

ANNOUNCEMENTS

EURIDIT 89

EUROPEAN SYMPOSIUM ON CABOTAGE – PRESS RELEASE

From 15-17 November 1989, a European symposium on Cabotage, organised by the IDIT in accordance with the General Transport Commission of the EEC, was held in Rouen at the Palais des Congrès. Cabotage is the recognised right of any transporter of a member State of the EEC to transport the goods of a particular country within each of the other member States, without being obligated to set up an office in that given country. This European symposium gathered together transport professionals, jurists, economists, and public figures. It should also be noted that the discussions focused on regulation proposals, there being one proposal for each means of transportation, except transport by rail.

Why is there such an interest in cabotage? For every means of transportation, cabotage puts considerable economic interests at stake. On the one hand, by not being compelled to set up an office in different countries, the transporter can economise – i.e., on the cost of setting up the office – and maximise his transport capacity. On the other hand, cabotage involves nine hundred million tons of goods per year for maritime transport, and represents 5% to 10% of road transport, which means 30% to 40% of all inter-Community tonnage.

However, cabotage potential varies not only from one State to another, but also from one region to another within each individual State, and from one means of transportation to another. Hence, for maritime transport, the traffic between the home country and its territories, or overseas possessions, is the most attractive.

Communications systems facilitate knowing the potential of cabotage. For road transport, for example, a driver can now communicate by satellite with his company's home office, which can immediately tell him where to load.

Nevertheless, cabotage raises the problem of how to determine the beneficiary – natural or legal persons – and which laws to apply. The regulation proposals mentioned above, although they may be modified upon adoption by the Council of Ministers of the EC, answered the following questions.

To benefit from cabotage rights, the natural person must be a citizen of one of the member States of the EEC. Artificial persons must be controlled by a citizen of one of the member States. The road transport proposal adds one other condition: the real and permanent management by a majority of natural persons, citizens of the EEC. Thus, companies, which do not meet these control requirements, will be excluded, even if they are set up in a member State, which, according to Article 58 of the Treaty of Rome, is the necessary and suf-

ficient condition to benefit from the privileges of setting up office, and the offer of services.

Once cabotage rights are granted to the beneficiary, he may exert them 'temporarily', that is, not regularly, as opposed to the notion of 'permanent establishment', and in accordance with the legislation of the State, where the transport is carried on.

Cabotage has caused a certain amount of apprehension among transporters, who would like to see some harmonisation beforehand, as this would allow for fairer competition. This apprehension, although justified by the regulation proposals, is less so, if one considers the guarantees included in the Treaty of Rome, such as the prohibiting of dumping, or the granting of public aid to an economic agent (Arts. 91-93), or the possibility of entering a plea of illegality against a Community measure, or again of excusing a violation of the same measure, for reasons of necessity or *force majeure*.

The EURIDIT symposium, in tune with Europe today, attempted to reconcile law and politics. It may not, of course, have brought forth the solutions hoped for, concerning the implications of the rules of law. It has, nonetheless, complied with the search for justice, which supposes a balance between legitimate if conflicting interests.

THE PAUL GUGGENHEIM PRIZE 1991

The Board of the Paul Guggenheim Foundation has decided to award the next Paul Guggenheim Prize of 12,000 Swiss francs in 1991.

The Paul Guggenheim Prize is periodically awarded to a monograph of major importance in the field of public international law. The monograph must be of the highest quality and be the work of a person at the beginning of his/her career. Works submitted may be in the form of published books or of manuscripts intended for publication; they may be written in English, French, German, Italian or Spanish. Works which have already received a prize of a similar nature will not be considered.

Applications accompanied by a *curriculum vitae*, a list of publications and five copies of the work submitted *must be received, no later than 31 January 1991*, by: The Paul Guggenheim Foundation, The Graduate Institute of International Studies, 132, rue de Lausanne, 1211 Geneva 21 (Switzerland). Applicants are required to specify whether the work has already been awarded a prize.

The Rules pertaining to the Prize may be obtained at the same address.

INTERNATIONAL COURT OF JUSTICE – COMMUNIQUÉ No. 89/25

The following information has recently been communicated by the Registry of the International Court of Justice:

In the case concerning the *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*, brought before the Court by the Government of the Islamic Republic of Iran on 17 May 1989, the Court, by an Order of 13 December 1989, fixed the following time-limits for the written proceedings:

- 12 June 1990 for the Memorial of the Islamic Republic of Iran;
- 10 December 1990 for the Counter-Memorial of the United States of America.

The subsequent procedure is reserved for further decision.