OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN DELIVERED ON 15 SEPTEMBER 1981

My Lords,

This is an application by the Commission for a declaration pursuant to Article 169 of the EEC Treaty that the Republic of Italy has failed to fulfil its obligations under the Treaty in that in has not adopted the measures necessary in order to comply with a series of seven directives within the periods prescribed therein. Those Directives (76/765 and 76/766 of 27 July 1976, 76/891 of 4 November 1976, 77/95 of 21 December 1976, 77/313 of 5 April 1977, 78/365 of 31 March 1978 and 78/629 of 19 June 1978) were concerned with certain units and instruments of measurement.

The Republic of Italy has not denied that is has failed to comply with the directives. It has explained why the delays occurred. In the first place it refers to the burden imposed upon the national parliament in implementing the many directives which have been issued. It also refers to the fact that the Italian Government has set in motion a procedure to enable the directives to be implemented by decree rather than by parliamentary action. This procedure has not yet been completed.

It is, however, well established in the case-law of the Court that a Member State may not rely upon provisions, practices or circumstances existing in its internal legal system to justify failing to comply with the obligations imposed on it by a directive (see, for example, Case 171/80 *Commission* v *Italy*, 17 February 1981, not yet reported).

In consequence of these decisions of the Court, it is my opinion that the declaration sought by the Commission should be granted and that the Republic of Italy should be ordered to pay the costs of the action.