OPINION OF ADVOCATE GENERAL JACOBS
delivered on 16 January 1997 *

1. In these proceedings the Commission seeks a declaration, under Article 169 of the Treaty, that the Kingdom of Belgium has failed to comply with its obligations under the Treaty by not adopting within the prescribed period the measures necessary to implement Commission Directive 91/659/EEC of 3 December 1991 adapting to technical progress Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos). [1]

2. Article 2 of the directive provides that:

'1. Member States shall adopt and publish the provisions necessary to comply with this Directive by 1 January 1993 and shall forthwith inform the Commission thereof. They shall apply these provisions as from 1 July 1993.

...

2. Member States shall communicate to the Commission no later than 18 months after the date of its adoption the text of the basic provisions of national law which they adopt in the field covered by this Directive.'

3. Belgium has not disputed its failure to implement the Directive. It states in the defence that the necessary measures are under way.

4. It follows that the Commission is entitled to the declaration which it seeks.

* Original language: English.
1 — OJ 1991 L 363, p. 36.

Conclusion

Accordingly I am of the opinion that the Court should:

(1) declare that, by failing to adopt within the prescribed period the provisions necessary to implement Commission Directive 91/659/EEC, the Kingdom of Belgium has failed to fulfil its obligations under the Treaty;

(2) order the Kingdom of Belgium to pay the costs of these proceedings.