Commission declaration in the Council minutes concerning the Directive on resale rights

(2001/C 208/02)

1. With regard to the substance of the Directive, the Commission underlines that the period stipulated for its application could postpone the full effect of the desired harmonisation by 10 years. As it stated when the Council adopted its Common Position, the Commission believes that the period set out in this Directive is exceptional and must remain so in order to ensure that Community action continues to be effective in the internal market.

2. With regard to the procedure concerning the publication of this declaration, the Commission reaffirms its view that, as guardian of the Treaty, it must express its opinion throughout the legislative procedure, including during the work of the Conciliation Committee, and ensure that any declarations are published in the *Official Journal of the European Communities* at the same time as the Directive. It therefore reserves the right to make use of all the legal means at its disposal if this declaration is not published.

3. In any case, the Commission could not, from a legal point of view, accept that a Council decision on the publication of a declaration in the Official Journal be taken unanimously and not by a simple majority in accordance with the general rule set out in Article 205(1) of the Treaty.

4. In light of the above, the Commission reserves the right to ensure adequate publicity for this declaration.