JUDGMENT OF THE COURT

14 July 1994 *

In Case C-379/92,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Pretura Circondariale di Ravenna for a preliminary ruling in the criminal proceedings before that court against

Matteo Peralta,

on the interpretation of Articles 3(f), 7, 30, 48, 52, 59, 62, 84 and 130r of the EEC Treaty,

THE COURT,

composed of: G. F. Mancini, President of Chamber, acting as President, R. Joliet, F. A. Schockweiler, G. C. Rodríquez Iglesias, F. Grévisse (Rapporteur), M. Zuleeg and J. L. Murray, Judges,

Advocate General: C. O. Lenz,
Registrar: R. Grass,

* Language of the case: Italian.

after considering the written observations submitted on behalf of:

— Matteo Peralta, by Giuseppe Conte and Giuseppe Michele Giacomini, of the Genoa Bar,

— the Italian Government, by Professor Luigi Ferrari Bravo, Head of the Department for Contentious Diplomatic Affairs of the Ministry for Foreign Affairs, acting as Agent, assisted by Oscar Fiumara, Avvocato dello Stato,

— the Commission of the European Communities, by Vittorio Di Bucci, of its Legal Service, acting as Agent,

having regard to the Report for the Hearing,

after hearing the oral observations of Matteo Peralta, the Italian Government and the Commission of the European Communities at the hearing on 9 February 1994,

after hearing the Opinion of the Advocate General at the sitting on 11 May 1994

gives the following

Judgment

1 By order of 24 September 1992, received at the Court on 19 October 1992, the Pretora Circondariale di Ravenna (District Magistrate's Court, Ravenna) referred to the Court for a preliminary ruling pursuant to Article 177 of the EEC Treaty six questions on the interpretation of Articles 3(f), 7, 30, 48, 52, 59, 62, 84 and 130r of the EEC Treaty.

2 Those questions were raised in criminal proceedings brought against Matteo Peralta by the Italian authorities for breach of Law No 979 of 31 December 1982 laying down provisions for the protection of the sea (GURI No 16, of 18 January 1983, Ordinary Supplement, p. 5).

3 Article 16 of Law No 979 provides:

'In territorial waters and internal maritime waters, including ports, it shall be prohibited for any vessel, regardless of nationality, to discharge into the sea or to cause to be discharged into the sea hydrocarbons or hydrocarbon mixtures or any other substances harmful to the marine environment mentioned in List A annexed to this Law.

Vessels flying the Italian flag shall also be prohibited from discharging the substances referred to in the foregoing paragraph even outside territorial waters.'

4 Infringements of those provisions are penalized, under Article 20 of the same Law, by fines of LIT 500 000 to 10 million and terms of imprisonment of up to two years. Professional sanctions may also be imposed. Masters of vessels who are Italian nationals may be suspended for a period of up to two years. Masters who are not Italian nationals may be prohibited from mooring at Italian ports for a period determined by the Minister for the Merchant Navy.

5 It appears from the documents before the Court that Mr Peralta, an Italian national, is the master of a tanker registered in Italy which is specially equipped for the transport of chemicals. The shipowner is a company governed by Italian law.

6 It is established that during the first three months of 1990 Mr Peralta repeatedly ordered the discharge into the sea of water which had been used to flush tanks which had previously contained caustic soda at a time when the vessel was outside the limit of Italian territorial waters (in most cases, in an area lying between 12 and 24 miles from Italian baselines). Caustic soda is one of the harmful substances mentioned in Annex A to Law No 979.

7 After hearing the appeal against the criminal sanctions imposed on Mr Peralta, the Pretore di Ravenna stayed proceedings and referred the following questions to the Court for a preliminary ruling:

'(1) Do the provisions of Articles 16 and 20 of Law No 979/82 constitute restrictions within the meaning of Articles 7, 48, 52 and 59 of the EEC Treaty and are they consequently prohibited by Article 62 of the same Treaty in so far as they are not justified by objective reasons relating to the protection of the public interests of the State in question?

(2) Under Community law as it now stands and in the light of the Community provisions referred to in Question 1, is a rule of a Member State compatible with Community law if it prescribes treatment — even a criminal penalty — (for the nationals of that State) by reason of their nationality, but not for nationals of the other Member States for identical conduct?

And is such a rule of criminal law compatible with the principle of proportionality guaranteed by Community law inasmuch as it entails, *inter alia*, for the master of the vessel the automatic and mandatory additional penalty of the temporary suspension of the exercise of his professional activity and work?

(3) Under Community law as it now stands, can the Member States' retention of competence for matters concerning criminal law affect the fundamental liberties guaranteed by the Treaty, such as the free movement of goods and the freedom of movement of persons and, in particular, do the provisions of Articles 16 and 20 of Law No 979/82 constitute an obstacle to the exercise of those liberties?

(4) Do the principles defended by the Community legal order in the field of the environment, in particular the principle of prevention laid down in Article 130r et seq. of the Treaty, preclude a law of a Member State which, by imposing on national vessels an absolute prohibition against discharging hydrocarbons and harmful substances into the high seas, has, in practice, the effect of forcing such vessels to use an alternative method of discharge, which is inefficient from every point of view and, in any case, contrary to the obligations which that State has undertaken at an international level and in respect of which the Community has adopted implementing measures?

(5) Do the Community principles designed to guarantee that competition between persons supplying shipping and port services in the Community is free but at the same time fair and not artificially distorted and that the demand for services is satisfied with the least possible damage to the environment, and in particular Articles 3f and 84 of the EEC Treaty, preclude a national rule such as the one laid down in Articles 16(17) and 20 of Law No 979/82, which, by imposing an absolute prohibition against the discharge of tank-flushing liquids into the high seas only on vessels registered in the State in question, even though those vessels are equipped with the extremely expensive decontamination equipment prescribed by international agreements ratified by the Community, distorts competition among seaports and shipping companies in the Community?

(6) Is Article 30 of the Treaty compatible with a rule of a Member State which, by imposing an absolute prohibition against discharging hydrocarbons and harm-

ful substances into the high seas exclusively on national vessels, even though they are equipped with the extremely expensive technologies prescribed by the agreements applicable in that field, forces those vessels to utilize special technologies and to use an alternative method of discharge, which is inefficient, costly and, in any case, in breach of the obligations which that State has undertaken at the international level and in respect of which the Community has adopted implementing measures?

In particular, can the criminal penalties in question and the economic burdens which fall exclusively on the national fleet, in a way which is manifestly discriminatory and entirely irrational, be regarded as measures having an effect equivalent to quantitative restrictions on imports since those burdens give rise to additional costs with consequences for the price of the goods transported, as well as affecting imports?'

8 The questions referred for a preliminary ruling concern the rules applicable to the discharge into the sea of hydrocarbons and harmful substances other than hydrocarbons. However, it is established that the main proceedings are only concerned with the matter of the discharge into the sea of flushing liquid containing caustic soda. Consequently, the scope of the questions submitted must be confined to the matter of the discharge into the sea of harmful substances other than hydrocarbons.

9 It appears from all the documents before the Court that the Pretore is essentially asking the Court whether Community law precludes legislation like the Italian legislation in question in so far as it impedes the activities of national undertakings engaged in sea transport, like the undertaking employing Mr Peralta. Such legislation could have the effect of, in particular, slowing down cleaning operations by tankers which could be carried out at sea in compliance with the relevant international agreements which Italy has signed, or of making them more difficult or costly than for vessels of other Member States.

10 The Italian court can see a number of ways in which the Italian legislation could have such an impeding effect and considers the objections which could be made against it. The Italian legislation

— fails to observe 'international agreements ratified in Community law';

— infringes Article 7 of the Treaty by discriminating on grounds of nationality;

— introduces restrictions which are contrary to Articles 3(f), 30, 48, 52, 59 and 62 of the Treaty and, in particular, to the principle of freedom to provide services in the matter of marine transport;

— infringes Article 130r of the Treaty.

Community law as applicable at the time of the events in question

11 The main proceedings concern the application of Italian legislation concerning sea-going vessels and transport by sea. In Part Two of the Treaty, transport is the subject of a separate title, Title IV.

12 In Title IV, Article 84(2) provides that the Council may decide whether appropriate provisions may be adopted for sea transport. By virtue of Article 61 of the Treaty, such particular provisions concern in particular 'freedom to provide services'.

13 On the basis of Article 84(2) the Council adopted Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries (OJ 1986 L 378, p. 1). That regulation entered into force on 1 January 1987. It was therefore applicable at the time of the events in question.

14 However, Article 84 does not exclude the application of the Treaty to transport, and marine transport remains, on the same basis as the other modes of transport, subject to the general rules of the Treaty (see the judgment in Case 167/73 *Commission* v *France* [1974] ECR 359, paragraphs 31 and 32).

Observance of international conventions on the discharge of harmful substances into the sea

15 From the papers in the case it appears that, although its order for reference does not state a question in these terms, the national court is asking this Court about the compatibility of the Italian legislation with the International Convention for the Prevention of Pollution from Ships, called 'the Marpol Convention' (*United Nations Treaty Series*, Volume 1341, No 22484). It appears to consider that this Convention produces effects in the Community legal order.

16 In so far as the Italian court raises the question of the compatibility of the Italian legislation with the Marpol Convention, it is sufficient to find that the Community is not a party to that convention. Moreover, it does not appear that the Community has assumed, under the EEC Treaty, the powers previously exercised by the Member States in the field to which that convention applies, nor, consequently, that its provisions have the effect of binding the Community (see the judgment in Joined Cases 21/72 to 24/72 *International Fruit Company and Others* v *Produktschap voor Groenten en Fruit* [1972] ECR 1219, paragraph 18).

17 Whether a national provision adopted by a Member State is compatible with a convention such as the Marpol Convention is not therefore a matter on which the Court may rule.

Article 7 of the Treaty

18 It must be borne in mind that Article 7 of the EEC Treaty (Article 6 of the EC Treaty), which lays down as a general principle a prohibition of discrimination on grounds of nationality, applies independently only to situations governed by Community law in regard to which the Treaty lays down no specific rules prohibiting discrimination (see the judgment in Case C-179/90 *Merci Convenzionali Porto di Genova* v *Siderurgica Gabrielli* [1991] ECR I-5889, paragraph 11). The question whether legislation of the kind in question in the main proceedings is compatible with the Treaty must therefore be examined with reference to the specific rules implementing that principle.

Article 3(f) of the Treaty

19 The national court enquires whether the principles of Community law for ensuring undistorted competition preclude national legislation like the Italian legislation in question. According to the national court, the legislation causes distortions of competition between ports and shipowners in the Community.

20 The competition rules laid down in the Treaty, and, in particular, Articles 85 to 90, apply to the transport sector (see the judgment in Joined Cases 209/84 to 213/84 *Ministère Public* v *Asjes and Others* [1986] ECR 1425, paragraph 45, and the judgment in Case C-185/91 *Bundesanstalt für den Güterfernverkehr* v *Gebr. Reiff* [1993] ECR I-5801, paragraph 12). The same is true, in particular, for the field of

sea transport (see in particular Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport, OJ 1986 L 378, p. 4).

21 It must be pointed out that, for the purposes of the interpretation of Articles 3(f), the second paragraph of Article 5 and Article 85 of the Treaty, Article 85 of the Treaty, taken on its own, is concerned only with the conduct of undertakings and not with legislative or regulatory measures of the Member States. However, according to settled case-law, Article 85, read in conjunction with Article 5 of the Treaty, requires the Member States not to introduce or maintain in force measures, even of a legislative or regulatory nature, which may render ineffective the competition rules applicable to undertakings. Such is the case, according to that case-law, if a Member State requires or favours the adoption of agreements, decisions or concerted practices contrary to Article 85 or reinforces their effects, or deprives its own legislation of its official character by delegating to private traders responsibility for taking decisions affecting the economic sphere (see the judgment in Case 267/86 *Van Eycke* v *ASPA* [1988] ECR 4769, paragraph 16, and the judgment in Case C-2/91 *Meng* [1993] ECR I-5751, paragraph 14).

22 However, those provisions may not be relied upon as against legislation like the Italian legislation. That legislation does not require or foster anti-competitive conduct since the prohibition which it lays down is sufficient in itself. Nor does it reinforce the effects of a pre-existing agreement (see, to this effect, the judgment in *Meng*, cited above, paragraphs 15 and 19).

Article 30 of the Treaty

23 The national court enquires about the compatibility of the Italian legislation with Article 30 in so far as it requires Italian vessels to carry costly equipment. It asks itself whether this makes imports of chemical products into Italy more expensive and therefore creates an obstacle prohibited by that article.

24 On this point, it is sufficient to observe that legislation like the legislation in question makes no distinction according to the origin of the substances transported, its purpose is not to regulate trade in goods with other Member States and the restrictive effects which it might have on the free movement of goods are too uncertain and indirect for the obligation which it lays down to be regarded as being of a nature to hinder trade between Member States (see the judgment in Case C-69/88 *Krantz* v *Ontranger der Directe Belastingen* [1990] ECR I-583, paragraph 11, and the judgment in Case C-93/92 *CMC Motorradcenter* v *Pelin Baskiciogullari* [1993] ECR I-5009, paragraph 12).

25 Article 30 does not therefore preclude legislation like the national legislation in question.

Article 48 of the Treaty

26 The national court enquires about the compatibility with Article 48 of a system of sanctions such as that laid down in the Italian legislation in question, which, by providing for the suspension of the professional qualifications of Italian masters who fail to observe the prohibition of discharging harmful substances into the sea, punishes Italian masters more severely than masters of any other nationality.

27 The Court has consistently held that the provisions of the Treaty concerning the free movement of workers may not be applied to a situation purely internal to a Member State. In particular, the mere fact that, under the legislation of a Member State, a foreign worker is in a more favourable situation than a national of that Member State is not sufficient to confer on that national the benefit of the Community rules on the free movement of workers if all the circumstances characterizing his situation are confined within a single Member State of which he is a

national (see, to this effect, the judgment in Case 44/84 *Hurd* v *Jones (Her Majesty's Inspector of Taxes)* [1986] ECR 29, paragraphs 55 and 56, and the judgment in Case C-332/90 *Steen* v *Deutsche Bundespost* [1992] ECR I-341, paragraphs 5, 9 and 10).

28 According to the information provided in the present case, Mr Peralta is an Italian national employed by an Italian shipowner having command of a vessel which flies the Italian flag. He is therefore in a purely internal situation and cannot rely on Article 48.

29 It follows that Article 48 does not preclude legislation like the Italian legislation, which lays down provisions under which Italian masters who have failed to observe the prohibition which it lays down may have their professional qualifications suspended.

Article 52 of the Treaty

30 It is not possible to ascertain from the order for reference the reasons for which the national court enquires about the relationship of the Law in question to Article 52 of the Treaty. In the absence of such an explanation, it should be noted that, according to Mr Peralta, the Law in question deprives Italian marine transport undertakings operating vessels flying the Italian flag of the possibility to establish themselves in other Member States and compels them to use cabotage in Italian territorial waters. He also points out that the ports of other Member States do not have the plant for treating flushing liquids which such undertakings need in order to be able to comply with the Italian legislation.

31 Even though, according to their wording, the provisions of the Treaty guaranteeing freedom of establishment are directed in particular to ensuring that foreign nationals and companies are treated in the host Member State in the same way as nationals of that State, they also prohibit the Member State of origin from hindering the establishment in another Member State of one of its nationals or of a company incorporated under its legislation which comes within the definition contained in Article 58. For the rights guaranteed by Article 52 et seq. would be rendered meaningless if the Member State of origin could prohibit undertakings from leaving in order to establish themselves in another Member State (see the judgment in Case 81/87 *The Queen* v *Treasury and Commissioners of Inland Revenue, ex parte Daily Mail and General Trust* [1988] ECR 5483, paragraph 16).

32 However, legislation like the Italian legislation does not contain any provision which can be an obstacle to the establishment of Italian transport undertakings in Member States other than Italy.

33 It should also be recalled that, according to the judgment in Case C-221/89 *The Queen* v *The Secretary of State for Transport, ex parte Factortame and Others* [1991] ECR I-3905, paragraph 23, the conditions laid down for the registration of vessels must not form an obstacle to freedom of establishment. The legislation of the kind in question does not, however, concern the registration of vessels.

34 In the absence of Community harmonization, a Member State may certainly impose, directly or indirectly, technical rules which are specific to it and which are not necessarily to be found in the other Member States on maritime transport undertakings which, like the undertaking employing Mr Peralta, are established on its territory and which operate vessels flying its flag. But the difficulties which might arise for those undertakings from that situation do not affect freedom of establishment within the meaning of Article 52 of the Treaty. Fundamentally, those difficulties are no different in nature from those which may originate in disparities between national laws governing, for example, labour costs, social security costs or the tax system.

35 Article 52 does not therefore preclude legislation like the Italian legislation.

Article 59 of the Treaty

36 The national court is enquiring about a situation in which an Italian master put in command of a vessel flying the Italian flag by a provider of services of Italian nationality claims that Italy, the Member State in which that provider of services is established, is infringing the freedom to provide maritime transport services.

Whether the freedom to provide maritime transport services may be relied upon

37 As the Court finds in paragraph 13 of this judgment, Regulation No 4055/86 was applicable at the time of the events in question.

38 Article 1(1) of that regulation provides:

'Freedom to provide maritime transport services between Member States and between Member States and third countries shall apply in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.'

39 It is clear, first, from the very wording of that article that it applies to maritime transport operations between Member States of the kind in question in the main proceedings. It defines the persons enjoying freedom to provide services in terms which are substantially the same as those used in Article 59 of the Treaty.

40 Second, in a judgment delivered on 17 May 1994 in Case C-18/93 *Corsica Ferries* v *Corpo dei Piloti del Porto di Genova*, [1994] ECR I-1783, paragraph 30, the Court held that the freedom to provide maritime transport services between Member States may be relied on by an undertaking as against the State in which it is established, if the services are provided for persons established in another Member State.

41 Furthermore, the Court has held that the purpose of Article 59 of the Treaty was to abolish restrictions on the freedom to provide services offered by persons not established in the State in which the service was to be provided and that, consequently, the provisions of Article 59 had to apply in all cases in which a person providing services offers those services in a Member State other than that in which he is established (judgment in Case C-154/89 *Commission* v *France* [1991] ECR I-659, paragraphs 9 and 10).

42 Since the vessel which he commands performs deliveries intended for other Member States, Mr Peralta may rely, as against Italy, on an alleged infringement of the freedom to provide maritime transport services recognized by Community law.

The existence of discrimination between vessels owing to the different flags which they fly

43 Under Article 9 of Regulation No 4055/86, which refers to the principle laid down in Article 7 of the Treaty, the minimum requirement applying to legislation such as that in question in the main proceedings is that it must not discriminate on grounds of nationality between persons providing maritime transport services.

44 On this point, legislation of the kind in question meets the requirement of non-discrimination as regards the rules applicable to vessels crossing territorial sea and

internal Italian waters. All vessels, whichever flag they fly and whichever the nationality of the undertakings operating them, are subject to the prohibition on discharging harmful substances.

45 Outside territorial sea limits, the Italian legislation distinguishes between foreign vessels and vessels flying the national flag, which are the only ones subject to the prohibition on discharging harmful substances.

46 According to the Italian Government's and Commission's answers to a question asked by the Court, Italy has not established an exclusive economic zone in the Mediterranean Sea. Consequently, under the rules of public international law, it may exercise its jurisdiction beyond territorial sea limits only over vessels flying its flag.

47 It follows that the difference in treatment arising under legislation such as that in question between vessels flying the Italian flag and vessels not flying the Italian flag, adversely affecting only Italian vessels, does not constitute discrimination prohibited by the Treaty since the Italian legislation cannot be applicable on the high seas to vessels not flying the Italian flag. The legislation of a Member State cannot be open to objection on the ground that it covers only vessels over which that State is entitled to exercise its jurisdiction, beyond the territorial limits of its jurisdiction.

48 Moreover, as the Court repeated in its judgment in Case 155/80 *Oebel* [1981] ECR 1993, paragraph 9, the application of national legislation cannot be held contrary to the principle of non-discrimination merely because other Member States allegedly apply less strict rules (see also the judgment in Case 14/68 *Walt Wilhelm and Others* v *Bundeskartellamt* [1969] ECR 1, paragraph 13).

The existence of restrictions on the freedom to provide maritime transport services

49 The national court indicates that under the Italian legislation restrictions arise on the freedom to provide maritime transport services to other Member States, even if that legislation could not be held to be discriminatory.

50 It must be emphasized that the obstacle to exploitation of which Mr Peralta complains does not arise from the legislation of a Member State on whose territory a transport service is performed but from the legislation of the Member State in which the undertaking has registered the vessel under Mr Peralta's command and in which it is established, namely Italy. The situation of that undertaking in relation to its own Member State of establishment cannot therefore be compared to that of a maritime transport undertaking established in a Member State other than Italy, operating temporarily in that latter State and therefore having to satisfy simultaneously the requirements imposed by the legislation of the Member State whose flag its vessel flies and those laid down by the Italian legislation.

51 However, legislation like the Italian legislation, which prohibits the discharge of harmful chemicals at sea, applies objectively to all vessels without distinction, whether carrying products within Italy or to other Member States. It does not make any distinction regarding services for exported products and for products marketed in Italy. It does not afford any particular advantage to the domestic Italian market, to Italian transport operations or to Italian products.

52 Mr Peralta complains, on the contrary, of the indirect advantages enjoyed by carriers in other Member States who are not subject, on the same conditions, to the

prohibition on discharging residues of caustic soda into the sea. However, in the absence of harmonization of the laws of the Member States in this field, those restrictions are merely the result of the national rules of the country of establishment to which the trader remains subject.

53 It follows from the foregoing that Regulation No 4055/86 does not preclude the contested provisions of a Law such as the Italian Law relating to the discharge of harmful substances into the sea by merchant ships.

54 Consequently, the reference made by the national court to Article 62, to which Article 1(3) of the regulation refers, does not call for a specific response. Article 62, which is complimentary to Article 59, cannot prohibit restrictions which do not fall within the scope of Article 59 (see the judgment in Case C-159/90 *Society for the Protection of Unborn Children Ireland* v *Grogan and Others* [1991] ECR I-4685, paragraph 29).

Article 130r of the Treaty

55 Finally, the national court enquires whether Article 130r et seq. precludes legislation of the same kind as the contested legislation which has the effect of requiring Italian vessels to use an alternative system for treating flushing water, which, in its view, is inefficient and contrary to the international obligations which Italy has assumed.

56 On this point, it should be recalled that, as the Court held at paragraph 17 above, it is not for the Court to rule on the compatibility of a national provision adopted by a Member State with a convention such as the Marpol Convention. Nor may it interpret Article 130r in the light of an international convention which is not binding on the Community and to which, moreover, not all the Member States are parties.

57 Secondly, Article 130r is confined to defining the general objectives of the Community in the matter of the environment. Responsibility for deciding what action is to be taken is conferred on the Council by Article 130s. Moreover, Article 130t states that the protective measures adopted pursuant to Article 130s are not to prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaty.

58 Article 130r does not therefore preclude legislation of the kind in question in the main proceedings.

59 The answer to be given to the national court must therefore be that Articles 3(f), 7, 30, 48, 52, 59, 62, 84 and 130r of the Treaty and Regulation No 4055/86 do not preclude the legislation of a Member State from prohibiting all vessels, regardless of the flag which they fly, from discharging harmful chemical substances into its territorial waters and its internal waters, or from imposing the same prohibition on the high seas only on vessels flying the national flag, or, finally, in the event of infringement, from penalizing masters of vessels who are nationals of that Member State by suspending their professional qualification.

Costs

60 The costs incurred by the Italian Government and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the proceedings pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the questions referred to it by the Pretore di Ravenna, by order of 24 September 1992, hereby rules:

Articles 3(f), 7, 30, 48, 52, 59, 62, 84 and 130r of the EEC Treaty and Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries do not preclude the legislation of a Member State from prohibiting all vessels, regardless of the flag which they fly, from discharging harmful chemical substances into its territorial waters and its internal waters, or from imposing the same prohibition on the high seas only on vessels flying the national flag, or, finally, in the event of infringement, from penalizing masters of vessels who are nationals of that State by suspending their professional qualification.

Mancini Joliet Schockweiler

Rodríguez Iglesias Grévisse

Zuleeg Murray

Delivered in open court in Luxembourg on 14 July 1994.

R. Grass
Registrar
acting as President

G. F. Mancini
President of Chamber