

@import url(../../../../css/generic.css); EUR-Lex - 61998J0397 - EL

Avis juridique important

/

61998J0397

?????? ??? ?????????? (?????? ?????) ??? 8?? ??????? 2001. - Metallgesellschaft Ltd ???
?????? (C-397/98), Hoechst AG ??? Hoechst (UK) Ltd (C-410/98) ??? Commissioners of Inland
Revenue ??? HM Attorney General. - ?????? ??? ??? ?????? ?????????????? ??????????: High
Court of Justice (England & Wales), Chancery Division - ?????? ??????. - ??????????
????????????? - ?????? ?????????? ??? ?????????? - ?????????? ??? ?????? ??????????
??? ??? ?????? ??? ??????? ? ?????????? ??? ??????? ?????? - ??????? ??????
????????? ?? ??? ?????? ????? - ?????????? ??? ?????????? ?????? - ?????? ???
????????? ?? ??? ?????? ?????????? - ????. - ?????????????? ?????? C-397/98 ??? C-
410/98.

?????? ??? ?????????? ??? ?????????? 2001 ?????? I-01727

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

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

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

[?????? ??, ??? 52 (??, ??? ?????? ???????????, ??? 43 ??) ??? ??? 58 (??, ???
48 ??)]

2. ??????? ?????????? ??? ??????? - ??????? ?????????? - ?????????? - ??????????
????????? - ????. ?????? - ?? ?????????? ?????? ??? ?????? ?' ?? ?????? ????
?? ??????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????????? ??
????????????? ??? ??? - ?????????? ??? ?????? ?????? ?????? ??????????, ?????? ??????????
????????? ???????, ?? ?????????? ??? ??? ?????????? ??? - ?????? ??? ??????????
????????? - ?????????? ?????????? ??? ?? ?????? ??? ?????????? ??? ??? ?????????? ???
????? - ?????????? ??? ?????? ?????? ? ?????? ??? ?????????? ??? ??? ?????????? ??????????
????? - ?????????? ??? - ?????????? ?????? ??? ?????????? ??? ??? ?????????? -
????????? ??? ?????? ?????? - ??? - ?????????? ??? ?????? ??? ?????? ??? ?????????????? ???
????????? ??? ???????

[?????? ??, ??? 52 (???, ?????? ????????????, ??? 43 ??) ??? ??? 58 (???)
48 ??)]

?????????

1. ?? ??? 52 ??? ??????? (???, ?????? ????????????, ??? 43 ??) ??????????
????????? ?????? ?????? ?????? ??? ????? ? ?????? ??? ?????? ?????, ? ???
????? ??? ?????? ?????? ??? ?????? ?' ??? ? ?????? ?????? ?? ?????????? ?????? ?' ???
????? ?????? ?????? ??? ?????? ?????? ?? ?????????? ?????? ?????? ?????? ??????
????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??????, ?????? ? ??????
????? ?????? ?????? ?????? ?' ??? ? ?????? ?????, ??? ??? ?????? ?????? ??
????? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????.

(??, ??? 76, ??????. 1)

2. ?????? ??? ??????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ??????
????????? ?? ?????????? ??? ?????? ?????? ?? ?????? ?? ?????????? ??? ?????? ??????
????? ?????? ?????? ? ?????? ?????? ?? ?????? ?????? ???, ??? ??????????
?????????, ?? ?????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??????
????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
??? ??? ?????? ???, ?? ??? 52 ??? ?????? (???, ??? ?????? ????????????,
????? 43 ??) ?????????? ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ??????????
????????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????, ?????? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ??????.

?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ?????? ?? ??????
????????? ??? ?????? ??? ?????? ?????, ??? ?????? ??? ?????? ?????? ?????? ?? ??????
????????? ??? ??? ?????????? ??? ?????? ?????????? ?????, ??? ?????? ??? ??????
????????? ???, ?????? ??? ?????? ??? ? ?????? ?????? ?????? ??? «?????????» ???
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ??? ?????????? ??? ???
????????? ??? ?????? ?????? 52 ??? ??????.

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

(??, ?????? 87, 96, ??????. 2)

3. ?? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??????, ??? ?????????? ??????
????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ? ??? ?????????? ??? ??
?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????, ?????????? ??? ????
????????? ?????????? ???, ??? ?????? ?????? ?????? ?? ?????????? ?????? ?????? ??????
????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ??????
????? ???.

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

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

(?? . ??????? 102, 107, ??????. 3)

?????????

???? ?????????????? ?????? C-397/98 ??? C-410/98,

?? ?????? ?? ?????????? ??? High Court of Justice (England & Wales), Chancery
Division (?????? ???????), ??? ?? ??????????, ???' ?????????? ??? ?????? 177 ??
????????? ?? (?? ?????? 234 ??), ?? ??? ????? ???????, ??? ?????? ??? ?????????? ??
????????? ??????? ?? ?????????? ?????????? ?????????? ???????

Metallgesellschaft Ltd ?.?. (C-397/98),

Hoechst AG,

Hoechst (UK) Ltd (C-410/98)

???

Commissioners of Inland Revenue,

HM Attorney General,

? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? 6 ??? 52 ???
????????? ?? (???, ??????? ??????????????, ????? 12 ?? ??? 43 ??), 58 ??? ?????????? ?? (??
????? 48 ??) ???/ 73 ? ??? ??????? ?? (?? ?????? 56 ??),

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

????????? ??? ??? A. La Pergola, ??????? ???????, ?. Wathelet (?????????), D. A. O.
Edward, P. Jann ?? L. Sevón, ???????,

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

?????????: L. Hewlett, ??????? ??????????,

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

- ?? *Metallgesellschaft Ltd* ?.?., ?????????????? ??? ??? J. Gardiner, QC, ??? F. Fitzpatrick,
barrister, ??????? ?????????? ??? ??????? *Slaughter and May, solicitors*,

- ?? Hoechst AG ??? Hoechst (UK) Ltd, ??????????????? ??? ???. Barnes, QC, ??????? ??????????? ??? ?????? Slaughter and May, solicitors,

- ? ?????????? ??? ??????? ??????????, ??????????????? ??? ???. J. E. Collins, ??????????? ??? ??? D. Wyatt, QC, ??? R. Singh, barrister,

- ? ?????????? ????????, ?????????????? ??? ???. A. Fierstra,

- ? ?????????? ????????, ?????????????? ??? ???. H. Rotkirch ??? ??? T. Pynnä,

- ? ?????????? ??? ????????, ?????????????? ??? ???. R. Lyal, H. Michard ??? ??? ?. ????,

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

???? ?????? ??? ?????????? ?????????????? ??? Metallgesellschaft Ltd ???.,
????????????? ??? ??? J. Gardiner ??? F. Fitzpatrick, ??? Hoechst AG ??? Hoechst (UK)
Ltd, ?????????????? ??? ??? ?. Barnes, ??? ?????????? ??? ?????????? ???????????,
????????????? ??? ??? G. Amodeo, ?????????????? ??? ??? D. Wyatt, ??? ???????????
??????????, ?????????????? ??? ??? B. Muttelsee-Schön, ??? ?????????? ???????????,
????????????? ??? ??? S. Seam, ??? ?????????? ???????????, ?????????????? ??? ???
A. Fierstra, ??? ??? ????????, ?????????????? ??? ??? R. Lyal ??? ??? H. Michard, ???
?? ?????????? ??? 25?? ??_?? 2000,

???? ?????? ??? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ???????????
?? 12?? ?????????? 2000,

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

??????

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

1 ?? ??? ?????????? ??? 2?? ?????????? 1998 ??? ?????????? ??? ?????????? ??? 6
????????? (C-397/98) ??? 17 ?????????? (C-410/98) ???????????, ?? High Court of Justice
(England & Wales), Chancery Division, ???????, ??????? ??? ?????? 177 ???. ??????? (??
?????? 234 ??), ????? ?????????? ?????????? ?? ??? ??? ??? ??????? ??? ?????? 6 ??? 52
?? ??????? ?? (???, ?????? ???????????, ????? 12 ?? ?? 43 ??), 58 ?? ??????? ??
(?? ????? 48 ??) ???/? 73 ? ?? ??????? ?? (?? ????? 56 ??).

2 ?? ?????????? ??? ??????? ??? ?????? ?????? ?????? ?????? ???????, ??? ??????? C-
397/98, Metallgesellschaft Ltd, Metallgesellschaft AG, Metallgesellschaft Handel & Beteiligungen
AG ??? The Metal and Commodity Company Ltd (??? ????: Metallgesellschaft ???.) ???, ???
?????? C-410/98, ?????? ??? Hoechst AG ??? Hoechst (UK) Ltd (??? ????: Hoechst ???.) ???
?? Commissioners of Inland Revenue, ??????? ?? ??? ?????????? ??? ??????? ?? ???????????
?? ??????? ??????? ?? ?????????? ??? ??????????? ?? ??? ??????? ?? ?? ???????????
?? ??????? ??????? ?? ??????? ?? ??? ???????.

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

3 ?????? ??? ?????????? ??? ?????? ? ?? ?????? Income and Corporation Taxes Act 1988
(????? ??? 1988 ??? ????? ??????????? ??? ???????, ??? ????: ICTA), ?? ??? ???????
?? ????? ??????? ??? ?????? ??????? ??? ??? ??????? ??? ?????? ??? ?????? ???????
????????????? ??? ????? ??????????? ?? ?????????????? ?????????????? ??? ?????? ???????

(«corporation tax») ??? ??? ?????? ??? ?????????????? ??? ?????? ?????? ??? ?????? ?????? ????

4 ??? ?? ????? 12 ??? ICTA, ?? ?????????? ??? ????? ?????????? ??? ?????? ?????? ?????? ????.
??? ?? ?????????? ??? ?? ?????? ??? 1? ?????????? 1993, ? ?????? ??????
?????? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ??????????
????? ??? ?? ??? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ??????
??' ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ??????
????????? 1993, ? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?? ??????
?? ??? ?? ?????????? ???.

????????? ??? ?? ?????? («advance corporation tax»)

5 ??? ?? ????? 14 ??? ICTA, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ???, ??? ? ?????? ?????? ??? ?????? ??? ?????? ???, ???
???? ?? ?????? ?? ?????????? ??? ?????? ?????? («advance corporation tax», ???
????: ACT) ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ???.

6 ?????? ?? ?????????? ??? ? ACT ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????, ??
????? ?????????? ???, ??? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ? ?????? ?????? ???, ?????????? ?????????? ??? ?????? ??? ?????? ???
????? ?????? ??? («mainstream corporation tax», ??? ????: MCT) ??? ?????????? ???
????? ???.

7 ??? ?????? ???, ???' ?????? ??? ??????, ?? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ACT. ? ACT ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???.

8 ?????? ?? ?? 239 ??? 240 ??? ICTA, ? ACT ??? ?????????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???' ???,
?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? MCT ??? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? MCT. ?? ? ?????? ??? ?????? ??? ?????? ??? ??
????? ?????? ??? (?. ?????? ??? ?????? ??? ?????? ??? ?????? ???), ?? ?????? ??? ??
????????? ??? ACT ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????
?????.

9 ??? ? MCT ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ???, ??? ?????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? 1?
????????? 1993, ? ACT ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??
??? ?????? ??? ?? ?????? ??? ?????????? ??? ? ??????. ? ACT ?????????? ???
????? ?????? ??? MCT - ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? (???? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???)
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

10 ?????????? ??? ? ACT ?????? ?? ??????????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????? ??? ??????? MCT ??? ??? ?????? ???, ?? ?????? ?????????? ?????????? ???
???? ??????? ??? ? ?????? ?????????? ??? ??????????, ??? ?? ??????
??????????, ?????? ??????.

? ??????? ???? («*tax credit*»)

11 ?????????? ??? ??????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ?????????? (????? 208
??? ICTA). ??????, ??? ?????????? ?? ACT ?????? ?????????? ??? ?????????? ??????
???? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? («tax credit») ??? ????
????????? ??? ?????????? ?? ?????????? (????? 231, ?????????? 1, ??? ICTA).

12 ? ??????? ?????? ?????? ?? ?? ??? ACT ??? ?????????? ? ?????????? ??????????
?????? ?? ?? ?? ?? ?? ?????? (????? 231, ?????????? 1, ??? ICTA).

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

14 ????? ???? ??????? ?????????? ??? ??????? ?????????, ? ????? ?????????????? ?????? ???
MCT, ??????? ??? ?????? ?????? ?????????? ?????????? ??????? ??? ?? ?????? ??? ?????????? ACT,
?????????? ?????????? ??? ??????? ??? ?????????? ?????? (????? 231, ?????????? 2, ???
ICTA).

16 ?????? ?? 233, ?????????? 1, ??? I C T A, ?????? ?? ?????????? ??????
?????? ?? ?????????? ??? ?????? ?????? ??????, ??? ?? ?????? ?????????? ??????
????????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?? ?????? ???
????? ??? ???????, ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ?????????? ???.

17 ???????????, ?? ? ??????? ??????? ??????? ?????? ?????????? ?????????? ?????? ???

18 ? ??????? ?? ?? ?????????? ?? ?? ??????? ?? ?? 26 ??????? 1964 ?????? ??
?????? ?? ??????? ?? ?? ?? ?????????? ?? ?? ??????? ?? ?? ??????? ??, ??
????????????? ?? ?? 23 ?????? 1970, ?? ?? ?????????? ?? ?? ??????? ?? ?? ??????? ??
????????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ??
????????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ?? ?? ??????? ??.

19 ????? ????????, ??? ?????? ??????? ?? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ?????? ??
?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ACT ??
?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????

ACT ???, ?????? ??? ??????????? ??????????? ??? ??????? ??????????, ??? ???????????
??? ??????? ??????? ??? ?? ??????? ??? ??????? ??? ??? ??? ??????? ???????
???.

20 ???? ??? ??????? ??????? ??? ?? ??????? ??? ??????? ??????? ??? ?? ???????
?????? ???' ??????? ??????? ??? ??????? ??????? ??????? ??????? ??? ?? ???????
?????? ??? ?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?? ???????
?????? ??? ?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?? ???????
?????? ??? ?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?? ???, ?? ?? ???
?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?? ???????
????. ?? ? ?????? ??? ???????, ? ?????? ??? ??????? ??? ??????? ?? ??????? ??? ??????? ???
«Special Commissioners» ? ?????? ??? «General Commissioners» ??? ?? ???????,
??????, ??????? ??? High Court.

? ??????? ??????? ??? («Group Income Election»)

21 ???' ??????? ??? 247 ??? ICTA, ??? ??????? ??? ??????? ??? ??????? ??? ??????? ???
??? ??????? ??? ??????? ?? 51 % ??? ??????? ??? ??????? ??????? ?? ??????? ???
?????? ??????? ??? («Group Income Election»).

22 ? ??????? ??? ??????? ??? ??????? ??? ?? ??????? ??? ??????? ??? ?? ??????? ???
ACT ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?? ??????? ??? ?? ???????
??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ?? ??????? ??? ??????? ??? ?? ???????
??????.

23 ? ??????? ??????? ??? ??????? ??????? ??? ??????? ??? ??????? ??? «Inspector of
Taxes». ?? ??????? ??? ??????? ???, ? ??????? ??? ??????? ??? ?? ???????
??? ??????? ??? «Special Commissioners» ? ??? «General Commissioners» ? ???????
?????? ?? ??????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ??? High Court.

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

25 ??????? ??? ACT ??????? ??? 6 ??????? 1999 ?? ?? ??? 31 ??? Finance Act
1998 (?????????????? ??? 1998). ?? ?????? ??????? ??? ?????????????? ??? ?? ???????
5 ??? 24 ??? ??????? ??? ??????? ??? ??? ??? ??? ??? ??? ??? ??? ??? ??? ???

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

26 ??? ?????? C-397/98, ?? ??????? Metallgesellschaft Ltd ??? The Metal and Commodity
Company Ltd, ??? ??????? ??? ??????? ???, ??????? ??? ??????? ??? ?? ???????
?????? ??? Metallgesellschaft AG ??? Metallgesellschaft Handel & Beteiligungen AG,
??? ??????? ??? ???????, ??? ??? ??? ?????? ??? ??????? ??? ??????? ACT. ???
??????, ?? ??? ??????? ??? ??????? ??? ACT ??? ??? MCT ??? ???????.

27 ?? Metallgesellschaft ??? ??????? ??? Commissioners of Inland Revenue ??????? ???
High Court of Justice (England & Wales), Chancery Division, ?????????????? ??? ???????
????? ??? ??? ???????? ACT ??? ?? ??????? ??? ??????? ?? ?????????? ??? ?????????? ???
????? ?????? ?????? ?????? ?????. ? ????? ??? ????? ?? ?????????? ??? ACT ?????? 16??
????? 1974 ??? 1?? ???????? 1995 ??? ?? Metallgesellschaft Ltd ??? ?????? 11??
????? 1991 ??? 13?? ???????? 1995 ??? ?? The Metal and Commodity Company Ltd.

28???? ?????? C-410/98, ? Hoechst (UK) Ltd, ??? ?????? ??? ?????? ???????, ???????
????? ??? ?????? ?????? Hoechst AG, ??? ?????? ??? ???????, ??? ??????? ???
????? ?????? ACT ??? ?? ??????? ????. ??? ???????, ??????? ??? ACT ??? ??
MCT ??? ?????.

29 ?? Hoechst ??? ?????? ?????? ??? Commissioners of Inland Revenue ??????? ???
High Court, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ACT ??? ??
????? ??? ?????? Hoechst (UK) Ltd ??? Hoechst AG ?????? 16?? ?????????? 1989
?? 26?? ?????? 1994. ? ????? ??? ????? ?? ??? ACT ??? ??????? ?? ???????
????? 14?? ?????? 1989 ??? 13?? ?????? 1994.

30 ?? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ???????, ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ACT, ?? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??????,
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? MCT ??? ??????, ?? ??? ??? ?? ??? ?????? ?????????? ??
????? ?????? ?? ACT ??? ?? ?????? ?????? ??? ??? ??? ?????? ?????? ?????? ??
????? ??? ???? ??? ?????? ?????? ?? ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ??
????? ??? ??? ?????? ??? ?????? ??.

31 ????????, ??? ?????? C-397/98, ? Metallgesellschaft AG ??? ? Metallgesellschaft
Handel & Beteiligungen AG ?????????? ??? ?? ?????? ?? ?????? ??????? ??????? ???
????? ?????? ??? ?????? ?? ?????? ?? ??? ACT ??? ?????? ?? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??, ??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???.

32???? ?????? C-410/98, ?? ?? ?????????? ?????? ??? ? Hoechst (UK) Ltd ??? ??????????
????? ??? ??? ?? ??? ACT ??? ???????, ? Hoechst AG ?????? ?????????? ?? ???
????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ACT ? ?????? ?? ??? ?????? ???
?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?? Hoechst AG, ?? ??????
?? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ACT ??? ?????? ?? ??? ??????
????? ??? ?????? ???, ??? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ???, ??? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ???, ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ???, ??? ??? ?????? ???, ??? ??? ?????? ??? ?????? ???.

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

33 ?? High Court of Justice (England & Wales), Chancery Division, ?????? ?? ? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????????:

«1) ??? ??? ???????? ??? ?????????????? ??? ?????? ??? ???????????, ??????? ??? ??
????????? ??? ??? ?????????? ??? ?????????? ??? ?? 6, 52, 58 ???/? 73 ? ??? ?????????? ?? ??
????????? ??? ? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????????? ?????????? ??????
[??? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?? ?????????????? ?????? ?????? ??
????????? ?????? ?????? ?? ?????????? ?????? ?????? ?????? (ACT)] ??? ?????? ?????????? ??? ?
????????? ??? ? ?????? ?????? ?????? ??? ?????? ?' ??? ???? ?? ?????? ?????;»

2) ??? ???????? ??? ?????? 1 ?????? ???????, ???????? ?? ?????????????? ??????????
?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ??????
????????? ??? ?????? ?? ?????? ?????? ?????? ACT ??? ?????? ?????? ?????? ??????, ??????????
????? ??? ? ?????? ?????????? ??? ??? ?????? ?? ?????? ?????? ?????? ?????????? ??????, ?
????? ?? ??? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??
????????? ?? ?????????? ?? ??? ?????? ?????? 5?? ?????? 1996, C-46/93 ??? C-48/93,
Brasserie du pecheur ??? Factortame (?????? 1996, ., .-1029), ??? ??? 22?? ?????? 1997,
C-66/95, Sutton (?????? 1997, ., .-2163), ??? ?????????? ?? ?????? ?????????? ??
????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??????
????? (????? ??? ?? ?????? ?????? ??? ?? ?????? ??????????) ??? ??? ??????????
????? ?????? ??? ?????? ?????;»

3) ??? ??? ???????? ??? ?????????????? ??? ?????? ??? ???????????, ??????? ??? ??
????????????? ??? ?????????? ??? ?????? ??? ?? ?? ?????? ??? ?????? ??? ?????? ?????? ??????
????? ?????????? ??? ?????? ?? ?????? ?????? ?????????? ?? ?????? ?????? ?????? ?????, ??
????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ??????
????? ?? ?????? ?????? ?????? ?????? ?????, ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?????? ?? ??????;»

4) ?? ???????? ?????????? ?????????? ??? ?????? 3, ??? ??? ?????? ?' ??? ??? ??????
????? ?? ??? ?????? ?????? ??? ?????? ??? ?????????? ?? ?????? ?????? ??? ?????? ?? ?????? ??????
????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?? ?????? ??
????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ??????;»

5) ?????????? ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????????? ??????????
?????, ?????????? ?????????? ??? ?????? ?? ?????????? ??? ? ?????? ??? ?? ?????????? ?? ???
? ?????? ?? ?????? ?? ?????? ??? ?????, ??? ?? ??? ?? ?????? ?????????? ??? ??? ??
?????????, ?????? ?? ??? ?????? ?????? ?????? ?????????? ?????? ?? ?????? ?? ?????? ??
????????? ?????? ?? ?????? ?????? ?????? "Commissioners" ??? ?????????? ?????????? ??
????????????? ?????????? ??? ??? ?????????? ?????? ?????? ?????? ??? "Inspector of Taxes",
????????????? ??? ?????? ??? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
?????;»

34 ?? ?????? ??? ?????? ??? ?????????? ??? 14?? ?????? 1998, ?? ?????????? C-
397/98 ??? C-410/98 ?????? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ??????;»

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

35 ?? ?? ?????? ?????????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?? ?????? ??
????? 6, 52, 58 ???/? 73 B ??? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??
?????, ??? ? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ?????? ?? ?????? ?????? ??? ??
????? ?? ?' ??? ?? ?????? ?????? ?? ?????????? ?? ?????? ?' ??? ?????? ?????? ?????? ??
????? ?????? ?? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????;»

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

37 ?????? ???' ?????? ?? ??????????? ?? ?????? ?????? ?????? ????????, ?????? ? ?????? ??????????
?????? ?????? ?????? ??????????? ?? ?????? ?????, ?? ?? ?????? ?????? ?????? ?????? ?? ??????
??? ??????????? ?? ?????? ??????? ?? ?????????? ?????? ??? ?? ??????? ?? ??? ?????? ??????
????? ?????????? (????????? ?? 11?? ?????????? 1995, C-80/94, *Wielockx*, ?????? 1995, ?.
?-2493, ????? 16. ?? 27?? ?????? 1996, C-107/94, *Asscher*, ?????? 1996, ?. ?-3089, ?????
36, ??? 29?? ?????? 1999, C-311/97, *Royal Bank of Scotland*, ?????? 1999, ?. ?-2651,
????? 19, ??? ??? 13?? ?????? 2000, C-251/98, *Baars*, ?????? 2000, ?. ?-2787, ????? 17).

38 ??? ?? ?????????? ??? ??????????? ??????????? ??? ?? ?????? 6 ??? ???????, ???
????????? ?? ?????? ??? ????? ?????????????? ??? ?????????????? ??? ??????????????, ??????? ??
????????????? ?????????? ??? ?? ??????????? ?????????? ??? ?? ?????????? ??????? ??? ??
?????? ? ??????? ??? ?????????? ?????? ?????? ??? ?????????????? ??? ??????????
(????????? ?? 30?? ??_?? 1989, 305/87, ??????? ????? ???????, ??????? 1989, ?. 1461,
?????? 12 ?? 13- ?? 12?? ??????? 1994, C-1/93, Halliburton Services, ??????? 1994, ?. ?-
1137, ????? 12. Royal Bank of Scotland, ???., ????? 20, ??? Baars, ???., ????? 23).

39 ???? ????? ??? ?????????????? ???????????????, ? ????. ??? ?????????????? ??? ?????????????
?????? ?? ?????????? ??? ?????????????????????? ?? ?? ????? 52 ??? ?????? (?????????
Halliburton Services, ??., ??? 12- ??? 29?? ?????????? 1996, C-193/94, ??????? ???
???????????????, ??????? 1996, ?. ?-929, ????? 21, ??? Baars, ??., ????? 24).

40 ???????, ?? ????. 6 ??? ??????? ???. ??? ?????? ???. ??? ??????? ???. ??? ??????? ???.
???????, ?? ?????? ???. ??? ??????? ???. ? ??????? ???. ??? ?????? ???. ??? ??????? ???.
?????????? ???. ??? ??????? ???. ??? ??????? ???. ??? ??????? ???. ??? ??????? ???.
????????? ???. ??? ??????? ???. ??? ??????? ???. 52 ??? ???????.

41 ?? ?????? 52 ?????????? ??? ?? ???? ?????????????? ??????????? ??? ?? ?????????? ?????????? ??
????? ?????? ?????????? ??? ?? ?????? ?????? ??? ?? ?????? ??? ?? ?????? ??? ?? ?????????? ??????????.
????????? ?? ?? ?????????? ???, ? ?????????? ?????????????? ??? ?? ?????? ?????? ?????? ?????? ??
????? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?? ?????? ?? ??????
?????????????, ??? ?? ?? ?? ?????? ??? ?? ?????????? ?????????? ??? ?? ?????????? ?????????? ??? ??
????????????? ??? ?? ?????????? ? ?????????? ??? ?? ?????? ?????????????? ??? ?? ??? ?? ?????? ???
?????????. ? ?????????? ??? ?? ?????????? ??? ?? ?????????? ?????????? ?????????????? ?????????? ???
????????????? ??? ?? ?? ?????????? ????????????, ?????????????? ??? ?? ?????????? ?????? ??????????
?? ?????????? ?????? ?????? ?????????????? ??? ?? ?????? ??? ?? ?????? ?????? ?????? ??????
(????????? ??? 28?? ?????????? 1986, 270/83, ??????? ??? ??????, ??????? 1986, ?. 273, ??? 13 ??? Royal Bank of Scotland, ???., ??? 22).

42 ? ?????????? ?????????????? ??? ???? ?????????????? ??????, ??? ???? ?? ???? 52
????????????? ??? ???? ?????????? ??? ???? ?????? ?????? ??? ???? ?????????????? ??' ??????
??? ??????? ??? ??????? ?? ?????????? ?????????????? ??? ??? ?????? ?????????????? ??
????????? ??? ?????????? ? ?????????? ??? ?????????? ?????? ?????????????? ??? ??? ?????
??? ???????, ????????????, ??????? ?? ?? ?????? 58 ??? ????????, ??? ??? ??????? ??
????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???

????, ??? ??????? ???? ??????? ? ?? ?????? ?????????????? ??? ?????? ?????? ??? ???????????, ??
????????? ?? ?????? ?? ?????????????? ??? ?????? ?????? ?????? ?????? ???
????????????????? ?? ?????????????? (?? . ?????????? ?? 16?? ?????? 1998, C-264/96, ICI,
?????? 1998, ?. ?-4695, ????? 20 ?? ?????????????? ??????????, ??? ?? 21?? ???????????
1999, C-307/97, Saint-Gobain ZN, ?????? 1999, ?. ?-6161, ????? 35). ??? ?? ???????,
?????? ?? ??????? ?? ??????? ?????? ??? ?? ?????? ??? ?????? ??? ?????????????? ??????
?????????? ??? ?? ?????????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????????????? ??????
???? ?? ??? ?????? ??? ?????? ?????? (?? . ?????????????? ?????? ICI, ????? 20 ??
?????????? ?????? ??? Saint-Gobain ZN, ????? 36). ??????? ?? ?????? ?????? ??? ??
????? ?????? ?????????????? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??
?? ??????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??, ?? ?????? 52
?? ??????? ??? ?? ?????? ?????? ?????? ?????? (?????? ?????? ?????? ??? ?????? ??.,
????? 18).

43 ???????, ?????????????? ??? ? ??????? ??? ?????? ?????? ?????? ??????????? ???????, ??? ??????
?? ?????????? ?????????? ??? ?????????? ?????? ?????????? ???????, ??????? ??? ???????????
?????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??????? ??? ?? ???????
?????? ??? ? ??? ?????? ??? ?????? ??? ?????? ?????? ???????, ???????????, ?? ???????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????? ?????? ???
????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
????????? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? ?????????? ACT ??? ?????? ?????????? ?????? ?????? ??? ?????? ?????? ???
????????? ??????. ???????, ?? ?????????? ??? ?????? ??? ?????? ???????, ?? ?????? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???????, ?? ?????? ??????
?? ??? ?????????? ?????????? ?? ?????????? ACT ??? ?????? ?????????? ?????? ???
????????? ?????? ??? ??????????.

44 ??? ?????????????? ??? ?? ??? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ???
?????? ?????????? ??? ?????? ?????? ?????? ???????????, ?????????? ??? ?????????? ?? ?????? ???
?? ??????, ??????????, ?? ?????????? ?? ACT ??? ?????? ??? ?????? ??? ?????? ??????????
????????? ? MCT, ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ?????? ??????????
?? ?????????? ???' ?????? ???, ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????
??????, ??? ??? ?????? ?????? MCT ??? ??? ?????? ?????????? ???, ??? ??????????
?????? ???????, ?????????? ??? ? ACT ??? ?????? ?? ?????????? ??? ??? ?????? ???
????????? ??? ?????????? ?????????? ??? ?????????? ??????.

45 ??? ??? ?????????? ??? ??????? ??????????, ?? ?????????? ??? ?????? ??? ??????????
?????????, ? ?????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ???
?????? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ? ??? ?????? ?'
????? ?? ?????? ?????? ?????????? ??????????.

46 ?????, ? ?????????? ??? ??????? ?????????? ?????????? ??? ? ?????????? ??? ??????????
????????? ?????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???.

47 ????? ?????? ??? ??????? ?????????? ?????????? ?????????? ??????????, ? ?????????? ???
????????? ?????????? ?????????? ???, ?????? ? ?????? ??? ?????????? ?????????? ??????????
????? ?????????? ?? ?????????? ??? ?????? ?????????? ?????????? ACT ?????? ??????
????????? ??? ?????? ??????, ? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??????
????????? ??????, ?? ?????????? ??? ???, ?? ?????????? ??? ?????? ?????? ?????? ACT ??? ??
????????????? ?????? ?????????? ?' ??? ??? ???? . ? ?????????? ?????????? ACT
????? ?? ?????? ?????????? ?????????? ?????? ??? ?? ?????????? ??? ?????? ?????? ??????
??? ? ?????? ??? ??? ACT ??? ?????????? ? ?????? ?????? ?????????? ?????? ?? ??? ??????
??? ?????????? ?????? ACT ??? ?????? ?????? ?????????? ?????????? ?????? ?? ??? ?????.

48 ??????????, ???? ??? ?????????? ??? ?????????? ??????????, ?? ?? ?????????? ??????????
??? ?? ?????????? ?????????? ?????????? ?????????? ?? ?????????? ??? ?????? ??????????
?????, ???? ??? ?? ?????????? ACT ??? ?????? ??????. ? ?????????? ??
????????? ??? ?????? ACT ??? ?? ?????? ?????????? ??? ?? ?????? ?????? ??????, ?
?? ?????? ??? ?? ?????????? ?? ?????? ?????????? ?? ?????????? ?????? ??? ACT ??? ??
????????? ?????? ?????? ??? ?????? ?????????? ??? ??????, ?????????? ??? ??? ??? ??
????????? ?? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ACT.

49 ? ?????????? ?????????? ?????????? ??? ? ???? ??? ?????????? ?????????? ???
????? ???? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ?? ??????????
?? ?????? ?????? ?????????? ??? ?? ?????? ?????????? ??????, ?????? ???? ??, ???
????????? ??? ?????? ?????????? ?? ?????? ?????????? ??? ?????? ?? ?????? ?????? ??? ??
?????????, ??? ?????????? ?? ?????? ???, ?????? ?? ?????? ?????? ??? ?????? ??? ??
????????? ?? ?????? ??? ?????? ??? ?????? ACT ?? ??? ??? ??????, ??? ?????? ???
????? ?????? ?????? ??????, ?? ??? ?????? ??? ?? ACT, ? ?????? ?????????? ??? ??
????????? ?????? ??????, ?????? ?? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ??
????????? ??? ?? ?????? ?????? ACT ??? ?????? ?????? ??? ?? ?????? ??? ??
????????????? ??? ?? ?????? ??? ??????, ?????????? ??? ?? ?????? ?????? ??? ??
????????? ?????? ?? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ??? ??
????????? ??????, ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ??.

50 ? ?????????? ?????????? ???? ??? ?????? ?? ?????? ??? ?????????? ?????????? ??? ??
????????? ??? ?????? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ??????????
????? ?? ?????? ?? ?????????? ??? ?????????? ?? ?????????? ?? ?????????? ??? ??????
?????????, ?????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ??
????? ?? ?????? ??????.

51 ? ?????????????????? ???? ??? ?????? ?? ?????? ???.

52 ????, ?????? ? ACT ?????? ?????? ???? ??? ?????? ?????????? , ??? ?????????? ???
????? ???????, ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????????
????????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?? ?????????? ?? ??????
????????? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????
??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
?????????.

53 ???????, ?? ???? ??? ????? ???????, ??? ? ?????? ??????????? ??? ??????? ??
?????????? ?????? ?????? ?????????? ?????????? ??? ?????? ?????? ?????? ???
????????? ?????? ?????????? ??, ?? ?????????? ???' ????? ?? ?????? ??? ?? ??????
????????? ? MCT ??? ????? ?????? ? ????????. ????????, ??????, ??? ? ??????
????????? ??????? ?????? ??? ?????? ?? ????? ?????? ?????? ?????? ?????? MCT ???
????????? ??????? ??? ?? ?????? ??? ?????? ??? ? ?????? ?????????? ?????? ??????
????????? ???????.

54 ??? ???????, ? ?????? ??? ?????? ?????? ?????????? ?????????? ?????????? ???
????????? ?? ?????????? ?? ?????? ?????????? ?????? ?????????? ?????? ??? ?? ???
????? ? ?????????? ?? ?????????? ?? ?????? ??? ?? ???????, ???????????, ?? ACT ???
?? ?????? ??? ?? ?????????? ?????????? ? MCT ??? ?? ?????? ???' ????? ?? ?????? ?? ???
????????? ?????????? ??? ?? ?????? ?????????? ?????????? ?????????? ?????????? ?????????,
????? ?? ?????? ?????? ??? ???????, ?? ??? ?????? ?????????? ?????????? ?????????? ???????,
??? MCT ??? ??????? ?? ??? ??? ?? ??? ?????? ?????????? ?????????? ???????.

55 ???????, ?? ?????? ??? ? ?????? ?????? ?????? ??? ?? ?????????? ACT ??? ?? ????????
? ??? ???????, ?????? ??? ?????? ??? ?????? ?????? ???????, ??? ?????? ??
????????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ????? ?????????? ??????????
????????? ??? ?????????? ??? ?????? ?????? ACT ??? ?????? ?????????? ????????
?? ??????.

56 ???????, ?????????????? ??? ? ?? ?????? ACT ??? ?????? ?????? ?????????? ???
?? ??? ??? ?? ?????????? ?? ??? ?????? ??? ?????? ?????????? ???????, ??? ?????? ?????????? ???
????? ??? ?? ?????? ?????????????? ??? . ?????? ?????? ?????? ?? ??? ?????? ??? ??????
?? ?????????????? ??? ??? ?????? ?????? ??????????.

57 ???????, ??? ?????? ??? ?????? ?????????????? ?????????????? ???, ??? ?????? ??? ?????? ??
??????????, ? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
????? ???????????, ?????? ?? ??? ?????? ?????????? ? ?????? ?????????? ??? ???????????
????????? ??? ?????? ?????????? (????????????? ?????? ICI, ??? 26).

58 ??? ?? ????, ?????????? ??? ? ?????????? ?????? ??? ?????? ?????????? ?????????? ???
????? ??? ?? ?????? ?????????? ?????????? ??, ?? ?? ?????????????? ?????? ACT ??? ??
????????? ??? ?????????? ?? ?????? ?????????? ??????. ???????, ?? ??????????
??????????, ? ?????? ???????, ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ?????????? ???????, ??? ?? ?????? ?????????? ? ??? ACT. ??????????, ?????? ?? ???
????????????? ??? ?????? ?????? ?????????? ?? ACT ? ?? ?????????????? ??? ??????
?? ?????????? ?????????? ???????, ?????? ??? ?????????? ?? ?????????? ?? ?????????? ?? ACT.
?????????, ? ?????? ??? ?????????? ?????????? ACT ??? ?????? ?????? ?????? ??? ???
????????? ?????????? ??? ?????? ?????????? ??, ?? ??? ?????? ???????, ??? ?????? ???
????????? ??? ??? ?????? ?????????? ACT, ? ??? ?????? ?????? ??? ??? ?????? ???
????????? ?????? ??????.

59 ???????, ????, ??? ?????? ?? ?????????????? ?????? ??? ?????????? ??? ??
?????? ??? ?????? ?? ?????????? ?????????? ? ?????? ??? ?????? ?????????? ?????????? ???
????????? ?????? ?? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?????????? ?????? ??? ??
????????? ??? ?? ?????????? ACT, ??? ?? ?????? ???, ??? ?????? ?????????? ?
????? ??? ?????????? ?????? ??? ?????? ?? ?????? ?????? ?? ?????????? ?????? ??????
????????? ??? ?????? ?? ?????????? ?????? ?????? ?????????? ?????? ?? ?????? ??????????
??' ??? ?? ?????????? ?????? (??, ??? ?????? ?? ?????? 52 ??? ???????, ???
????????????? ?????? ICI, ??? 28).

60 ????? ????????, ???? ??????? ? ?????? ?????????? ????? ?????????? 25 ???
????????? ???, ? ??????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ??????? ??? ?? ?????? ? ?? ?????? ?????????? ??? ??????? ?? ?????????????? ??
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ?????????? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ??????? ??
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ??????? ????????, ?????????? ??? ??? ?????? ?? ?????????? ?????????? ?????????? ??? MCT ???
??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????.

61 ????????, ? ??????? ? ?? ?????? ?????? ?????????? ?????????? ??? ? ?????? ?????? ?????? ???
????????? ?????????? ?????????? ?????????? ?????????? ??? ?????????? ?????????? ???
????????? ?????????? ?????? ?????????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????? ??? ?????? ??????.

62 ??? ?? ??? ????????, ? ??? ?????? ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ???
????????? ?????????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????
???? ?? ?? ??????? ??? ??????? ??? ??? ?????? ?????? ??? ?????? ?????? ??? ??????
??????????, ???????????, ??? ?? ?????? ??????????. ??? ?? ?????????? ?????????? ??? ?????? ???
??????????, ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
????????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??????????
????????????? ???, ? ?????????? ??? ?????? ?????????????? ??? ??? ?????????? ??? ACT ???
??? ?????????? ?????????? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??????.

63 ? ????????, ??? ??????? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ACT ??? ?????? ??????????
???? ?? ??????? ??? ?????? ?????????? . ? ?????????? ??? ?????????? ACT ??? ???
????? ??? ?????????? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ??
????????????? ???, ??? ?? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??????????
??????, ? ?????????? ?????? ?????? ?????????? ??? ??? ?????? ?????? ?????????? ??? ??????????
???? ?? ?????????? ??? ?????? ?????? ??? ?? ?????? ??? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??????.

64 ??? ?????????? ??? ? ??????? ?????????? ??? ?????????? ?? ?????????? ACT ???
????????? ????????, ??? ?????? ?????? ??? ?? ??? ?????? ?????????? ??? ?????? ??? ??????
????????? ??????, ??? ? ACT ??? ?? ?????????? ? ?????? ?????? ?????? ??? ? ??? ??
????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ??? ??? ???
????????? ??? ?? ?????????? ??? ??????.

65 ??? ??? ????????, ??? ??????? ?????????? ? ?????????? ? ?????????? ??? ? ACT ???
?? ??????? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??????
?? ??????? ??? ?? ??? ?????????????? ? ?????????? ?????????? ??? ?????? ??? ?????? ??????
?? ?? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ?????? ?????? ??? ?????????? ???,
????? ??? ?????????????? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ???
?????????.

66 ? ?????????????????? ??? ??? ?????? ?? ?????? ??????.

67 ??????, ?? ?????????? ??? ?????? ??? ? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? (????????? ??? 28?? ?????????? 1992, C-204/90, Bachmann,
?????? 1992, ?. ?-249, ??? C-300/90, ??????? ??? ?????? ?????? 1992, ?. ?-305).

68 ???? ???? ??? ?????? ?? ???????????.

69 ??? ????? ?????????????????? ?????????? Bachmann ??? ?????????? ??? ??????? ???????
?????? ?????? ??????? ??? ?????????? ?????????? ??? ??????? ??? ?????????? ??? ?????????? ???
?????? ?????????? ?????????? ??? ??????? ??? ?????? ??? ?????????? ??? ??????? ???
????????????? ?? ??????? ??? ??????? ??? ??????? ??????, ?????? ? ?????? ?????? ?? ?????????? ???
?? ?????????? ??? ? ?????? ??? ?????? ?????????? ?????????? ??????????, ?? ?????????? ???
?????? ?????? ?????? ?????? ??????, ??????, ??? ??????? ?????????? ?????????? ??? ???????
????????? ??? ??????? ??????? ?????????? ?????????? ?????????? ??? ??????????
????????? ??? ??? ?????????? ?????????? ACT, ??? ??? ??????? ??? ??????????
????????? ????, ???????, ??? ?? ??????? ?????? ?????? ?????????? ??? ?????????? ???
???? ??????? ?????? ??? ??????? ??? ??????? ?? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
??? ?????????? ??? ???????

70 ????????????, ?? ??????? ????????, ??? ??????? ?????? ????????????, ????????????????, ???????????????,
??? ?????? ????????, ??? ??????? ????????, ??? ?? ????????, ??? ????????, ??? ????????, ??? ????????, ??? ??
???????, ????????, ??? . ?????? ???????, ?? ?? ????????, ????????????????, ????????????????, ????????????????,
????? ?????? ? ????????, ??? ?? ACT, ??? ????????????, ?? ????????, ????????????, ????????????, ??????? ??
???, ??? ?? ????????, ????????, ??? ????????, ????????, ??? ?? ????????, ??? ?? ????????, ????????, ??? ??
?? ????????, ?? ?????? ????????, ??? ????????, ??? ?? ????????, ??? ?? ????????, ??? ?? ????????, ??? ??
???????, ??? ??, ??? ?? ????????, ????????, ??? ????????, ????????, ??? ?? ????????, ????????, ??? ?? ????????, ???
????? ??? ?? ????????, ????????, ??? ????????, ????????, ??? ?? ????????, ??? ?? ????????, ??? ?? ????????, ??? ??
????? ?? ????????, ????????, ??? ????????, ????????, ??? ?? ????????, ??? ?? ????????, ??? ?? ????????, ??? ??
????? ????????, ????????, ??? ????????, ????????, ??? ?? ????????, ??? ?? ????????, ??? ?? ????????, ??? ??

71 ????? ?? ??????, ? ?????? ?????? ??? ?????? ??????????? ?? ?????????? ?????????? ?? ?????????
????????? ?????????? ?? ?? ?????????? ?? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ?? ?? ??????
????? ????????????, ?? ?? ?? ?? ?????? ?????? ??????????? ?? ?????????? ?????????? ?? ?? ???????
?????????? ?? ?????????? ?? ?? ?????????? ??????????? ?? ?????? ?????????? ?? ?? ?????? ?? ??
?????? ??????????? ?? ?????? ?? ?? ?????????? ??????????? ?? ?? ?? ?????????? ?? ?? ?????? ?? ??
????????? ??????????.

72 ?????????????? ??? ?????????? ??? ??????? ????, ?? ?????????? ?????????? ??? ???????
??? ??????? ??? ?????????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ???????
??? ?? ?????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??????????
????, ????? ? ?????? ??? ?????? ????? ?????????? ??? ?????????? ??? ?????? ??? ??????
????????? ??? ??? ?????????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ?? ??????
????????? ??? ????? ?????????? ??? ??? ACT ??? ?????????? ?? ??????????.

74 ???????, ?? ??????? ?? ? ACT ??????????? ?? ?? ?????? ??????????? ?? ? ? ???????
?? ?? ?? ?? ?? ??????????? ?? ?? ?? ?? ?????? ??????????? ?? ?? ??????????? ?? ??????????? ??
???????? ?? ?? ??????? ???????.

75 ?????????? ??? ?? ?????????? ??? ??????? ??? ?????????? ?????????????? ??????????????
???????????, ??? ?? ????????????, ??? ?????? ?????????? ??? ? ??????? ??? ?????? ???
?????, ??????? ? ??????? ??? ??????? ?? ?????????? ??? ?????????????? ??? ??? ??? ?????????? ???
????????? ??? ?????????? ?????????? ??? ??????????.

76 ????? ?????????? ??? ????? ?????????????? ??????? ?????? ? ?????????? ??? ?? ?????? 52
??? ?????????? ?????????? ?????????? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
?????? ?????, ? ?????? ?????? ??? ?????????? ??? ?????????? ?' ???? ?? ?????? ?????? ???
????????? ?????? ?????? ?' ??? ?????? ?????????? ??? ??? ?????????? ?? ?????????????? ???
????????? ??? ?????? ?????? ?????? ?????? ?? ?????????????? ?? ?????????????? ???
???? ??????, ?????? ? ?????? ?????? ?????? ?????? ?????? ?????? ?' ???? ?? ?????? ??? ??????
??? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
?????.

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

77 ?????????????? ??? ?????? ??? ?????????? ??? ?????? ?????????????? ???????, ?? ?? ??????
?????? ???????, ???? ?? ???????, ?? ?? ?????? 52 ??? ??????? ?????? ??? ?????? ???
?????? ??? ?????????? ??????? ??? ?????? ?? ??? ?????? ?????? ??? ? ?????? ?????? ??????
??? ??????? ?? ??? ?????? ?????? ?????? ?????????? ?????????????? ?? ?????????????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ?????????? ?????? ?????? ?? ??????
????????? ??? ???????, ?????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ?????? ???, ? ??
???? ?????????? ???/? ? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????
????? ??? ?????????? ?? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??????????
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????
????? ??? ?? ??????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????
????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??????.

78 ??????, ? ?????????? ??? ?????????? ?????????? ???????????, ??????, ??? ?? ? ??????
????????? ??? ?????????????? ??? ?????????? ?????????? ?????????? ?????? ??? ?????????? ???
????????? ??????? ?????????? ?????????? ?????????? ?????????? ?????? ??? ?????????? ???
????????? ?????, ???? ?? ?????????? ?????? ?????? ?????????? ?? ?????????????? ?? ??????
????? ??? ?????? ?????? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????????????? ??? ??????
??? ??????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ??????.
??????????, ??? ?????? ???, ? ACT ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????????? ???????, ?????????? ??? ?? ?????????? ?????????????? ?? ???
????????? ?? ?????????? ?? MCT ?? ??? ?????? ?????????? ?? ACT. ? ?????????? ???
????????? ??? ?????????? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ???
????????? ?????????? ?? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ?????????? ??? ???
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ?? ??????????
????????????? ??? ?????? ??? ?????????? ?????????? ???, ?? ??? ?????????????? ??? ??????
Sutton, ?? ?????????? ?????? ?????????? ???, ?? ?????????? ?????????? ??? ?????? ??? ???
????????? ????, ?? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????? ??? ??????
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???, ???
????????????? ????, ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ????
????????? . ? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?? ?????????? ????
??? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???.

79 ???????, ? ?????????? ??? ?????????? ?????????? ?????????? ???, ?????? ??? ?? ??????
??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?? ?????????? ?? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ???????, ??? ??????
?? ?????? ????, ??? ?????? ?????? ???, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

80 ??? ??????????, ?? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ???
??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????????????, ?????? ??
????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ACT ?? ?? ??? MCT
??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???.

81 ?????????????? ??? ?? ?????? ?????????????? ??? ?????? ?????? ?????? ?????????? ??????????
??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????? ??? ?????????? ?? ?????????? ?, Metallgesellschaft ?.?. ?.? Hoechst ?.?.
????????? ?? ?????????????? ?? ?????? ??? ?? ?????? ??? ?????? ??? ?????? (????? ???
????????? ? ??? ?????? ??????????), ??? ??? ?????? ??? ?????????? ??? ??????????.

82 ?????, ??? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????????
????????? ?? ?????? ??, ??? ?????????? ??? ?????? ??? ?????? ?????? ?????, ? ?????????? ???
????? 52 ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??????????
????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??????????.

83 ?????? ?????????????? ???, ??? ?????????? ??? ?????? ?????? ?????, ??? ??? ??????????
??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??????????
????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??????????
????? ?? ?????????? ??? ?? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??????????
???? ?????????? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
?????????????, ??? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ??
????????? ?? ?????????? ??? ?????????? ???.

84 ?????????????? ???, ??? ?????? ?????????, ?? ?????? ??? ?????????? ?????? ?????????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ??????????
????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ???
????????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????????????
????? ?????? ?, ?????? ??? ??????????, ??? ?????? ?????? ?????? ?????? ??????????
????????? ???, ??? ?????? ?????? ?????? ?????? ?????? (????????? ??? 9?)
????????? 1983, 199/82, San Giorgio, ?????? 1983, ?. 3595, ????? 12- ??? 2? ??????????
1988, 309/85, Barra, ?????? 1988, ?. 355, ????? 17- ??? 6? ?????? 1995, C-62/93, BP
?????????, ?????? 1995, ?. ?-1883, ????? 40- ??? 9? ?????????? 1999, C-343/96,
Dilexport, ?????? 1999, ?. ?-579, ????? 23, ??? ??? 21? ?????????? 2000, C-441/98 ??? C-
442/98, ?????????, ?????? 2000, ?. ?-7145, ????? 30). ???????, ?? ?????? ???
?????????, ???' ????, ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ???
??? ?????????? ?????? (????????? ??? 14? ?????????? 1997, C-192/95 ??? C-218/95,
Comateb ???., ?????? 1997, ?. ?-165, ????? 20, Dilexport, ?????????? ???, ????? 23, ???
????????, ?????????? ???, ????? 30).

85 ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??????????
????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????? ?? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????
?? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????
????????? ??? ?????? ?????? ?????? (????? ??? ??????????) ???, ???????, ??? ??
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ??? (????? ??? ??????????) (??., ???????, ??????? ???

15?? ??????????? 1998, C-231/96, Edis, ??????? 1998, ?. ?-4951, ??????? 19 ?? 34, C-260/96, Spac, ??????? 1998, ?. ?-4997, ????? 18, ??? ??? 17?? ?????????? 1998, C-228/96, Aprile, ??????? 1998, ?. ?-7141, ????? 18, ??? Dilexport, ??????????????, ?????? 25).

86 ??? ?????? ??????? ??????? ?????????? ?? ?????????? ??? ?? ?????????? ?????????? ???????
?? ??? ?????????? ?????????? ?????????? ??????, ????, ??? ?????? ? ?????????? ??????
?????, ? ?????????? ??? ??? ????? ?????????? ??? ?????? ??? ?? ?????? ??????????
(????????? ??? 21?? ??_?? 1976, 26/74, Roquette frères ??? ???????, ??????? ???
1976, ?. 273, ??????? 11 ??? 12, ??? ??? 12?? ?????? 1980, 130/79, Express Dairy Foods,
?????? ??? 1980/??, ?. 271, ??????? 16 ??? 17).

87 ????? ?????????? ??? ?????? ?????? ??????, ?? ?????? ??????????? ?????? ??? ?? ??????????
?? ?????? ??? ?????????????????? ??? ?????? ??? ?????????????? ?? ACT ??? ?????
??????????, ??? ?????? ??? ?????? ?? ?????????????? ??? ??????????? ??? ?????????? ???
????? ??????. ??? ??? ?????????? ????, ??? ?????? ? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ??? ??? ??? ?????? ??? ?????????? ??? ??????, ??? ??? ?? ?????? ??? ???
????????? ??????, ? ?????????? ??? ?????? ?????? ??? «?????????» ??? ??????????????
????????????? ??? ?????????? ?????? ?????????? ??? ??? ?????????????? ??? ??? ??????????????
??? ?????????? ?? ?????? 52 ??? ??????.

88 ?????????? ??? ?? ?????? ??????????? ?????????????? ?? ?????????????????? ??? ?????? ??? ??
?????? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ??
????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??
?? ????????, ??? ?? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ???????????, ?? ???
??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????????????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ? ?????????? ??? ??????.

89 ????? ??????????, ?? ?????? 52 ??? ?????????? ???????? ?? ?????????? ?????? ?????????????? ??
?????? ?????????? ?????????? ???/? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ??
????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?????????? ?? ?????? ??? ACT ?? ??????
????????? ? ??????????, ???? ??? ?????? ?????? ??? ?????? ?? ?????????? ?? ACT ?? ???
????????????? ???? ??? ?????? ?????? ?????????? ?????????? ? MCT, ?? ?????? ?? ??? ?????? ??
?????? ?? ?????? ??? ??????????.

91 ???????, ?????????????? ???, ??? ?????? ?? ?????????? ??? ?????? 87 ???
????????????? ??? Brasserie du pêcheur ??? Factortame, ? ?????????? ??????????
??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?? ?????? ?????? ??
????????? ?????????? ??? ?????????? ??????, ????, ?????? ??? ????? ?????? ??????
????????? ??? ?????????? ??????, ??? ?????? ?????????? ?????????? ??? ??????????
????????? ??? ?????? ?????? ?? ?????????? ??????, ??? ?????????? ?????????? ??? ??????

92 ???????, ?? ?????????? ??? ??????? ?????????? ??? ?? ???? ?????? ??
????????????? ??? ?? ???? ??????? ??? ?? ???? ?????? ?? ???? ?????? ?????????????? ??
?????? ?? ?????? ?????????????? ??? ?? ???? ?? ???? ??????.

93 ???????, ?? ??? ?????????????? ?????? Sutton ?? ?????????? ?????? ??? ? ?????? ??
?????? ??? ??????? ?????????? ?????? ??????? ?????? ??? ?????????? ??? ??? ?????????? ??????

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

94 ??? ?????? 23 ??? 25 ??? ?????????????? ?????????? Sutton, ?? ??????????
?????????, ???????, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ????
??? ??? ??? ?????????? ??? 2?? ?????????? 1993, C-271/91, Marshall, ?????????? «Marshall
??» (?????? 1993, ?. ?-4367). ??? ?????????? ??? ???????, ??? ?????????? ??? ??????????
????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??????????
??????, ?? ?????????? ??? ?????? ??? ? ??? ?????? ?????????????? ??? ?????????????? ????
??? ?????? ?? ?????? ?????? ??? ?????????? ??? ? ??????? ??? ???????, ?? ?????? ????
????? ?? ?????????? ??? ?????? ??? ? ?????????? ??? ?????? ??? ??????????
????????? ?????????? ??? ?????????????? ??? ?????????? ??? ?????????? ?????????????? ???
???? ?????????????? (????????????????? ?????? Marshall ??, ??????? 24 ??? 32). ? ??????????
????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????????? ???
????????? ?? ?????????? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??????????.

95 ???????, ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ? ?????????? ????
????????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ???
????????? ?? ?????? 52 ?? ??????.

96 ??? ???????, ??? ??????? ?????????????? ??????? ?????? ? ?????????? ???:

- ?????? ??? ?????????? ??????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ???
????????? ?? ?????????????? ??? ?????? ?????? ??? ?? ?????????? ??? ?????????? ????
????? ?????? ?????? ? ?????? ?????? ?? ?????? ?????? ??? ?????? ???, ??? ??????????
??????????, ?? ?????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
?? ?????? ??? ?????????? ???, ?? ?????? 52 ?? ?????? ?????? ?????????? ?? ?????????? ???
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???
????? ?????? ?????? ?????????? ?????????? ?? ?????????? ??? ?????????? ??? ?????????? ???
? ?????????? ??? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????.

- ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ??
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???, ??? ?????????? ???
????????? ???.

- ?????? ?????????? ??????????, ?????????? ??? ?????? ?????? ?????? ?????? ???
????? ?????? ?????? ?? ?????? ?? ?????????? ??? ?????????? ?????? ?????? ?????? ??????
????? ??????????, ?????????????? ??? ?????? ?????? ?????? ?????????? ???, ??? ???? ?
????????? ?????? ???, ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?? ??????????
????? ? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ?????? ???.

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

97 ?????????????? ??? ??? ?????????? ??? ?????? ?????????? ?????? ???, ?????????? ?
????????? ??? ?????? ??? ??? ??????.

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

99 ????? ???? ?????????? ??? ??????? ??????????, ?? ? ?????? ??? ??????? ??? ?????????? ??? ??????????
??? ??????? ??????? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ??????? ?????????? ??????????
?????? ?????? ??? ?????????? ??? ?????????? ???????, ?? ?????????? ?????? ??? ??????? ??????????
?????? ?????????? ??? ??? ??????? ?????????? ?? ??? ?????????? ???????, ?? ?????????? ?????? ??? ???????
?????? ?????????? ??? ??? ??????? ?????????? ?? ??? ???????, ?? ?????????? ??? ?????????? ??
????????? ??? ??????? ?????????? ??? ???????, ??????? ?? ?? ?????????? ??? ?????????? ??
????????? ??? ?????????? ??? ??????? ?????????? ??? ??????? Brasserie du pêcheur ??? FactorTame. ?
????????? ??? ??????? ?????????? ?????????? ?????????? ??? ?? ?????????? ?? ?????????? ??? ??????????
?????? ?????????? ??? ??????? ?????????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ???????
??????, ?????? ??? ??????? ?? ?????? ?? ??????? ?????? ??? ??????? ?????????? ?????????? ???????, ??????
??? ?? ??? ??? ??? ??? ?? ?????????? ?? ?????????? ??? ?????????? ??? ??????? ??????? ???
?????? ??? ?? ?????????? ??? ??????? ??? ??????? ??? ?? ?????? ?????????? ??? ?????????? ??? ??????????
?????? ?? ???, ?????? ???, ?? ?????????? ??? ??????? ??? ?????????? ?? ??? ?????????? ??? ???????
????????? ?????????? ?????????? ??? ??????????.

100 ?????????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ??????, ??? ??????
??????, ??????? ?? ?????? ?????????? ? ?????????? ?? ??????????.

101 ?????????????? ? ?????????? ??? ?????????? ?????????? ?????????? ??? ? ?????? ???
??????????, ?????????????? ?????? ?????? ??? ?????????????????? ?????????? Brasserie du
pécheur ??? Factortame, (??????? 84 ??? 85) ?? ??? ?????? ?? ?????????? ?????? ??? ???
?????? ????, ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??????, ? ????????????, ??
??? ?????? ?? ????????????, ??? ?????? ?? ?? ??????, ???????? ?? ?????????? ?? ?????? ??????????
??? ?? ?????????? ??? ?????? ??? ??, ???????, ??? ??? ?????????? ??? ?????? ???
???????????, ? ??????? ??????? ??????? ??? ?? ?????????? ?? ? ?????????? ?????????? ??
?????? ????????, ??? ?? ??????? ?? ?????? ?? ??? ?????? ??? ?????? ???, ??? ???
?? ????????????, ?????????? ??????? ??? ?? ?????? ?? ?????? ?????????? ??? ?????? ???.

102 ????????????????, ???' ?????, ??? ?? ?????? ???? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
???? ??????? ?????????????? ???????, ??? ?????????? ?????? ?? ?????????? ?????? ?????? ?? ?????????? ?????? ?? ??????
??? ?????? ?????? ?? ?????????? ?? ?????? ?????????? ?????? ?????????? ?????? ?? ?????????? ?? ?????? ?? ??????
? ?? ?????????? ??? ?????? ???,

103 ?????????? ?? ??????? ???, ??? ?????????? ?? ???? ?????? ?????, ? ??????????
????????? ?? ?????????? ?????????? ??, ??? ?????????? ?? ???? ?????? ?????? ??????????
????????? ?? ?????????? ?? ?????????? ??, ??? ?????????? ?? ???? ?????? ?????? ??????????
????? ?? ?????? ??, ??? ?????? ?? ?????? ??, ??? ?????????? ?? ???? ?????? ?????? ??, ??? ??????
????????? ?? ?????????? ??, ??? ?????????? ?? ???? ?????? ?????? ?????? ??????. ???
????????? ?? ?????????? ??, ??? ?????????? ?? ???? ?????? ?????? ?????? ?????? ??

?????? ????? ????? ?????? ??????? ?' ??? ?? ?????? ?????????? ???????????, ? ?????? ??? ??
???? ?????????? ??? ?? «Inspector of Taxes» ??? ?? ?????? ?????????? ??? ?? ?????? ??? ??
?????? ???????.

104 ????, ??? ?? ???????? ??? ?????????? ?????? ?????????? ??? ?? ?????? ??????????
?????? ??? ?????? ?? ???????? ?? ?????????? ?????? «Special Commissioners» ?
?????? ??? «General Commissioners» ??? ?? ??????, ??????????, ?????? ??? High
Court. ??? ?? ?????? ??????????, ??????, ??? ?????? ?????? ??? ?????? ??????????
?? ?????????? ?????? ?? ?????????? ??? ACT ??? ?? ?? ?????????? ??? ?????? ??????????
?????????, ?? ? ?????? ?????? ?????, ??? ?? ?????????? ??? ?????? ?????????? ??? ACT, ???
????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??????. ?? ?? ??????????
????????? ?? ?? ?????????? ??? ACT ??? ?? ?????????? ??? ?????? ?????? ?????? ??????
?????? ??? ?? ?????? ???, ?? ??? ?????? ?????? ?????????? ACT, ?? ?????? ??
????????? ?????? ??? ?? ?????? ?????? ?????? ??? ?? ?????????? ??? ?????? ??????????
?????????, ?? ? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ??????????

105 ??? ???????, ??? ???????? ??? ?????? ??? ?????, ? ?????????? ??? ???????
????????? ??????? ??? ???????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???????????,
????? ??? ?????????? ??? ??????, ?? ??? ?????? ?????? ?????? ?????????? ?????????? ???
????? ??? ?????????? ???, ?? ?????????? ?? ?? ?????????? ?????? ??? ?????? ??????????
??? ??? ?????? ?????????? ?????????? ??? ?????? ?????????? ?????? ?????????? ??????????
?????????. ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?????????? ??? ACT ??? ?? ?????????? ?? ?? ?????????? ??? ?????? ??????????
????????? ?????? ??? ?????????????? ?? ?? ?????????? ?????? ?????????? ?????????? ??? ??????
??? ?????? ??? ?????? ?????? ?????, ?????????? ?? ?? ?????????????? ??? ?????? ?????????? ???
????????? ?? ?? ?????????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??? ??????
????????? ??? ?????? ?????? ?????? ??? ?????????? ??????.

106 ??? ? ?????? ??? ?????????? ??? ?? ?????????? ?????????? ?????????? ???
????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????? ? ?????????? ?????????? ??
?? ??? ?????????? ? ??? ?????????? ?????? ?????? ???, ?? ?????????? ??? ?????? ??????????
??? ?????????? ??????, ?????????? ??? ?????????? ?? ?? ?????????? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????????? ?? ?? ?????????? ?????? ?????????? ??? ??
????????? ?? ?? ?????? ?????, ?????????? ?? ?? ?????????????? ??? ?????? ?????????? ???
????????? ?? ?? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ???
????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ??????.

107 ?????? ??? ?????? ?????????? ?????? ?????? ? ?????????? ??? ?? ??????????
????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????????? ?????????? ? ?????? ???
????????? ??? ?????????? ?????? ??? ?????? ?????????? ??? ? ?????? ?????????? ??????
????????? ??? ?????????? ?????? ??? ?????? ?????????? ?????? ?????????? ??? ?? ??
????????? ??? ??? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????????? ?? ?? ??????????
????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???

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

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

108 ?? ?????? ?? ?????? ?????????????? ? ?????????? ?? ?????????? ??????????, ? ??????????, ?
????????, ? ?????????? ?? ? ?????????? ??????????, ?????? ?? ? ?????????, ??? ??????????
????????????? ?? ? ??????????, ??? ??????????. ?????????? ?? ? ?????????? ??????????
???? ?? ???? ?? ?????? ?????? ?????? ?? ???? ?????? ?????? ?? ?????????? ?????????????? ??
????????? ?????? ?? ???? ?????? ?????????? ??????, ?' ??? ?????????????? ?? ?????????? ?? ???? ??
????????? ??????.

???????????

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

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

????????? ?? ? ???? ?????????? ?? ???? ?????? ?? ?????????? ?? ???? 2? ???? 1998 ??
High Court of Justice (England & Wales), Chancery Division, ??????????:

1) ?? ?????? 52 ?? ??????? EK (???, ?????? ??????????????, ?????? 43 ??) ??????????
????????? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
????? ?????? ?????????? ?????? ?????????? ?' ??? ???? ???? ?????? ?????? ?? ?????????? ?????? ?' ???
????????? ?????????? ?????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?' ??? ???? ???? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

2) ?????? ?? ?????????? ?????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????????? ??
????????? ?? ?????????? ?? ???? ?????? ?????? ?? ???? ?????? ?????? ?? ???? ?????? ?? ???? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?????? ?? ???? ?????? ?? ???? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??????
????????? ?? ???? ?????? ?? ???? ?????? 52 ?? ?????? ?????? ?????? ?? ???? ?????? ?? ???? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

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

3) ?? ?????????? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?? ???? ??
????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?? ???? ??
????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ???? ??
????? ?? ???? ?????? ?? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??

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