

1999 No. 1516

EUROPEAN COMMUNITIES

**The Federal Republic of Yugoslavia (Supply, Sale and
Export of Petroleum and Petroleum Products) (No. 2)
Regulations 1999**

<i>Made - - - -</i>	<i>2nd June 1999</i>
<i>Laid before Parliament</i>	<i>2nd June 1999</i>
<i>Coming into force</i>	<i>3rd June 1999</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States, in exercise of powers conferred on him by that section, hereby makes the following Regulations:

1. These Regulations may be cited as the Federal Republic of Yugoslavia (Supply, Sale and Export of Petroleum and Petroleum Products) (Penalties and Licences) Regulations 1999 and shall come into force on 3rd June 1999.

Interpretation

2. In these Regulations the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say—

“aircraft” means an aircraft referred to in Schedule 1 to the Air Navigation (No. 2) Order 1995(c);

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“the Council Regulation” means Council Regulation (EC) No. 900/99 of 29th April 1999 prohibiting the sale and supply of petroleum and certain petroleum products to the Federal Republic of Yugoslavia(d);

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

(a) S.I. 1994/757.

(b) 1972 c. 68.

(c) S.I. 1995/1970.

(d) O.J. No. L 114, 1.5.99, p. 1.

“ship” has the meaning it bears in section 313 of the Merchant Shipping Act 1995(a);
“shipment” (and cognate expressions) and “stores” shall have the meanings they bear in the Customs and Excise Management Act 1979(b);
“specified goods” means the goods specified in the Annex to the Council Regulation;
“United Kingdom ship” has the meaning it bears in section 1(3) of the Merchant Shipping Act 1995.

3. Any person who infringes the prohibitions in Article 1 of the Council Regulation shall be guilty of an offence and may be arrested.

4.—(1) Authorisation for the supply, sale or export of petroleum or petroleum products to the Federal Republic of Yugoslavia as provided for in the said Regulation shall in the United Kingdom be by way of licence granted by the Secretary of State.

(2) If for the purposes of obtaining a licence any person—

- (a) makes any statement or furnishes any document which to his knowledge is false in a material particular, or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence; and any licence granted in connection with the application for which the false statement was made or the false document or information furnished shall be void as from the time it was granted.

(3) Any person who, having supplied, sold or exported petroleum or petroleum products under the authority of a licence granted under this regulation, fails to comply with any requirements or conditions to which the licence is subject shall be guilty of an offence unless—

- (a) the licence had previously been modified by the Secretary of State without that person’s consent,
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified, and
- (c) that person proves that the supply, sale or export had taken place before the modification had been made.

Customs powers to demand evidence of destination which goods reach

5. Any exporter or any shipper of goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, furnish within such time as they may allow proof to their satisfaction that the goods have reached either—

- (i) a destination to which they were authorised to be exported by a licence granted under these Regulations; or
- (ii) a destination to which the exportation was not prohibited by the Council Regulation,

and, if he fails to do so, he shall be guilty of an offence under these Regulations unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

Declaration as to goods: powers of search

6.—(1) Any person who is about to leave the United Kingdom shall if he is required to do so by an officer of Customs and Excise—

- (a) declare whether or not he has with him any specified goods which are destined for the Federal Republic of Yugoslavia or for delivery, directly or indirectly, to any person connected with the Federal Republic of Yugoslavia; and
- (b) produce any such goods as aforesaid which he has with him,

and such officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

(a) 1995 c. 21; section 284(1)(b) was amended by the Merchant Shipping and Aviation Security Act 1997 (c. 21), Schedule 1, paragraph 5.
(b) 1979 c. 2.

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under these Regulations.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under these Regulations.

Investigation, etc. of suspected ships, aircraft and vehicles

7.—(1) Where any authorised officer, that is to say, any officer referred to in section 284(1) of the Merchant Shipping Act 1995, has reason to suspect that any United Kingdom ship has been or is being or is about to be used in contravention of Article 1 of the Council Regulation, he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force, and he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify. An authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may, in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of Article 1 of the Council Regulation, exercise the following further powers with a view to the prevention of the commission (or the continued commission) of any such contravention or in order that enquiries into the matter may be pursued. He may either direct the master to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified or request the master to take any one or more of the following steps:

- (a) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by any authorised officer that the ship may so proceed;
- (b) if the ship is then in a port in the United Kingdom, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;
- (c) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in subparagraph (b) of this paragraph; and
- (d) to take her to any other destination that may be specified by the officer in agreement with the master.

(2) Without prejudice to the provisions of paragraph (8) of this regulation, where a master refuses or fails to comply with a request made under this regulation that his ship shall or shall not proceed to or from any place or where an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with, any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(3) Where any officer of Customs and Excise or any person authorised by the Secretary of State for that purpose either generally or in a particular case has reason to suspect that any aircraft registered in the United Kingdom or any aircraft for the time being chartered to any British citizen, British Dependent Territories citizen, British Overseas citizen, British subject, British protected person or British National (Overseas) has been or is being or is about to be used in contravention of Article 1 of the Council Regulation, that authorised person or that officer may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify. That authorised person or that officer may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force. If the aircraft is then in the United Kingdom, any such authorised person or any such officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of such a request) may further request the charterer, operator and the commander or any of them to cause the aircraft to remain in the United Kingdom until notified that the aircraft may depart.

(4) Without prejudice to the provisions of paragraph (8) of this regulation, where any person authorised as aforesaid or any such officer as aforesaid, has reason to suspect that any request that an aircraft should remain in the United Kingdom that has been made under paragraph (3) of this regulation may not be complied with, that authorised person or that officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose:

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft; and
- (c) use, or authorise the use of, reasonable force.

(5) A person authorised by the Secretary of State to exercise any power for the purposes of paragraph (3) or (4) of this regulation shall, if requested to do so, produce evidence of his authority before exercising that power.

(6) No information furnished or document produced by any person in pursuance of a request made under this regulation shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

- (b) to any person who would have been empowered under this regulation to request that it be furnished or produced or to any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under these Regulations or, with respect to any of the matters regulated by these Regulations, for an offence under any enactment relating to customs.

(7) Any power conferred by this regulation to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(8) Each of the following persons shall be guilty of an offence under these Regulations, that is to say:

- (a) a master of a ship who disobeys any direction given under paragraph (1) of this regulation with respect to the landing of any cargo;
- (b) a master of a ship or a charterer or any operator or a commander of an aircraft who—
 - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under this regulation by any person empowered to make it, or
 - (ii) wilfully furnishes false information or produces false documents to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under this regulation.

(9) Nothing in this regulation shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships or aircraft.

Obtaining of evidence and information

8. The provisions of the Schedule to these Regulations shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise, of evidence and information for the purpose of securing compliance with or detecting

evasion of these Regulations and in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise, of evidence of the commission of an offence under these Regulations or, with respect to any of the matters regulated by these Regulations, of an offence relating to customs.

Penalties and Proceedings

9.—(1) Any person guilty of an offence under regulation 3, regulation 4(2) or (3), regulation 6(3), regulation 7(8)(b)(ii) above or paragraph 5(b) or (d) of the Schedule to these Regulations shall be liable:

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or

(b) on summary conviction to a fine not exceeding the statutory maximum.

(2) Any person guilty of an offence under regulation 5, regulation 6(2) or regulation 7(8)(a), (b)(i) or (c) above or paragraph 5(a) or (c) of the Schedule to these Regulations shall be liable on summary conviction to a fine not exceeding the statutory maximum.

(3) Where any body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980^(a), a summary offence under these Regulations may be tried by a magistrates' court in England and Wales if any information is laid at any time within three years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(5) Notwithstanding anything in section 136 of the Criminal Procedure (Scotland) Act 1995^(b) proceedings in Scotland for an offence under regulations 5, 6(2), 7(8)(a), (b)(i) or (c) or paragraph 5(a) or (c) of the Schedule to these Regulations may be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge: and subsection (3) of that section applies for the purpose of this paragraph as it applies for the purpose of that section:

Provided that such proceedings shall not be commenced after the expiration of 3 years from the commission of the offence.

(6) Notwithstanding anything in article 19 of the Magistrates' Courts (Northern Ireland) Order 1981^(c), summary proceedings for an offence under these Regulations in Northern Ireland may be instituted at any time within 3 years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(7) For the purposes of this regulation:

(a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate (as the case may be) as to the date on which such evidence as is referred to in paragraphs (4), (5) and (6) above came to his knowledge shall be conclusive evidence of that fact; and

(b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

(8) Proceedings against any person for an offence under these Regulations may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(9) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984^(d) shall apply to the offences under these Regulations that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as

(a) 1980 c. 43.

(b) 1995 c. 46.

(c) S.I. 1981/1675 (N.I. 26).

(d) 1984 c. 60.

if they were mentioned in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(10) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under these Regulations he may arrest that person without a warrant.

(11) In Northern Ireland, paragraph (2) of article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989^(a) shall apply to the offences under these Regulations that are not arrestable offences by virtue of a term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(12) No proceedings for an offence under these Regulations, other than for a summary offence, shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

Exercise of Powers of the Secretary of State

11.—(1) The Secretary of State may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under these Regulations (other than the power to give authority under the Schedule to these Regulations to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in these Regulations to the Secretary of State shall be construed accordingly.

(2) Any licences granted under these Regulations may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

12. The Federal Republic of Yugoslavia (Supply, Sale and Export of Petroleum and Petroleum Products) Regulations 1999^(b) are revoked.

2nd June 1999

Robin Cook
Secretary of State for Foreign and
Commonwealth Affairs,
Foreign and Commonwealth Office

(a) S.I. 1989/1341 (N.I. 12).

(b) S.I. 1999/1261.

EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of these Regulations, or any provision of any other law, the Secretary of State (or any person authorised by him for that purpose either generally or in a particular case) or the Commissioners of Customs and Excise may request any person in or resident in the United Kingdom to furnish to him (or to that authorised person) any information in his possession or control, or to produce to him (or to that authorised person) any document in his possession or control, which he (or that authorised person) may require for the purpose of securing compliance with or detecting evasion of these Regulations: and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

2.—(1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Secretary of State or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under these Regulations or, with respect to any of the matters regulated by these Regulations, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any ship or aircraft so specified; or
- (b) that any documents which ought to have been produced under paragraph 1 of this Schedule and have not been produced are to be found on any such premises or in any such ship or aircraft,

he may grant a search warrant authorising any constable or any officer of Customs and Excise, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the ship or aircraft.

(2) Any authorised person who has entered any premises or any ship or aircraft in accordance with sub-paragraph (1) above may do any or all of the following things:

- (a) inspect and search those premises or any ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on any ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on any ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1 of this Schedule; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) above which is contained in a computer and is accessible from the premises or from any ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A constable or officer of Customs and Excise lawfully on the premises or on the ship or aircraft by virtue of a warrant issued under sub-paragraph (1) above may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) above, if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to the sheriff; and any reference to information on oath is a reference to evidence on oath.

3. A person authorised by the Secretary of State to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before or on exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) of this Schedule shall be disclosed except:

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or any person holding or acting in any office under or in the service of the Crown in respect of the Government of the United Kingdom; or

(c) with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under these Regulations or, with respect to any of the matters regulated by these Regulations, for an offence under any enactment relating to customs.

5. Any person who—

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) wilfully furnishes false information or a false explanation to any person exercising his powers under this Schedule; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Council Regulation (EC) No. 900/99 of 29th April 1999 prohibits the supply, sale and export to the Federal Republic of Yugoslavia of specified petroleum and petroleum products. These Regulations—

- (a) make it an offence to infringe that prohibition;
- (b) provide for licensing of supplies, sales and exports in accordance with the Council Regulation; and
- (c) make provision for enforcement.

These Regulations also revoke the Federal Republic of Yugoslavia (Supply, Sale and Export of Petroleum and Petroleum Products) Regulations 1999 (S.I. 1999/1261).

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EUROPEAN COMMUNITIES

The Federal Republic of Yugoslavia (Supply, Sale and
Export of Petroleum and Petroleum Products) (No. 2)
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