

@import url(../../../../css/generic.css); EUR-Lex - 61997J0048 - EL

Avis juridique important

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61997J0048

?????? ??? ?????????? ??? 27?? ??????? 1999. - Kuwait Petroleum (GB) Ltd ???
Commissioners of Customs & Excise. - ?????? ??? ??? ?????? ?????????????? ??????????:
Value Added Tax and Duties Tribunal, London - ?????? ??????. - ??? ?????? ??? -
?????? ?????????? ??? ?????? - ?????? ??? ?????????????? ?? ?????????? ??? -
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1 ?????????? ?????? - ?????????? ??? ?????????? - ????? ?????? ?????? - ?????
?????? ?????? ?????????????? ????? - ??? ?????? - ?????????? ??? ??????????
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(????? 77/388 ??? ??????????, ????? 11, ?, § 3, ??????. ??)

2 ?????????? ?????? - ?????????? ??? ?????????? - ????? ?????? ?????? - ?????
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(????? 77/388 ??? ??????????, ????? 5 § 6)

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1 T? ????? 11, ?, ??????? 3, ??? ?????? ?????? 77/388, ?? ?????? ?????? ?? ??????? ???,
?? ?????????? ??? ?????, ??? ?????? ?? ?????????????? ??? ??? ?????? ?????? ??? ?????
????????????? ????, ?????? ?? ?????????? ??? ??? ?????? ??? ?? ?????????? ??? ??????
????????? ?? ??? «?????????» ??? «????????? ??????» ??? ?????? ?? ?????????? ??? ??????
????? ??? ?? ??????? ?? ?????? ??? ?????????? ?????.

2 T? ?????? 5, ?????????? 6, ??? ??? ???? ??????? 77/388 ?????????? ?? ?????????? ??
????????? ?????? ??? ??????, ??? ?????????? ??? ?????, ?????? ??? ?????????? ??? ??
????? ?????????? ?? ?????????? ?????, ??? ?? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????????????? ????.
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ? ??????????
????? ??? ?????????? ??? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ??????????
?????, ???????? ??? ?????????? ?????????, ?????????? ??? ?????????? ?????????? ??? ?????? ??? ??????????
????????? ??? ?????????, ???????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?? ?????? ??? ?????????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ???? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????? ????. ???????, ??? ?? ?????? ??? ?????? ?????? ??????, ? ?????????? ??? ??????????
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???? ??????? C-48/97,

??? ????? ?? ??????????? ?????? ??? VAT and Duties Tribunal, London (???????? ?????????),
???? ?? ???????????, ???' ?????????? ??? ?????? 177 ??? ????????? ??, ?? ??? ?????
?????????, ??? ??????? ??? ??????? ??? ??????? ?????? ??? ?????? ??? ?????????? ??????????
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Kuwait Petroleum (GB) Ltd

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Commissioners of Customs & Excise.

? ?????? ?????????????? ?????????? ?? ??? ???? ?????????? ??? ?????? 2, ?????? 1, 5,
?????????? 6, 11, ?, ?????????? 3, ?????????? ?, ??? 27 ??? ????? ??????? 77/388/??? ???
??????????, ??? 17?? ??? 1977, ??? ?????????????? ??? ?????????????? ??? ?????????? ???
????????? ?? ??? ?????? ?????? ?????? - ??? ?????? ?????? ??? ?????????????? ????:
????????? ?????????? ??? (?? ????. ??? 09/001, ?. 49),

?? ????????????,

?????????? ?? G. C. Rodríguez Iglesias, ???????, P. J. G. Kapteyn ??? G. Hirsch
(?????????), ?????????? ????????, G. F. Mancini, J. C. Moitinho de Almeida, C. Gulmann, D. A.
O. Edward, L. Sevén ??? M. Wathelet, ????????

????????? ??????????????: *N. Fennelly*

??????????; D. Louterman-Hubeau. ???? ?????????? ???????????.

????????????? ???? ?? ?????? ?????????????? ??? ?????????;

- ? Kuwait Petroleum (GB) Ltd, ?????????????? ??? ?? John Walters, QC, ?????????? ???'
?????? ??? Peter Landon, FCA.

- ? ?????????? ??? ??????? ??????????, ?????????????? ??? ?? John E. Collins, Assisant Treasury Solicitor, ?????????????? ??? ?? Paul Lasok, QC, ??? ?? Philippa J. E. Whipple, barrister,

- ? ??????? ????????, ?????????????? ??? ?? Kareen Rispal-Bellanger, ?????????????? ??????? ?????????? ?????????? ??? ?? ?????????? ?????????? ??? ?? ?????????? ?????????? ?????????? ??? ?? ?????????? ?????????? ??? ?? Gautier Mignot, ?????????? ?????????? ?????????? ??? ?? ?????????? ??? ??

- ? ?????????? ????????, ?????????????? ??? ?? Lu?s Fernandes, ?????????? ??? ?? ??????? ?????????? ??? ?? ?????????? ?????????? ?????????? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? Angelo Cortes?o Sei?a Neves, ?????? ??? ?? ?????????? ??? ??

- ? ?????????? ??? ?????????? ??????????, ?????????????? ??? ?? Peter Oliver, ?????? ??? ?? ??????? ??????????,

?????? ?????? ??? ?????? ????????????,

????? ?????? ??? ?????????? ?????????????? ??? Kuwait Petroleum (GB) Ltd, ?????????????? ??? ?? John Walters, ?????????? ???' ?????? ??? Peter Landon, ??? ?????????? ??? ?? ?????????? ??????????, ?????????????? ??? ?? John E. Collins, ?????????????? ??? ?? Paul Lasok, ??? ?????? ??????????, ?????????????? ??? ?? Gautier Mignot, ??? ?? ?????????? ?????????? ??? ?? Peter Oliver, ??? H?l?ne Michard, ?????? ??? ?????? ?????????? ??? ?? Francesca Riddy, ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?? 1998,

????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????? ?? ?????????? ??? 9?? ?????? 1998,

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1 ?? ?????? ??? 15?? ?????????? 1997, ? ?????? ??????? ??? ?????????? ??? ?? 6 ?????????? 1997, ?? VAT and Duties Tribunal, London, ??????, ?????? ?? ?????? 177 ?? ??????? ??, ??? ?????????????? ?????????? ?? ?? ?????? ?? ?????? ?? ?????? ?? 2, ?????? 1, 5, ?????????? 6, 11, ?, ?????????? 3, ?????????? ??, ??? 27 ?? ?????? ?????? 77/388/?? ?? ??????????, ??? 17?? ??? 1977, ??? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? - ?????? ?????? ?????? ?????? ?????????????? ????: ?????? ?????? ?????? ??? (?? ????. ??? 09/001, ?. 49, ??? ????: ??? ??????).

2 ?? ?????????? ??? ??????? ??? ?????? ?????????? ??? ?? Kuwait Petroleum (GB) Ltd (?? ????: Kuwait) ??? ?? Commissioners of Customs & Excise (?? ????: Commissioners), ??????? ?? ?????? ?????? ??? ?? ?????? ??? ?????? ?????????????? ??? (?? ????: ??), ??????? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ? Kuwait ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? 1991 ??? ?? 1996.

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

3 ?? ?????????? 4 ??? Value Added Tax Act 1994 (????? ??? 1994 ??? ?? ?????
????????????? ????) ?????? ??? ??? ????? ?????????? ??? ???? ??? ?????? ???
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? ?????? ???????. ??? ???? ??? 5:

«1) ??? ?? ?????????? ??? ?????????? ??? ?????????? 2 ??? ?????????? ??????, ??? ?? ??????
???? ?????????? ?????? ?????????? ?????? ???? ?? ?????????? ??? ???? ?????? ??? ?????? ??
????????????? ??? ?????????? ???? ?? ?????????? ???, ??? ?????? ??? ?? ?????? ???
?? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????????, ? ?????? ??? ??????????
????????? ??? ?? ?????? ??? ?????????? ???, ?????????? ?????? ?? ?????? ??? ??????????
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2) ? ?????????? 1 ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ? ?????????? ? ?
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a) ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ?????????????? (?????
?? ?? ??? ?????? ?????? ?????? ?????? ???? ?????? ?????? ?????????? ?????????? ??? ??
?????), ??? ?? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? 10 ?????? ?????????? (...).»

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

4 ??? ?? ??? 2, ?????? 1, ??? ?????? ??????:

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

1. ?? ?????????? ?????? ??? ?? ?????? ??????????, ??? ?????????????? ?? ??????????
????? ??? ?????????? ??? ?????? ??? ?????????? ???, ??? ?????? ??? ?? ?????????? ??? ??
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(...).»

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

«????????? ??? ?????? ?????? ?? ?????? ?????? ???? ?? ?????????? ??? ?????????? ?????? ???
????? ??? ?????????? ???, ?? ?????? ?????????? ??? ?????? ?????? ?????? ???? ??????
??? ?????????? ??? ? ?? ?????? ?????????? ?????? ?, ??????????, ?????????? ??? ??????
????? ??? ??? ??????????, ??? ?? ?????? ??? ? ?? ?????????? ??? ?????????? ???
????????????? ?????? ??? ?????? ??? ?????? ?????? ??? ??? ?????? ?????????????? ???.
??? ??????????????, ??????, ?? ?????????? ??? ?????????? ??? ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???.

6 ?? ??? 11, ?, ?????????? 3, ?????? ??, ??? ?????? ?????? ??????:

«?? ?????????? ??? ??????

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3. ??? ??? ?????? ??? ?????? ??? ??????????????:

(...)

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

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

7 ? ??????? ??? ?????? Kuwait ???????????? ??? ?? ??? «Q8» ??????? ??? ??????
?????? ??? ??' ?????? ??? ?? Kuwait, ?? 110 ?????? ???????? ??? ?? ??????? ???
??? ???????????? ?? ??? ? ?????? ?????????????? ??? ?? ?????????? ???, ??? ?? 500
?????? ?????????? ?????? ?????? ?????? Kuwait ?????? ?????? Q8 ??
??????????.

8 ?????? ??? 1991 ??? ??? 1996, ? Kuwait ?????????????? ??? ?????? ?????????? ???
??????, ??? ??? ?????? ?????? ?? ?????? ??? ?? ?????? ?????? ??? 160 ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????, ?????????? ??? ?????? ??????
?? ?????? «Q8 Sails» ??? ??? ?????????? ?????? ?????? ?????? ?????? ??????????
???????. ? ??? ??? ?????? ??? ???? ?????????? ??? ?? ?????? ?????? ?????? ???
????????? Q8 Sails (??? ????: ?????? Q8) ??? ??? ??????????, ??? ??? ?????? ???
????????? ?????? ?????? ?????? Q8, ??? ??????, ??????????? ??, ??
???????, ??? ?????? ??? ?????? «????? ?????», ??? ?, ?? ?????? ???????????,
????????? ??? ?????????????? ?? ??? (????? ?????????? ??????) ??? ? Kuwait
????????? ??? ?????????? ?? ??? ?????? ?????? ?????? ?????????????? ??????????.

9 ??? ??? ??? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Kuwait, ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
???????. ?? ?????? ??? ???, ?? ?????? ??? ??? ??? 0,22 ??? ??? ??? ??????, ??? ??
1993 ?? 0,33 ??? ??? ???.

10 ?? ?????? ??? 16?? ?????? 1995, ?? Commissioners ?????????? ??? ? Kuwait, ? ???
???? ?????? ?? ?????? ??? ?????????????? ??? ?? ?????? ??? ?????? ??? ??????
????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? Q8, ?????? ?? ?????????? ???
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 10 ??? ?????? ???,
?? ?? ?????????? ??? ?? ??? ??? ?????? ??? ?????? ??? ? Kuwait «????? ? ?? ?????? ???
?????».

11 ? Kuwait ?????? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ??????????
????? ??? ??? ??? ?? ??? ?????? ??? ?????????????? ?? ?????????? ??? ??????????
????????? Q8 ?????????? ??? ?????? ?? ?????? ??????, ?????????? ??? ? ??????????
????????? ?? ?????????? ??? ??? ?????? ??? ??????, ??? ???, ??? ? ?????????? ???
????????? ??? ??? ??? ?????? ?????? ??? ??? ??? ?? ?????????? ?????????? ??? ??????
?? ?????????? ?????? Q8, ?????? ??? ??? ?????????? ??? ??? ??? ?????????? ??? ??????
????? ???.

12 ?? VAT and Duties Tribunal ?????? ??, ?????? ??? ?????????? ??????, ? ??????????
????????? Q8 ??? ?????? ?????? ?? ?????????? ?????????? ??? ?????? ??? ?? ??? ??
????? ??? ??? ? ?????? ??????. ??????, ?? ?????????? ??? ?????? ?????? ??? ?? ??????
Q8 ?????????? ?? ?????????? ??????.

13 ??????, ?? ?? ??? ??????????? ???????? ?? ? ????? («consideration») ??? ??????
????? ?? ?????????? ?????????? ?????????? ?????? ?? ?????? ?? ?????????? ?? ??????????
(«consideration»), ? ?????? ??????? ?? ? ??? ?????? ?????? ?????? ???????????, ??? ??????????
??????, ?? ??? ?? ? ?? ????. ???????, ?????????? ?? ???? ?????? ?????? ?????? ?????? ??
????????? ??????? ?? ???? ?? ?????? ?? ?????? ?????? ?????? ?????? ???, ?? VAT and Duties
Tribunal, London, ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ???? ?????????? ??
?? ??????? ??????????:

«????? ??? ?????????? ?????? ?????????????? ?????? ?????????? ?????????? ??? ?????????? ???, ???
?????? ?? ?????, ?? ?????? ??????:

- i) ? ?????????????? ?? ?????? ?????????? ?????????? ?? ???? ?????? ?????????? ??? ??????????
??????, ?????? ?? ??? ?????? ?????? ???????????, ?????? ?? ?????????? ??? ??????????
?????????.
- ii) ?????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??????
iii) ?? ????? ?????????????? ?? ?????????? ?? ?????????? ?????????? ?????????? ??? ? ??????????
????? ?? ?????????? ?? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ??????
????????? ?? ?????? ?????, ?????? ?? ?????? ?? ?????????????? ?????????? ?????????? ??? ??
?????????,
1) ?????? ? ?????? "????????? ?? ?????????? ?????????? ??????????, ?? ?????????????? ???
????????? ? ??? ?????? ??? ?????? ?????????????? ??? ??????", ??? ?????????? ???
????? 11, ?, ?????????? 3, ??????? ??, ??? ?????? ?????? ??? ??????????, ?? ??????????
??? ??? ?????? ??? ?????????? ?? ?????????? ?????? ??? ?????? ??? ?????????????? ??
????????? ??? ?????????? ??? ??????????;
2) ?????? ? ?????????? ?? ?????? ?? ?????????????? ?? ?????????? ??? ?????????? ???
????????? ?? ?????????? ??? "????????? ?? ?????????? ??????" ??? ??? ?????? ??? ??????
5, ?????????? 6, ??? ?????? ???;
3) ??? ? ?????? ??? ?????????????? ?? ?????????? ??? ?????????? ??? ??????????
????????? ??? ? ?? ?????? ??? ?????? ??? ?????????? "?? ?????????? ????", ?????? ??
????? 5, ?????????? 6, ?? ?????????? ??? ??? ?????? ??? ?????????? ?? ??????????
????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??????, ?????? ??? ?????? ???
????? ?????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ???;
4) ?????? ??? ??? ?????????? ??? ?????? ?????????? ??? ??????????
?) ??? ? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
?? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ?????????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???;
?) ??? ? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ? ?? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ???? ?
?? ??????;
5) ?? ?????????? ?????????? ?????????? ??? ?????? ???, ?????????? ?? ??????
?????????, ?????? ??? ?????? 27 ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ??????????
????? ??? ? 1977, ?? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ??? ??? ???

?????? ?? ?????????? ?????? ??? ???????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ?? ?????? ?? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ??????????
??? ????????, ??????? ?? ?????????? ?? ?????????? ?????? ??? ?????????? ?????? ???? ?????????? ?????? ? ??????
????????????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ??????;»

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

14 ?? ?? ?????? ??????? ??, ?? ?????? ??????????? ?????? ?? ???? ?? ?? ?????? 11, ?,
?????????? 3, ??????? ??, ?? ?????? ??????? ??????? ?? ??????????? ?? ??? ??????? ??
?? ??? «?????????» ?? «????????? ???????» ??????? ?? ??????? ?????? ?????? ??? ??
???????? ?? ?????? ?? ?????????? ?????? ?? ?????????????? ?? ?????????? ??
????????? ???????.

15 ???????, ?????? ?? ?????????? ?? ?????????? ??? ???? ? Kuwait ??? ?????????? ???
?????? ??? ?????? ?????? ?????? ?? ?????? ? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??????. ????????, ?????????? ??? ?? ?????? ?????? ??????????, ??? ?? ?????? ???
????????????? ?? ?????????? ?????? Q8, ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
??? ??????? ?????? ??????. ??????, ?????? ??? ?? ?????? ?????? ??? ??? ?????? ???
??? ?????? ??? ?????? ???.

16 ????? ?????? ??????? ? ?????????? ?? ?????????? ??????????, ? ?????????? ??? ? ???????????
??????????, ? ?????????? ?????????? ? ? ?????????? ?????????? ?????????? ?????????? ??? ??????????
?????? ?? ???????? ??????. ??????????????, ?? ?????? ?? ??? «????????? ??????????» ???
«?????» ?????????? ?? ?????? ??? ?????? ??? ?????????????? ?????????? ????.
?????????, ??? ? ?????? ?????????????? ?? 100 % ??? ????, ?????????? ???
????????????? ?? ?????? ?? ?????????? ?? ?????????? ??????. ???, ? ?????????? ?????? ??
????????? ????. 5, ?????????? 6, ??? ????.

17 ????????, ??? ?????? ???????? ??????? ?? ?????? ? ?????????? ??? ?? ?????? 11, ?, ???????????
3, ????????, ??, ??? ?????? ???????? ??????? ?? ??????????? ??? ?? ??????? ??, ??, ??, ??, ??, ??, ??,
«?????????» ??? «????????? ??????????» ??? ??????? ?? ?????????? ??????? ?????? ?????? ??? ??,
????????? ?? ??????? ??? ?????????? ???????.

???? ???? ??????????, ??????? ??? ?????????? ??????????

18 ?? ?? ????????, ????. ?? ?????? ???. ????????. ????????. ??, ?? ?????. ??????. ?? ??????????. ???.
???????, ?? ??????. ??????????. ?????? ???. ?????? ???. ?? ??. ?????? 5, ??????????. 6, ??? ??????
???????. ??????. ???. ??????????. ????. ???. ??????. ????. ???. ????????, ????. ??????????. ????????,
???????. ????. ??????????. ??????. ??????. ??????. ??????. ???. ??????. ??????. ??????. ??????. ???. ??????
?????, ??????. ????. ??????. ??????. ??????. ??????. ??????. ??????. ????. ??????. ????. ??????. ??????.
?????. ??????. ????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. ??????. 7 ????. 9 ????.
?????. ??????. ??????. ??????. ??????. ????. ??????. ???. ??????. ??????. ???. ??????. ??????. ??????. ????. ????.
?????. ????. ??????. ??????.

19 ?? ??????????, ?????? ?? ??????????? ??, ?? ??????????, ? ?????????? ?????? ??
????????? ?????????? Q8 ?????? ??? ?? ?????? ?? ???????????, ?????? ??? ??
Kuwait, ??? ?? ??? ?? ??????????? ??????????? ?? ?????????? ??? ??????? ??
????????????? ? Kuwait, ?? ?????????? ?? ?????????? ??????????? ??, ??? ??????????
?? ?????? ????????, ? ?????? ?? ??????? ??????. ??? ?? ??? ?? ???, ?
?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?????????? ?? ?? Kuwait ??????? ??
????? ?? ??????, ?????? ?? ?? ????? 17, ?????????? 2, ??????? ??, ??? ?????? ??????,
??? ?????? ?? ?? ??? ??????????? ?? ??? ?? ?????? ?? ?????? ??????

20 ????? ??? Kuwait, ?? ??????? ??? ?? ?????? ??? ?????????? ?????????????? ??? ???
??????? ??? ?????????????? ??? ?????????? ?? ?????????? ?????????? ??? ?????? 5,
????????? 6, ??? ??? ????? ??????. ? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ??????
????? ?????? ?????? ?????? ?????? ??????, ?????? ? ??? ?????? ?????? ??????????????, ???
????? ??? ?????? ?? ?????????? ?????? ??? ?????????? ?? ??? ?????? ?????????? ?? ??????????
????????? ??? ??????, ? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ???
????. ???, ? ?????? ?????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????????? ???
????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???.

21 ??????, ??? ?? ?????????? ??? ? ?????? ??? ?????? 5, ?????????? 6, ??? ???
??????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ??????????
????? ??? ? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ???
????????? ??? ??? ??? ?????? ?????????? ? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
(?. ??? ?????????? ??? 6?? ??? 1992, C-20/91, De Jong, ?????? 1992, ?. ?-2847, ????? 15,
??? ??? 26?? ?????????? 1996, C-230/94, Enkler, ?????? 1996, ?. ?-4517, ????? 33).

22 ??????, ??? ?? ??? ?????? ?? ??????? ??? ?????????? ??? ?? ?????? 5, ?????????? 6, ???
????, ??? ?????? ?????? ?????????? ?? ??????? ??? ?????? ?????? ???, ??????,
????????? ?? ??? ??? ??????, ??? ?????????? ??? ???, ?????? ??? ?????????? ??? ??
????? ?????????? ?? ?????????? ??????, ??? ?? ?????? ??? ?????? ??? ?????? ??????????
????????? ??? ?????? ?????? ??? ?????????????? ???, ?????, ???' ?????, ?? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ??? ?????????? ???, ? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ??????
??? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??????
????????, ?? ?????????? ??? ?????? ?????????? ?? ? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ??? ? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ??? ??? ?????? ??? ?????????? ???.

23 ??????, ??? ?????? ? ?????? ?????????? ??? ?????? 26 ??? ???????? ???, ?
??????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 5, ?????????? 6, ???
????? ??????. ??????????, ?? ?????? 6 ??? ?????????? ? ??? ?????? ??????
67/228/??? ??? ??????????, ??? 11?? ?????? 1967, ??? ?????????? ??? ??????????
??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? - ?????????? ??? ??????
????????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? (?? ???, ???, 09/001, ?, 5),
????? ??? ?? ?????? 5, ?????????? 3, ?????? ??, ??? ?????????? ??? ?????? ??????, ???
????? ? ?????? ?????? ??? ?????? ??? ?????? ?????? 29 ?????? 1973 (?? ?????????? ???, C
80, ?, 1), ??????, ?????? ???, ???, ?????? ??? ?????? ??? ?????? ??????, ?? ??????????
????????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ?? ??????, ??????????, ??????
?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??????????
?? ?????? ?????????? ??? ?? ? ?????? ??????????, ?????? ??? ?????? ?????????? ??? ??? ??????
?? ?????????? ???, ?????, ??? ?? ?????? ??? ?????? ?????? ??????, ?? ??????????
????????? ??? ?????? ???.

24 ? Kuwait ?????????? ?????????? ??? ?? ?????? 5, ?????????? 6, ??? ?????? ?????? ???
??? ??????? ??????, ??? ?????? ??? ?????? ??? ?????, ??? ?????????? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????????? ??? ?????? ???, ??? ?????? ???, ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ???, ??? ?????? ??? ? ?????? ?????? ??? ?????? ?????? ?????? ??????
????? ?????? ??? ?????? ??? ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? Kuwait. ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???

?????????? ??? ???????? Q8 ??? ??? ??????? ??? ??????? ?????? ??? ????????,
?????????? ??? ???????? ??? Kuwait.

25 ????????, ? ????????, ??? ??????? ????? ???????, ? ??????? ??? ? ????????,
????????? ??????? ???, ?? ??? ??? ??????????? ??? ?????? ??? ??????? ?? ??????? ??
????????? ?? ?? ????? ??? ??? ?? ?????? ??? ?????? ???????????, ?? ??? ?????? ??? ??
????????? ??? ????? ??? ?????? ??? ?????? ???????, ??? ??????? ?????? ??????????? ??
?? ??????? ??? ?? ??? ??? ??? ???????????.

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

27 ?????? ?? ??? ?????? ??? ??????? ??????????? ??? ?????? ?? ??????? ??, ??? ?????? ??
???????, ?? ?????? ??? Kuwait ????? ???????, ?????????? ??? ?????? ?? ???????????
??????????, ??? ?????? ??? ?????? ??? ??????????? ??? ?? ???????, ??????????? ??? ??
????????? ?? ???????????, ?????????? ?? ?????????? ??? ?????? ??? ??????? Q8 ? ??? ??
??? ??????????? ??? ?? ?????????? ?? ???????, ?????? ?? ?????????? ??? ??
????????? ??? ??????????? ??? ?????????? ?? ?????????? ??? ?? ?????????? ??? ??
????????? ??? ??????????? ??? ?????????? ?? ?????????? ??? ?? ?????????? ??? ??.

28 ??????, ??????????? ? ?????????? ???, ??? ? ?????? ?????????? ?????? ??? ??????
43 ??? ?????????? ???, ? ?????? ??? ??????? ??? ? ?????????? ?????? ?? ?????????? ???
????????? ??????? ??? ???????.

29 ???????, ??? ?????? ??? ?????? ??? ?????, ?????? ??? ?????? ??????? ??? ??????
??????????, ??? ?????? ??? ?????????? ??? ?????? ?? ?????????? ?????????? Q8, ??? ??
?????????? ?? ?????????? ??? ?????, ??? ??? ?????? ??? ?????? 5, ?????????? 6, ???
????? ???????, ??? ? ?????? ??? ?????????? ?? ??????? ?? ??????? ??? ?????? ???
?? ?? ?????? ??? ?????? ???????.

30 ??????, ?? ?????? ??? ??????????? ?? ?????????? ?????????? Q8 ???????????????,
??? ?????? ??? ?????????? ??? ?????????? ? Kuwait, ?? ???.

31 ???????, ??? ??????????? ??? ? ?????????? ?????? Q8, ?????????? ??? ??
????????? ?? ???????, ?????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??
????????? ??????? ??? ?????, ?? ?????? ? Kuwait ? ?? ?????????? ?????????? ???????,
????? ??? ?????? 22, ?????????? 3, ??? ?????? ???????, ?? ?????? ??? ?????? ?????? ???
????? ?? ?????? ?????????? ???, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ???, ? Kuwait ??? ?????? ?? ?????????? ?????? ???, ?? ?????????? ?? ??
????????? ??? ?????????? ??? ???????, ?????? ??? ?????????? ??? ?????????? ??? ??
????? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? Q8 ? ??? ?????? ???
????????????? ?? ?? ??????? ???.

32 ??????, ??? ??????, ??? ??? ?????? ?????? ?????? ?????? ?? ?????? ??? ??????? ??? ??
????? 5, ?????????? 6, ??? ?????? ?????? ?????? ?? ?????????? ??? ??? ?????? ??? ??
??????, ??? ?????????? ???????, ?????? ??? ?????????????? ??? ?????? ?????? ??? ??
????????? ??????? ??? ?????? ???????, ?????? ??? ?????????? ???????, ?????? ??? ???????,
????????? ??? ?????? ??? ?????? ?????? ??????? ??? ???????, ?????? ??? ??????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ???????, ?????? ??? ??????? ??? ??
?? ?????? ??? ?????? ?????? ???, ?? ?????????? ?? ?????? ??? ??????? ???, ?????? ???

?????? ??? ?????????? ????.

33 ?????????????? ??? ????? ?? ?????????? ??? ?????? ??? ??????, ??? ????? ?? ??????
??????, ??? ?????????? ?? ????? ?????? ??? ?????? ???????.

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34 ?? ??? ????? ?? ????? ?????????? ? ?????????? ??? ?????????? ??????????, ? ??????? ??? ?
?????????? ?????????? ??? ?????? ??? ? ???????, ??? ?????????? ?????????????? ???
??????????, ??? ??????????. ?????????? ??? ? ??????? ?????????? ??????? ?? ??? ???
????????? ??? ?????? ?????? ??? ?????????? ?????????????? ??? ??????? ?????? ?????
?????? ???????????, ?' ??? ?????????????? ?? ?????????? ??? ??? ?????????? ???????.

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VAT and Duties Tribunal, London, ???????????:

1) T? ??? 11, ?, ?????????? 3, ?????????? ??, ??? ?????? ??????? 77/388/??? ???
??????????, ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ??????? ???, ???
????????? ?? ??? ?????? ?????? ??????? - ??? ?????? ?????? ??? ?????????????? ????:
????????? ?????????? ???, ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ???
«?????????» ??? «????????? ??????» ??? ?????? ?? ?????????? ??? ?????? ??? ?? ??
????????? ?? ?????? ??? ?????????? ???.

2) T? ??? 5, ?????????? 6, ??? ?????? ?????? 77/388 ?????? ?? ?????????? ??? ??
?????? ??? ? ???????, ??? ?????????? ???????, ?????? ??? ?????????????? ??? ???????????
????????? ?? ?????????? ??????? ??? ?????? ??? ?????? ?????, ?????? ??? ???????????
??????????, ?????????????? ??? ?????? ??? ?????? ?????? ??????? ??? ???????, ??????? ??
?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????? ???,
??????, ??? ?? ?????? ??? ?????? ?????? ???, ?? ?????????? ?? ?????????? ?? ??????? ???
?????? ??? ??? ?????? ??? ?????? ???.