

ICF7

WORKING GROUP ON SELECTION ISSUES

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SUCCESSION: Wg. GROUP

MARCH - 16 - 17

Succession Working Group



EUROPEAN COMMISSION
DIRECTORATE-GENERAL - EXTERNAL POLITICAL RELATIONS

Directorate B

FAX

Date: 27 January 1995

From: Bertrand de Largentaye
IA-B
MO34-6/96

To: Mr. Ramcharan
ICFY

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Number of pages:1+2

GR - 29 584 95

Subject: Proposed Statement For Extended Steering Committee
State Succession Issues Working Group

Message:

Dear Bertie,

I enclose a proposed statement on state succession issues for the expanded steering committee on 31 January, agreed with Wegger Strommen and the state succession issues team. It might be a good idea to distribute it to the co-Chairmen and other ICFY officers to keep them informed of developments.

Best regards,

Bertrand

INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA



COMMISSION
OF THE EUROPEAN
COMMUNITIES



UNITED NATIONS

Subject: Proposed Statement For Expanded Steering Committee Meeting 31 January 1995
State Succession Issues Working Group

1. By the beginning of last summer it had become clear that no agreement could be reached between the parties on the text of a state succession treaty. It was, therefore, decided that the secretariat of the working group should put forward a draft text of its own, in order to focus discussion on the practical issues at stake and move away from the disagreements on principles.

2. By the end of the summer, this draft text had been completed ready for submission to the parties. It was decided to divide it into two parts. Part I covering aspects of citizenship, archives, acquired rights, pensions, arbitration procedures etc. was submitted to the parties for their observations. Some reactions to this text have been received, but most have been cautious in anticipation of the receipt of part II, covering the distribution of assets and liabilities.

3. Part II is currently the subject of consultation with major participants in the Conference. The Secretariat has been actively pursuing consultations on this in capitals, as well as with the Paris Club and the private creditors, represented by Chemical Bank of New York. The approval of Part II by the governments concerned has taken longer than anticipated, due to the complex issues and vast documentation involved. Consideration at the level of Governments has often required an inter-agency approach, particularly where the Governments are also creditors.

4. Most complex is the issue of the debt of the former SFRY and in particular the so-called unallocated debt (that debt which cannot be traced to particular projects in particular successor states). This is divided between publicly guaranteed debt, for which the creditors are governments represented by the Paris Club (unallocated debt estimated at \$800 million) and debt to private creditors. This latter debt is held by a consortium of private creditors represented by the International Coordinating Committee (ICC) led by Chemical Bank. The total of this debt is now \$4.2 billion, of which it is estimated that some \$2.7 billion is unallocated, although the principle of geographical allocation for this debt is disputed by the creditors.

5. Slovenia, frustrated by the delay in resolving these issues, has unilaterally undertaken direct negotiations with the private creditors in an attempt to gain release from the contract binding all the borrowers together in return for agreeing to pay a fixed proportion of the total. These negotiations have caused much consternation among the rest of the parties who dispute Slovenia's right to undertake negotiations of this type. The other

parties support maintaining the "package deal" approach agreed to date under which assets and liabilities are to be considered together in an attempt to achieve a balanced and equitable settlement.

6. The Chairman and secretariat of the working group have argued in favour of maintaining the package approach, keeping the estate together, as the best guarantee of achieving a settlement which is equitable and offers something to everyone. This position is supported by Bosnia-Herzegovina, Macedonia, Croatia and the FRY and opposed by Slovenia. However, it is clear that if one of the parties wishes to go ahead and make a separate deal with its creditors, then there is little the Conference can do to prevent this. Nevertheless, it is not clear that such deals would be immune from legal challenge by the other parties due to the nature of the contract for the private debt which binds all debtors together through a joint and several guarantee. It should also be noted that some parties consider this approach to be in breach of the Statement of Principles of the London Conference which state at paragraph ix *"the requirement that a final settlement of all questions of succession to the former Socialist Federal Republic of Yugoslavia must be reached by consensus or by arbitration"*.

7. A further obstacle to progress is the insistence of the FRY that it be recognised as the continuation of the SFRY, rather than as a successor state on the same footing as the others. It will be recalled that the international community has already taken a position on this in the United Nations and elsewhere.

8. In consultations, we have encountered the view that the time is not yet ripe to put forward Part II of the treaty to the parties, since it is thought that real progress will not be possible until a wider peace settlement is achieved on the ground. The Chairman of the Working Group although fully understanding this point, believes that this issue could also be viewed differently. Firstly, it is clearly important for the stability and economic development of the newly independent states to establish normality in their international relations as soon as possible. Resolution of the assets and liabilities question will be a significant step in this direction, allowing renewed access to international capital markets. This is a major priority for the successor states. Further delay only frustrates the natural desire of the successor state to normalise their relations with the outside world and leads to increased pressure to adopt a partial approach to the division of the estate which will hamper an equitable overall solution in the long run. Secondly, it might be difficult to see how the division of assets and liabilities can be used as a powerful incentive by the international community to encourage the belligerents to stop the fighting. In the first instance, it is not accurate to describe the current fighting as between the successor states as defined in the draft proposal. More importantly, the estate of the SFRY is probably not significant enough to bring an end to hostilities. The parties are not fighting about debts to foreign creditors or embassies in Paris. Solution of the assets and liabilities question now will, at least to a certain extent, serve the cause of peace by contributing to a normalisation of relations. In the meantime, further delay is of advantage only to one party, the FRY (Serbia and Montenegro), which is in possession of most of the assets without servicing any of the debt.

9. We are pursuing consultations along these lines and hoping for an early response and backing from Conference members. Nevertheless, we acknowledge that these issues are difficult to resolve and that Conference members should be given ample time for consideration, while bearing in mind that achieving an equitable division of assets and liabilities will become increasingly difficult with the passage of time.



COMMISSION EUROPÉENNE
DIRECTION GÉNÉRALE - RELATIONS POLITIQUES EXTÉRIEURES

DGIA - Direction B

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Objet:

Message:

Bertrand de LARGENTAYE

INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA



COMMISSION
OF THE EUROPEAN
COMMUNITIES



UNITED NATIONS

Brussels, 27 January 1995
BL D(95) dl 118

NOTE TO Mr. B.G. RAMCHARAN

I refer to your note dated 23 January 1995

1. current activities

- liaising between the Conference and some of the European Union's institutions
 - . establishing a framework for EU financial support for IMG, a body set up by the UNHCR to promote emergency work to rehabilitate B+H's damaged infrastructure
 - . explaining on-going work on State succession issues to various Council groups and to the Commissioner in charge of the Yugoslav brief
- promoting the draft state succession treaty
 - . consultations with foreign ministry and treasury officials in a number of countries, in conjunction with A.JONSSON and W.C.STROMMEN
 - . negotiations with authorised representatives of creditors' interests on the most appropriate way of dividing the outstanding debt of the former Yugoslavia
- for the purpose of the economic issues working group, when it resumes its activity, monitoring economic developments and economic reforms in the

Central and Eastern European countries as well as the ties that are developing between those countries and the European Union

2. programme to the end of May

- economic issues working group
 - . no meeting foreseen as long as there is no successful outcome to the political negotiations
- state succession working group
 - . next meeting should focus on FR Yugoslavia's draft inventory of assets and liabilities of the SFRY as well as on an auditors' report on the NBY accounts
 - . in depth discussions on the treaty with the Bosnian and Macedonian delegations
 - . gaining American and EU acceptance of part II of the draft state succession treaty in order to be in a position to circulate it to the parties

3. particular issues

It would be helpful if the co-chairmen were to draw the attention of the Commission's new president to the need to allocate the appropriate resources inside the Commission to ICFY's activities (reference to an agreement first reached by the President DELORS with Lord CARRINGTON and then renewed, at the time of the London Conference, with Mr.VANCE and Lord OWEN):

- the small group working under Mr.DURIEUX inside the Commission, and acting as an ICFY secretariat on a number of technical issues, is on the verge of disappearing (staff cuts)
- travel could be restricted
- no funds have been made available for the implementation of an action plan devised by Commission officials for ICFY and designed to safeguard and to ensure access of all the parties to the archives of the former Yugoslavia

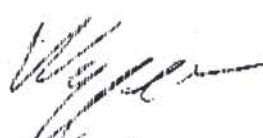
A draft letter has been prepared to this effect

Best regards

B. de LARGENTAYE

NOTE

To : Berti

From : Wegger 

Subject : Succession Issues

This is in response to your note of 23 Jan this year.

Current activities : We are in the process of consulting part II of the draft treaty with major participants in the Conference, in particular the European Union. Governments and creditors took, quite understandably, some time to understand the full scope of our proposal for the complete division of assets and liabilities of the SFRY.

Work programme : We will following their request work closely with the private creditors (a consortium of banks led by Chemical Bank of New York), government creditors (the Paris Club) and the EU ad hoc working group for the former Yugoslavia, - the latter reinforced with financial experts. We are also carefully following developments on the issue within the administration in Washington. Furthermore the parties need to be kept engaged in the process.

Final comment : I believe we should be prepared for the possibility that public US and EU backing of the draft treaty could take some time. The US and some EU governments might want to postpone the launching of part II until the political climate is more appropriate. They also need time to work on part II and the vast documentation behind it. In the mean time governments will probably ask us to facilitate a provisional debt settlement both for private and governmental debt.

We are of course eager to present part II, but US and EU backing is imperative. Hence we should be patient.

wcs, Brussels, 25 jan 1995

2/2

INTERNATIONAL CONFERENCE
ON THE FORMER YUGOSLAVIA

TO: Mr. W. Chr. Stronmen Fax No. (41-22) 917-0079
FROM: P.C. Szasz *[Signature]*
DATE: Germantown, 19 November 1994

SUBJECT: Session of the Succession Issues Working Group

1. Thanks for your faxes of the 14th and 16th regarding the next session of the Succession Issues Working Group, to take place in Geneva on 30 November - 1 December.
2. As it happens, these dates fall right during an interval between tentatively scheduled BH Contact Group meetings, which would let me fly from Zagreb to Geneva early on the 30th and require me to fly on to Brussels on the afternoon of the 1st.
3. If these Contact Group meetings take place as planned and my participation is approved by the Co-Chairmen, I would certainly arrange to attend as much as possible of the Working Group meetings -- and I have already so informed them. If that should not be so, then you should explore with the Co-Chairmen whether they consider that I should travel to attend the Working Group session.
4. Please let me have, in any event, any papers that are prepared for the session.



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No 556/1

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By box.

Geneva, August 21, 1995

Excellencies,

With reference to the January - June 1995 part of the report of the Co-Chairmen of the International Conference on the Former Yugoslavia, related to succession issues, I have the honour to forward, enclosed herewith, the letter of H.E, Mr. Milan Milutinović, Minister for Foreign Affairs of the Federal Republic of Yugoslavia.

Please accept, Excellencies, the assurances of my highest consideration.


Dr. Vladimir Pavićević

Ambassador

Their Excellencies
Mr. Carl Bildt and
Mr. Thorvald Stoltenberg
Co-Chairmen of the International
Conference on the Former Yugoslavia
G e n e v a



FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL MINISTER OF FOREIGN AFFAIRS

3/4
Belgrade, 16 August 1995

Excellencies,

I am writing in connection with the January - June 1995 part of the report of the Co-Chairmen of the International Conference on the Former Yugoslavia related to succession issues.

I take this opportunity to remind you that no agreement has been reached on the Draft Treaty prepared by the Secretariat of the Conference. As you know, the Yugoslav delegation within the Working Group on Succession Issues expressed its substantive disagreement with the Draft Treaty immediately after acquainting itself with it.

Following subsequent consultations with the Chairman of the Working Group on Succession Issues, Mr. Alf Jonsson, and at his initiative, the Yugoslav delegation undertook to prepare its own Draft. After thorough preparations and extensive work, the Yugoslav delegation, with the assistance of prominent experts from the FR of Yugoslavia, elaborated a proposal entitled the "Treaty Concerning Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation" and submitted it to the Secretariat of the Conference.

I have noted that this fact has been left out from the said part of your report related to succession issues, which is far from being conducive to finding an early solution to the problems facing the delegation of the FR of Yugoslavia, on the one hand, and the delegations of the seceded Yugoslav republics, on the other.

Excellencies
Carl Bildt and Thorvald Stoltenberg
Co-Chairmen of the International Conference
on the Former Yugoslavia
G e n e v a

May I recall also on this occasion that the Yugoslav side insists that its proposal be accorded equal treatment with that of the Draft Treaty of the Secretariat of the Conference, or any other draft which may be submitted in the future. This position of Yugoslav side is consistent with the opinion of Mr. Alf Jonsson.

The Yugoslav side expects that the Secretariat of the Conference, as the forum mandated to provide mediation offices on the basis of full equality of the participants in the negotiations, will take into account the said facts and consider the Yugoslav proposal on a non-discriminatory basis equal with others.

Sincerely yours,



Milan Milutinović



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Wegger Stummer

Geneva, August 09, 1995

No 528/1

Excellencies,

I have the honour to forward, enclosed herewith a letter sent by Mr. Radoje Kontic, Prime Minister of the Federal Republic of Yugoslavia, referring to the re-establishment of the Arbitration Commission within the International Conference on the Former Yugoslavia.

Please accept, Excellencies, the assurances of my highest consideration

Dr. Vladimir Pavićević
Dr. Vladimir Pavićević
Ambassador

Their Excellencies
Mr. Thorwald Stoltenberg and
Mr. Carl Bildt
Co-Chairmen
I.C.F.Y.
G e n e v a

*Dist: CB, B, GN,
BGR, DA, BL.*

Ex: WS, BdL, PS.

**FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL GOVERNMENT
PRIME MINISTER**

Belgrade, August 1995

Excellencies,

It was with great surprise and dismay that the Government of the Federal Republic of Yugoslavia received the information on the re-establishment of the Arbitration Commission within the International Conference on the Former Yugoslavia. Yugoslavia has repeated on a number of occasions its principled warning that the establishment and activities of the Arbitration Commission constituted a gross violation of the relevant process and material rules of international law and that therefore it represents an objective obstacle to finding a lasting and just solution to the Yugoslav crisis. It was precisely for these reasons that the competent Yugoslav authorities pointed out on several occasions that they do not recognize the Arbitration Commission and its opinions. It is recalled that in its reply of 3 June 1992 to the letter of Mr. Robert Badinter, Chairman of the Commission, the Government of the Federal Republic of Yugoslavia, *inter alia*, pointed out that it considered the opinions of the Commission as doctrinaire opinions in the sense of Article 38 (d) of the Statute of the International Court of Justice, without a legal basis for a meritorious decision. In its official statement of 30 June 1992, the Government of the Federal Republic of Yugoslavia determined its attitude towards the Commission by stating that it would consider null and void and not binding and without any effect on itself every opinion of the Commission brought in a procedure in the establishment of which it had not given its consent in accordance with the relevant rules of international law.

The Government of the Federal Republic of Yugoslavia considers the newly appointed Arbitration Commission within the International Conference on the Former Yugoslavia as a transformed Arbitration Commission of the European Community with an expanded mandate. Maintaining all its reservations that it has had vis-a-vis the so-called Badinter Commission, the opinions of which served as a basis for international factors to take positions which in effect prevented a just and peaceful solution of the

THEIR EXCELLENCIES
THORVALD STOLTENBERG AND CARL BILD
CO-CHAIRMEN
INTERNATIONAL CONFERENCE ON
THE FORMER YUGOSLAVIA
G E N E V A

- 2 -

Yugoslav constitutional crisis, the Government of the Federal Republic of Yugoslavia wishes to point out that it considers the establishment and all the opinions or decisions of the newly appointed Arbitration Commission as absolutely null and void.

The International Conference on the Former Yugoslavia is an independent body which, short of the agreement of all participants, cannot take over the positions and decisions of the fora that preceded it. In saying this, however, the Federal Republic of Yugoslavia is not in principle opposed to an arbitration procedure, but it could accept such a procedure only in cases provided for by international law, which means only after all interested parties have agreed to solve all their mutual problems by arbitration.

The Federal Republic of Yugoslavia is categorically opposed to the introduction of an arbitration procedure without agreement of all involved parties, which would be mandated to take binding decisions. If decisions on individual questions were to be taken in this way, the International Conference on the Former Yugoslavia would cease to be a forum rendering good offices and would be transformed into a body which, on the basis of its own political decisions, would impose preconceived solutions on individual sides by majority vote. In this way the International Conference on the Former Yugoslavia would betray its basic mission of honest broker. The departure from the present, and the imposition of the proposed, method of work of the International Conference on the Former Yugoslavia would lead to its transformation into a body, the competences of which would be expanded to the point at which it would become an arbitration court, which the Federal Republic of Yugoslavia is not ready to accept.

The Government of the Federal Republic of Yugoslavia considers that the International Conference on the Former Yugoslavia must do everything to re-establish its mediation role and that all questions within its domain should continue to be solved on the basis of consensus and equal treatment of proposals of all sides, which was pointed out also in the letter of the Federal Minister of Foreign Affairs of the Federal Republic of Yugoslavia, Mr. Vladislav Jovanović, of 13 July 1995. The departure from this principle would put in question the purpose of the work of the Conference and would cancel out all the efforts invested thus far in finding a solution that would satisfy the requests of all participants at least in part.

If the customary procedure on introducing arbitration procedure was to be side-stepped at the International Conference on the Former Yugoslavia, this body would be transformed into an institution for imposing political will on sides in dispute. The Federal Republic of Yugoslavia is not prepared to accept this method of work at the International Conference on the Former Yugoslavia and will reconsider the opportuneness of continuing its participation in the work of the Conference if the Arbitration Commission begins its work.

Dr. Radoje Kontić



САВЕЗНА РЕПУБЛИКА ЈУГОСЛАВИЈА

САВЕЗНА ВЛАДА

ПРЕДСЕДНИК

Београд, 8. август 1995. године

Vaše Ekselencije,

Vlada Savezne Republike Jugoslavije je sa velikim iznenađenjem primila vest o aktiviranju Arbitražne komisije u okviru Međunarodne konferencije o ranijoj Jugoslaviji. Principijelno je i više puta ponovljeno upozorenje SR Jugoslavije da ustanovljenje i delovanje Arbitražne komisije predstavlja tešku povredu relevantnih procesnih i materijalnih pravila međunarodnog prava i da, stoga, objektivno onemogućava iznalaženje trajnog i pravednog rešenja jugoslovenske krize. Upravo zbog toga nadležni organi SR Jugoslavije su više navrata ukazivali da ne priznaju Arbitražnu komisiju i njena mišljenja. Podsećamo da je u svom odgovoru na pismo g. Badentera, predsednika Komisije, od 3. juna 1992. godine Vlada SR Jugoslavije istakla, između ostalog, da mišljenja Komisije smatra doktrinarnim mišljenjima u smislu člana 38(d) Statuta Međunarodnog suda pravde koja ne predstavljaju pravni osnov za bilo kakvu meritornu odluku. U zvaničnoj izjavi od 30. juna 1992. godine Vlada SR Jugoslavije je odnos prema Komisiji izrazila kvalifikacijom "da će ništavnim i u odnosu na sebe bez ikakvog dejstva smatrati svako mišljenje Komisije koje se donese u postupku na čije zasnivanje nije dala svoj pristanak" u skladu sa relevantnim pravilima međunarodnog prava.

Novoimenovanu Arbitražnu komisiju u okviru Međunarodne konferencije o ranijoj Jugoslaviji Vlada SR Jugoslavije smatra transformisanom Arbitražnom komisijom Evropske zajednice sa proširenom nadležnošću. Zadržavajući sve rezerve koje je imala u odnosu na tzv. Badinterovu komisiju čija su mišljenja poslužila kao osnov opredeljenja međunarodnih faktora koja su objektivno onemogućila postizanje mirovnog i pravednog rešenja jugoslovenske ustavne krize, Vlada SR Jugoslavije naglašava da formiranje i bilo kakvo mišljenje ili odluku novoimenovane Arbitražne komisije smatra apsolutno ništavom.

Međunarodna konferencija o ranijoj Jugoslaviji je nezavisno telo koje ne može - bez saglasnosti svih učesnika - da preuzima stavove i odluke foruma koji su mu predhodili. Pritom, Savezna Republika Jugoslavija nije protiv arbitražnog postupka u načelu, ali bi ga mogla prihvatiti samo u slučajevima koji su predviđeni međunarodnim pravom, a to znači onda kada sve zainteresovane strane postignu dogovor da se arbitražnim putem reše njihovi međusobni problemi.

Njihove Ekselencije

Torvald Stoltenberg i Karl Bilt

Koopredsednici Međunarodne konferencije o
ranijoj Jugoslaviji

Savezna Republika Jugoslavija se kategorički protivi uvođenju arbitražnog postupka koji bi se zasnivao na donošenju obavezujućih odluka bez saglasnosti svih involviranih strana da se takav postupak sprovede. Ukoliko bi se na ovaj način dosobile odluke o pojedinim pitanjima, Međunarodna konferencija o ranijoj Jugoslaviji bi prestala da bude forum za pružanje dobrih usluga i pretvorila bi se u telo koje bi - na bazi vlastitih političkih odluka - nadglasavanjem nametalo unapred pripremljena rešenja pojedinim stranama. Ovim bi Međunarodna konferencija o ranijoj Jugoslaviji izdala svoju osnovnu misiju nepristrasnog posrednika. Napuštanje dosadašnjeg i nametanje predloženog metoda rada Međunarodne konferencije o ranijoj Jugoslaviji koje bi vodilo njenoj transformaciji u telo čije se kompetencije proširuju do te mere da postaje arbitražni sud Savezna Republika Jugoslavija nije spremna da prihvati.

Vlada Savezne Republike Jugoslavije smatra da Međunarodna konferencija o ranijoj Jugoslaviji mora da učini sve da obnovi svoju posredničku ulogu i da sva pitanja iz njenog domena treba i dalje da budu rešavana na principu konsenzusa i ravnopravnog tretmana predloga svih strana, što je istaknuto i u pismu koje vam je uputio ministar inostranih poslova Savezne Republike Jugoslavije Vladislav Jovanović 13. jula 1995. godine. Napuštanje tog principa dovelo bi u pitanje smisao rada Konferencije i derogiralo sve dosadašnje napore koji su uloženi u cilju pronalaženja rešenja koja bi bar delimično zadovoljila zahteve svih učesnika.

Ukoliko bi se na Međunarodnoj konferenciji o ranijoj Jugoslaviji zaobišao uobičajeni postupak za uvođenje arbitraže, ovo telo bi se petrovalo u instituciju za nametanje političke volje pojedinim stranama. Savezna Republika Jugoslavija nije spremna da prihvati takav metod rada Konferencije. U slučaju da Arbitražna komisija započne rad bez saglasnosti svih involviranih strana, Savezna Republika Jugoslavija će preispitati oportunitet svog daljeg učešća u radu Konferencije.

R. Kontić
dr Radoje Kontić



MISSION PERMANENTE
DE LA RÉPUBLIQUE FÉDÉRALE DE
YUGOSLAVIE
AUPRES DES NATIONS UNIES
A GENEVE

Geneva, July 27, 1995

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Telex 42 77 64

No 495/1

Excellency,

With reference to my letter No 154/1 of March 2, 1995, I have the honour to forward, enclosed herewith, Annexes I, II and III to the Treaty Concerning Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation, prepared by the Delegation of the Federal Republic of Yugoslavia to the Working Group on Succession Issues of the International Conference on the former Yugoslavia.

Please accept, Excellency, the assurances of my highest consideration.

Dr. Vladimir Pavićević
Dr. Vladimir Pavićević
Ambassador

His Excellency
Mr. Alf JONSSON
Ambassador, Chairman of the
Working Group on the Succession Issues
International Conference on the Former Yugoslavia
G e n e v a

*cc PS3153
W. Stammen
B. de Lange*

Copy: Their Excellencies
Mr. Thorvald STOLTENBERG and
Mr. Carl BILDT
Co-Chairmen
International Conference on the Former Yugoslavia
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TS/BR

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ANNEX I

1. It was through secession that parts of the Yugoslav federation became autonomous entities. This is the common denominator of all the breakaway parts of the federation. The only difference between these instances taken individually is that in the case of Slovenia, Croatia and Bosnia and Herzegovina armed secession was in question whereas in the case of Macedonia secession was carried out without resorting to the use of armed force. All these acts of secession started with legal and political acts declaring "sovereignty and independence", whereby the seceded parts committed offences both under the internal law of the SFRY as well as under international law. From the standpoint of internal law suffice it to point out the provision of Article 5(1-3) of the 1974 SFRY Constitution stipulating that "the territory of the Socialist Federal Republic of Yugoslavia is a single unified whole and consists of the territories of the Socialist Republics", and that "the frontiers of the Socialist Federal Republic of Yugoslavia may not be altered without the consent of all Republics....".

The Constitutional Court of Yugoslavia, as the supreme judicial authority of the federation, at its session held on October 9, 1991, adopted a decision annulling the "Declaration on Independence" ("Official Gazette of the Republic of Slovenia", No.1/91). In the decision, the Constitutional Court, inter alia, says: "3. It is stipulated under the provisions of Article 5. of the SFRY Constitution that the territory of the SFRY is a single unified whole and consists of the territories of the Socialist Republics, and that the frontiers of the Socialist Federal Republic of Yugoslavia may not be altered without the consent of all Republics and Autonomous Provinces, and under the provisions of Art.285, para 1., item 6. that the Federal Chamber of the SFRY Assembly shall decide on alterations of the boundaries of the Socialist Federal Republic of Yugoslavia... Proceeding from the provisions of the SFRY Constitution referred to, the Constitutional Court of Yugoslavia has assessed that the Declaration on Independence is not in conformity with the SFRY Constitution... In addition, the Constitutional Court of Yugoslavia has determined that the Declaration on Independence has the character of a general act giving effect to the Basic Constitutional Charter on the Autonomy and Independence of the Republic of Slovenia ("Official Gazette of the Republic of Slovenia", No.1/91) which the Constitutional Court of Yugoslavia annulled by its decision No. I U-106/1-/91, having assessed it to be contrary to the SFRY Constitution." Also, on the basis of the proposal of the Federal Executive Council, the Constitutional Court of Yugoslavia adopted a decision assessing the constitutionality of the Declaration Proclaiming the Sovereign and Independent Republic of Croatia" ("Official Gazette", No.31/91). In that procedure the Constitutional Court rescinded the relevant provisions on the proclamation of a sovereign and independent Republic of Croatia, emphasizing, inter alia, the following:

"The unilateral proclamation of the Republic of Croatia as sovereign and independent, in the view of the Constitutional Court of Yugoslavia, violates the provisions of the SFRY Constitution on the composition of the SFRY as a state community of the peoples of Yugoslavia, and on the frontiers of Yugoslavia, as a federal state and as a state community of voluntarily united peoples and their republics.

Having found that the sense of the mentioned provisions of the contested declaration was that the Republic of Croatia became a state which, in contravention of the SFRY Constitution, no longer was part of the SFRY, which had for its consequence the unconstitutional change of the composition of the common state of the peoples of Yugoslavia and of their republics, the change of the boundaries of the SFRY in contravention of the SFRY Constitution and the non-observance of the provisions of the SFRY Constitution on the validity of federal laws and on the rights and duties of the federation, the Constitutional Court of Yugoslavia assessed that the specified provisions of the Declaration Proclaiming the Sovereign and Independent Republic of Croatia were not in conformity with the SFRY Constitution."

It is also indubitable that such acts are directly contrary to the United Nations Charter. Positive international law embodied in the United Nations Charter places at the very centre of its regulatory norms respect for the territorial integrity of states. In view of the fact that "respect for international law and justice" is one of the basic objectives of the Organization, it is out of doubt that the policy of the United Nations and of its member states must necessarily be anti-secessionist. It is to that effect that the opinion of the Secretary-General was formulated, who explicitly stated that:

"So, as far as the question of secession of a particular part of a Member state is concerned, the United Nations' attitude is unequivocal. As an international organization, the United Nations has never accepted the principle of secession of a part of its Member state." (7 UN Monthly Chronicle 36 (February 1970).

The secession of parts of the Yugoslav federation was carried out invoking the right of peoples to self-determination. Invoking the right of peoples to self-determination in this particular case is without any legal basis whatsoever, either international or internal, and constitutes sheer abuse of this right. Namely, the right to self-determination cannot and may not imply:

" ... any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States..."

(Declaration on the Principle of International Law concerning Friendly Relations and Cooperation among States (1970)).

Apart from that, the right to self-determination belongs "to all peoples" without discrimination. In the Yugoslav case the right to

self-determination is sought to be denied to the Serbian people by seeking to interpret it as the right of an administrative unit rather than putting it into practice as the subjective, collective right of every Yugoslav people. Thereby not only international law but equally the internal law of the SFRY are violated. In that context, in the mentioned decision assessing the constitutionality of the Declaration Proclaiming the Sovereign and Independent Republic of Croatia, the Constitutional Court of Yugoslavia emphasized that:

"The right of the peoples of Yugoslavia to self-determination, including the right to secession, laid down in the SFRY Constitution, may not, in the opinion of the Constitutional Court, be exercised by the one-sided acts of peoples, i.e. acts of the assemblies of their republics. That right may be exercised only under conditions and in the manner which would be specifically determined, in conformity with the SFRY Constitution, with the consent of all the peoples and their republics, severally and collectively. Although the procedure for exercising the right to self-determination, including the right to secession, has not been defined under the SFRY Constitution, that does not mean that that right may be exercised on the basis of unilateral acts on the exercise of that right."

2. Why is an agreement regulating the effects of secession the sole possible legal form whereby to regulate the consequences of the territorial changes in the Yugoslav case? From the legal standpoint the reasons in favour of such an agreement are virtually axiomatic and need no special elaboration.

As in the Yugoslav case secession is in question, the expression "successor state" sometimes used to denote the seceded parts of the federation implies exclusively a change of sovereignty on a part of the territory of the Yugoslav federation in the sense of the transformation of that part of territory into a state entity. The act of the change of territorial sovereignty itself, however, is not automatically associated with the transfer of rights and obligations from the federation to the seceded part, since such a transfer implies the legality of the territorial change, i.e. that it has been carried out in accordance with the principles of international law. To that effect article 6 of the Convention on Succession with Respect to International Treaties (1978) and art. 3. of the Convention on Succession with Respect to State Property and Debts (1983) express the established positive international law, stipulating that:

"The present articles apply only to the effects of a succession of states occurring in conformity with international law and, in particular, the principles of international law embodied in the Charter of the United Nations." The stated rule expresses the fundamental principle of legality which brooks no deviations.

The fact that the international community or at least its larger part has recognized the seceded parts of the SFRY as new, independent states, does not make any differences as far as the

matter at hand is concerned, since recognition of seceded parts of the SFRY as autonomous states cannot validate nor does it validate the unlawful acts of secession and its effects. In fact, one could say, at least where the member states of the Council of Europe are concerned, that this recognition has been given in support of the alleged right to secession of parts of the Yugoslav federation. Indicative in that sense is the position of the Parliamentary Assembly of the Council of Europe, which, in its Resolution 969 concerning Yugoslavia, adopted in September 1991, stressed that: "First among international bodies, it noted the right of the republics to secede from the Federation and called upon the Council of Europe member states to recognize those republics which had declared independence." (Doc.AS/Inf (92) 8, Strasbourg, 22 June, 1992.)

In the light of this legal and factual state of affairs, FR Yugoslavia, as the territorially diminished Yugoslav federation, is under no obligation whatsoever to engage in a debate and the negotiated regulation of the effects of secession. Yugoslavia embarked on such discussions guided by its intention to normalize relations with the seceded parts of the Yugoslav federation as well as to protect the interests of third entities, both state and non-state ones. In its view the objective of these discussions is the negotiated regulation of all the consequences of secession on the basis of respect for the relevant legal rules on the assignment of a portion of the rights and obligations, as well as for the rules on responsibility for unlawful acts.

3. In the light of the mentioned facts the following needs to be stressed:

3.1. The Federal Republic of Yugoslavia can be neither one of the successors nor the "sole legitimate successor to the former SFRY". It hardly needs to be emphasized that, as the territorially diminished Yugoslav federation which continues its international-legal personality, FR Yugoslavia has never put forward nor could it, in the light of the relevant rules of positive international law, have put forward a claim as being one of the successors or "the sole legitimate successor to the former SFRY".

This legal position of FR Yugoslavia clearly stems from the generally accepted rule that the diminution of state territory does not affect the legal identity and continuity of the state concerned. For continuity to exist it is essential that there be uninterrupted external, independent political action. In the case of FR Yugoslavia, the essential attributes of such uninterruptedness are present, such as:

a) the capacity of a contracting party to valid international treaties. Suffice it to that effect to point to the interpretation of the Deputy Chief Legal Counsel of the United Nations, who, inter alia, stated:

"The status of Yugoslavia as a party to treaties was not affected by the adoption by the General Assembly of resolution 47/1 of 22

September 1992. By that resolution, the general Assembly decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) shall not participate in the work of the General Assembly. It did not address Yugoslavia's status as a party to treaties."

b) Diplomatic-consular relations; third states continued to maintain uninterrupted diplomatic relations with the Federal Republic of Yugoslavia even after the secession of its individual parts, demonstrating clearly thereby their attitude to the unimpaired international-legal personality of the Federal Republic of Yugoslavia;

c) Resolutions of the competent organs of the United Nations, as well as of a number of international organizations, based on resolution 47/1 of the General Assembly of the United Nations, reflect a political orientation which in itself neither changes nor can it change the legal position of the Federal Republic of Yugoslavia. That this is so is also demonstrated by the interpretation of the Chief Counsel of the United Nations Organization given in connection with the letter of the permanent representative of the Republic of Croatia to the United Nations (Doc.S 1994/198 of 19 February 1994) which sought to distort the contents of the said resolution and have it be seen as terminating FR Yugoslavia's membership in the United Nations Organization. In his opinion, the Chief Counsel, inter alia, said, "... that the only practical consequence that the resolution draws is that the Federal Republic of Yugoslavia (Serbia and Montenegro) shall not participate in the work of the General Assembly. It is clear, therefore, that representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) can no longer participate in the work of the General Assembly, its subsidiary organs, nor conferences and meetings convened by it.

On the other hand, the resolution neither terminates nor suspends Yugoslavia's membership in the Organization." (Doc.A/47/485).

Footnotes

Practically in unison the organized international community qualified the becoming independent of parts of the Yugoslav federation as forcible, armed secession. From the long list of such qualifications we shall single out a few characteristic ones. The Spanish foreign minister F. Ordonez, on June 26, 1991, stated that the proclamation of the independence of Slovenia and Croatia was "an one-sided act contrary to CSCE principles and hence unacceptable and non-existent" (The Politika, June 17, 1991); on the same day Italy officially condemned the separatist moves as dangerous for peace and security in the Balkans and in Europe (The Politika, June 27, 1991); the Dutch foreign minister Van den Broek, reaffirming the earlier stand of EC foreign ministers, spoke out against the recognition of "one-sided secessions" (The Politika, June 28, 1991); In their official statements of June 27 M. Tutweiler, spokeswoman for the State Department and M. Fitzwater, spokesman for the White House, stressed, inter alia, that the U.S.A. would under no circumstances condone or encourage secession (The Politika, June 28, 1991); "The Yugoslav rebel republics have demonstrated a lack of realism and ignored the West's advice that a movement towards independence could cause dangerous consequences" stated US State Secretary J. Baker on June 27 (UPI); a certain dissonance was manifested only in the statements made by German, Austrian and Hungarian officials. However, after the adoption of the EC Declaration on Yugoslavia of August 6, 1991, condemnations of the secession died down and discussions on the way of recognizing the secessionist republics became the order of the day.

ANNEX 2

ECONOMIC DEVELOPMENT OF THE SFRY REPUBLICS IN THE POST-WAR PERIOD

(Brief Survey)

Adequate application of the principle of equity, to which all the delegations to the Group on Succession have agreed, presupposes the acknowledgment of the economic results recorded by the individual SFRY republics in the post-war period.

These republics set off with an uneven level of economic development with only Slovenia and Croatia having a per capita gross national product (GNP hereinafter) above the Yugoslav average, while the other four republics were below that average (column 5 of Table 1.) This discrepancy was too politically sensitive to be ignored in a multinational community. Therefore immediately after the end of World War II the objective was set for the underdeveloped republics to develop at a faster pace within the process of the expected fast development of all the republics, so that the difference relative to the developed ones might be gradually reduced. Not only was this objective, which implied that with the process of development all the republics would approximate the Yugoslav average, not achieved, but in reality quite the contrary effects were attained. All the republics moved farther away from the average.

Table 1.

	Gross national product per capita						
	1972 prices in dinars						
	Level index						
	1947	1988	Index	Increment	1947	1988	1988
	1	2	3	4	5	8	cur. prices
SFRY	3.460	16.814	486	13.354	100	100	100
Bosnia&Her.	2.968	11.344	386	8.376	86	67	66
Montenegro	3.243	12.417	383	9.174	94	74	73
Croatia	3.610	21.587	598	17.977	104	128	130
Macedonia	2.432	10.800	444	8.368	70	64	62
Slovenia	5.648	33.932	601	28.284	163	202	230
Serbia	3.274	15.183	463	11.909	95	90	86

Note: Indices obtained on the basis of data from the Statistical Yearbook of the Federal Bureau of Statistics (FBS), "Yugoslavia 1918-1988", pp.101 and 105, SYV-90, p.407 and 411 and "Yugoslavia 1945-1985", FBS, 1986, p.204.

In the period 1947-1988, the two most developed republics, Slovenia and Croatia also had the highest GNP growth rates (column 3 of Table 1.) whereby they improved their relative positions and remained isolated above the Yugoslav average. Slovenia chalked up a relative improvement of 39 and Croatia of 24 index points. And conversely, the other four republics, with a lower than Yugoslav average GNP growth rate, worsened their relative positions, Montenegro by 20, Bosnia and Herzegovina by 19, Macedonia by 6 and Serbia by 5 index points. A comparison of development levels between 1947 and 1988 (columns 5, 6, and 7 of Table 1), demonstrates that during the 41 years of post-war development the gap between Slovenia and Croatia on the one hand and the other four republics on the other markedly widened. GNP increment (column 4 of Table 1) perhaps most graphically shows how the individual republics fared in the period under review. The effects are great when above-average developed republics also have the highest GNP growth rate and vice versa. Per one dinar of income increment per capita in SFRY, there were 2.12 dinars in Slovenia, 1.35 dinars in Croatia, 0.89 dinars in Serbia, 0.69 dinars in Montenegro, 0.63 dinars in Macedonia and Bosnia & Herzegovina.

Table 2.

Number of employed per 1000 inhabitants

	SFRY	B&H	Mont.	Croat.	Mac.	Slov.	Serb.
1952	103	86	72	122	70	178	87
1989	290	242	264	246	251	437	264
Growth							
1989-52	187	156	192	224	181	259	180
	Job seekers in 1989 (in thousands)						
Number	1201	277	46	140	149	28	561
% of unemployed	14.9	20.3	21.6	7.9	21.9	3.2	17.6

Source: For 1952, "Yugoslavia 1945-1985", FBS, 1956
for 1989 Statistical Yearbook of Yugoslavia-90,
pp.497,408,409

Note: Percentage of unemployed calculated as per UN methodology.

The growth of relative employment across the republics shows the same results as the GNP (Table 2). Slovenia and Croatia registered the highest relative growth and were the only ones to remain above the Yugoslav average. In comparison with the other four republics, they considerably increased that distance in 1989 relative to 1952. From 437 employed per 1000 inhabitants, Slovenia in fact achieved overemployment and thereby full industrial maturity. As was to be expected, the higher the relative employment in a republic, the lower the percentage of unemployed. Slovenia and Croatia stood out by their relatively low percentages of unemployment, perceptibly below the Yugoslav average.

Table 3.

Investments and fixed assets							
1972 prices in dinars							
Investments of the social economic and non-economic sectors per capita - annual average							
	SFRY	B&H	Mont.	Croat.	Mac.	Slov.	Serb.
1952-87	2.669	2.172	3.553	2.955	2.152	4.652	2.378
Index	100	81	133	111	63	174	91
Fixed assets of the social economic sector in 1988 per capita							
-	46,473	37,626	55,783	60,474	30,479	95,024	36,955
	100	81	120	130	66	204	79

Note: Investment data from the FBS. Source for fixed assets data SYY-90, pp.407 and 412.

Employment trends additionally confirm the conclusions reached on the basis of GNP trends, as do the figures showing the territorial allocation of investments and fixed assets. Higher per capita investments in Slovenia and Croatia were of decisive importance for their gaining enormous advantages in the GNP and relative employment areas. In the 1952-1987 period Croatia had by 10.7% and Slovenia by 74.3% greater investments per capita from the Yugoslav average. With the exception of Montenegro /2 all the other republics had investments below average. Such a territorial allocation of investments resulted also in a corresponding generation of fixed assets across the individual republics. The index of the value of fixed assets per capita in the individual republics relative to Yugoslav average approximately matched the GNP index. This means that the volume of investments per capita was the decisive factor of production and employment growth and did not leave much leeway for any influence of other factors to speak of./3 Slovenia and Croatia not only had perceptibly larger investments per capita but also a more favourable investment structure with a greater share of the processing industry which has a more favourable capital coefficient. Hence the greater efficiency of investments, as well as higher labour productivity (thanks largely to the better technical equipping of the labour force). To this should be added the customs protection of the industry which was more favourable to the more developed, as well as the more favourable terms of trade ./4. Thus, all positive effects accumulated on the side of the developed and the unfavourable ones on the side of the undeveloped republics.

The question arises how was this possible if we know that the SFRY insisted on a policy of the faster development of the underdeveloped regions. Backing this policy were the resources of the Federation Fund into which all socially-owned enterprises paid a bit under 2% of the social product. As is evident from Table 3 this did not prevent the significant lagging behind of

per capita investments in areas which enjoyed the status of underdeveloped./5 Apart from that, resources were allocated from the federal budget to cover parts of the costs of the administration and social services amounting to approximately 1 % of the social product. Other resources and measures to neutralize the lagging behind of the less developed republics were only symbolic and without any real effect. Incentives or protection measures for the domestic economy as whole, which are never regionally neutral, had more favourable effects in the more developed republics. Thus with the funds received to promote exports Slovenia and Croatia largely made up for the funds they earmarked for the Federation Fund for Financing the Underdeveloped Republics and the Province of Kosovo.

Not only was not the egalitarian policy pursued by the SFRY achieved, it in fact became its very opposite. The question arises whether the privileged economic development of Slovenia and Croatia was an important, if not the single most important motive behind their secession. If that motive exists in Lombardy, thus within a mononational state, why would it not exist in a multinational state? For years prior to the secession Slovenia and Croatia clearly exhibited their intention to deny any help to the underdeveloped areas. With the secession all their obligations stopped. However, if the egalitarian policy, which had been accepted by all the republics, was not implemented, and if there is no possibility for compensation and off-setting in future joint development, this fact must be definitely taken into account in the context of regulating the economic consequences of the secession. Accepting the share of the population as a criterion for the regulation of these consequences is the only way to more or less satisfy the principle of equity. Gross national product per capita could possibly be used as a remedial factor, on the understanding that the GNP of Slovenia and Croatia would not be treated as their greater contribution to development, but as greater benefits reaped from Yugoslav development. This means that recognizing the GNP as an adjustment measure in the settlement should favour those republics which relatively lagged behind in development.

/1 Data on employment, investments and fixed assets has been registered by the Yugoslav statistical office since 1952.

/2 The case of Montenegro is specific not only because this republic accounted for only 2.5% of the SFRY population, but also because of its large territory relative to its population. Reviving this undeveloped area necessitated large investments in traffic and other infrastructure and in primary production with a high capital ratio. Gross investments in Montenegro also included large investments for the restoration of industrial and other facilities after the disastrous earthquake.

/3 In the early 80s a consortium of economic institutes of Yugoslavia concluded on the basis of research that social product per capita, the number of employed per 1000 and the value of fixed assets per inhabitant are the three parameters which adequately reflect the level of development.

/4 The improvement of the relative positions of Slovenia and Croatia under the effects of the terms of trade is obvious if the GNP in constant and current 1988 prices is compared. (columns 6 and 7, Table 1.)

/5 The Republics of Montenegro, Bosnia&Herzegovina and Macedonia, and the Province of Kosmet enjoyed the status of underdeveloped and were entitled to moneys from the Federation Fund.

ANNEX 3

DIRECT AND INDIRECT LOSSES CAUSED BY THE SECESSION OF PARTS OF THE YUGOSLAV FEDERATION

The agreement on regulating the consequences of the secession of parts of the Yugoslav federation also deals with the losses caused by this secession. To establish the net property which a given seceded part of the federation is possibly to receive or return, in order to establish the final amount it is first necessary to subtract or add the total damage caused to Yugoslavia by the seceding part by its secession.

1. The losses caused by secession chronologically occurred in different periods and on different grounds, and in most cases are cumulative over time.

Some losses were incurred even before the formal secession of parts of the Yugoslav federation. Some republics had stopped discharging their obligations towards the federal budget or the National Bank of Yugoslavia, while continuing to make use of the resources of the federal budget or the National Bank of Yugoslavia (export incentives, additional funds for underdeveloped regions, for agriculture, science, the honoring of international financial obligations in the name and for the account of these republics). Such behaviour started already in 1990, so that the calculation of losses must include that year, despite the preliminary convention to reduce all the values to the prices and parity as of December 31, 1990 in drawing up the inventory.

The second period starts with the formal secession of some parts of the Yugoslav federation up to their definitive exit from the economic, fiscal and monetary systems of the SFRY. According to the presented grounds, in both these periods the

SFRY has claims from every seceded part of the federation which are presented in the appropriate section of the Inventory of SFRY State Property.

The third period begins with the full effective secession of various parts of the federation. Trade flows between the seceded parts of the federation and FR Yugoslavia were completely severed in this period.

2. The losses caused by the secession of various parts of the Yugoslav federation can be classified into those the ultimate effect of which was the loss of part of the GNP and other forms i.e. sources of losses.

The largest loss of the GNP resulted from the cessation of trade with the seceded parts of the Yugoslav federation and with the rest of the world. This loss resulted both from the constriction of export markets and the impossibility to import.

According to a recently published input-output table for FR Yugoslavia, in 1991 products delivered to other SFRY republics accounted for 35.05% and products exported to the rest of the world accounted for 19.98% of the total material inputs into production. Relative to the GNP, the share of exports to other SFRY republics was 15.98% and exports to the rest of the world 9.1%. Hence, 25% of the production was marketed outside FR Yugoslavia. It is clear that the impossibility to export to and trade with the seceded parts of the Yugoslav federation proportionately reduces overall marketing possibilities, and thereby production in FRY also. The degree of import dependence of production in the following sectors exceeds 42%: ferrous and non-ferrous metallurgy, machine building, the electrical industry, the chemical industry, the wood and pulp industry, the textile industry, the leather, footwear and rubber industry, the food industry and transport.

On the import side, the secession of various parts of the Yugoslav federation also brought about a considerable decrease of production. For 100 units of final production in FRY, it is necessary to use 42.8 units from domestic production, 12.1 units from the seceded parts of the Yugoslav federation and 10.3 units from imports from the rest of the world. The impossibility to procure 22.4 units of inputs per unit of final production proportionately reduces production possibilities in FR Yugoslavia. In the productive or reproductive consumption of various production sectors, procurements from other SFRY republics and imports from the rest of the world accounted for: 44.7% in ferrous metallurgy, 30.8% in the production of means of transport and shipbuilding, 32.8% in the electrical industry, 31.5% in the paper industry, 25.5% in the leather, footwear and rubber industry and 23.1% in the metal processing industry. In addition, imports from foreign countries accounted for 56.4% of the inputs in the oil and derivatives industry, 23.2% in the chemical industry, 14.6% in transport and 12.7% in non-metallic minerals production and processing.

Losses on account of terms of trade also directly affect the decrease of the GNP. What little export and import various countries venture to engage in with FRY at a risk takes place at reduced export and increased import prices by about 30%. When calculating the GNP as per these import and export prices, foreign trade is by 30% lower because of losses on account of terms of trade, and the GNP is reduced for the corresponding absolute amount.

All the mentioned factors of the reduction of production and of the GNP or its outflow due to exacerbated terms of trade are synthetically expressed in negative growth rates of the GNP of the FRY. In 1992 (as compared to 1991), the GNP declined by 26%, and in 1991 (relative to 1992) by 11%. In 1993 (relative to 1992) the GNP was additionally reduced by 30.3%. Bearing in mind that the average annual rate of decrease of the

GNP over the 1986-1990 period was 1.2%, it stems that the difference between that rate and the high rates of decrease of the GNP to the end of 1993 is attributable to the impact of the secession of different parts of the Yugoslav federation.

Given the fact that the GNP of FR Yugoslavia fell from US \$ 23.399 billion in 1990, i.e. from US \$ 20.234 billion in 1991 to 9.52 billion in 1993, it is possible to present the absolute amount of losses inflicted on FR Yugoslavia on the basis of the decrease of the GNP due to the secession of various parts of the Yugoslav federation. The difference between the trend rate and the actual movement of the GNP is expressed as a loss on account of the unrealized GNP of FR Yugoslavia amounting to US \$ 38.236 billion cumulatively for the 1991-1993 period. We should bear in mind that over the same period the GNP also decreased due to non-economic outflows totalling US \$ 5.13 billion. This is the amount spent in FRY for the support of refugees i.e. for their survival in areas where economic activities have generally come to a standstill.

Although in 1994 the GNP increased by 6.5% it was nevertheless by some US \$ 13 billion below that in 1990. Taking into account that lost GNP also, the total losses due to the secession of various parts of the Yugoslav federation amount to at least US \$ 56.3 billion so far.

The presented data are only a rough approximation of the direct losses caused by the secession of parts of the Yugoslav federation on account of current business transactions in the economy. A consequence of the expressed loss of the GNP is also the incomplete reproduction, i.e. reduction of fixed assets in Yugoslavia. Also, direct current losses occurred in the operations of banks because their resources abroad were blocked, as well as because external payment transactions were severed.

Indirect losses occurred due to the loss of the market shares of FR Yugoslavia of world markets which were in the

meanwhile allocated to other countries as well as to the slowdown of technical progress in FR Yugoslavia.

The competent organs of FR Yugoslavia are working on the further establishment of the grounds and forms of direct and indirect losses stemming from the secession of various parts of the Yugoslav federation. In the further work of the Group on Succession, the delegation of FR Yugoslavia will submit detailed reports and supplement the Inventory of SFRY State Property with relevant data.



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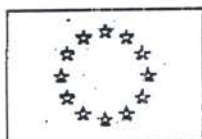
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Objet:

Message:

Attached is a draft copy to the JOVANOVIC letter on state
succession issues. It has been approved by Mr STRÖMBERG and
by P. SASSI. Best regards

Bertrand de LARGENTAYE



COMMISSION EUROPÉENNE

DIRECTION GÉNÉRALE I A

Relations Extérieures : Europe et Nouveaux États Indépendants,

Politique Étrangère et de Sécurité Commune, Service Extérieur

Direction D

Bruxelles, le 20 juillet 1995

BL D(95)

DRAFT REPLY

Mr. Vladislav JOVANOVIĆ
Federal Minister of Foreign Affairs
Federal Republic of Yugoslavia

Excellency

Thank you for your letter dated 13 July 1995 on the state succession issue. It raises a number of points which should be addressed separately.

It should first be noted that the Succession Issues Working Group's present work programme has been known to all its members for some time. After extensive consultations, both inside the Group and bilaterally, and after having changed his predecessor's approach, in order to give the FRY delegation a new opportunity to present its positions, a step which was criticised at the time by the other delegations on grounds of redundancy, the Chairman proposed to us, more than a year ago, that, in view of the fact that the different negotiating positions were too far apart to warrant any expectation of achieving consensus in the foreseeable future, the Conference secretariat would be tabling its own proposals and submitting them to the parties. The Co-Chairmen agreed, in the hope that this would simply help concentrate minds; there never was any question of presenting the parties with a definitive draft. At a meeting of the Group held last year, in July, the Chairman asked the parties to express their opinions on what the contents of a draft treaty might be. This enabled the Conference secretariat to take full account of the different positions in preparing such a draft, which was ready by late August 1994. The first portion of this draft, relating primarily to non economic issues, was immediately circulated to the parties. The circulation of the second portion was delayed, pending consultations, to establish an

appropriate negotiating basis, by the major countries represented on the Conference's Steering Committee. This was deemed necessary on account of the financial ties linking these countries to the former Yugoslavia. Unfortunately, these consultations have taken considerably longer than originally expected.

In the meantime the FRY delegation decided that it would present its own draft treaty. This document was circulated to the other parties by the Conference secretariat, and is to be examined at a forthcoming meeting of the Working Group.

In due course the second portion of the draft will be circulated, and the whole document will then be fully reviewed by the parties and their legal advisers. This will be the time for the consultations to which your letter refers, a point which was made at the time of the presentation of the Chairman's initiative, and which did not raise any objections on the part of any delegation.

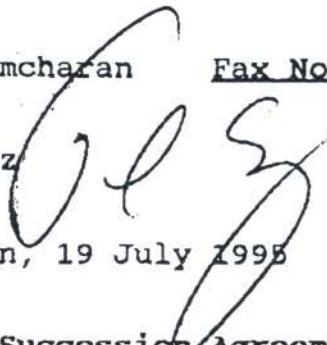
The Conference secretariat intends to circulate the written proposals submitted by the delegations last July, as well as any subsequent submissions relating to the subject matter, including reactions to the draft treaty prepared by the FRY delegation. Any party is, of course, free to present, as you suggested, any proposals or drafts, whether prepared individually or in collaboration with other parties.

Co-Chairmen

2/3

INTERNATIONAL CONFERENCE
ON THE FORMER YUGOSLAVIA

TO: Mr. B. Ramcharan Fax No.: (41-22) 917-0079

FROM: P.C. Szasz 

DATE: Germantown, 19 July 1998

SUBJECT: Proposed Succession Agreement

1. Have just received (presumably at your direction) a copy of FRY Foreign Minister Jovanovic's letter of 13 July, objecting to the consideration being given by the Working Group of the EU Commission to the draft Succession Treaty (actually, mostly to Portion TWO of that instrument).
2. This objection raises political rather than legal issues and will have to be dealt with by the Co-Chairmen or by the Chairman of the Working Group under their instructions.
3. It might be useful to recall that this entire exercise, that is the ICFY Working Group on Succession Issues itself, originated with the Carrington Conference, a creature of the EC Commission.
4. It appears not unlikely that in this connection the Greek and FRY Governments are collaborating closely. It is most likely that the former informed the latter of the developments within the EU Working Group (as these are not public). This would also be consonant with the Greek objection to EU endorsement of the draft Succession Treaty, referred to in the memo that Strommen and de Largentaye addressed to the Co-Chairmen on 4 July.
5. In this connection it is interesting to note that in the FYROM/Greek negotiations under the auspices of Secretary Vance, the Greeks have, as of this spring, taken the legally quite insupportable position that they can in no way accept that Macedonia is in any form a successor to the SFRY, until the succession issue is settled between all the ex-Yugoslav states. This attitude has affected one provision of the proposed "Interim Accord" that is now in what may be the final stages of negotiations.
6. In weighing whether or not to postpone the present exercise in light of this Greek & FRY opposition, whether co-ordinated or not, the Co-Chairmen should consider that basically any delay in settling succession issues tends to favour the FRY, for under any reasonable agreement it is probably it that would have to relinquish assets --

particularly those held in other countries -- to the other ex-SFRY states. Meanwhile, until a settlement is reached, the FRY enjoys the full use of all SFRY diplomatic properties throughout the world, and if the financial sanctions now imposed on the FRY are lifted (which may be imminent) it may be difficult to maintain (as is at present intended) for any extended period an effective freeze on Yugoslav National Bank and other assets to prevent them from being dissipated before the succession questions as to them are settled.



MISSION PERMANENTE
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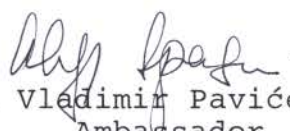
No 464/1

Geneva, 17 July 1995

Excellencies,

I have the honour to forward, enclosed herewith, the letter of H.E. Mr. Vladislav Jovanović, Minister for Foreign Affairs of the Federal Republic of Yugoslavia of 13 July 1995.

Please accept, Excellencies, the assurances of my highest consideration.

for 
Dr. Vladimir Pavićević
Ambassador

Their Excellencies
Mr. Carl Bildt and
Mr. Thorvald Stoltenberg
Co-Chairmen
International Conference on the Former
Yugoslavia
G e n e v a



**FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL MINISTER OF FOREIGN AFFAIRS**

3/4

Belgrade, 13 July 1995

Excellencies,

I am writing to express, on behalf of the Government of the Federal Republic of Yugoslavia, my dissatisfaction and objection at the information that the Working Group of the Commission of the European Union has made a draft Succession Treaty without prior consultations with the involved parties, at least without consultations with the FR of Yugoslavia. The consideration of this document, which is still underway, takes no account of the documents submitted by the FR of Yugoslavia to the Secretariat of the International Conference on the Former Yugoslavia. As an official document, the Yugoslav draft "Treaty Concerning the Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation" should be treated equally and put, as a separate item, on the agenda of the next meeting of the Working Group on Succession Issues.

Of particular concern is the fact that the elaboration of the said document - which should serve as a basis for the further settlement of succession issues - is being done with the quest for support from key international factors. In this way, the mediating role of the Secretariat of the International Conference on the Former Yugoslavia is being brought into question. Neither the Secretariat of the Conference nor any other body has the mandate to impose ready-made solutions on the involved parties, by invoking the support of some key international factors.

The procedure of the harmonization of the draft Succession Treaty has evolved, at least as far as the FR of Yugoslavia is concerned, under the veil of secrecy. The failure to consult the FR of Yugoslavia about the issues which concern it most directly and the quest for support from big powers in that connection, are reminiscent of the known unfortunate method of *fait accompli*. As it is known, this method was in its time resorted to precisely by the European Union, when it additionally complicated the solution of the crisis in the former Yugoslavia by its premature decisions. It would be harmful if the same practice was applied all over again, this time in connection with succession problems.

Unauthorized actions and the method of *fait accompli* amount not only to a departure from the present mandate of the International Conference on the Former Yugoslavia, but also to the transformation of this body from a mediating forum into a partner in negotiations. All along, it is more than obvious that the Secretariat of the

Their Excellencies
Carl Bildt and Thorvald Stoltenberg
Chairmen of the International Conference on
the Former Yugoslavia

Conference is siding also formally and not only de facto, as has been the case thus far, with the interests of the seceded Yugoslav republics.

The FR of Yugoslavia cannot and will not accept the consideration of documents in the elaboration of which it has been neither involved nor consulted. In particular, it is unacceptable for it to declare itself on the documents which all parties have already accepted, including big powers. Presentation of such documents would not lead to discussion on equal terms, but would amount to imposing them in form of an ultimatum. It would lead - and not for the first time - to the accusation of the party which has reserves on such documents for non-cooperation and would expose it to further pressure and sanctions.

The Government of the FR of Yugoslavia expects from the Secretariat of the International Conference on the Former Yugoslavia to abandon the present method of conspiracy in its work and to return to the role of honest broker. In that context, we expect from the Secretariat of the Conference to request from the seceded republics to submit written proposals for settling succession issues and to convene a meeting of the Working Group on Succession Issues at which such documents and the already presented written proposal of the FR of Yugoslavia would be discussed equally.

It is our firm belief that this would be the only constructive approach and method to identify the area of possible compromise.

Accept, Excellencies, the assurances of my highest consideration.


Vladislav Jovanović



COMMISSION EUROPÉENNE
DIRECTION GÉNÉRALE - RELATIONS POLITIQUES EXTÉRIEURES

DGIA - Direction D

TÉLÉCOPIE

Date:

11/7/85

Expéditeur:

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M. RANEHARAN

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Télécopieur: 00 41 22 8170078

Nombre de pages:

1 + 1

80

Objet:

Message:

As promised - - -

Bertrand de LARGENTAYE

7 July, 1995

Sir,

Thank you for your letter dated 22 June 1995, expressing the problems related to the shortage and quality of drinking water in the Republic of Montenegro and the anticipated alarming consequences a further delay in the realization of the project "Regional Waterworks-Montenegrin Coast" might entail.

As discussed with the Deputy High Commissioner, Mr. Walzer, during the recent visit of the Minister of Foreign Affairs of the Republic of Montenegro to Geneva, your request has been forwarded to WHO and UNICEF, for their respective studies of the project.

In addition, should the Republic of Montenegro decide to submit a request to the Sanctions Committee for the importation of materials for the carrying out of the project, I have asked my Office in New York to extend its "good offices" to such an initiative.

Please accept, Sir, the assurances of my highest consideration.

Sadako Ogata

His Excellency
Mr. Milo Djukanovic
Prime Minister
Podgorica
Republic of Montenegro

**COMMISSION EUROPÉENNE****DIRECTION GENERALE 1A****RELATIONS EXTERIEURES : EUROPE ET NOUVEAUX ETATS INDEPENDANTS,
POLITIQUE ETRANGERE ET DE SECURITE COMMUNE, SERVICE EXTERIEUR****DIRECTORATE-GENERAL 1A****EXTERNAL RELATIONS : EUROPE AND THE NEW INDEPENDENT STATES,
COMMON FOREIGN AND SECURITY POLICY AND EXTERNAL MISSIONS**

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Bruxelles,
Brussels,

4/7/95

FAX N°

00041/22/9170096
9170079Adressée à
Addressed toThe co-chairmen
ICFY - GenevaExpéditeur
Sender

B. de Largentaye

Tél.

56413

Nombres de pages
Number of pages

COVER + 3



EUROPEAN COMMISSION

DIRECTORATE-GENERAL 1A

EXTERNAL RELATIONS : Europe and the New Independent States,
Common Foreign and Security Policy and External Missions

Brussels, 4 July 1995

IA/BL/za D(95)

MEMO FOR MESSRS. THORVALD STOLTENBERG AND CARL BILDT ON STATE SUCCESSION ISSUES

1. The draft treaty on state succession prepared by the ICFY secretariat was presented to the conference's co-chairmen in late August last year. Lord Owen then asked to break the draft up into two portions, one dealing with the legal aspects of succession and the other with economic aspects. Only the first was to be immediately circulated to the parties : one knew it was less contentious than the second. He asked ICFY staff to seek political endorsement for the draft treaty by the EU and the United States - Russia had already given her backing, albeit informally - before agreeing to circulate the second portion as well.
2. The procedure followed in the quest for a political endorsement by the EU has been a long and complicated one and has not yet reached fruition. It has involved prolonged consultations with the Paris Club on the provisions of the draft treaty relating to the foreign debt of the former Yugoslavia. The most recent stages of this procedure have been :
 - the approval by the Yugoslavia ad hoc group of the EU council of ministers, followed by a referral to COREPER
 - the objections put forward by the Austrian and the Greek delegates at COREPER on 16 June, leading this body to refer the issue back to the Yugoslavia ad hoc group and to accept the Greek procedural point involving endorsement through the CFSP channel rather than the COREPER one;
 - the COREU circulation by the French presidency of an oral report containing an amended version of the draft treaty (a small amendment on the chapter relating to the external debt proposed by the Paris Club, as well as the deletion of the article on archives which the Austrian delegation had found objectionable); the oral report would have been deemed approved after four days in the absence of any reactions by the Member States (silent procedure);

- in the event there were two reactions, one by Greece (by COREU, dated 23 June 1995), the other by Italy (by COREU, dated 27 June 1995) ; the reaction by Italy refers to a provision in the draft relating to State succession in the field of treaties; the Italian concern could be placated with a new wording of the preamble : it appears to be more a question of form than of substance.
3. The Greek reaction which, we are told by the Greek permanent representation, is due to the minister of foreign affairs himself, Mr. PAPOULIAS, is more serious and must be brought to the attention of the co-chairmen. In their 27 June COREU, the Greeks raise three points :
- the first point refers to the use of the names Macedonia and FRY in the draft treaty and would seem to be pretty easy to refute (in the introductory note to the drafts of the Succession Treaty, dated 23 August 1994, it is clearly stated that : "The names indicated for the parties to the treaty in the first preambular paragraph reflect the negotiations among these parties and are those used by each party itself, and therefore do not necessarily reflect the usage of the United Nations, the European Union or of ICFY), or, conversely, to accept (knowing that a draft treaty amended in such a way would be immediately reworded by the parties ; it should always be borne in mind that the treaty will be signed by the parties, not by the UN or the EU) ;
 - the second point is of a more political nature ; it relates to possible interferences between the political negotiations and the negotiations on State succession, the idea being that the EU's taking a position on the State succession issue could hamper progress on the political front by raising doubts as to its impartiality ; this would seem to call for a number of reactions, which will be considered presently ;
 - the third point is really a matter of sequencing ; the Greeks argue that in the absence of an answer to the fundamental question raised by mutual recognition, they do not see how the parties to the treaty could reach an agreement on State succession.

The Greek COREU goes on to conclude that an EU endorsement of the draft treaty at this stage would be premature.

4. An ICFY response on the various Greek contentions would seem to be called for. The Greek conclusion is rather surprising. Work on state succession issues has been going on in ICFY for more than three years and the Greeks have had ample opportunity in the course of the last nine months to raise the issues they have just singled out. Why have they chosen to show their cards so late in the game ? One will recall that the settlement of the Soviet and the Czechoslovak successions took much less time than the present Yugoslav succession - in the case of Czechoslovakia it was only a matter of weeks -, though admittedly in more favourable circumstances. The more time passes the more certain parties to the succession will break away from the process and will seek to reach

separate arrangements on various aspects of the succession in other fora. This has already happened in the case of Slovenia and Croatia as regards relationships with their creditors and with the international financial institutions. Time is not playing in favour of the unified approach to the succession advocated at the time of the London Conference in August 1992 : the more time passes, the more the draft treaty risks falling apart and the more the whole state succession process risks falling outside the control of ICFY. It has to be pointed out yet again that the requested endorsement does not commit the Union to anything : it simply amounts to saying that the draft treaty is an appropriate starting point for negotiations, nothing more. It can further be argued that, far from hampering the political negotiations, the ICFY debates on state succession issues have been helping them, by bringing to light, in their own specific framework, issues of a more general nature which acted as a brake on the political discussions so long as they had not been clarified. The questioning of the Conference's impartiality, even with the mitigating use of the word "impression", is difficult to accept. The issue of mutual recognition on the other hand appears to be a valid one, so far as it goes. But there is still much work to be done on state succession before a treaty is signed, and such work could and should proceed without waiting for mutual recognition. It may be appropriate to add a comment by the legal counsel to the conference, Mr. Paul C. SZASZ :

" As to the general question of the timeliness of this enterprise and whether it takes sides for or against one or more of the parties, it should be noted that the Treaty draft represents the deliberate decision of the Co-chairmen, who were aware of the political implications of the proposal, including its timing. It should also be recalled that the second preambular paragraph of the draft Treaty refers to Principle (ix) adopted by the London Conference, which associates the need for agreement as to succession and of mutual recognition."

5. The question now is where do we go from here. Should we stop, allowing the Greek position to block EU endorsement, taking into consideration the fact that for very different reasons the United States has so far also failed to endorse the draft treaty ? Should we circulate portion II of the draft treaty regardless ? We would then be on very slippery ground since all the parties would know that the draft that we would be submitting to them did not have the political support we had sought. The Spanish presidency should be taking the matter up as and when we see fit. The issue could be raised at the next meeting of political directors, though it would then most probably not be debated and would simply be referred back to the ad hoc group. There is a clear need for guidance. The most useful next step would probably be a meeting of Mr. Bildt with the Greek foreign minister. After the experience of the last few weeks, it is most probable that we will be getting nowhere at a lower level.

Wegger Christian STRÖMMEN

B. de LARGENTAYE



INTERNATIONAL CONFERENCE
ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Office of the Co-Chairmen

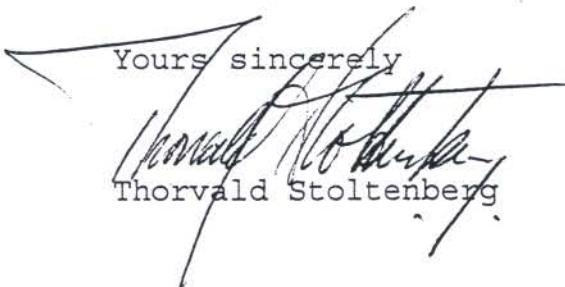
9 June, 1995

Dear Ambassador Zuzul,

I have received and taken note of your letter of 7 June on Succession Issues. I have also passed it on to Ambassador Jonsson for his consideration.

The item on Succession Issues at the forthcoming meeting of the Steering Committee is to provide members with an update on where matters stand. It is not intended for discussion and there will, therefore, be no need to distribute documents with the views of the various parties.

Yours sincerely


Thorvald Stoltenberg

H.E. Dr Miomir Zuzul.
Ambassador, Permanent Representative,
Permanent Mission of Croatia to the United Nations Office at
Geneva.

Stalna misija Republike Hrvatske pri Ujedinjenim Narodima, Ženeva
Permanent Mission of the Republic of Croatia to the United Nations Office, Geneva

No. 193/95

Geneva, 7 June 1995

Dear Mr. Stoltenberg,

The Steering Committee of the International Conference on the Former Yugoslavia convened for 13 June 1995 will also consider the question of succession which is of greatest importance to my Government. As the representatives of the Republic of Croatia have not been invited to attend this meeting, which we consider inappropriate as a policy question, we would like to inform you, members of the ICFY Secretariat as well as all participants of the meeting of the Steering Committee about our position on this issue.

I trust that you will circulate this document (Aide-memoire) to all members of the Steering Committee.

I avail myself of this opportunity to renew to you, Excellency, the assurances of my highest consideration.



Dr. Miomir Žužul
Ambassador
Permanent Representative

H.E. MR. THORVALD STOLTENBERG
CO-CHAIRMAN OF THE INTERNATIONAL
CONFERENCE ON THE FORMER YUGOSLAVIA
PALAIS DES NATIONS

G E N E V A

**Delegation of the Republic of Croatia at the
Succession Issues Working Group of the
International Conference on the Former Yugoslavia**

AIDE - MÉMOIRE

1. The Delegation of Croatia in the Working Group on Succession Issues of the International Conference on the Former Yugoslavia is deeply dissatisfied with the adjournment of the next Meeting of the Working group *sine die*, due to the appraisal that in the present political situation a consensus of all successor States of the former SFRY does not seem likely. It should be noted that the last Meeting took place in Geneva on 30 November and 1 December 1994.

2. Croatia has a strong legal interest in its share in the common property, especially the frozen assets in foreign banks, as well as the diplomatic and consular immovable and movable property of the former Federation abroad. Above all, no suspension or lifting of sanctions against the FRY should apply to the frozen assets abroad. That is because they are a subject-matter of the succession and the FRY has no valid legal title on these assets.

3. The Croatian delegation is also dissatisfied by the fact that so far the Conference has not produced the second portion of its Draft Treaty Concerning Succession to the Former Socialist Federal Republic of Yugoslavia, although it promised it for early September 1994.

In spite of tremendous economic difficulties which all States in transition are currently faced with, our Government tries to re-negotiate with foreign creditors all allocated debts, and an equitable share of the general non-allocated debt of the former SFRY. Croatia has sustained in addition heavy losses in the aggression of the former JNA and Serb paramilitaries. But we have never considered that our duty to pay these debts is subject to a consensus with foreign creditors, or dependent on a political settlement of other current problems with third respective States.

On no legal grounds can these claims of foreign creditors be treated differently than the claims that Croatia and other successor States of the former SFRY have on the assets which are now in illegal possession of the FRY (Montenegro and Serbia). There are no two different sets of legal rules when material rights and obligations of States are at stake.

Still the International Conference tries to reach a consensus with the FRY on all succession issues. It permits its illegitimate linkage with the settlement of political problems in which Serbia bears the responsibility for aggression.

That is done so in full awareness of the fact that since the beginning of the negotiating process, the Belgrade Government has given ample evidence of its non-cooperation and bad faith. It refuses all legal norms enshrined in the two Vienna Conventions on Succession of States and in all Opinions of the Arbitration Commission. The climax of its refusal to co-operate is its last "Draft Treaty Concerning the Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation". This proposal conflicts with not only the respective UN Security Council Resolutions and applicable legal rules, it does not even make any reference to the term "succession of States".

For the FRY a consensus means its own dictate. And whenever the International Conference tries to reach a consensus with the FRY on issues which are definitely settled by respective legal rules and pronouncements and confirmed by former practice of States, it runs a risk of gravely compromising its tasks and even its very existence.

This passivity and tolerance by the International Conference has had so far the most disastrous consequences, especially in regard to the military assets of the former Federation which the FRY has illegally appropriated. This weaponry was produced and procured by financial contributions of citizens of all former Republics and Autonomous Provinces of the SFRY.

Yet the international community did little to prevent its abuse in the form of killing and wounding of the citizens of these entities, including the population of Kosovo. After that weaponry had been abused in aggressive wars of the former JNA against Slovenia, Croatia and Bosnia-Herzegovina, its large parts were illegally transferred by the Belgrade Government to Serb paramilitary forces in Bosnia-Herzegovina and Croatia.

With these arms, to which the succession of States applies, the most dreadful crimes against civilian population were committed on racist criteria. These crimes are prohibited as such by the Statute of the International Criminal Tribunal for the Former Yugoslavia. The Prosecutor of that Tribunal has already begun his investigation against Radovan Karadžić, Ratko Mladić and Mićo Stanišić. Tolerating the abuse of this weaponry is equivalent to the complicity in war crimes.

We believe that it is the duty of the International Conference to produce without further delays its Draft Treaty Concerning Succession to the Former Socialist Federal Republic of Yugoslavia, on the basis of applicable legal rules and pertinent UN Security Council Resolutions. If, after further negotiations, the FRY rejects it, this case should be brought to the UN Security Council for further action.

If the International Conference fails to do so in a reasonable time, it will encourage the FRY to violate its international obligations in the process of State succession.

The Arbitration Commission of this Conference recalled some existing legal norms applicable to similar situations. In its Opinion No.12 of 13 August 1993 it established that:

(a) In case that a successor State refuses to cooperate it is in breach of its fundamental obligation to achieve with other successor States an equitable result by negotiations and agreement concerning distribution of the State property, archives and debts of the former SFRY. The breach of this fundamental obligation entails all the legal consequences.

(b) Other successor States sustaining loss are entitled then to take non-forceable counter-measures, in accordance with international law.

(c) Other States concerned may, by one or more agreements concluded between them, reach a comprehensive equitable settlement, reserving the rights of the State refusing to cooperate.

(d) Any such agreement is *res inter alios acta* in relation to third States. But this is without prejudice to the right of the third States to take the necessary safeguard measures to protect the successor States, and to such obligations as might be incumbent on third States to give effect to decisions taken by an international agency having powers in the matter.

This means that a third State cannot dispose of that property otherwise than provided in the agreement reached by cooperative States, provided that it fulfils all above requirements. At any case, the non-cooperative successor State, which holds the referred property abroad, will not be treated as its possessor, with valid title of ownership, by third respective States.

The Opinion No.12 only reiterates the existing rules of general international law, including a number of undisputed general principles of law recognized by all civilized nations. These legal rules would operate even if the Arbitration Commission did not issue that Opinion.

Croatia and three other Successor States (Bosnia-Herzegovina, Macedonia and Slovenia), have never claimed the property which on the date of succession of States was owned either by Serbia, or Montenegro, or their natural and juridical persons. They have never claimed a greater share in the property and archives of the former Federation for themselves or at the expense of Serbia and Montenegro. They all respected legal rights and interests of the FRY in State succession. On that issue they were in full agreement with legal principles of equal application to all, and with Opinions of the Arbitration Commission, as well as with the proposals of this Conference. The fact is that among five successor States of the former SFRY, it is only the FRY which persistently acts contrary to and in violation of this legal basis.

The cooperative States are willing to reach an agreement *inter se*, on the above bases, if possible within the International Conference. However, should the Conference fail to produce in a reasonable time a full text of its own Draft Treaty, or to convoke further Meetings of the Working Group on Succession Issues, there is no peremptory norm of general international law precluding the cooperative States to achieve an equitable result by negotiations and agreement outside this Conference. The Conference itself will then further lose its credibility.

Head of the Delegation

Božo Marendić

ROYAL MINISTRY OF FOREIGN AFFAIRS, OSLO

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file

PRIORITY:

DATE: 9. JUNE 1995

NR:

TO: LORD OWEN/MR. STOLTENBERG
FAX NO. 41-22-4170079

9

COPY TO:

FROM: W. CHR. STRØMMEN
FAX 47-22-342779



OUR REF.:

YOUR REF.:

SUBJECT: SUCCESSION ISSUES

1. I am happy to report to you that earlier this week the EU finally adopted, with one minor amendment, our draft succession treaty.
The amendment relates to a concern expressed by the Paris Club Secretariat on a minor issue that should not trouble us. However, to be absolutely sure, we have asked for Paul Szusz' advise.
2. We are still waiting for a response from the US. But the US was heavily involved when the Paris Club adopted our proposal. This should indicate that there is progress on the issue in Washington. Bilateral contacts between the German MFA and the US administration has also taken place. You will recall that the Germans has lately emerged as the most active supporter of the draft treaty.
3. We will follow developments closely and keep you informed.-



MISSION PERMANENTE
DE LA RÉPUBLIQUE FÉDÉRALE DE
YUGOSLAVIE
AUPRES DES NATIONS UNIES
A GENEVE

Geneva, March 7, 1995

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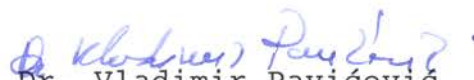
No 168/1

Excellencies,

I have the honour to forward, enclosed herewith, a letter sent by H.E. Mr. Vladislav Jovanović, Minister for Foreign Affairs of the Federal Republic of Yugoslavia, of March 6, 1995, referring to the convening of meeting of the Group on Succession Issues of the International Conference on the Former Yugoslavia.

Original of the letter follows.

Please accept, Excellencies, the assurances of my highest consideration.


Dr. Vladimir Pavićević
Ambassador

Their Excellencies
Mr. Thorward Stoltenberg and
Lord David Owen
Co-Chairmen
International Conference on the
Former Yugoslavia

Copy: H.E. Mr. Alf JONSSON
Chairman
Working Group on Succession Issues



**FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL MINISTER OF FOREIGN AFFAIRS**

Belgrade, 6 March 1995

Excellencies,

In connection with the convening of the meeting of the Working Group on the Succession Issues of the International Conference on the Former Yugoslavia for 16 and 17 March 1995 in Geneva, I regret to note that the consideration of the Yugoslav proposal of the "Treaty Concerning the Regulation of the Consequences of Secession of Parts of the Yugoslav Federation" has not been included in the agenda.

I wish to recall that the depletion of the Yugoslav proposal is contrary to the previously reached conclusion.

In such a way, the Yugoslav side is once again put into an unequal position vis-a-vis the other participants in the negotiations, which inevitably raises the question whether its participation at plenary meetings is opportune under such conditions.

In view of the above, I wish to inform you that the Yugoslav side is not prepared to participate in the meeting on 16 and 17 March 1995 unless the Yugoslav proposal of the Treaty is explicitly included in the agenda, that is, unless the previously reached conclusion is respected.

I hope, Excellencies, that you will take appropriate measures to remove this inconsistency and thus enable normal resumption of the work of the Working Group on Succession Issues.

Yours sincerely,



Vladislav Jovanović

Their Excellencies
Lord D. Owen and
Mr. T. Stoltenberg
Co-Chairmen
International Conference on
the Former Yugoslavia
G e n e v a



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Directorate for State Succession Issues PAGE 1 OF 2
of the Government of the
Republic of Bosnia and Herzegovina
SARAJEVO

Att.: Dr. Derviskadic

FAX NO: 00-871-144.6327

INFO: Ambassador Mustafa Bijedic
Permanent Mission of Bosnia and Herzegovina
GENEVA

FAX NO: 345.8889

FROM:  Mr W Strommen
ICFY, Geneva

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3148

DATE: 7 March 1995

SUBJECT: MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995 - POSTPONEMENT

See attached.

07/03 '95 21:33

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YUGOSLAVIA CONF

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



7 March 1995

Dear Dr. Derviskadic,

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting held on 1 December 1994 as to the agenda for the next meeting.

We have also had another major development in the submission by the FRY delegation of their draft treaty with annexes, dated 24 February 1995. We received this document after having called the meeting of the 16-17 March. The document has been distributed to you through your Embassy in Zagreb, upon the advice of Ambassador Bijedic.

You will see from Professor Mihailovic's letter to Ambassador Jonsson introducing the document that he would like to have a presentation and discussion of the document as soon as possible. We would ask you to communicate to us the position of your delegation on this issue.

We will now pursue bilateral consultations in consideration of the recent developments. We also hope to be able to distribute Portion Two of our draft treaty in the near future. The consultation process with major governments has been intensified lately and we hope to have the outcome shortly.

You will recall that I had agreed with Ambassador Bijedic that on 15 March, the day before the meeting of the Working Group, we had scheduled bilateral consultations with you delegation. As the meeting has now been postponed, I leave it to you whether you want to come to Geneva for bilateral consultations on 15 March, or wait until the next meeting of the Working Group. We are always at your disposal and look forward to hearing from you.

Best wishes.

Best personal regards

Wegger Strommen

Wegger has now got a contact number in the Ministry of Foreign Affairs in Oslo:

Mrs Turid Colding - PA to the Legal Advisor

Tel: 47 22 34 34 01

Fax: 47 22 34 27 79.

If he is not at home messages can be left with her and any long faxes may be sent to her.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



NOTE TO THE CO-CHAIRMEN

Succession Issues

1. You will see from the attached letter to all heads of delegations that the meeting of the Working Group on Succession Issues, scheduled for 16 and 17 March has been postponed.

You will recall from my last report that we had encountered difficulties over the phrasing of the agenda. However, after consultations we had reached a compromise that all parties had accepted. However the FRY side has now back-tracked. According to our normally reliable sources, the head of the FRY delegation, Professor Mihailovic, met strong resistance within his own delegation, in particular from his legal advisor, and probably also from the MFA in Belgrade who for some time have been engaged in a power struggle with Mihailovic. Mihailovic's main asset is his closeness to President Milosevic.

It is on this background that one should see the two letters stating that the FRY side would not come to the meeting on 16 and 17 March, respectively from Mihailovic to me, and Foreign Minister Jovanovic to you (received late this afternoon in Geneva) - both letters are enclosed. Ambassador Pavicevic has confidentially let us know that none of the letters calls for an answer.

2. The situation described above is also linked to a major new development in our Working Group. Yesterday, 6 March, the FRY officially presented a comprehensive draft treaty with annexes, including a 9000 item inventory, a document on methodology and a balance sheet of assets and liabilities.

The full document is almost 200 pages long and I only received five copies, of which all but one has been distributed to the other parties. We are having more copies printed at the moment and the full document will be available on Friday 10 March - let Ann-Marie know if you need a copy. I have enclosed, however, with this note the treaty itself, the methodology chapter and the balance sheet. Allow me to recommend that before you take a look at the documentation, you read Graham Robertson's note of 7 March (copy attached) to Ambassador Jonsson which gives the gist of the FRY proposal.

3. The new FRY position with regard to the meeting was that they wanted to present and discuss the new document next week. They also insisted on having the agenda changed accordingly. We consulted the other parties on this and found that they were firmly opposed to any change, for two reasons: it would give the FRY document equal status to the joint inventory drawn up by the Economic Issues Working Group more than two years ago; and given the length and detail of the document there was not enough time for the other parties to prepare for the meeting.

Hence the four other parties preferred to have the meeting postponed and come back to us with reactions to the FRY proposal. We also understand that the FRY side accepts that more time is needed.

4. We will now pursue bilateral contacts and try to solve the agenda problem. In the meantime we will also continue our consultations with the US, EU and the Russian Federation on Portion Two of our draft treaty. The only realistic hope for substantial progress on succession issues in the near future is a launching of Portion Two. Before the March meeting of the EU ad hoc Working Group on Former Yugoslavia, all EU governments have been asked to give written contributions to the Presidency. We have been invited to attend that meeting. On the US side, see that attached fax from Paul Szasz. It looks like the difficulty in Washington is in the Treasury and not the State Department. This gives us some hope as we think we are getting closer to an understanding with the Paris club on how to integrate debt settlements in our proposal.

5. We will keep you informed on any further development.

A handwritten signature in dark ink, appearing to read 'W. Strommen', followed by a long horizontal line extending to the right.

Wegger Strommen
7 March 1995



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



7 March 1995

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March, has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting on 1 December 1994 as to the agenda for the next meeting.

We have also had another major development in the submission by the FRY delegation of their draft treaty with annexes, dated 24 February 1995. We received this document after having called the meeting of the 16-17 March. The document has been distributed through the relevant Missions in Geneva.

You will see from Professor Michailovic's letter to Ambassador Jonsson introducing the document that he would like to have a presentation and discussion of the document as soon as possible. We would ask you to communicate to us the position of your delegation on this issue.

We will now pursue bilateral consultations in consideration of the recent developments. We also hope to be able to distribute Portion Two of our draft treaty in the near future. The consultation process with major governments has been intensified lately and we hope to have the outcome in the near future.

We will be in touch shortly.

Best wishes.

Wegger Strommen

Belgrade, 3 March 1995

Dear Mr. Strommen,

I was unpleasantly surprised with the proposal of the agenda for the meeting of the Working Group on Succession Issues planned for 16 and 17 March 1995 of which you informed me in your telex of 28 February 1995.

There is hardly any need for me to say that the said proposal completely ignores the conclusion of the previous meeting in Geneva to the effect that our Draft Treaty be included in the agenda as the first and separate item.

I trust and believe that you will agree with me that honouring conclusions is one of the necessary conditions for successful work in our Working Group. This is all the more true as the conclusion in question, drawing on the fundamental principle of equality of participants, enables the Yugoslav side to present in a formal way its proposal which has been worked out by and large as a result of our acceptance of the initiative of the Chairman of the Working Group on Succession Issues, Ambassador Alf Jonsson.

I therefore take the liberty to inform you that the Yugoslav delegation is not prepared to participate in the work of the meeting scheduled for 16 and 17 March 1995 unless the said conclusion reached at the previous meeting of the Working Group in Geneva is honoured.

With best regards,


Kosta Mihaljović

Head of the Yugoslav Delegation

Mr. Wegger Strommen
Secretary
International Conference
on the Former Yugoslavia
Palais des Nations
1211 Geneva 10



**FEDERAL REPUBLIC OF YUGOSLAVIA
FEDERAL MINISTER OF FOREIGN AFFAIRS**

Belgrade, 6 March 1995

Excellencies,

In connection with the convening of the meeting of the Working Group on the Succession Issues of the International Conference on the Former Yugoslavia for 16 and 17 March 1995 in Geneva, I regret to note that the consideration of the Yugoslav proposal of the "Treaty Concerning the Regulation of the Consequences of Secession of Parts of the Yugoslav Federation" has not been included in the agenda.

I wish to recall that the depletion of the Yugoslav proposal is contrary to the previously reached conclusion.

In such a way, the Yugoslav side is once again put into an unequal position vis-a-vis the other participants in the negotiations, which inevitably raises the question whether its participation at plenary meetings is opportune under such conditions.

In view of the above, I wish to inform you that the Yugoslav side is not prepared to participate in the meeting on 16 and 17 March 1995 unless the Yugoslav proposal of the Treaty is explicitly included in the agenda, that is, unless the previously reached conclusion is respected.

I hope, Excellencies, that you will take appropriate measures to remove this inconsistency and thus enable normal resumption of the work of the Working Group on Succession Issues.

Yours sincerely,

Vladislav Jovanović

Their Excellencies
Lord D. Owen and
Mr. T. Stoltenberg
Co-Chairmen
International Conference on
the Former Yugoslavia
G e n e v a



EUROPEAN COMMISSION
DIRECTORATE-GENERAL - EXTERNAL POLITICAL RELATIONS

Directorate D

Brussels, 7 March 1995
1A-B/GBR D(95)

NOTE FOR THE ATTENTION OF AMBASSADOR JONSSON

Subject: Economic Aspects of FRY Proposal On State Succession February 1995

1. The proposal put forward by the FRY builds upon the work, with which we are already familiar, carried out in Belgrade over the last year. The proposal contains little which is new, and does not include any actual valuations of the items in question - this work is to be carried out when the methodology is accepted. This is a step back from the position at the end of 1994 when global estimations of the values had been calculated. What is new is a codification of the work done so far into a draft treaty.

2. The draft treaty contains few surprises as regards assets and liabilities. State property is defined as that property financed from common sources and includes all items belonging to the Kingdom of Yugoslavia. This definition is an explicit attempt to abstract from the difficulties of establishing property relations in the SFRY and ignores the decentralising constitution of 1974. The reference date for the valuation would be the date of departure from the single economic system of the SFRY (how this would be defined in each case is unclear). It is worth noting that the proposal would allow all property to remain physically where it is with compensation for the existing distribution being made in cash or goods according to bilateral arrangements. The equity of the settlement will be judged according to the population principle. This is a new element since the FRY had not previously taken a position on the key for division to be used.

3. The inventory presented appears largely unchanged. It is said to contain 9054 items, the same as before, although there are now 8116 immovables (previously 8164), 460 movables (as before) and 388 financial and other claims and liabilities (previously 430), giving a total of only 8964 items. The reasons for this inconsistency are unclear. For immovable items, the items in question are not themselves listed, but only the name of the legal entity controlling the property, while for movable property there is sometimes the name of the item itself, but no quantity (eg No. 374 Spare Hoots), and sometimes that of a legal entity or firm. This information is not adequate for the performance of a proper valuation of the items.

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4. However, this is not important for the methodology proposed by the FRY, since that methodology would not in fact attempt to value the items themselves but only to estimate a present value for the money used in joint expenditure since the birth of the SFRY (and the Kingdom of Yugoslavia). The inventory is, therefore, purely illustrative of the types of joint expenditure incurred, while the valuations are actually to be derived solely from the accounts of various sources of joint finance. The methodology itself states that the value of an investment is calculated even when "no physical trace exists" of the investment in question. It is based on what, in the view of the authors, should have been achieved by joint investment "irrespective of whether it was actually achieved". The result is a valuation with no relation to the actual estate left by the SFRY, but one which is purely fictive and presents a reconstructed picture of the estate based on the assumptions of the authors. It is also significant that this notional value is subject to appreciation for so-called productive investments and depreciation for other investment. The practical implication of this is to ensure that the share of military property in total assets is lower than would normally be expected. This would clearly be of benefit to the FRY which is in possession of the vast majority of military assets.

5. Regarding claims and liabilities, there has been one significant improvement made in that the gold and foreign exchange reserves of the NBY are now included (they were missing from the previous FRY inventory). It also appears that the list of liabilities is comprehensive and includes missing household savings and the private credits accorded under the New Financing Agreement of 1988. For the rest, these claims are a very heterogeneous list including many contentious items such as compensation for the relocation of industrial facilities. This reflects the old Serb nationalist view that Yugoslavia robbed Serbia to the benefit of the other Republics. This sort of position is well known and completely irrelevant to the job of evaluating the estate of the SFRY.

Graeme ROBERTSON

c.c.: Mr. Strommen

International Conference on Former Yugoslavia
Working Group on Succession Issues
Delegation of the F.R. of Yugoslavia

Belgrade, 24 February 1995

Dear Mr. Jonsson,

Following your suggestion from December 1993 and the conclusion from the last meeting of the Working Group on Succession Issues of November and December 1994, I am enclosing the Yugoslav Draft Treaty concerning Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation. You will notice that the Yugoslav Draft Treaty contains both Part One (Articles 1 to 19) and Part Two (Articles 20 to 27), related to the determination and calculation of overall State property. Part Two is determined, on the one hand, by the principles and methodology on which the Inventory is based and, on the other, by the approach in Part One of the Draft Treaty, with which it has to make a consistent whole.

You will find the Inventory of the State Property, as well as, the Methodology of Valuation of the State Property in the Annexes enclosed, which make up a consistent circumscribed whole with Part Two of the Draft Treaty. Within Part Two, you will also find the settlement key proposed, the explanation of which will be given at our next meeting. The Draft Treaty does not contain calculations of concrete amounts which do have sense only if the prior principles and methodology are accepted. If they are accepted, the calculations will be carried out and made available within a reasonable period of time.

In submitting the Draft Treaty for discussion at the next meeting of the Working Group on Succession Issues, the Yugoslav side expects that due respect will be paid to it both by the participants and the Secretariat. After all, the Yugoslav side, which for three years now has pointed out the weak sides of the partial approach taken by the Working Group on Economic Issues in a patient and documented way, has every right to expect that other participants will support or refute Yugoslav Draft Treaty in an equally patient and documented way. What I am trying to say is that a simple "yes" or "no", without an appropriate substantial discussion on the Yugoslav Draft Treaty, would in effect amount to a form of rejecting equal treatment to that Draft. The way in which it will be discussed will in great measure depend on whether the Secretariat of the Working Group on Succession Issues will propose the agenda which will provide not only for a general discussion of the overall proposal, but also for the discussion of its individual very important parts. I therefore propose that the Yugoslav Draft Treaty be considered within four items of the agenda:

H.E. Ambassador ALF JONSSON
CHAIRMAN

WORKING GROUP ON SUCCESSION ISSUES
INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA
GENEVA

1. Integral Draft Treaty Concerning Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation;

2. Inventory of the State Property;

3. The Methodology of the Valuation of the State Property ;

4. The Settlement Key.

To make it possible for the discussion to take place in the spirit of these proposals, enclosed herewith is the necessary number of copies of the Yugoslav Draft Treaty for their timely forwarding to other participants.

U In conclusion, I cannot but reiterate how useful and valuable has been your idea to give the Yugoslav side the opportunity to present and explain its approach. Nobody can deny that the Yugoslav side succeeded in a rather short time, investing a lot of effort, to produce a complete document concerning regulation of the consequences of the secession of parts of the Yugoslav Federation. I therefore feel pleased to express to you my profound gratitude and respect.

Yours sincerely,



Kosta Mihailović
Head of Delegation

INTRODUCTORY NOTE

The conclusion of this Treaty presupposes a prior political settlement of the Yugoslav crisis whereby the newly-formed State entities in the territory of the Socialist Federal Republic of Yugoslavia shall be finally determined.

TREATY CONCERNING THE REGULATION OF THE CONSEQUENCES OF THE SECESSION OF PARTS OF THE YUGOSLAV FEDERATION

Preamble,

Noting that by ignoring the proposal for a peaceful and constitutional solution of the crisis, the seceded parts of the Federation caused by their unconstitutional and violent acts enormous political, economic, social and other damage;

Noting that a prior general political settlement based on equal rights of the constituent peoples of Yugoslavia is the precondition for the conclusion of this Treaty and that the Treaty does not prejudice such a settlement in whatever way;

Proceeding from the imperative rule of international law according to which illegal and unlawful acts cannot be the basis of succession in the sense of the transfer of rights and obligations from the predecessor State to successor States;

Recognizing the urgent need for normalizing relations between the Federal Republic of Yugoslavia and the seceded parts of the Socialist Federal Republic of Yugoslavia according to justice and the rules of international public law and the internal law of the Socialist Federal Republic of Yugoslavia;

Expressing its good will to have the relevant issues caused by, and related to, the secession regulated;

The Federal Republic of Yugoslavia, on the one side, and the newly-formed States, on the other, have concluded the following Treaty.

PART I - Use of Terms

Article 1

a) The term "Federal Republic of Yugoslavia" means the territorially reduced Socialist Federal Republic of Yugoslavia;

b) The term "newly-formed States" means a seceded part of the Socialist Federal Republic of Yugoslavia.

PART II - Citizenship

Article 2

No citizen of the Socialist Federal Republic of Yugoslavia domiciled in the territories of newly formed States can be deprived of citizenship.

Article 3

No citizen of the Socialist Federal Republic of Yugoslavia shall be considered a stateless person. Dual citizenship shall be granted on the basis of bilateral or multilateral agreements.

Article 4

Citizens of the Socialist Federal Republic of Yugoslavia shall have the right to choose the citizenship of the Federal Republic of Yugoslavia or the citizenship of the newly-formed State(s).

Article 5

No special conditions or procedures shall be allowed for granting or revoking the citizenship, particularly those based on cultural, ethnic or religious origin.

Decisions of competent authorities of the newly-formed States granting or revoking citizenship on the basis of the above mentioned conditions or procedures shall be considered null and void.

Article 6

The Federal Republic of Yugoslavia and a newly-formed State or States may agree, through bilateral or multilateral agreements, on special rights concerning the application of citizenship including the right of option.

PART III - Acquired Rights and Pensions

Article 7

The acquired rights of all the citizens of the Socialist Federal Republic of Yugoslavia shall be recognized and guaranteed. Property rights shall be fully respected. Just and fair compensation under the rules of international law regulating the responsibility for the damage done during the secession and civil war shall be paid for the property destroyed, confiscated or impounded in an unlawful way. Transfer of property rights and sale agreements concluded under duress shall not be legally valid.

Article 8

The Federal Republic of Yugoslavia shall assume the obligation to continue the payment of pensions and other allowances to persons who acquired the right to pension or other appropriate allowance under federal regulations, which payment was made from federal funds, regardless of the domicile or citizenship of the beneficiary.

The payment of these pensions and other appropriate allowances shall be made from a joint fund formed for that purpose on the basis of agreement.

PART IV - Treaties

Article 9

1. Each treaty to which the Socialist Federal Republic of Yugoslavia was a State party shall continue to be in force in respect of the Federal Republic of Yugoslavia as the remaining territory thereof:

a) Unless it is established that the treaty is related only to the territory of the newly-formed State, or

b) Unless it transpires from the treaty or is otherwise established that the application of the treaty in respect of the Federal Republic of Yugoslavia would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

2. Newly-formed State(s) may become State parties to any treaty in force in respect of the Federal Republic of Yugoslavia by accession unless it transpires from the treaty or is otherwise established that the application of the treaty in respect of the newly formed State(s) would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

PART V - Archives

Article 10

The expression "State archives of the SFRY" refers to three types of archives:

- a) State archives indispensable for the regular functioning of the Federal Republic of Yugoslavia;
- b) State archives constituting the historical and cultural heritage of Yugoslavia; and
- c) State archives indispensable for the normal functioning of the newly-formed States.

Article 11

The State archives under Article 10(a) shall remain the property of the Federal Republic of Yugoslavia. Parts of these archives outside its territory shall be restored regardless of where they are at present.

Article 12

The State archives under Article 10(b) shall remain the property of the Federal Republic of Yugoslavia. Parts of these archives outside its territory shall be restored regardless of where they are at present.

Article 13

The State archives under Article 10(c) shall belong to the newly-formed States. Parts of these archives outside their respective territories shall be forwarded to them regardless of where they are at present.

Article 14

Each newly-formed State shall have the right to make copies of whichever document as laid down in Article 10.

Article 15

Documents received by State agencies from third States on the basis of international agreements shall pass to the Federal Republic of Yugoslavia or to the relevant newly-formed State in accordance with Articles 11, 12 and 13.

Article 16

If more than one State is entitled to certain archives, these States shall agree which of them shall receive the original, while the others are entitled to make copies.

Article 17

All rights and obligations under bilateral treaties in force between the Socialist Federal Republic of Yugoslavia and the neighbouring States regarding restitution of archives shall pass to the Federal Republic of Yugoslavia or respective newly-formed States insofar as these treaties have not yet been entirely carried out in accordance with Articles 11, 12 and 13. The assumed obligations shall be carried out in good faith by all parties concerned, in accordance with the rule of pacta sunt servanda.

Article 18

The current possessor of the original of any archival document that is required to be transported pursuant to these rules may, at its own cost and for its own use, make copies of such document.

Article 19

The Federal Republic of Yugoslavia or a newly-formed State entitled to make copies shall bear the ensuing costs. The costs of transporting original documents shall be borne by the Federal Republic of Yugoslavia or by a newly-formed State receiving them. The State holding or transporting originals shall assist in reducing these costs as much as possible.

PART VI - State Property

Article 20

For the purpose for this Treaty the State Property of the Socialist Federal Republic of Yugoslavia (hereinafter: State Property) shall include:

1. Items, movable and immovable, which were the State Property of the Kingdom of Yugoslavia, unrealized financial and other rights of the Kingdom of Yugoslavia, as well as unrealized internal and external obligations of the Kingdom of Yugoslavia.

2. Items, movable and immovable, financed from common sources listed in the Inventory, the rights ensuing in connection with, or on the basis of, these items or from the decision of the competent State organ and internal or external obligations.

Article 21

For the purpose of this Treaty, the State Property shall not include items brought into the Kingdom of Yugoslavia by the Kingdom of Serbia, the Kingdom of Montenegro and parts of the former Austro-Hungarian Empire.

Article 22

According to the definition of State Property under Article 20 of this Treaty, an Inventory of the State Property of the Socialist Federal Republic of Yugoslavia (hereinafter: the Inventory) has been elaborated as an integral part of this Treaty (Annex I).

The aggregate value of the State Property as defined under Article 20 of the Treaty shall be determined on the basis of the Inventory and the Methodology of the Valuation of the State Property of SFRY, which is also an integral part of the Treaty (Annex II).

Article 23

The scope of the State Property relevant for regulating the consequences of the secession of the parts of the Federation shall be determined successively as of the dates of the departure from the unique economic system of the SFRY of each newly-formed State.

The date of the departure from the unique economic system is relevant both for determining the portion of the State Property of each respective newly-formed State and for establishing the damage sustained by the Federal Republic of Yugoslavia by the acts of secession.

Article 24

The part of the State Property defined under Article 20 of the Treaty to be surrendered, on the basis of this Treaty, to the newly-formed States shall be determined in accordance with the principle of justice.

For the purpose of this Treaty, the principle of justice shall be determined by the size of the population.

Article 25

If the portion of State Property in possession of the newly-formed States is greater or smaller than they are entitled to on the basis of the size of the population, the respective State(s) shall be compensated.

Compensation shall be effected in money, goods or any other form, in accordance with the provisions of bilateral compensation arrangements.

The specific terms and modalities of compensation shall be determined by bilateral compensation arrangements.

The compensation arrangements constitute an integral part of the Treaty.

Article 26

The newly-formed States shall acquire their property rights to the respective parts of the State Property upon the implementation of this Treaty.

Article 27

Any treaty, past or future, concluded by one or more participants with foreign parties (public or non-public) regulating question(s) dealt with under this Treaty in a different way, shall not affect the relations established by this Treaty.

PART VII - Settlement of Disputes**Article 28**

Disputes that may arise from the interpretation and application of this Treaty shall be settled by the parties in accordance with the principles of the peaceful settlement of disputes provided by Article 33 of the Charter of the United Nations.

A dispute which cannot be settled by diplomatic means, be it a dispute between the Federal Republic of Yugoslavia and the newly-formed States or between two or more newly-formed States or between the Federal Republic of Yugoslavia and a newly-formed State, shall be submitted to the International Court of Justice or to the arbitration court, in accordance with an agreement to be concluded by the parties for that purpose.

PART VIII - Final Clauses**Article 29**

The present Treaty is subject to ratification. It shall enter into force after the last instrument of ratification is deposited with the Depositary of the Treaty.

Article 30

The Secretary-General of the United Nations shall be the Depositary of the present Treaty.

Article 31

The text of the Treaty shall be in the official languages of the parties and in English.

In the event of a dispute concerning the implementation or interpretation of the provisions of the Treaty, the English text shall be authentic.

Article 32

Any reservations to the provisions of the Treaty shall be effective upon the agreement of all the Parties.

Article 33

The Treaty is subject to amendments with the agreement of all the Parties.

Some Parties to the Treaty may conclude a separate Treaty under the conditions established under Article 41 of the Convention on the Law of Treaties.

3.1 INTRODUCTORY NOTE

The specific methodology of valuation forms an organic whole with the Draft Treaty Concerning Regulation of the Consequences of the Secession of Parts of the Yugoslav Federation.

3.2 SELECTION OF THE MAIN METHOD OF VALUATION

The valuation of state property of the SFRY is determined by the concept of state property as defined in Article 20. of the mentioned Draft Treaty and the inventory drawn up in conformity with that concept. That means that the basic method that has been chosen is the one according to which the investments made are considered used state capital.

The main strong point of the selected method for valuating state property is that it is applied consistently to all state property, irrespective of whether that property concerns an entire asset or only a part of it. In that respect this method is fully coherent with the concept of state property and the inventory drawn up in keeping with it. Namely, in case an asset has several sources of finance, the application of this method enables the separation and valuation only of what is state property. That is its main advantage over the market method, the method of expected yields and the cost method. The application of the latter methods values the whole asset, without taking account of how much state property and how much property financed from other sources is contained in it. In other words, by identifying the amount of joint investments, all other sources of investment in a specific movable asset or immovable asset are at the same time abstracted (investments from local public funds, from commercial sources). Consequently, there is no danger of the object of valuation being that part of the value of the immovable or movable asset which does not fulfill the criterion of state property of the SFRY.

One of the basic characteristics of the economic system of the SFRY, at least when the period after 1953 is in question, was a high degree of ramification of sources of financing of investments. In view of the fact that in the regime of socially owned property there existed neither classical property titles nor a classical title holder, it is impossible by inspecting land register books to determine whether state property is in question or not. The only indirect way in which it is possible with rather high accuracy to isolate the value of the part of the property which meets the criteria given in the definition of state property of the SFRY, is the determination of the value of jointly financed investments. None of the other mentioned methods of valuation is selective and cannot, thus, be coherent with the concept of state property and the inventory of state property of the SFRY. That is why in the specific case, none of them would be of use as the basic method.

The advantage of the method of used state capital also lies in the fact that it is possible to follow and value state property over time. Neither the market nor the other mentioned methods are capable of that. For example, by applying the market method, valuation is carried out according to the market prices on a reference date, irrespective of what happened in the past. Also, the market method inevitably opens a large number of questions related to the

economic structure of the various participants in the negotiations. Namely, although financed from the same state sources and under equal conditions, joint investments yielded highly different market results, depending on the production sectors and facilities invested in. In other words, the value of the facility in which investments were made, the period of construction of the facility, the profitability of the investment and its future capital gain had no influence whatsoever on the conditions of financing. On the other hand, the application of the method of used state capital avoids issues related to the structure of the economies of the various participants in the negotiations. All investments of an economic nature are reduced to a common denominator, neutral from the standpoint of their purpose, by assuming that capital productivity was equal in all cases.

Interest on borrowed capital in profit making branches is a conventionally defined expression of the capital productivity growth rate which should normally have been achieved, irrespective of whether it was actually achieved. That is why capital and its interest rates form part of the settlement. The other factors of overall productivity (labour productivity, production capacity utilization, successful production organization, marketing) are conditionally said to be of a subjective nature and thus do not fall under the settlement. Such an approach to settling accounts is consistent with the concept of state property, the principles on which the inventory is based, as well as the principles of this methodology which insists on isolating state property wherever it may be and whatever its amount. Such a settlement covers also such extreme and rare cases where responsibility for borrowed capital enlarged by interest remains even if the enterprise has wound up operations as unsuccessful, i.e. in successful enterprises which have registered a manifold increase of their operations, thanks to predominantly subjective factors, only the borrowed capital enlarged by the interest rate will be accounted. This angle too reveals the full inadequacy of valuation according to current market prices. The market values the ultimate result of all factors of productivity, without separating the contribution of capital from other subjective factors, disregarding the dynamics of capital and its time influence.

The weak point of the market method is also that it has to be based on valuations which, as a rule, contain much more subjectivism and arbitrariness and not on effected sales which only can show the real price. Many special purpose assets, such as assets of military purpose of enormous value are not the subject of customary supply and demand, and therefore have no market price. The same goes for infrastructure facilities which were built under different conditions and at very uneven costs. That is why, given the impossibility of determining the market value of these facilities, models or adopted conventions in the form of models are applied.

3.3 THE METHOD OF USING STATE CAPITAL

The main method of valuating state property of the SFRY is the method of using state capital. By applying this method, all joint investments can basically be divided into two large groups: those with and without interest.

Interest will be taken into account only for those items of the inventory where joint investments increased the individual economic potential of the participants in the negotiations, i.e. in the case of explicit or implicit investments in production facilities. An example of an explicit investment into production facilities is investment in a factory and an example of implicit investment in production facilities are budgetary subsidies, which irrespective of their specific expenditure practically made it possible to rechannel local resources to production investments.

No interest will be calculated on joint investments in non-economic facilities which were jointly used and which did not increase the individual economic potential of the participants in the negotiations (embassies, federal institutions, military facilities and equipment).

The valuation process consists of the following stages:

1. The identification of the investment: investments on non-repayable basis or loans under concessional conditions at current prices.

The identification of the investment is carried out on the basis of the original documentation. Every nominal investment is backed by a decision of the competent state organ and the appropriate documentation of state financial institutions.

2. The translation of investments in current prices into investments in constant prices. Time series of prices of industrial products, of retail prices and of the implicit deflator of the social product of the SFRY have been reconstructed for the translation of current into constant prices. Social product series in 1972 prices are available. The deflator of the social product is generally applied for reducing them to constant prices expressed in dinars. In the final settlement, dinar values will be converted to 1990 dollar values since it is hard to recognize the magnitude of the real values of the dinar amounts. The process of conversion to constant prices consists of the following steps:

- the conversion of current dinar values to constant 1972 prices by applying the social product deflator;

- the conversion of the 1972 dinar values to 1972 dollar values by the application of the official exchange rate; given the devaluation of the dinar carried out that year the exchange rate may be considered realistic;

- the conversion of 1972 dollar values to 1990 dollar values proceeding from dollar inflation indicators.

3. The identification of the effects of concessional terms, i.e. of the real repayment of the resources used.

The identification of real repayment is necessary to determine the part of joint resources which were not de facto returned by the user since debtor's gain is the most important basis of unfounded accumulation of wealth. The point of departure are the conditions of using

resources (financing or crediting) i.e. the conditions of crediting (interest rate, repayment period, subsequent inflation). For instance, credits granted by the OIF (General Investment Fund) or Fund for Underdeveloped Regions were as a rule characterized by long repayment periods and low interest rate.

The determination of real repayment depends on each individual case. In the case of investments on non-repayable basis, real repayment equals zero. For credits from joint resources, and depending on the credit terms (year of taking credit, interest rate and repayment period), the Economic Institute has drawn up tables of real repayment.

4. The recalculation of investments in constant prices (which contributed to the increase of the individual economic potentials of the participants in the negotiations) to the current value at a reference date by means of interest rates calculation (retroactive discounting) or applying depreciation factors in case of jointly used non-productive assets.

Such an approach to the valuation of investments in productive assets actually ensures the application of some aspects of method of expected yields. Resources invested into individual economic entities over time generated two money flows, one from depreciation and the other from accumulation, and both should be included in the settlement.

3.4 MATHEMATICAL EXPRESSION OF VALUATION

The technically described procedure of valuation by means of investments can be summed up by the following formula:

$$V(i) = \sum_t \sum_j k(t) p(t) (1-r(ijt)) \cdot x(ijt)$$

where:

- (1) $V(i)$: present value of item i as of December 31, 1990;
- (2) $x(ijt)$: investment at current prices from joint resources:

- in inventory item i ;
- from sources of funds j ;
- in the year t .

- (3) $r(ijt)$: factor of real repayment of joint resources used for inventory item i , from source j , in the year t :

- for investments on non-repayable terms: $r(ijt) = 0$;

- for funds given as credits: $0 < r(ijt) \leq 1$, according to year of taking credit, credit terms and subsequent inflation;

(4) $p(t)$: factor of recalculating current values from year t to values in December 31, 1990 prices;

(5) $k(t)$: interest/depreciation rate factor according to which previous investments at constant prices are from year t converted to current value in 1990 by applying the selected rate. In the case of investments in productive assets $K(t) > 1$. In the case of investments in jointly consumed assets, where no cash flow based on depreciation/accumulation can be expected, $k(t) < 1$.

3.5 DETAILED AND GLOBAL APPROACH TO VALUATION

The mentioned method of valuation which proceeds from each individual item of the inventory takes a longer period of time for calculating the total value of the state property of the SFRY. The valuation of aggregates will be used as the check value of detailed valuation and as the method of preliminary, global valuation.

This method of valuation can be applied because there exist precise official data on the sources of financing most of the state property. The sources of finance were created on the basis of decisions of the competent state organs. Also, the competent state organs decided on their use. General characteristics of the use of these sources were that they were not given under commercial, but rather concessional terms. Typical sources are: the federal budget, various federal funds, resources generated on the basis of federal decisions for specific purposes (for instance for eliminating the consequences of earthquakes) and implicitly used federal resources (for instance exemption from contributing to the federal budget, military works on civil facilities).

For aggregates according to sources of funds, there are detailed records. The records were kept by the competent federal ministries and other state organs, state financial institutions and the Federal Statistical Bureau. On the basis of these records it is possible to obtain a preliminary assessment of the value of the total property, i.e. the point of departure is the value of aggregate $X(jt)$, in current prices, for source j , in the year t , according to the formula:

$$X(jt) = \sum_i x(ijt),$$

with further calculations for real repayment, conversion to constant prices and interest as previously shown. Concessional terms in such a global approach will be calculated on the basis of averages on repayment periods, interest rates, etc.

3.6 AUXILIARY METHODS OF VALUATION

Some inventory items cannot be adequately valued by applying the basic method of valuation. In these cases approximate methods of expert estimates will be used, mainly based on the depreciated replacement cost (cost of new asset reduced for depreciation). The depreciated replacement cost will be used as the method of valuating those physically defined inventory items for which it is not possible to obtain information on individual investments.

Items of financial and other claims and liabilities shall be valued on the basis of accounting records or on the basis of special expertise. For example, for the financing of sports events, flood and earthquake aid, the value will be valued by inspecting the contributions established by specific decisions of the state body. In the case of outstanding claims resulting from the non-compliance with the decision of the state body, when the value of the outstanding claims has not been established (for example outstanding federal taxes and customs), the value shall be determined by an inspection of the payments made in the previous years and their comparative analysis.

3.7 SPECIFIC FEATURES OF THE VALUATION OF IMMOVABLE ASSETS, MOVABLE ASSETS AND FINANCIAL AND OTHER CLAIMS AND LIABILITIES

All the items of the submitted inventory of the state property of the SFRY are classified into three broad groups:

- (1) Immovables,
- (2) Movables,
- (3) Financial and other claims and liabilities

(1) By analyzing the period when immovables were financed out of common funds, the conclusion can be drawn that in respect to numerous investments no physical trace exists on the reference date since they were made a few decades prior to that date. For example, if the enterprise X used common funds for the construction of facility or the purchase of specific equipment in the fifties, most probably those facilities and equipment have in the meantime become physically depleted. However, through depreciation and accumulation funds which were possible to create owing precisely to investment from common sources, it was customary to provide the means for their replacement. In other words, all the enterprises listed in the Inventory must also be in the list of evaluated state property, as it is logically to assume that in their overall assets one part has been provided through funds from joint sources.

(2) Joint investments in non-productive immovables and movables are non-economic in character, so have no counter-value in new funds on the reference date. As far as non-productive movables are concerned, they have in part been jointly used up. Therefore, the value of these means on the reference date will, logical, be lower than the accumulated investments.

(3) Financial and other claims and liabilities are to a large extent a heterogeneous group. Some of the items from this part of the Inventory can be valued like the other elements of the Inventory, while others have to be individually commented and valued. Namely, some items require specific expertise, for instance local border trade claims, losses due to the keeping of cash when leaving the monetary system.

3.8 BALANCES

In order to balance the state property of the SFRY and value its overall value, it is necessary to reclassify the Inventory of the state property of SFRY. Namely, all the elements of the inventory have been classified according to the traditional legal practice into three broad groups: (i) immovables; (ii) movables; and (iii) financial and other claims and liabilities.

For creating balances it is necessary to classify the immovables, movables, and financial and other claims and liabilities as credit and debit items. In other words, the basic criteria in the classification of specific items into sub-balances of the overall state property is whether they contributed to the increase or decrease of its value. Also, the Inventory of the state property of SFRY contains claims and liabilities resulting from the decisions of the state bodies which deeply affected inter-republic relations (for example the relocation of industries). These claims and liabilities have no impact on the value of the overall state property of the SFRY, but rather on the reallocation of property among the parties participating in the negotiations. For balancing purposes, these claims and liabilities have been classified under the sub-balance: transfers.

Therefore, the Inventory of the state property of SFRY can be reclassified through the following sub-balances:

- (1) Assets
- (2) Claims
- (3) Gross value ((1) + (2))
- (4) Liabilities
- (5) Net value ((3) - (4))
- (6) Transfers.

(1) Assets include groups of immovables and movables and part of the financial and other claims (for example, budget subsidies, resources of the Fund for Underdeveloped Regions, export subsidies).

(2) Claims include the financial and other external and internal claims. The external claims are those towards foreign parties. Internal claims are those towards seceded parts of Yugoslav federation, for example, losses due to keeping of cash when leaving the monetary system.

(3) The sum of Assets (1) and Claims (2) makes up the Gross value of the property of SFRY.

(4) **Liabilities** are made up of external and internal domestic liabilities. External liabilities are all liabilities towards foreign creditors. Internal liabilities are the outstanding liabilities of the SFRY towards its citizens. For example, the state of SFRY has abandoned at one time World War II war damage claims vis-à-vis Bulgaria, thus undertaking implicitly the obligation of compensating those who have suffered damages.

(5) The **Gross value** (3) minus the **Liabilities** (4) is the **Net value of the property of the SFRY**.

(6) **Transfers** are those elements of the inventory which do not affect the net value of the property on the SFRY level, but which have an impact on the reallocation of values among the participants in the negotiations, for example, the relocation of industries.

In Table 1. the mentioned sub-balances are given in columns. Each sub-balance is made out of corresponding items. The number of items depends on whether a global or detailed approach is used. For example, the column: Assets may include the entire OIF (global approach) or all the inventory items which had access to the use of OIF as a possible form of use of joint resources (detailed approach).

In the first row of the table the total value of the state property of the SFRY has been presented. The other rows of the table contain blocks of claims and liabilities for participants in the negotiations. Claims correspond to the share of the state property which "belongs to" the participants in the negotiations according to the established key. Liabilities correspond to the value of state property which is de facto "used by" the participants in the negotiations. The difference between the liabilities and claims gives the net balance for each participant in the negotiations. Namely the net balance for each participant in the negotiations provides information whether and to what extent each participant in the negotiations is a net debtor or net creditor in the jointly financed property of the SFRY.

The balances of assets and liabilities of the Yugoslav federation are made on each date of the exclusion of a seceded part from the Yugoslav economic system.

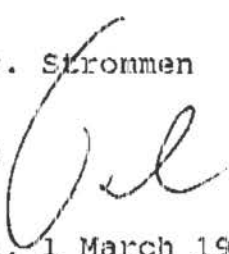
Table 1.

BALANCE OF ASSETS AND LIABILITIES OF THE SFRY
- December 31, 1990 prices -

	Assets	Claims	Gross Value	Liabilities	Net	Transfers	Net
		(1+2)		Value 1		Value 2	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. SFRY	A	C	GV	L	NV1	T(=0)	NV2
2. Yugoslav Federation Less Seceded Part							
- belongs to	Ap2	Cp2	GVp2	Lp2	NV2p2	Tp2	NV2p2
- used by	Ak2	Ck2	GVk2	Lk2	NV2k2	Tk2	NV2k2
- net balance	Ap2-Ak2	Cp2-Ck2	GVp2-GVk2	Lp2-Lk2	NV2p2-NV2k2	Tp2-Tk2	NV2p2-NV2k2
3. Seceded Part of Yugoslav Federation							
- belongs to	Ap3	Cp3	GVp3	Lp3	NV1p3	Tp3	NV3p3
- used by	Ak3	Ck3	GVk3	Lk3	NV1k3	Tk3	NV3k3
- net balance	Ap3-Ak3	Cp3-Ck3	GVp3-GVk3	Lp3-Lk3	NV1p3-NV1k3	Tp3-Tk3	NV1p3-NV3k3

INTERNATIONAL CONFERENCE
ON THE FORMER YUGOSLAVIA

TO: Mr. W. Chr. Stronmen Fax No. (41-22) 917-0079

FROM: P.C. Szasz 

DATE: Germantown, 1 March 1995

SUBJECT: Succession Issues Working Group

1. Received your fax of yesterday's date on the proposed Working Group meeting in Geneva on 16-17 March. As I read the draft agenda, I don't see much point in my coming. The 16th would in any event be difficult for me, as I teach on Thursdays. But if some other business should require my presence in Europe around the 17th, I would plan to attend then. What are your views?

__*__*__*__

2. Because of the transfer of Ambassador Thomas and my lack of contacts with his successor, I today called Todd Buchwald, the State Department lawyer who attended our meeting there some months ago. I told him we were eager to learn if the US was developing a position, especially as most of the other outside states and organizations we were consulting were apparently doing so, and the immediately affected states were eager to receive the second part of our draft Treaty. I also pointed out that it was mainly the Serbs who benefitted from a continuation of the current unsettled situation, and that with the possibly imminent lifting of economic sanctions on the FRY it might be difficult to conserve the financial assets that should ultimately be assigned to other successor states.

3. Mr. Buchwald recalled that it wasn't State but Treasury that had been cautious about moving ahead. He promised to make inquiries and to call me at the beginning of next week.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs of
of Federal Republic of Yugoslavia
(Serbia and Montenegro)
BELGRADE
Att.: Professor K. Mihajlovic

PAGE 1 OF 2

FAX NO: 00-381-11-182.825

INFO: Ambassador Pavicevic
FRY Mission in Geneva

FAX NO: 839 3359

FROM:  Mr W Strommen

FAX NO: (41-22) 917 0079

DATE: 7 March 1995

SUBJECT: MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995 - POSTPONEMENT

See attached.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs of
of Federal Republic of Yugoslavia
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PAGE 1 OF 2

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See attached.



INTERNATIONAL CONFERENCE
ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10

Letter picked up
by Mr Mihailovic
del



8 March 1995

Ambassador Pavicevic
The Permanent Mission of the Federal Republic of Yugoslavia
(Serbia and Montenegro) to the United Nations
& other international organisations in Geneva
5 chemin Thury
1206 Geneva

Dear Ambassador Pavicevic

Please find enclosed, for your information, a copy of a letter to Professor Mihailovic.

We tried repeatedly to fax the letter to you yesterday, 7 March, but could not get through to your fax machine.

Yours sincerely


Wegger Strommen

Enc: 1



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



7 March 1995

Dear Professor Michailovic

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March, has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting on 1 December 1994 as to the agenda for the next meeting.

We have also had another major development in the submission by the FRY delegation of their draft treaty with annexes, dated 24 February 1995. We received this document after having called the meeting of the 16-17 March. The document has been distributed through the relevant Missions in Geneva.

You will see from Professor Michailovic's letter to Ambassador Jonsson introducing the document that he would like to have a presentation and discussion of the document as soon as possible. We would ask you to communicate to us the position of your delegation on this issue.

We will now pursue bilateral consultations in consideration of the recent developments. We also hope to be able to distribute Portion Two of our draft treaty in the near future. The consultation process with major governments has been intensified lately and we hope to have the outcome in the near future.

We will be in touch shortly.

Best wishes.

Best personal regards,


Wegger Strommen



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs
SKOPJE

PAGE 1 OF 2

Att.: H.E. Minister Miljowski

FAX NO: 00-389-91-114.258

(New number:

116 313

φ 117280.)

INFO: Ambassador Petrewski
Permanent Mission of the FYROM
Geneva

FAX NO: 731.2939

FROM:  Mr W Strommen

FAX NO: (41-22) 917 0079

DATE: 28 February 1995

SUBJECT: MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995 - POSTPONEMENT

See attached.

08/03 '95 11:13

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YUGOSLAVIA CONF

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



7 March 1995

Dear Mirko Gijowski:

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March, has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting on 1 December 1994 as to the agenda for the next meeting.

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You will see from Professor Michailovic's letter to Ambassador Jonsson introducing the document that he would like to have a presentation and discussion of the document as soon as possible. We would ask you to communicate to us the position of your delegation on this issue.

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We will be in touch shortly.

Best wishes.

Best personal regards,

Wegger Strommen

07/03 '95 21:35

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Relations
of the Republic of Slovenia
LJUBLJANA
Att.: Dr. M. Mejak

PAGE 1 OF 2

FAX NO: 00-386-61-131.6122

INFO: Ambassador Dr. Anton Bebler
Permanent Mission of Slovenia
Geneva

FAX NO: 738.6665

FROM:  Mr W Strommen

FAX NO: (41-22) 917 0079

DATE: 28 February 1995

SUBJECT: MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995 - POSTPONEMENT

See attached.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



7 March 1995

Dear Dr. Mejak

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March, has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting on 1 December 1994 as to the agenda for the next meeting.

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You will see from Professor Michailovic's letter to Ambassador Jonsson introducing the document that he would like to have a presentation and discussion of the document as soon as possible. We would ask you to communicate to us the position of your delegation on this issue.

We will now pursue bilateral consultations in consideration of the recent developments. We also hope to be able to distribute Portion Two of our draft treaty in the near future. The consultation process with major governments has been intensified lately and we hope to have the outcome in the near future.

We will be in touch shortly.

Best wishes.

Best personal regards,

Wegger Strommen

07/03 '95 21:45

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YUGOSLAVIA CONF

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs of
the Republic of Croatia
ZAGREB
Att.: Dr. Marendic

PAGE 1 OF 2

FAX NO: 00-385-41-469.383

INFO: Ambassador Zuzul
& Mr. N. Madey
Permanent Mission of Croatia
GENEVA

FAX NO: 740 3251

FROM:  Mr W Strommen

FAX NO: (41-22) 917 0079

DATE: 7 March 1995

SUBJECT: MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995 - POSTPONEMENT

See attached.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



7 March 1995

Dear Dr. Marudic

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March, has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting on 1 December 1994 as to the agenda for the next meeting.


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We will be in touch shortly.

Best wishes.

Best personal regards,


Wegger Strommen

07/03 '95 21:25

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YUGOSLAVIA CONF

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RAPPORT ACTIVITE

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INTERNATIONAL CONFERENCE
ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Bertrand de Wergertze / Graham Robertson

FROM: Wegger Stummer

Fax: (41.22) 917 0079

DATE: 7 March 1995

SUBJECT: Note to Co-Chairmen.

Copy attached,





INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



NOTE TO THE CO-CHAIRMEN

Succession Issues

1. You will see from the attached letter to all heads of delegations that the meeting of the Working Group on Succession Issues, scheduled for 16 and 17 March has been postponed.

You will recall from my last report that we had encountered difficulties over the phrasing of the agenda. However, after consultations we had reached a compromise that all parties had accepted. However the FRY side has now back-tracked. According to our normally reliable sources, the head of the FRY delegation, Professor Mihailovic, met strong resistance within his own delegation, in particular from his legal advisor, and probably also from the MFA in Belgrade who for some time have been engaged in a power struggle with Mihailovic. Mihailovic's main asset is his closeness to President Milosevic.

It is on this background that one should see the two letters stating that the FRY side would not come to the meeting on 16 and 17 March, respectively from Mihailovic to me, and Foreign Minister Jovanovic to you (received late this afternoon in Geneva) - both letters are enclosed. Ambassador Pavicevic has confidentially let us know that none of the letters calls for an answer.

2. The situation described above is also linked to a major new development in our Working Group. Yesterday, 6 March, the FRY officially presented a comprehensive draft treaty with annexes, including a 9000 item inventory, a document on methodology and a balance sheet of assets and liabilities.

The full document is almost 200 pages long and I only received five copies, of which all but one has been distributed to the other parties. We are having more copies printed at the moment and the full document will be available on Friday 10 March - let Ann-Marie know if you need a copy. I have enclosed, however, with this note the treaty itself, the methodology chapter and the balance sheet. Allow me to recommend that before you take a look at the documentation, you read Graham Robertson's note of 7 March (copy attached) to Ambassador Jonsson which gives the gist of the FRY proposal.

3. The new FRY position with regard to the meeting was that they wanted to present and discuss the new document next week. They also insisted on having the agenda changed accordingly. We consulted the other parties on this and found that they were firmly opposed to any change, for two reasons: it would give the FRY document equal status to the joint inventory drawn up by the Economic Issues Working Group more than two years ago; and given the length and detail of the document there was not enough time for the other parties to prepare for the meeting.

Hence the four other parties preferred to have the meeting postponed and come back to us with reactions to the FRY proposal. We also understand that the FRY side accepts that more time is needed.

4. We will now pursue bilateral contacts and try to solve the agenda problem. In the meantime we will also continue our consultations with the US, EU and the Russian Federation on Portion Two of our draft treaty. The only realistic hope for substantial progress on succession issues in the near future is a launching of Portion Two. Before the March meeting of the EU ad hoc Working Group on Former Yugoslavia, all EU governments have been asked to give written contributions to the Presidency. We have been invited to attend that meeting. On the US side, see that attached fax from Paul Szasz. It looks like the difficulty in Washington is in the Treasury and not the State Department. This gives us some hope as we think we are getting closer to an understanding with the Paris club on how to integrate debt settlements in our proposal.

5. We will keep you informed on any further development.

A handwritten signature in dark ink, appearing to read 'W. Strommen', followed by a long horizontal line extending to the right.

Wegger Strommen
7 March 1995



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX

TO : Paul Szasz

7 March 1995

From : W. Strommen

I am writing to you on behalf of Ambassador Jonsson to inform you that the meeting of our Working Group on Succession Issues scheduled for 16 and 17 March, has been postponed until further notice.

You will recall from consultations we have had with yourself and/or your representative here in Geneva, that in the past few days there have emerged different interpretations of the understanding we reached at our last meeting on 1 December 1994 as to the agenda for the next meeting.

We have also had another major development in the submission by the FRY delegation of their draft treaty with annexes, dated 24 February 1995. We received this document after having called the meeting of the 16-17 March. The document has been distributed through the relevant Missions in Geneva.

You will see from Professor Michailovic's letter to Ambassador Jonsson introducing the document that he would like to have a presentation and discussion of the document as soon as possible. We would ask you to communicate to us the position of your delegation on this issue.

We will now pursue bilateral consultations in consideration of the recent developments. We also hope to be able to distribute Portion Two of our draft treaty in the near future. The consultation process with major governments has been intensified lately and we hope to have the outcome in the near future.

We will be in touch shortly.

Best wishes.

Wegger Strommen



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Directorate for State Succession Issues PAGE 1 OF 2
of the Government of the
Republic of Bosnia and Herzegovina
SARAJEVO
Att.: Dr. Derviskadic

FAX NO: 00-871-144.6327

INFO: Ambassador Mustafa Bijedic
Permanent Mission of Bosnia and Herzegovina
GENEVA

FAX NO: 345.8889

FROM: Ms. Carol Brown
Secretary
ICFY, Geneva

FAX NO: (41-22) 917 0079

TEL NO: (41-22) 917 3148

DATE: 28 February 1995

SUBJECT: **MEETING OF THE SUCCESSION ISSUES WORKING GROUP**
16 and 17 MARCH 1995

Please find attached an invitation from Wegger Strommen to the next meeting of the Succession Issues Working Group scheduled to take place in Geneva on 16 and 17 March 1995.

A list of the members of your delegation is requested as soon as possible.

We look forward to meeting your delegation, in advance, on Wednesday 15 March.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Geneva, 28 February 1995

Dear Dr. Derviskadic,

I wish to advise you that a full meeting of the Working Group will take place in Geneva on 16 and 17 March this year, with the following agenda:

1. Outstanding issues relating to the inventory
2. The auditor's report for the National Bank of Yugoslavia
3. Hard currency household savings
4. Any other business

The practical arrangements will be as follows :

16 March

10.00-13.00 Morning Session
15.00-18.00 Afternoon Session

17 March

10.00-13.00 Morning Session

I would kindly ask you to let me know in advance the composition of your delegation.

Looking forward to seeing you in Geneva, I remain,

Yours sincerely,

Wegger Strommen
Succession Issues Working Group

Dr. Derviskadic
SARAJEVO
Republic of Bosnia and Herzegovina

28/02 '95 16:54

4122 9170379

YUGOSLAVIA CONF

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RAPPORT ACTIVITE

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs of
the Republic of Croatia
ZAGREB
Att.: Dr. Marendic

FAX NO: 00-385-41-469.383

INFO: Ambassador Zuzul
Mr. N. Madey
Permanent Mission of Croatia
GENEVA

FAX NO: 740 3251

FROM: Ms. Carol Brown *Carol Brown*
Secretary
ICFY, Geneva

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3148

DATE: 28 February 1995

SUBJECT: **MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995**

Please find attached an invitation from Wegger Strommen to the next meeting of the Succession Issues Working Group scheduled to take place in Geneva on 16 and 17 March.

A list of the members of your delegation is requested as soon as possible.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Geneva, 28 February 1995

Dear Dr. Marendic,

I wish to advise you that a full meeting of the Working Group will take place in Geneva on 16 and 17 March this year, with the following agenda:

1. Outstanding issues relating to the inventory
2. The auditor's report for the National Bank of Yugoslavia
3. Hard currency household savings
4. Any other business

The practical arrangements will be as follows :

16 March

10.00-13.00 Morning Session
15.00-18.00 Afternoon Session

17 March

10.00-13.00 Morning Session

I would kindly ask you to let me know in advance the composition of your delegation.

Looking forward to seeing you in Geneva, I remain,

Yours sincerely,

Wegger Strommen
Succession Issues Working Group

Dr. Marendic
ZAGREB
Republic of Croatia

28/02 '95 17:21

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs
SKOPJE
Att.: H.E. Minister Miljowski

FAX NO: 00-389-91-114.258

INFO: Ambassador Petrewski
Permanent Mission of the FYROM
Geneva

FAX NO: 731.2939

FROM: Ms. Carol Brown *Carol Brown*
Secretary
ICFY, Geneva

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3148

DATE: 28 February 1995

SUBJECT: **MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995**

Please find attached an invitation from Wegger Strommen to the next meeting of the Succession Issues Working Group scheduled to take place in Geneva on 16 and 17 March.

A list of the members of your delegation is requested as soon as possible.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Geneva, 28 February 1995

Dear Minister,

I wish to advise you that a full meeting of the Working Group will take place in Geneva on 16 and 17 March this year, with the following agenda:

1. Outstanding issues relating to the inventory
2. The auditor's report for the National Bank of Yugoslavia
3. Hard currency household savings
4. Any other business

The practical arrangements will be as follows :

16 March

10.00-13.00 Morning Session
15.00-18.00 Afternoon Session

17 March

10.00-13.00 Morning Session

I would kindly ask you to let me know in advance the composition of your delegation.

Looking forward to seeing you in Geneva, I remain,

Yours sincerely,

M. Wegger Strommen
Succession Issues Working Group

H.E. Minister Miljowski
SKOPJE

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Affairs of
of Federal Republic of Yugoslavia
(Serbia and Montenegro)
BELGRADE
Att.: Professor K. Mihajlovic

FAX NO: 00-381-11-182.825

INFO: Ambassador Pavicevic
FRY Mission in Geneva

FAX NO: 839 3359

FROM: Ms. Carol Brown *Carol Brown*
Secretary
ICFY, Geneva

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3148

DATE: 28 February 1995

SUBJECT: **MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1995**

Please find attached an invitation from Wegger Strommen to the next meeting of the Succession Issues Working Group scheduled to take place in Geneva on 16 and 17 March.

A list of the members of your delegation is requested as soon as possible.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Geneva, 28 February 1995

Dear Professor Mihajlovic,

I wish to advise you that a full meeting of the Working Group will take place in Geneva on 16 and 17 March this year, with the following agenda:

1. Outstanding issues relating to the inventory
2. The auditor's report for the National Bank of Yugoslavia
3. Hard currency household savings
4. Any other business

The practical arrangements will be as follows :

16 March

10.00-13.00 Morning Session
15.00-1800 Afternoon Session

17 March

10.00-13.00 Morning Session

I would kindly ask you to let me know in advance the composition of your delegation.

Looking forward to seeing you in Geneva, I remain,

Yours sincerely,

M. Wegger Strommen
Succession Issues Working Group

Professor Mihajlovic
BELGRADE
Federal Republic of Yugoslavia

296 1141



MESSAGE

Pour
For

De
From

No de téléphone
Telephone No.

Poste
Extension

No de bureau
Room No.

Vous a rappelé(e)		Returned your call
Vous appellera		Will call you again
Voudrait que vous l'appeliez		Would like you to call
Est venu(e) vous voir		Came to see you
Voudrait vous voir		Would like to see you

GVA - MISSION

FAX OUT OF ORDER

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Reçu par — Received by

Date

Heure — Time

CAND

28/02 '95 17:07

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ministry for Foreign Relations
of the Republic of Slovenia
LJUBLJANA
Att.: Dr. M. Mejak

FAX NO: 00-386-61-131.6122

INFO: Ambassador Dr. Anton Bebler
Permanent Mission of Slovenia
Geneva

FAX NO: 738.6665

FROM: Ms. Carol Brown *Carol Brown*
Secretary
ICFY, Geneva

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3148

DATE: 28 February 1995

SUBJECT: **MEETING OF THE SUCCESSION ISSUES WORKING GROUP
16 and 17 MARCH 1994**

Please find attached an invitation from Wegger Strommen to the next meeting of the Succession Issues Working Group scheduled to take place in Geneva on 16 and 17 March.

A list of the members of your delegation is requested as soon as possible.



INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



Geneva, 28 February 1995

Dear Dr. Mejak,

I wish to advise you that a full meeting of the Working Group will take place in Geneva on 16 and 17 March this year, with the following agenda:

1. Outstanding issues relating to the inventory
2. The auditor's report for the National Bank of Yugoslavia
3. Hard currency household savings
4. Any other business

The practical arrangements will be as follows :

16 March

10.00-13.00 Morning Session
15.00-1800 Afternoon Session

17 March

10.00-13.00 Morning Session

I would kindly ask you to let me know in advance the composition of your delegation.

Looking forward to seeing you in Geneva, I remain,

Yours sincerely,

Wegger Strommen
Succession Issues Working Group

Dr. Mejak
LJUBLJANA
Republic of Slovenia

28/02 '95 17:01

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YUGOSLAVIA CONF

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Ambassador Alf Jonsson
Royal Danish Embassy
CAPE TOWN

PAGE 1 OF 7

FAX NO: 27-21-419.9527

FROM: W. Strommen
GENEVA

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3033

DATE: 28 February 1995

SUBJECT: Meeting of the Succession Issues Working Group
16 and 17 March 1995

Please find copies of the invitation sent to heads of delegations for the forthcoming meeting.

Best regards,

28/02 '95 18:55

4122 9170079

YUGOSLAVIA CONF

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RAPPORT ACTIVITE

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INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

Palais des Nations, 1211 Geneva 10



FAX TRANSMITTAL

TO: Mr. Paul Szasz
Germantown, NY

PAGE 1 OF 3

FAX NO: 1-518-537.6618

FROM: W. Strommen
Geneva

FAX NO: (41-22) 917 0079
TEL NO: (41-22) 917 3033

DATE: 28 February 1995

SUBJECT: **Meeting of the Succession Issues Working Group
16 and 17 February 1995**

Please find a copy of the invitation sent to heads of delegations for the forthcoming meeting.

Best regards,

28/02 '95 18:46

4122 9170079

YUGOSLAVIA CONF

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RAPPORT ACTIVITE

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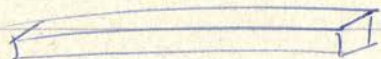
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31 - Nov } last meeting.
- 1 Dec }



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16 + 17 March 16 10am / ALL DAY
~~Since~~ U III 17 10 - end.

Agenda

- ① Outstanding issues
relating to the
inventory.
- ② The auditor's report for
the National Bank of
Yugo

(3) Hard currency household
savings.

(4) AOB.

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