# OPINION OF ADVOCATE GENERAL JACOBS

delivered on 12 March 1998 *

1. In these proceedings the Commission seeks a declaration, under Article 169 of the EC Treaty, that Portugal has failed to fulfil its obligations under the Treaty by not adopting within the prescribed period, and/or by not immediately communicating to the Commission, the measures necessary to implement Council Directive 86/280/EEC [1] of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC, as amended by Council Directive 88/347/EEC of 16 June 1988 amending Annex II to Directive 86/280. [2] Directive 76/464 [3] concerns pollution caused by certain dangerous substances discharged into the aquatic environment of the Community.

2. Article 7 of Directive 86/280 provides that:

'1. Member States shall bring into force the measures necessary to comply with this Directive by 1 January 1988. They shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission, immediately after adoption, the texts of the provisions of national law which they adopt in the field governed by this Directive.'

3. Article 2 of Directive 88/347 provides that:

'Member States shall take the measures necessary to comply with this Directive by 1 January 1989 with regard to aldrin, dieldrin, endrin and isodrin, and by 1 January 1990 with regard to the other substances. They shall forthwith inform the Commisson thereof.

...'

4. Portugal has not disputed its failure to implement the Directive and states in its defence that the necessary measures are in the course of being adopted.

5. In these circumstances the Commission's application is clearly well founded.

* Original language: English.

1 — OJ 1986 L 181, p. 16.

2 — OJ 1988 L 158, p. 35.

3 — OJ 1976 L 129, p. 23.

## Conclusion

6. 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 Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC, as amended by Council Directive 88/347/EEC of 16 June 1988 amending Annex II to Directive 86/280, Portugal has failed to fulfil its obligations under the Treaty;

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