

Chapter IX

DECISIONS IN THE EXERCISE OF OTHER FUNCTIONS AND POWERS

NOTE

Decisions of the Security Council relative to recommendations to the General Assembly regarding the admission of new Members and other questions of membership have been dealt with in chapter VII, and the decisions on questions considered under the Council's responsibility for the maintenance of international peace and security in chapter VIII.

During the period under review, further action has been taken by the Council regarding the decision¹ taken in 1970 in the exercise of other functions and powers under the Charter.² The case history is presented below.

¹ Resolution 286 (1970). See *Supplement 1969-1971*, chapter IX for the case history.

² Decisions concerning the relations of the Security Council with other organs of the United Nations, arising from Articles 12, 93 (2) and 97 of the Charter, are covered in chapter VI.

THE SITUATION CREATED BY INCREASING INCIDENTS INVOLVING HIJACKING OF COMMERCIAL AIRCRAFT

Decision: consensus of 20 June 1972

In a note³ the Secretary-General circulated for the information of the members of the Council an exchange of telegrams concerning the hijacking of commercial aircraft. In a telegram dated 8 June 1972 addressed to the Secretary-General, the Governing Body of the International Federation of Air Line Pilots Associations (IFALPA) requested the Security Council to convene a meeting not later than 16 June to determine necessary actions to implement previous United Nations and International Civil Aviation Organization decisions and, in particular, enforcement measures against States offering sanctuary and failing to prosecute hijackers and saboteurs. If the United Nations failed to take effective action, IFALPA would institute a world-wide 24-hour stoppage of air services on 19 June. In his reply telegram dated 11 June 1972, the Secretary-General expressed to the President of IFALPA his concern at the trend of unlawful interference with civil aviation and informed IFALPA that he had immediately relayed its message to the President of the Security Council and that consultations concerning the matter were being conducted among members of the Council.

On 20 June 1972, the President of the Council announced⁴ that the members of the Security Council on 20 June 1972 had adopted by consensus the following decision:

Members of the Security Council are gravely concerned at the threat to the lives of passengers and crews arising from the hijacking of aircraft and other unlawful interference with international civil aviation. In these circumstances, they wish to reaffirm Security Council resolution 286 (1970) of 9 September 1970 and to recall that the General Assembly has expressed its deep concern about the situation.

Members of the Security Council condemn and consider it necessary to put an end to acts that are directed against the safety of civil aviation and that are being perpetrated in various parts of the world presenting serious obstacles to the normal use of air transportation, an important means of international intercourse.

The Security Council calls upon States to take all appropriate measures within their jurisdiction to deter and prevent such acts and to take effective measures to deal with those who commit such acts.

The Security Council invites all States to expand and intensify co-operative international efforts and measures in this field, in conformity with Charter obligations, with a view to ensuring the maximum possible safety and reliability of international civil aviation.

In a letter⁵ dated 22 June 1972 to the President of the Council the representative of India stated that while India accepted the consensus as showing concern with the evil of hijacking and indicating the course of action all can pursue, it had considerable reservations on the procedure followed. Any action or decision by the Council without a formal meeting, particularly when the provisional rules of procedure had not been suspended, could have serious and far-reaching legal and other consequences. Although his Government continued to believe that informal consultations were both valid and valuable, it felt that the procedure followed should not constitute a precedent for future action by the Council on matters concerning international peace and security.

In a letter⁶ also dated 22 June 1972 to the President of the Council the representative of Italy stated that, during the consultations, he had reserved the right to state his Government's position after the approval of the consensus of 20 June 1972. His Government would have preferred that the Council take a firmer stand on the question of the unlawful interference with international civil aviation, and

³ S/10692, *OR*, 27th yr., *Suppl. for April-June 1972*, p. 107.

⁴ S/10705, *ibid.*, p. 128.

⁵ S/10709, *ibid.*, pp. 132-133.

⁶ S/10711, *ibid.*, pp. 133-134.

it would have also preferred the adoption of a resolution on the matter in a formal meeting of the Security Council rather than a decision agreed upon by the members of the Council through informal consultations. This would have avoided, *inter alia*, the discrepancy between the opening

words of the first two paragraphs of the consensus and those of the last two paragraphs. Such formal expediences, aiming at circumventing obstacles of a substantial nature, might create a trend toward a further weakening of the significance of decisions taken by the Council.