OPINION OF MR ADVOCATE GENERAL DARMON
delivered on 31 March 1987 *

Mr President,
Members of the Court,

I — 1. In this application, the Commission claims primarily that the Italian Republic failed to adopt within the period prescribed the measures needed to comply with Directive 82/603/EEC of 28 July 1982 [1] amending Directive 75/130/EEC [2] on the establishment of common rules for certain types of combined road/rail carriage of goods between Member States.

II — 2. Directive 82/603/EEC extends the preferential system to combined road and rail transport by inland waterway (Article 1 (2)) and provides for the adoption by the Member States of measures reducing or reimbursing the taxes applicable to road vehicles used in combined transport (Article 8).

III — 3. With regard to transport by inland waterway, the Italian Government pointed out, without being contradicted by the Commission, that there was no network of inland waterways linking Italy and the other Member States of the Community. Accordingly, as Article 1 (2) of Directive 82/603/EEC is not applicable in Italy, the defendant cannot be accused of any infringement in that respect.

IV — 4. As for the tax relief provided for in Article 8 of the directive, the Italian Republic contends that such relief is already available in respect of trailers and semi-trailers, which, by virtue of Italian Law No 53 of 28 February 1983, qualify for a reduction of the tax applicable to road vehicles proportionate to the number of trailers belonging to a single undertaking.

5. However, Article 8 (1) of the directive also refers to 'tractors' as 'road vehicles' in respect of which a reduction or reimbursement of the applicable taxes may be granted. As the Italian Government pointed out at the hearing, there is no tax remission at present in respect of tractors.

6. It was also pointed out at the hearing that, as the structure of the Italian railway network permits the 'rollende Landstraße' — that is to say the loading of the tractor together with the trailers on to the train — to be used only to a limited extent, that mode of transport was very rarely employed by Italian transporters.

7. The restricted use of that transport system cannot preclude the application of the Community directive, particularly since the tax reductions provided for by that directive have as their purpose to promote and give precedence to the use of railways in combined transport.

* Translated from the French.

1 — Official Journal 1982, L 247, p. 6.

2 — Official Journal 1975, L 48, p. 31.

V — 8. Accordingly, I propose that the Court:

Declare that, by failing to adopt, by 1 April 1983 at the latest, the provisions required for the implementation of Article 8 of Directive 82/603/EEC, the Italian Republic has failed to fulfil its obligations under Articles 5 and 189 of the EEC Treaty;

Order the defendant to pay the costs.