OPINION OF MR ADVOCATE GENERAL MISCHO
delivered on 19 April 1988 *

Mr President,
Members of the Court,

1. The questions submitted by the tribunal de grande instance, Nancy, which are the subject of Cases 86 to 89/87 and 149/87, are practically identical to the question referred by the tribunal de grande instance, Mulhouse, in the proceedings between Mr Feldain and the French administration des impôts which were the subject of the judgment of the Court of 17 September 1987 (Case 433/85 [1987] ECR 3521).

2. As for the question submitted by the tribunal de grande instance, Saint-Brieuc, which is the subject of Case 76/87 *Seguela*, it differs from the question referred in the *Feldain* case in that there is no express reference to the formula which determines the power-rating of cars for tax purposes. The national court, however, indicates in its order that its question is identical to the question in the *Feldain* case and we are thus entitled to conclude that exactly the same problem is in issue.

3. As for the substance, examination of the cases has not revealed any feature which was not present in the *Feldain* case.

4. Under those circumstances I can confine myself to referring to the grounds of the abovementioned judgment of the Court and to the opinion which I delivered in that case on 16 June 1987.

5. Consequently, I propose that the Court should give the same answer as in the judgment of 17 September 1987, that is to say that a system of road tax in which one tax band comprises more power-ratings for tax purposes than the others, with the result that the normal progression of the tax is restricted in such a way as to afford an advantage to top-of-the-range cars of domestic manufacture, and in which the power-rating for tax purposes is calculated in a manner which places vehicles imported from other Member States at a disadvantage has a discriminatory or protective effect within the meaning of Article 95 of the Treaty.

6. As regards costs, the normal practice in references for a preliminary ruling should apply.

* Translated from the French.