ex</i> 7309 00 51	Reservoirs, tanks, vats and similar containers for liquids, lined or with a capacity exceeding 100 000 l.
8402	Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers; and parts thereof
8407 10	Aircraft engines
<i>ex</i> 8409	Parts for aircraft engines
8411	Turbo-jets, turbo-propellers and other gas turbines; and parts thereof
8413 11 00	Pumps for dispensing fuel or lubricants
8413 40 00	Concrete pumps
8413 50	Other reciprocating positive displacement pumps
8413 60	Other rotary positive displacements pumps
8413 70 10	Other centrifugal pumps
<i>ex</i> 8413 91	Parts of the pumps of heading 8413 referred to above
<i>ex</i> 8419 40	Fractionating or rectifying plant, of the type used in oil refining
<i>ex</i> 8419 50 90	Heat exchanger units of the "shell and tube" design, of the type used in oil refining
<i>ex</i> 8419 90 80	Parts of the goods of headings 8419 40 and 8419 50 listed above (e.g. distillation trays, catalyst bed support systems, cyclones, hydrocyclones, and flare tip assemblies)
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers
<i>ex</i> 8431	Parts suitable for use solely or principally with the machinery of heading No 8429
8457	Machining centres, unit construction machines (single station) and multi-station transfer machines, for working metal

8458	Lathes (including turning centres) for removing metal
8459	Machine-tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of heading No 8458
8460	Machine-tools for finishing (deburring, sharpening, grinding, honing, lapping, polishing) metal or cermets
8461	Machine-tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine-tools working by removing metal or cermets, not elsewhere specified or included
8462	Machine-tools for working metal by forging, hammering, die-stamping, bending, folding etc.
8463	Other machine-tools for working metal or cermets, without removing material
8466	Parts and accessories suitable for use solely or principally with the machines of headings 8457 to 8463
8471	Automatic data processing machines and units thereof; magnetic or optical readers etc.
8481	Taps, clocks, valves and similar appliances for pipes, tanks etc., designated as greater than 300# class; and parts thereof
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, television cameras, video camera recorders
8526	Radar apparatus, radio navigational aid apparatus, radio remote control apparatus
<i>ex</i> 8529	Parts suitable for use 8525 and 8526
8540 20	Television camera tubes, image converters and intensifiers; other photo cathode tubes
<i>ex</i> 8604	Railway maintenance or service vehicles
8606 10	Tankwagons and the like
<i>ex</i> 8608	Mechanical signalling, safety or traffic control equipment for railways, roads, port installations, airfields
8705 10	Crane lorries
8705 40	Concrete mixer lorries
8705 90	Other special motor vehicles, including breakdown lorries and concrete pumping vehicles
<i>ex</i> 8706	Chassis fitted with engines for the motorvehicles of heading No 8705 listed above
<i>ex</i> 8708	Parts and accessories of the motor vehicles of heading No 8705 listed above
8716 31 00	Tanker trailers and tanker semi-trailers
<i>ex</i> 8716 90	Parts for tanker trailers and tanker semi-trailers
<i>ex</i> 8802	Helicopters and aeroplanes
<i>ex</i> 8803	Parts of aircraft of heading 8802

8805	Aircraft launching gear, deck-arrestor or similar gear; ground flying trainers; parts of the foregoing goods
8901 20	Tankers (ships)
<i>ex</i> 8905	Floating cranes
9014	Direction finding compasses, other navigational instruments and appliances
9026	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading No 9014, 9015, 9028 or 9032
<i>ex</i> 9027	Instruments and apparatus for physical and chemical analysis, of the type used in oil refining, including parts thereof
9028 10 00	Gas meters
9028 20 00	Liquid meters
9032	Automatic regulating or controlling instruments and apparatus
<i>ex</i> 9033 00 00	Parts and accessories for goods falling under headings 9014, 9026, 9027 10, 9028 10 00, 9028 20 00, and 9032

The following goods and equipment, insofar as not covered by the descriptions of goods and equipment above:

- (1) All communication equipment having a transmission function, and components, in the frequency range of
 - 2 to 10 MHz,
 - 75 to 80 MHz,
 - 108 to 135 MHz,
 - 200 to 400 MHz,
 - L band,
 - S band.
- (2) Major items of equipment that would be directly linked to a refinery configuration (e.g. distillation columns, reactors and vessels plus heat exchangers particularly of the "shell and tube" design)
- (3) Facilities that would be internals to the equipment referred to at (2) above (e.g. distillation trays and catalyst bed support systems) plus other static equipment (e.g. cyclones and hydrocyclones, flare tip assemblies).

- (4) Piping components operating at high pressure/temperature ratings (i.e. designated as greater than 300# class, including relief valves, control valves, manual valves in general plus pipe flanges, gaskets and fittings).
- (5) Medium alloy materials which are typically only used within the oil refining industry (i.e. Chrome content in the range 1 1/4% to 9 %).
- (6) Rotating equipment including compressors, pumps, turbines operating at high pressure (e.g. greater than 20 bar) which is typically only used within the oil refining industry, plus large (e.g. high tension) electric motors.
- (7) Catalysts that are specific to refinery process applications (e.g. Catalytic and Hydro Cracking, Platforming, Hydrotreating and Desulphurisation).
- (8) Materials for the construction of tanks that would have a capacity in excess of 20,000 tonnes.
- (9) Parts of control systems (such as those referred to as DCS) that are purpose designed to meet oil industry requirements in both refinery processing and associated areas (e.g. oil movements and boiler management systems).
- (10) Quality Measurement Instruments that relate to the monitoring of hydrocarbon streams.

Part B. Services

Any tangible or intangible assistance in respect of the repair or construction, in whole or in part, of

- the goods listed in Part A of this Annex;
- military and civil airports;
- oil refineries;
- broadcasting installations;
- railways, highways and bridges;
- ports.

Part C. Technology

Technology suitable for

- manufacturing the goods listed in Part A of this Annex;

- repair or construction of the installations referred to in Part B of this Annex.

Note:

For the purpose of this Annex, the provision or export of technology shall comprise

- the change of proprietorship of intellectual or industrial property rights;
- the conclusion of a licensing agreement; and
- the conclusion of any other agreement or arrangement enabling the use of intellectual or industrial property rights.

ANNEX 2

List of competent authorities referred to in Article 3(2)

BELGIUM

DENMARK

GERMANY

GREECE

SPAIN

FRANCE

IRELAND

ITALY

LUXEMBOURG

NETHERLANDS

AUSTRIA

PORTUGAL

SWEDEN

FINLAND

UNITED KINGDOM