OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN
delivered on 14 January 1987

My Lords,

On 15 November 1983 the Court, on the application of the Commission, declared that Italy had failed to fulfil its obligations under the Treaty in that it had not put into effect quality controls of fruit and vegetables marketed within Italian territory, as required under Article 8(1) of Regulation No 1035/72 (Official Journal English Special Edition 1972 (II), p. 427) and in that it had not provided monthly statements relating to the inspections carried out during the previous month, as required by Article 5(1) of Regulation No 2638/69 (Official Journal English Special Edition, 1969 (II), p. 611) as amended by Commission Regulation No 2150/80 (Official Journal 1980, L 210, p. 5)(Case 322/82 *Commission* v *Italy* [1983] ECR 3689).

Some 15 months after that judgment was given the Commission wrote to ask the Italian Government for its observations. It received nothing but an application for an extension of time which the Commission granted. Having received no further information the Commission, following the issue of a reasoned opinion, began these proceedings on 11 March 1986 for a declaration that Italy was in breach of Article 171 of the Treaty in that it had failed to give effect to the Court's judgment.

In its defence the Italian Government has referred to the difficulties which it encountered in putting this scheme into effect. It said that it has undertaken a detailed study to look into the complex problems involved and that under a bill which was laid before the Chamber of Deputies on 13 March 1986 there was a plan to set up a specialized organization which would be responsible for implementing the Community regulations. The Court has been told today that that bill has not yet attained the force of law and that the infrastructure needed to carry out the Italian Government's obligations does not yet exist.

It is to be remembered that in its judgment on 15 November 1983 the Court, whilst appreciating the difficulties of the Italian Government, referred to the fact that the organization of the market in fruit and vegetables had been established in 1962 and that its current form had been in existence since 1972. The Court added this: 'Although the setting up of an effective system of inspection may have met with genuine difficulties in the circumstances set out above, the period which has elapsed since the implementation of the rules defining the common organization of the market ought to have enabled the Italian authorities to take long ago the necessary steps to resolve the existing difficulties, to ensure the introduction of effective machinery for inspections and to comply with the requirements as to notification laid down in Regulation No 2150/80'.

We are now three years further on. The situation has not been remedied. As a matter of principle even more regrettable is the fact that the Court's judgment has not been complied with. The Commission is plainly entitled to the declaration it seeks and to its costs, to be paid by Italy.