

@import url(../../../../css/generic.css); EUR-Lex - 61996J0172 - EL

Avis juridique important

/

61996J0172

?????? ??? ?????????? (????? ?????) ??? 14?? ??????? 1998. - Commissioners of Customs & Excise ??? First National Bank of Chicago. - ?????? ??? ??? ??????
????????????? ??????: High Court of Justice, Queen's Bench Division - ??????
?????.. - ??? ????? ??? - ??? ????????? - ?????????????? ??????????????. - ?????? C-172/96.

?????? ??? ?????????? ??? ?????????? 1998 ?????? I-04387

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1 ?????????? ?????????? - ?????????? ??? ?????????? - ????? ?????? ?????? - ?????
?????? ????? ??? ??? ?????????? ????? - ?????? ?????? ?????? ?? ?????? ?????? -
????? - ?????????? ?????? - ??????????????

(?????? 77/388 ??? ??????????, ??? 2, ??? 1)

2 ?????????? ?????? - ?????????? ??? ?????????? - ????? ?????? ?????? - ?????
?????? ????? ??? ??? ?????????? ????? - ??? ?????? ?????? ????? - ?????? ?????????? -
????????????? ?????????? - ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????? ?????? ??????
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(?????? 77/388 ??? ??????????, ??? 11, ?, § 1, ????. ??)

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3 ?????????? ?????? ?????????? ??? ?????????????? ??? ?????????????????, ??? ??? ????? ??
????????????? ?????? ?????? ?????? ? ???, ?????? ?????? ?????? ?????????? ???
????????????? ?????? ?????? ?????? ?????, ?????? ?????? ?????? ?????????? ?? ?????? ?????? ??????
??? ??? ?????? ??? ?????? 2, ?????? 1, ??? ?????? ?????? 77/388 ??? ?????????????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?? ?????? ??? ?????? ?????????? ???, ?? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??
????????? ?????? ?????? ?????????? ???, ?? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??

???? ?????? ??? ????? ???? ?????????????? ?????? ?? ??? ????? ???????, ?????????? ?? ?? ???
????? ?????????? ??? ????? ?? ??? ?????????? ??????, ??? ?? ??? ????? ?? ?????? ??
????????????? ??? ????? ?????????? (????? ??????????, ??? ??????????????, ??? ??????????)
???? ?????????? ??? ????? ???? ?????????? ?????, ??? ????? ?? ?????????? ????? ?? ??????????
??? ?? ???????, ??? ????? ?????????????? ?? ?????????? ?? ????? ??????? ??? ????? ?? ?????? ??
????????? ????, ??? ?????? ?????? ?????? ?????? ?? ?????????? ?????? ??? ????? ?? ?????? ??
?????? 2, ??? 1, ??? ????? ??????.

4 ?? ??? 11, ????, ?????? 1, ??????? ??, ??? ?????? ?????? 77/388, ???
????????? ??? ?????????? ??? ??????? ??, ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ??????
??????, ??? ?? ?????? ???, ??? ?????????????? ?????????????? ??? ?????? ???
????????????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ???, ? ???
????????? ??? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??????????
??? ?????????? ??? ?? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? 11,
????? ?, ?????????? 1, ??????? ??, ??? ?????? ?????? ?????? ??? ?????? ??? ? ??? ?????? ?????? ???
????? ????, ??? ?? ?????? ???????, ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????? ? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
?????. ? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????
????????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

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???? ?????? C-172/96,

?? ?? ?? ?????????? ??? High Court of Justice, Queen's Bench Division (???????)
????????) ??? ?? ??????????, ???' ?????????? ??? ?????? 177 ??? ??????? ??, ?? ??
????? ????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ??????????
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Commissioners of Customs & Excise

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First National Bank of Chicago,

? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? 77/388/???
?? ??????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???,
?? ?????? ?? ??? ?????? ?????? ?????? - ??? ?????? ?????? ??? ?????? ??????????????
?????: ?????????? ?????? ??? (?? ??. ???. 09/001, ?. 49),

?? ??????????

(?????? ??????),

????????? ??? ??? C. Gulmann, ?????? ???????, M. Wathelet, J. C. Moitinho de Almeida,
P. Jann ?? L. Sev?n (???????), ???????,

????????? ??????????: C. O. Lenz

?????????: H. A. R?hl, ?????? ??????? ??????????,

????????????? ?????? ??? ?????? ?????????????? ??? ??????????:

- ? First National Bank of Chicago, ?????????????? ??? ?? Paul Lasok, QC, ???' ?????? ???
????????? ?????? Garretts, solicitors,

- ? ?????????? ??? ??????? ??????????, ???????????????? ??? ?? *Stephanie Ridley*, ???
Treasury Solicitor's Department, ???????????? ??? ?? *Nigel Pleming*, QC, ??? ??
Christopher Vajda, barrister,

- ? ??????? ??????????, ?????????????? ??? ??? Catherine de Salins, ?????????????? ???
????????? ?????? ?????????? ??? ?????????? ??????????, ??? ??? Gautier Mignot,
????????? ?????????? ?????????? ??? ??? ??????????.

- ? ??????? ???. ????????????. ????????????, ????????????????. ??? ??? Peter Oliver ??? Enrico Traversa. ??? ???. ????????. ????????????

????????? ?????? ??? ?????? ??????????????

???? ?????? ??? ?????????? ?????????? ??? First National Bank of Chicago,
????????????? ??? ??? David Goy, QC, ??? ?????????? ??? ?????????? ??????????,
????????????? ??? ??? John E. Collins, Assistant Treasury Solicitor, ?????????? ??? ???
??? Nigel Pleming ??? Christopher Vajda, ??? ??? ???????, ?????????? ??? ???
Peter Oliver, ??? ?? ?????????? ??? 25?? ?????? 1997,

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 16?? ?????????? 1997.

????????? ??? ??????????

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1 ?? ??????? ??? 13?? ??? 1996, ? ?????? ?????????? ??? ??????????? ??? 20 ??? 1996, ??
High Court of Justice, Queen's Bench Division, ???????, ??????? ??? ??????? 177 ??? ???????
??, ??? ??????????? ?????????? ?? ??? ?????? ??? ??????? ??? ??????? ??????? 77/388/??? ??
??????????, ??? 17?? ??? 1977, ??? ??????????? ??? ??????????? ??? ??????? ??? ??????? ???,
?????????? ?? ??? ?????? ?????? ??????? - ??? ?????? ??????? ??? ?????? ??????????? ????:
?????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49, ??? ????: ??? ??????).

3 ?? ?????? 2 ??? ?????? ??????? ??????????

«????? ????. ?????????????? ?????? ??????????;

1. ?? ?????????? ?????? ?? ???? ?????? ??????????, ??? ??????????????????? ?? ???????
?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????????? ??, ??? ?????? ?? ???? ??
????????? ?? ????.

2. ?? ?????????? ??????..»

4 ?? ?????? 5, ??????????? 1, ?????? ?? ??????????? ?????? ?? ???:

5 ? ??????? ?????????? ?????????? ??? ??????? 6, ?????????????? 1, ?? ??????????:

«1. ?? "?????? ??????????" ?????????? ????, ????, ? ?????? ??? ?????????? ?????????? ??????
????? ??? ?????? ??? ?????? 5».

6 ????? ?? ?????? 11, ?????? ?, ?????????????? 1, ?????????? ??;

«????? ?????????? ??? ?????? ?????? ??????:

?) ??? ??? ??????????? ??????? ??? ??? ??????? ???????????, ?????? ??? ?????????????? ???
????? ??? ??????????? ??, ?? ??? ?? ??????? ??????? ?????? ??? ??????????? ??? ?????? ???
? ?????????? ?? ?????? ??? ??? ??????? ?????? ? ??????????? ?? ? ?????????? ??? ?????????? ???
??? ????????, ??? ?????? ?? ?????? ???????, ?????????????????????? ??? ??????????? ???
?????????? ??????? ?? ??? ??? ?????? ?????? ?????? ???.

7 ?? ?????? 13, ?????? ?, ?????????? ??, ?????????? 4, ??????:

(...)

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(...)

4. ??? ????????, ?????????????? ??? ?? ??????????????????, ? ?????? ??????
?????????, ?????????????? ??? ?????????? ?????????? ?????? ??? ??????
????????? ??? ?????????? ??? ?????????????? ??? ?????? - ?????????? ??? ??????????
????????????? ?????? ??? ?? ?????, ?????? ? ?? ????? ?????? ??????????, ?????? ??? ??
?????????????, ?? ?????? ??? ?????????????? ?????????? ??? ?? ?????????? ??? ??
????? ?????? ?????? ?????? ??? ?? ?????? »..

8 ?? ?????? 13, ?????? ?, ????????, ??, ??????????, ??????, ?? ?????????? ??? ?? ?????? ???
?? ??????? ???? ?????????????? ??? ?????? ????? ?????????? ?????????? ?????????? ??? ??????
??? ???????????, ????, ??? ?????? ?, ????????, ??, ?????? ??? ??????????.

9 ?? ?????? 17, ??????????? 3, ?????????? ?, ??? ?????? ??????? ??????:

«3. ???????, ?? ????? ???? ?????????? ?? ??? ????? ?????????????? ????. ????. ????. ????. ??????????????
???????, ????. ?????????? 2, ??????? ? ?????????? ????. ????. ?????????????? ????. ????. ??????????????:

(...)

?) ??????? ??? ??? ?????????????? ??? ?? ??? 13, ??? ?, ??????????? ?? ??? ??,
????????????? 1 ??? 5. ??? ? ?????? ?????? ?????? ?????????????? ?????? ??? ??????????

????? ?? ??????? ?????? ??????????? ?????? ?? ?????? ??????????????? ?? ?????????? ?? ??? ??
????? ?? ??????????»

10 ??? ?? ??????? ????? ??????????? ?????? ??? ? ??????? ?????? ????? ?????????????? ??? ??
?????? ?? ????? ?????????????? ?????? (??? ????: ???) ??? ??????? ?????????? ?? ??? ??
????????????? ??????????? ???????????????, ?????? ??? ?????? ??? ??????????????
?????????????. ???? ??? market maker ??? ?? ??? ?????? ?????? ?????? ?????????????? ??
????????? ?? ?? ??????????? ?????????? ??? ?????????? ??? ?????? ??????????????.

11 ? ??????? ??????? ??? ?????? ??? ?????? ?????? ?????? ??????????????? ?? ?????????????????? ??
?????? ?? ??????? ?? ?????????? ??? ?????????? ??? ?????? «????????????? ??? ?????? ??????» (bid
prices) ? «????? ??????????» (offer prices). ??? ??? ??????, ? ??????? ?????????? ??
????????? ?????????? ?? ??? ?????? ?????????? ?? ?????? ?????????????? ???, ??? ??? ??????
????????? ?? ?????????? ?? ??? ?????? ??????, ?? ??? ??? ?????? ??? ??? ?? ??? ??? ???, ??
???? ?????? ?????????, ?????????? ?? ??? ?????? ?????????? ??? ?????? ?????????????, ??? ? ?????? ?????? ??
??? ?????? ?????????? (spread).

12 ?? ?????????????? ?????????????? ?????? ???, ??? ?????? ?????? ?????? «????? ??????????» ??
«?? ??????». ??? ??? ?????? ?????? ?????????? ?????? ?? ?????? ?? ? ?????? ???
????????? ?? ?????????? ??? ?????? ?????? ?????? ??????????, ??? ? ?????????? ??? ? ??????
????????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????????? ?????? ?? ??? ? ?????????? ??? ? ?????? ?????????? ??????????????????
????? ?? ?????????? ?????????? ??????. ?? ??? ?????? ?????????? ?????????? ?????? ???
????????????? ?????? ?????????? ?????? ??? ?????? ?????????? ?????????? ??? ??????????.

13 ?? ?????? ?????????? ?????? ???, ??? ?????? ?????? ??? ?????? ?????? ?????? ??????????, ??
?????? ?? ?????? ?????????? ?????? ??? ?? ?????? ??????????, ?????????????? ? ???
?????? ?? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ? ?????????? ???
??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ??? ?????? ??????.

14 ??? ?? ?????? ??? ?????? ??? ?????? ???, ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??
?????????. ? ?????? ?????????? ?? ?????????????? ?????? ??? ?????? ?????????????? ??????
????????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ?????? ?????? ??? ??????
????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????? ?????? ??? ??????
????? ?? ?????? ?????????????? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ??
????????????? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?? ?????????? ?????? ??????.

15 ? ?????? ?????????? ?? ?????? ??? ??? ?. ?????????? ?????? ??? ?????? ?????? ?????? ??????
????????? ??? ?????????? ?????? ?????????? ?????? ? ?????? ?????????? ?????? ??????
??? ?????? ?? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??
????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????? ?????? ??? ?????? Commissioners ?????? ?????? ?????? ??? ??????
????? ?????? ?????? ?????? ??? Regulation 31 ??? Value Added Tax (General)
Regulations 1985 (????????? ??? 1985 ??? ??? ?????? ?????????? ???, SI 1985 n_
886). ?? ?????? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????.

16 ??? ?????????? ??? ?????? ??? ?? ?????? ?????? ?????? ?????? 1?? ??? 1994 ??? 31??
?????? 1994, ? ?????? ?????????? ??? ?????? ?????????? ??? ??? ?? ??????
?????? ??? ??? ?????? 1993 ??? ??? ?????? 1994, ? ?????? ?????? ???, ??? ???

?????????? ?? ??????? ?? ??????????? ?? ?? ???????????, ?? ??????????????
?????????????? ?? ??????????????????? ?? ?? ??????? ?? ?????????? ??????????????
?????? ??????? 1993 ?? ??????? 1994. ?????????? ?? ? ?????????? ?? ??????????????
?????????????? ??, ??? ????? ??????????? ?? ?? ??????????? ?? ?????????? ??????????
?? ?????????? ??, ??? ????? ?? ????? ??????????????? ??????????????? ?? ?????????????????? ??
???? ?? ???????, ????? ??????? ?? 251 454,90 ????? ??????? (UK£).

17 ?? ??????? ?? 26?? ??????????? 1994, ?? Commissioners ??????????????? ??
?????????? ?? ?????????????? ?????????????? ?????? ?? ?????? ?????? ?????? ? ??????,
?????????????? ?? ????? ?? ?????????????? ????? ?????????????? ?????????????? ??? ??
?????????????? ?? ????? ?? ?????????????????? ?????.

18 ? ??????? ?????? ?????????? ??????? ?? Value Added Tax Tribunal. ?? ???????
?????????? ?? ??????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????? ?? ?? ???????
????????????? ?????????????? ?????????? ??????? ?????????? ? ?????????? ??????? ??
???? ??????? ???. ?? ??????? ?? 12?? ?????????? 1995, ?? Value Added Tax Tribunal
?????? ?? ??????? ???.

19 ?? Commissioners ??????? ???? ?????? ??? High Court of Justice ??? ?? ?????????? ???.

20 ?? High Court of Justice, ?????????? ??? ? ??? ???? ?????? ?????????? ?????????? ??? ??? ???????
??? ??? ?????, ?????????? ?? ?????????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
????????? ?? ?????????? ??????????:

«1) ????? ??? ????? ?????????? ??? ???????? 77/388/??? ??? ???????????, ??? 17?? ??? 1977,
????? ?????????????? ??? ??????????? ??? ?????? ??? ?????, ??? ?????????? ?? ??? ????? ?????? ??????
????????? (????? ??????? ???) ??? ??? ????? ??? ?????????????? ??????????????, ??? ???
????? ??? British Bankers' Association (?????? ?????????? ????????) ??? ??????????
????? ?????????? 1 ??? ???????? ??? ??????????? ??????????????, ?????????? ?????? ??
????????????? ??????????? ?????????? ?????? ? ?????? ?????? ?????? ?? ?????? ??????
?????;

2) ?????? ?????????? ??? ?????????? ?????? ? ?????? ?????????? ?? ????????,
????? ?????? ? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ??????
?????????;»

21 ? ??????? ?? ?????? ?? ?????? ?? ?????? ??????? ?? ?????? ?? ?????;

?? ?????????????? ?????????????? ????? «?? ?????? ?????? ?????? ??????????????, ?? ??????
?????? ??? ?? ?????? ??? ??? ?????????????? ?????? ?????????? ?????????????? ?????? ??
??? ??????? ??????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????? ?? ???
???????, ??????? ?? ?? ??? ????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ???, ??? ??
????? ??? ?????? ?? ?????????????? ?????? ?????????? (????? ??????????, ???
?????????????, ??? ??????????) ????? ?????????? ?????? ? ?????????????? ?????, ??? ??? ?? ???
????????? ??? ?? ?????????? ??? ?? ???????, ?????? ?????????????? ?? ?????????? ?? ???
????????? ??? ??? ??? ?? ?????? ? ?????????????? ??????».

??? ??? ?????? ??????????

22 ?? ?? ???? ????????, ?? High Court of Justice ????? ???' ?????? ?? ?? ??????? ??????
??????????????, ?? ?????? ??????? ?? ?? ?????? ?? ?? ?????? ?????? ?????????????? ??
????????? ?????????????? ????? ?? ?? ?????? ?????? ?????? ?????????? ?? ?? ?????? ??
????? ?????????????? ????? ?? ?? ?????? ??????, ?????????? ?? ?? ?????? ?????? ?????????? ??
?? ?? ?????? ?????????? ?????, ?? ?? ?????? ?????? ?????? ?? ?????????????? ?? ?? ?????? ??????????

(???? ????????????, ???? ????????????, ???? ????????) ???? ?????????? ?????? ?
????????????? ????, ???? ???? ??? ???????? ???? ?? ?????????? ???? ?? ????????, ????
????????????? ?? ???????? ?? ?????? ?????? ???? ???? ?? ?????? ? ?????????? ????,
????????? ?????????? ?????? ? ?????? ?????? ?????? ?? ?????? ?????? ?????? ???? ????
??? ?????? 2, ?????? 1, ??? ????? ??????.

23 ? ???????, ? ??????? ?????????? ???? ?????????? ?????? ???? ?? ??????????????
????????????? ?????????? ?????? ?????????? ?????????? ???? ?????? ???? ?????????????? ??
????????? ??????, ?????????? ???? ???? ??????.

24 ????????, ? ??????? ???? ??????? ?????????? ?????? ???, ??????? ????????????,
??? ?????????????? ?????????????? ???? ?????????????? ?????? ?? ??????????????
????????? ? ?????? ??????? ???? ?????? ?????? ?????? ?????? ?????? ?????????? ????
????? ??? ?????? ??????, ???? ?????????? ???? ???? ?????????? ?????? ??????.

25 ??????, ?????????? ?????? ?????? ? ?????????? ???? ?? ?????????? ???? ?????????????? ??
??? ?????????? ???? ?????? ?????????????? ?????????????? ???? ?????? ??
????????????? ?? «????????? ???» ???? ???? ?????? ???? ?????? 5 ???? ?????? ??????,
????? ?????????? ???? ?????????? ???? ?????????? ?????? ?????? ?????? ?????? ??????, ??
????????????? ?????????????? ?????????? ?????? ?????? ?????? ???? ???? ?????? ???? ??????
6 ??? ??????.

26 ????????, ???? ???? ???? ?? ??????? ?????? ?????? ?????????? ???? ?????? ??????????, ??
????????? ???? ???? ?????? ???? ?????? ?????????? ?????????????? «?? ???????
?????» ???? ???? ?????? ???? ?????? 2, ?????? 1, ???? ???? ??????, ???? ?????? ????
????????? ???? ???? ?????? ?????? ???? ?????????? ???? ?????????? ???? ???? ????
????? ?????? ???? ???? ?????? ???? ?????? ?????? ?????????? ?????????? ?????? ???? ????
????? ???? ?????? ???? ?????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ????
????? ???? ?????? ???? ?????? (????? ??? 3? ?????? 1994, C-16/93, Tolsma,
????? 1994, ?. ?-743, ??? 14).

27 ?????? ???? ? ?????????????? ???? ?????????? ?????????? ?????????? ??????????????
??? ???? ???? ?????? ?????????????? ???? ?????? ?????? ???? ?????? ???? ???? ????
????????? ???, ???????, ? ?????? ???? ?????????? ???? ???? ?????????? ???? ???? (?. ??
????????? ???? Tolsma, ??? 12).

28 ?? ??????????, ???? ?????????????? ???? ?????? ???? ?????????? ???? ????
????????????? ???? ?????????? ?????????????? ?????? ?????? ???? ?????? ???? ??????
?? ??? ?????????? ?????? ???? ?????????? ???? ?????????? ???? ?????? ???? ?????? ????
??? ?? ?????? ?????? ???? ???? ?????????? ???? ???? ???? ??????.

29 ?????? ???? ???? ???? ?????????????? ??????????????, ? ?????? ???? ??????
????????????? ???? ???? ?????? ???? ?????? ?????????????? ?? ?????? ???? ??????
????????? ???? ???? ??????.

30 ?? ??????? ???? ???? ???? ?????? ?????? ?????????????? ???? ?????? ???? ?????? ????
????? ???? ?????? ???? ?????? ?????????? ?????????????? ???? ?????? ????
????? ???? ???? ?????????? ???? ??????.

31 ????????, ?????????? ?????????? ?????? ?????? ???? ?????? ???? ?????? ????
????????? ???? ??????????, ???? ???? ?????? ???? ????, ?? ?????? ???? ??????
?????????.

32 ??????, ???? ???? ?????? ???? ?????????? ?????? ?????? ???? ?? ?????? ???? ??????
????? ???? ?????? ?????????? ?? ?????? ???? ?????? ?????? ?????? ?????? ?????? ????

? ?????????????? ?? ??? ??????? . ??? ???????, ?????????????? ?? ?????????????? ??? ? ???????
????????? ??? ??? ??????? ??? ?????? ?????? ?????? ?????????????? ??? ?????????????? ???
????????? ??? ??? ?????? ???.

33 ?????? ??????? ?? ?????????? ??? ??????? ???, ??? ??? ?????? ?? ??????????????
????????????? ??? ????? ?????????? ??? ?????? ??? ?????????????? ?????? ??????????
????????? ??? ?????????? ???, ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????
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????????? ???, ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
??? ??? ??? ?????? ??? ??????????, ?? ??? ?????????? ??? ?????? ??? ?????????? ???
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34 ??? ??????, ??? ??? ?? ??? ?????? ??? ?????? ??? ?????????????? ?????????????? ???
????????????? ???, ??? ??? ?????? ?? ?????????? ??? ?????????? ?????????? ??? ??????,
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????? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2, ??? 1, ???
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35 ??? ??????, ??? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ? ?????????? ??? ?????? ???
????????????? ???, ?? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ?????????? ???
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(????? ??????????, ??? ??????????, ??? ??????) ??? ?????????? ??? ?
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????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2, ??? 1,
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36 ?? High Court of Justice, ?? ?? ?????? ?????? ???, ???' ???' ?? ?? ??????????????
? ??? ??? ??????????. ???????, ?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ???
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37 ? ?????? ?????????? ??? ? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
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38 ???????, ? ?????? ?????? ??? ? ?????? ??? ?????? ??? ?????? ??? ? ?????????? ???
?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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39 ??????, ? ?????? ?????? ?????????? ??? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? [????????? ???
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??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 77/388/?? -
????? ?????? ??? ?????? ?????? ?????? ???, COM(84) 648 ?????, ?? 1984, C 347, ?. 5]. ?
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 19, ?????????? 1, ??????
????????? ??? ?????? ??? ??????:

«????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???' ??????????
?? ?????? 13, ?? ?, ?????? ??, ?????? 4 ?? 5, ?? ??? ??? ?????? ?? ?????? ???

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?????????????, ????, ??????????, ??? ?????????? ??? ???? ?? ?????? ??? ?????????? ??? ??
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40 ? ?????????? ?????????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
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41 ? ?????????? ???. ???? ????????, ??????????, ???????, ??? ???. ???? ?????????? ???.
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42 ??????? ?? ??????????? ??? ?? ?????? 11, ?????? ?, ??????????? 1, ?????????? ??, ??? ????.
?????? ?? ??????? ??? ? ??? ?????? ?????? ??? ?????? ??????, ??? ??? ?????? ??????? ???????,
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43 ?????????? ?????????? ?? ??????????? ?? ????????, ?? ??????? ?????????????? ?' ????
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44 ????????, ? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ? ?????? ??? ??? ?????????????? ??????????????, ?????? ??? ?????? ??? ???
????????????? ?????????????? ??? ?????? ?????????? ?? ?????????? ??? ?????????? ??? (?)
?? ?? ?????? ???, ??? ?????? ??? 5?? ??? 1994, C-38/93, Glawe, ?????? 1994, ?. ?-1679,
????? 9).

46 ??????????, ?????????? ??? ?????????? ??????????, ?????????? ??? ? ?????????
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47 ????????, ?? ???? ?????? ?????? ??? ? ????????????, ?? ???? ?? ??? ???? ?? ????
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48 ???????, ?????? ?? ??????????? ???, ??? ??????? ??????????? ??????? ?? ???????
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????????? ??? ?????????? ??????? (?????? ??? 27?? ??????? 1993, C-281/91,
Muys' en De Winter's Bouw- en Aannemingsbedrijf, ?????? 1993, ?. ?-5405, ???? 18).

49 ????????, ? ?????????? ?????????????? ??? ?????? ??? ?????? ?????? ?? ????, ???
?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ? ?????????????? ???
???????, ??? ?? ?????? ??? ????????????????, ??? ?????? ?????? ??? ??????????
??? ?????????? ?? ??? ?????? ??? ?????? (??????? ??? 24?? ?????????? 1996, C-288/94,
Argos Distributors, ?????? 1996, ?. ?-5311, ?????? 21 ??? 22). ??? ????????, ??? ???
??????? ?? ???????? ??? ? ??? ?????? ?????? ??? ??? ?????? ?????? ?????? ??????????????
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51 ?? ?????? ??? ?????? ?????????????? ? ?????????? ??? ?????????? ??????????, ? ??????
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(???????, ????),

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1) ??????? ?????? ??????????????, ?? ?????? ??????? ??? ?? ?????? ??? ???
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????????????? ??? ?????? ?????????? (????? ??????????, ??? ??????????, ??? ??????)
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2) ??????? 11, ?????? ?, ??????????? 1, ????????? ??, ??? ?????? ??????? 77/388 ????

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