3. Orders Adriatica di Navigazione SpA to pay 90% of the costs;

4. Orders the Commission of the European Communities to pay 10% of the costs.

Order of the Court (Third Chamber) of 16 February 2006 — Plato Plastik Robert Frank

(Case C-26/05)

Second subparagraph of Article 104(3) of the Rules of Procedure — Directive 94/62/EC — Packaging and packaging waste — Concepts of packaging manufacturers and packaging materials manufacturers — Manufacturer of plastic carrier bags

1. *Environment — Packaging and packaging waste — Directive 94/62 (European Parliament and Council Directive 94/62, Art. 3(1) and (11)) (see para. 29, operative part 1)*

2. *Environment — Packaging and packaging waste — Directive 94/62 (European Parliament and Council Directive 94/62) (see para. 37, operative part 2)*

Re:

Reference for a preliminary ruling — Landesgericht Korneuburg — Interpretation of Article 3 of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ 1994 L 365, p. 10) — Concepts of 'producers of grouped, sales or transport packaging' and 'suppliers of packaging materials' — Manufacturer of plastic carrier bags

Operative part

The Court:

1. Declares that Article 3(1) and (11) of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste must be interpreted as meaning that a manufacturer of packaging is not necessarily the party associating or bringing together goods and the product intended for packaging. A manufacturer of plastic carrier bags supplied to customers free of charge or for payment in shops must be considered a manufacturer of packaging;

2. Directive 94/62 must be interpreted as meaning that it does not preclude national legislation, such as the Decree of the Federal Ministry of the Environment, Youth and the Family seeking to avoid and recycle packaging waste and certain waste materials and to institute collection and recycling systems, which provides that the manufacturer of packaging, in particular plastic carrier bags, is either to take the bags back after use or to participate in a collection and recycling system for packaging waste, unless an economic operator intervening at a later stage of distribution takes over that obligation and the manufacturer obtains a valid declaration to that effect.