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LETTER DATED 10 MARCH 1993 FROM THE CHARGE D'AFFAIRES A.I. OF
THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit, enclosed herewith, the letter by
His Excellency Mr. Vladislav Jovanović, Minister for Foreign Affairs of the
Federal Republic of Yugoslavia.

I should be grateful if you would have the present letter and its annex
circulated as a document of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

Annex

With reference to the statement of the President of the Security Council of 26 February 1993 concerning the blockade of the Danube by Yugoslav barges, I have the honour to inform you that all barges and ships below Djerdap II dam and the channel, owned by the private holding company Jugoslovensko Rečno Brodarstvo (JRB), were removed on 2 March 1993; navigation by all international vessels has been restored. May I also point out that an erroneous interpretation of Security Council resolutions 757 (1992) and 787 (1992) by Romania continues to obstruct the navigation of vessels owned by Yugoslav private companies between inland ports in the Yugoslav part of the Danube.

The temporary blockade of navigation on the Danube by JRB's independent trade unions of shippers, neither caused nor encouraged by the Government of the Federal Republic of Yugoslavia, was the result of the ban on navigation by JRB vessels on the Djerdap II channel by the Romanian authorities. The navigation ban on the Djerdap II channel, located between Yugoslav ports and points upstream from the Yugoslav port of Prahovo, seriously threatened more than 10,000 employees of two Yugoslav private companies, Jugoslovensko Rečno Brodarstvo and Heroj Pinki, and their dependants. Accordingly, in an effort to save their jobs and the livelihood of their dependants, the trade unions decided on this action in order to put pressure on Romanian authorities and to draw the attention of the world public to the unacceptable navigation ban on Yugoslav shippers in the Yugoslav part of the Danube between ports in the upper and lower parts of this river.

I would remind you that ships flying the Yugoslav flag have navigated the Danube for over 130 years and that such a ban has never been imposed, including in time of war. Romania's present ban and non-compliance with the agreement between Yugoslavia and Romania on the hydroelectric power plant, dam and Djerdap II channel construction is not based on any decision of the Security Council and is in contravention of the Danube and other Conventions regulating navigation on this river. In point of fact, Security Council resolution 757 (1992) does not restrict, explicitly or implicitly, inland traffic in Yugoslavia, either on rivers, roads, railways or in the air. It is explicitly provided in the Danube Convention that traffic between river ports within one country is not subject to customs or any other control or restriction.

Navigation between Yugoslav ports in the Djerdap II channel as an inland waterway is regulated by the 1977 agreement on the hydroelectric power plant, dam and Djerdap II channel construction whereby the Romanian side undertook to build two channels, one on the Romanian and the other on the Yugoslav side. So far the Romanian side has not fulfilled its obligation, but did undertake in the said agreement to allow navigation by Yugoslav vessels in the Romanian channel, to ensure unimpeded navigation between Yugoslav ports and to defray additional costs until the completion of the Yugoslav channel.

We wish to note that in this specific case what is at stake is exclusively inland traffic between Yugoslav ports - cabotage, where Yugoslav vessels can only use the channel constructed in the Romanian part of the Danube. Since the channel has not yet been constructed in Yugoslav territory due to the failure of the Romanian side to fulfil its obligation under the agreement, recognition

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of the right of Romania to use its channel as a State border, thus impeding free navigation of Yugoslav vessels in Yugoslav inland waterways, would be contrary to one of the basic principles of international law, namely, that a State cannot profit in any way from the non-fulfilment of its obligations under a treaty, i.e., that a non-right cannot become a right. Had Romania constructed the channel in Yugoslav territory, i.e., had it fulfilled its obligation under the agreement, this dispute would never have occurred.

From the very beginning, the Yugoslav Government has striven to resolve this bilateral problem in direct contacts with representatives of the Government of friendly Romania and principled discussions on it were held by the Presidents of the two countries during their recent meeting in Bucharest. I take this opportunity to inform you that it has been agreed that representatives and experts of two Governments are working out practical modalities for the solution of this problem and they are expected to meet soon.

Expressing the regret of the Yugoslav Government at the difficulties international vessels have had due to the action of the trade unions of Yugoslav shippers, I am confident that Yugoslavia and Romania will find an early solution to this problem which will both restore international shipping and enable Yugoslav ships to navigate the Djerdap II channel en route to ports in Yugoslav territory.

I am confident that I have helped you understand better the position of the Yugoslav Government.

(Signed) Vladislav JOVANOVIĆ
Minister for Foreign Affairs
Federal Republic of Yugoslavia
