2. *Appeals — Grounds — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 225 EC; Statute of the Court of Justice, Art. 58, para. 1) (see para. 34)*

Re:

APPEAL against the judgment of the Court of First Instance (Second Chamber) of 11 July 2006 in Case T-247/03 *Torres* v *OHIM and Bodegas Muga*, by which the Court dismissed the action brought against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 April 2003 (Case R 998/2001-1) relating to opposition proceedings between Miguel Torres SA and Bodegas Muga SA.

Operative part

1. The appeal is dismissed;

2. Miguel Torres SA is ordered to pay the costs.

Judgment of the Court (Fifth Chamber) of 27 September 2007 — Commission v Luxembourg

(Case C-354/06)

Failure of Member State to fulfil obligations — Protection of the environment — Access to justice

Actions for failure to fulfil obligations — Examination of merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 7)

Re:

FAILURE of Member State to fulfil obligations — Failure to take within the prescribed period the measures necessary to comply with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC (OJ 2003 L 156, p. 17).

Operative part

The Court:

1. Declares that by failing to take in the prescribed period all the legislative regulatory and administrative measures necessary to comply with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;

2. Orders the Grand Duchy of Luxembourg to pay the costs.

Judgment of the Court (Eighth Chamber) of 27 September 2007 — Commission v Spain

(Case C-465/06)

Failure of a Member State to fulfil obligations — Directive 2003/98/EC — Re-use of public sector information — Failure to transpose within the period prescribed