

C. Navigation on the Danube river⁴⁴⁷

Initial proceedings

Decision of 28 January 1993: statement by the President

By a letter dated 27 January 1993 addressed to the President of the Security Council, the representative of Romania transmitted the declaration issued by his Government on 27 January 1993, concerning the situation created on the Danube river as a result of the flagrant violation of Security Council resolutions 757 (1992) and 787 (1992) by Yugoslav vessels transporting petroleum products.⁴⁴⁸ The representative of Romania underlined that cooperation between riparian States as well as international cooperation, including appropriate consideration and action by the Security Council, was necessary in order to compel the Yugoslav authorities to take immediate measures to stop the violation of the embargo by the Yugoslav vessels.

By a letter dated 28 January 1993 addressed to the President of the Security Council,⁴⁴⁹ the representative of Bulgaria transmitted the text of a press release of 27 January 1993 by his Ministry of Foreign Affairs regarding the recent incident involving the unauthorized passage of the Serbian convoy towed by the tugship *Bihac* through the Bulgarian-Romanian sector of the Danube. The Ministry stated that establishing close cooperation between Bulgarian and Romanian authorities was of decisive significance to prevent such incident in the future. He reiterated his appeal for the deployment of international sanctions monitoring missions at all ports along the Danube and stressed the urgent need for substantial technical support to assist his country and Romania in the implementation of the sanctions.

On 28 January 1993, after consultations with the members of the Council, the President made the

following statement to the media on behalf of the members of the Council:⁴⁵⁰

In connection with letters dated 27 January from the representative of Romania and 28 January 1993 from the representative of Bulgaria to the President of the Security Council, the members of the Council heard a report from the Chairman of the Committee established by resolution 724 (1991) about Yugoslav vessels carrying oil from Ukraine to Serbia by way of the Danube, a flagrant violation of mandatory Security Council resolutions.

The members of the Council are concerned that these shipments are reported to have left Ukrainian territory after the adoption of resolution 757 (1992) of 30 May 1992 and indeed may have left after the adoption of resolution 787 (1992) of 16 November 1992. They call on the Government of Ukraine to ensure that no further such shipments are permitted.

The members of the Council are also extremely concerned that some of the vessels have already reached Serbia. In this regard, they demand that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) comply fully with the relevant resolutions. They have asked the President of the Council to convey their concern to the representatives of Romania and Bulgaria, to remind them of their clear obligations under the relevant resolutions and to seek an explanation of their failure to fulfil them. They have asked the President to draw particular attention to the relevant resolutions, which make clear the responsibility of all riparian States to take necessary measures to ensure that shipping on the Danube is in accordance with Council resolutions, including such enforcement measures commensurate with the specific circumstances as may be necessary to halt such shipping. The members of the Council reaffirm their support for vigorous enforcement of the relevant resolutions, and they are clear that the riparian States have the means to fulfil this obligation and that they must do so forthwith.

Decision of 10 February 1993: statement by the President

On 10 February 1993, after consultations with the members of the Council, the President made the following statement to the media on behalf of the members of the Council:⁴⁵¹

The members of the Security Council have heard a report from the Chairman of the Committee established by resolution 724 (1991) about the detention of Romanian vessels on the Danube by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro).

They have learned that the Minister of Transport of the Federal Republic of Yugoslavia (Serbia and Montenegro) has threatened to detain more Romanian vessels if Romania does not

⁴⁴⁷ This item was initially considered under the title "Navigation on the Danube river in the Federal Republic of Yugoslavia (Serbia and Montenegro)". It was reformulated to read "Navigation on the Danube river" as from the 3533rd meeting, held on 11 May 1995.

⁴⁴⁸ S/25189.

⁴⁴⁹ S/25182.

⁴⁵⁰ S/25190.

⁴⁵¹ S/25270.

allow the passage of Yugoslav vessels on the Danube. They have also learned that that Minister has addressed a letter to the Chairman of the Committee established by resolution 724 (1991) informing him that the Romanian vessels would be released without further delay, which according to information provided by the Chargé d'affaires of the Permanent Mission of Romania to the United Nations has not yet happened.

The members of the Council recall their statement of 28 January 1993 about the responsibility of States to enforce mandatory Security Council resolutions, with particular reference to Yugoslav vessels attempting to violate those resolutions by way of the Danube. They commend the Romanian Government for the action it has since taken in this regard and reaffirm once again their full support for vigorous enforcement of the relevant resolutions.

They also recall that under Article 103 of the Charter, the obligations of the Members of the United Nations under the Charter prevail over their obligations under any other international agreement.

The members of the Council condemn any such retaliatory action and threats of such action by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro). It is wholly unacceptable for those authorities to take retaliatory measures in response to action by a State in fulfilment of its obligations under the Charter of the United Nations. They demand that those authorities release forthwith the Romanian vessels they have unjustifiably detained, and that they desist from further unlawful detention.

**Decision of 13 October 1993 (3290th meeting):
statement by the President**

By a letter dated 11 October 1993 addressed to the President of the Security Council, the representative of Hungary reported that the blockade on the Danube at Belgrade, which had been initiated in mid-July by two Serbian non-governmental organizations, was continuing unabated.⁴⁵² Despite recent promises made by the Federal Republic of Yugoslavia to eliminate the blockade, Belgrade had taken no measures to remedy the situation. Moreover, the authorities of the Federal Republic of Yugoslavia continued to impose tolls on vessels wishing to transit the Yugoslav section of the Danube, in violation of the Danube Convention and despite the call made on 3 September 1993 by the Security Council Committee established pursuant to resolution 724 (1991) to cease their illegal action. Hungary, while firm in its commitment to the full implementation of its obligations arising in connection with the sanctions regime, was facing an increasingly complex task of stopping shipments falling under that

⁴⁵² S/26562.

regime and lacking proper authorization or carrying falsified documents. The letter noted that those shipments had, in many instances, crossed several international borders before reaching Hungary and it contended that Hungary's commitment to implementing the sanctions could be efficient only if it was sustained by the cooperation of all the States Members of the United Nations, in observance of the relevant Security Council resolutions.

At its 3290th meeting, on 13 October 1993, the Council included the above-mentioned letter in its agenda. Following the adoption of the agenda, the President (Brazil) stated that, after consultations among members of the Security Council, he had been authorized to make the following statement on behalf of the Council:⁴⁵³

The Security Council has learned with deep concern that the blocking of the Danube by two Serbian non-governmental organizations is still continuing and deplores the acquiescence of the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro), which is reflected in the fact that they have failed to take any action to prevent these acts. It condemns these deliberate and unjustified acts of interference with the river traffic of several Member States of the United Nations. It emphasizes the importance it attaches to the free and unhindered navigation on the Danube, which is essential for legitimate trade in the region. It reminds the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) of their previous written commitment to secure free and safe navigation on this vital international waterway.

The Council is also concerned that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) continue to impose tolls on foreign vessels transiting the section of the Danube which passes through the territory of the Federal Republic. By extracting these payments, the Federal Republic of Yugoslavia (Serbia and Montenegro) violates its international obligations. The Council rejects any attempt to justify, on whatever ground, the imposition of tolls on the Danube. It demands that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) and any others imposing similar tolls cease such action immediately.

The Council condemns these illegal actions and reaffirms that it is wholly unacceptable for the Federal Republic of Yugoslavia (Serbia and Montenegro) to take retaliatory measures in response to action by a State in fulfilment of its obligations under the Charter of the United Nations. It reminds the Federal Republic of Yugoslavia (Serbia and Montenegro) of its own international obligations and demands that its authorities ensure free movement of international traffic on the Danube.

The Council remains seized of the matter.

⁴⁵³ S/26572.

**Decision of 14 March 1994 (3348th meeting):
statement by the President**

At its 3348th meeting, on 14 March 1994, the Council resumed its consideration of the item. Following the adoption of the agenda, the President (France) stated that, after consultations among members of the Security Council, he had been authorized to make the following statement on behalf of the Council:⁴⁵⁴

The Security Council has taken note of the letters dated 10 and 14 March 1994 from the Chargé d'affaires a.i. of the Federal Republic of Yugoslavia (Serbia and Montenegro). In these documents, his Government acknowledges that the Bulgarian convoy, the *Han Kubrat*, composed of 6 barges transporting 6,000 tons of diesel oil on the Danube, entered the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) on the morning of 6 March 1994 at the port of Prahovo. The Government also recognizes that the cargo was unloaded and that the convoy returned to Bulgaria without it.

The Council most strongly condemns this flagrant violation by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) of the relevant resolutions of the Council prohibiting the shipment of commodities and products to the Federal Republic of Yugoslavia (Serbia and Montenegro). It holds the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) fully accountable for the non-return of the cargo of the *Han Kubrat*.

The Council welcomes the cooperative attitude of the Bulgarian Government. It calls upon the authorities of Bulgaria to assess the precise circumstances of this act and to prosecute those responsible for it.

The Council reaffirms the importance it attaches to free and unimpeded navigation on the Danube, which is essential to legitimate commerce in the region. It again stresses that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) have undertaken in writing to guarantee the freedom and security of navigation on this crucial international waterway. It invites them to respect scrupulously their commitments in this regard.

The Council stands ready to address the issue again in the future.

**Decision of 11 May 1995 (3533rd meeting):
resolution 992 (1995)**

At its 3533rd meeting, on 11 May 1995, the Council included the item entitled "Navigation on the Danube river" in its agenda. Following the adoption of the agenda, the President (France) drew the attention of the Council members to the text of a draft resolution

⁴⁵⁴ S/PRST/1994/10.

that had been prepared in the course of the Council's prior consultations⁴⁵⁵ and to a letter dated 8 May 1995 from the Chairman of the Security Council Committee established pursuant to resolution 724 (1991) concerning Yugoslavia addressed to the President of the Security Council.⁴⁵⁶ The Chairman informed the Council that the Government of Romania, supported by other Danube riparian States, the Danube Commission and the European Union/Organization for Security and Cooperation in Europe Sanctions Coordinator, had requested authorization for vessels of the Federal Republic of Yugoslavia to be allowed to use the Romanian locks of the Iron Gates I system, on the left bank of the Danube, while repairs were carried out to the locks on the right bank. The riparian States and international organizations concerned had asked for the Committee's assistance, stressing the importance for safe international navigation on the Danube of the Iron Gates I system being properly maintained and repaired. In considering the matter, the Committee had taken into account the need and readiness of Romania to ensure that vessels of the Federal Republic of Yugoslavia, if allowed to use the Romanian locks of the system, would not engage in any activities contravening the relevant Security Council resolutions. The Committee had therefore recommended, in view of the exceptional circumstances as well as the provisions contained in paragraph 16 of resolution 820 (1993), that the Security Council consider the adoption of a technical resolution on the matter.

The draft resolution was then put to the vote and was adopted unanimously as resolution 992 (1995), which reads:

The Security Council,

Recalling all its previous relevant resolutions on the former Yugoslavia, in particular its resolution 820 (1993) of 17 April 1993,

Desiring to promote free and unhindered navigation on the Danube in accordance with those resolutions,

Recalling statements made by the President of the Security Council on freedom of navigation on the Danube, in particular that made on 13 October 1993 expressing concern about the imposition of illegal tolls on foreign vessels transiting the section of the Danube which passes through the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro),

⁴⁵⁵ S/1995/373.

⁴⁵⁶ S/1995/372.

Reminding States of their obligations under paragraph 5 of resolution 757 (1992) of 30 May 1992 not to make available to the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) or to any commercial, industrial or public utility undertaking in the Federal Republic of Yugoslavia (Serbia and Montenegro) any funds or any other financial or economic resources and to prevent their nationals from making available to those authorities or to any such undertaking any such funds or resources, and noting that flag States may submit claims to the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) for reimbursement of tolls illegally imposed on their vessels transiting the section of the Danube which passes through the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro),

Taking note of the letter dated 8 May 1995 from the Chairman of the Security Council Committee established pursuant to resolution 724 (1991) regarding the use by vessels registered in, or owned or controlled by persons in, the Federal Republic of Yugoslavia (Serbia and Montenegro) of the locks of the Iron Gates I system on the left bank of the Danube while repairs are carried out to the locks on the right bank,

Recognizing that the use by vessels registered in, or owned or controlled by persons in, the Federal Republic of Yugoslavia (Serbia and Montenegro) of the locks will require an exemption from the provisions of paragraph 16 of resolution 820 (1993) and acting, in this respect, under Chapter VII of the Charter of the United Nations,

1. *Decides* that the use of the locks of the Iron Gates I system on the left bank of the Danube by vessels (a) registered in the Federal Republic of Yugoslavia (Serbia and Montenegro) or (b) in which a majority or controlling interest is held by a person or undertaking in or operating from the Federal Republic of Yugoslavia (Serbia and Montenegro) shall be permitted in accordance with this resolution;

2. *Also decides* that the present resolution shall come into force on the day following the receipt by the Council from the Security Council Committee established pursuant to resolution 724 (1991) of a report by the Danube Commission that it is satisfied that preparations for the repairs to the locks of the Iron Gates I system on the right bank of the Danube have been completed, and that the present resolution shall remain in force, subject to paragraph 6 below, for a period of sixty days from the date on which it comes into force, and, unless the Council decides otherwise, for further periods of up to sixty days if the Council is notified by the Committee established pursuant to resolution 724 (1991) that each such further period is required for completion of the necessary repairs;

3. *Requests* the Government of Romania, with the assistance of the European Union/Organization for Security and Cooperation in Europe Sanctions Assistance Missions, strictly to

monitor this use, including, if necessary, by inspections of the vessels and their cargo, to ensure that no goods are loaded or unloaded during the passage by the vessels through the locks of the Iron Gates I system;

4. *Also requests* the Government of Romania to deny passage through the locks of the Iron Gates I system on the left bank of the Danube to any vessel using the locks of the Iron Gates I system under the authority of paragraph 1 above which is identified as being a party to any suspected or substantiated violation of the relevant Council resolutions;

5. *Requests* the Sanctions Assistance Missions Communications Centre to report to the Committee established pursuant to resolution 724 (1991) and to the Romanian authorities operating the locks of the Iron Gates I system on the left bank of the Danube any suspected violation of any of the relevant Council resolutions by vessels using the locks of the Iron Gates I system under the authority of paragraph 1 above and to transmit to the Committee and to the Romanian authorities evidence that any such violation has in fact occurred; and decides that the Chairman of the Committee shall, after consulting members of the Committee, transmit to the Council any substantiated evidence of such a violation forthwith;

6. *Decides* that the exemption provided for in paragraph 1 above shall terminate on the third working day after the Council receives substantiated evidence from the Chairman of the Committee established pursuant to resolution 724 (1991) of a violation of any of the relevant resolutions of the Council by a vessel using the locks of the Iron Gates I system under the authority of paragraph 1 above, unless the Council decides to the contrary, and that the Government of Romania shall be so informed immediately;

7. *Requests* the Executive Director of the Danube Commission to inform the Chairman of the Committee established pursuant to resolution 724 (1991) of the date of completion of the repairs, or, if the repairs have not been completed within sixty days of the entry into force of the present resolution, or within the subsequent periods of up to sixty days for which the provisions of the present resolution may be extended, to provide the Chairman with a report on the state of the repairs ten days before the expiry of any such period;

8. *Confirms* that, in accordance with the provisions of resolution 760 (1992), the importation into the Federal Republic of Yugoslavia (Serbia and Montenegro) of supplies essential to the repair of the locks on the right bank of the Danube may be approved in accordance with the procedures of the Committee established pursuant to resolution 724 (1991) at a meeting or meetings of the Committee;

9. *Decides* to remain seized of the matter.