OPINION OF ADVOCATE GENERAL SIR GORDON SLYNN
delivered on 14 May 1985

My Lords,

These cases come to the Court by way of references for a preliminary ruling under Article 177 of the EEC Treaty, both dated 9 March 1984, by the Tribunal de grande instance, Verdun, in criminal proceedings pending before the Tribunal.

In those proceedings Claude Chabaud, as managing director of the company which runs the Leclerc supermarket at Verdun, and Jean Louis Rémy, as managing director of the Cora Hypermarket, are charged with infringing the French legislation fixing minimum prices for the retail sale of petrol, in particular Ministerial Decree No 82-13/A of 29 April 1982. Both Mr Chabaud and Mr Rémy pleaded by way of defence that the provisions of that Decree were contrary to Community law, and in order to resolve that question, the Tribunal in each case referred the following question to the Court for a preliminary ruling:

'Is the Decree issued on 29 April 1982 by the Minister for Economic and Financial Affairs and the Minister responsible for Energy of the Government of the French Republic prohibiting the sale in France of regular and super-grade petrol at a price lower than that fixed periodically by ministerial decision consistent with or contrary to the provisions of Articles 3, 5 and 30 of the Treaty of Rome of 25 March 1957?'

The same national legislation was at issue in Case 231/83 *Cullet* v *Centre Leclerc*, in which the Court gave judgment on 29 January 1985. Apart from the fact that Cullet arose from civil proceedings for an order restraining breach of that legislation whereas the present cases arise from criminal proceedings thereunder, the cases involve essentially the same issues of Community law. Although the questions referred by the national court in these cases do not mention all the articles of the Treaty which were dealt with in the Cullet judgment, those questions are clearly intended to establish whether the national legislation in question accords with the principles and objectives of the EEC Treaty and with the particular provisions of the Treaty which implement them.

The observations submitted by the French Government and the Commission add nothing of substance to the arguments put to the Court in the Cullet case. The Court's judgment in that case covered all the issues involved.

In my view, for the reasons given in the judgment of 29 January 1985 in Cullet, the answer to the question referred by the Tribunal should be as follows:

'(1) Articles 3 (f) and 5 of the EEC Treaty do not prohibit national rules providing for a minimum price to be fixed by the national authorities for the retail sale of fuel.

(2) Article 30 of the EEC Treaty prohibits such rules where the minimum price is fixed on the basis solely of the ex-refinery prices of the national refineries and where those ex-refinery prices are in turn linked to the ceiling price which is calculated on the basis solely of the cost prices of national refineries when the European fuel rates are more than 8% above or below those prices.'

The costs of the parties to the main proceedings fall to be dealt with by the national court. No order should be made as to the costs of the French Republic and of the Commission.