

????????????????? ?????????? C-95/07 ??? C-96/07

Ecotrade SpA

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Agenzia delle Entrate – Ufficio di Genova 3

(????????? ??? Commissione tributaria provinciale di Genova

??? ??? ?????? ?????????????? ??????????)

«????? ??????? ?? — ??????????? ?? ?????????????? — ?????????? ?????????? — ???????????
????????? — ?????????? ?? ??? ?????? ?????? ?????????? ?????????? ??? ?? ?????? ?????? ???
????????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????»

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

1. ??????????? ?????????? — ?????????? ?? ?????????????? — ?????? ?????? ?????????? —
????? ??????? ?????? ?????? ?????????????? ?????? — ?????????? ??? ?????? ??? ??? ??????

(?????? 77/388 ??? ??????????, ????? 17, 18 §§ 2 ??? 3 ??? 21 § 1 ?????????? ??)

2. ??????????? ?????????? — ?????????? ?? ?????????????? — ?????? ?????? ?????????? —
????? ??????? ?????? ?????????????? ?????? — ?????????? ??? ?????? ??? ??? ??????

(?????? 77/388 ??? ??????????, ????? 18 § 1 ?????????? ??, ??? ?????? 22)

1. ?? ????? 17, ?? ????? 18, ?????????? 2 ??? 3, ??? ?? ????? 21, ?????????? 1,
????????? ??, ??? ????? ??????? 77/388, ??? ?????????????? ?? ?????????????? ??
????, ??? ??????? ?? ??? ????? ?????? ??????? ???????, ??? ????? ?????????????? ??
????? 2000/17, ??? ?????????? ?? ????? ?????? ??????? ?? ?????????? ??
????????? ?? ??? ????? ?????? ?? ????? ?????? ?????????? ?? ????? ?????????? ??
????????, ??? ????? ?????????? ? ??? ????? ??? ???????????, ? ????? ?????????? ? ?????????? ??
????????????? ??? ??? ??? ????? ?????? ??? ??? ?????????? ?? ????? ?????????? ??
????????????? ??? ??? ??? ????? ?????????? ?? ????? ?????????? ?? ????? ?????????? ??
????????, ??? ? ??? ??? ??? ?????????????????, ????? ??? ?????? ? ?????????? ??? ??????????
?? ?????? ?? ?????? ?????????? ??????? ? ?????? ?????? ?????????? ?? ?????? ???
????????????? ??????.

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

(???. ??????? 46, 51, 54, ????????. 1)

2. ?? ?????? 18, ?????????? 1, ???????? ??, ??? ?? ?????? 22 ??? ?????? ?????? 77/388,
????? ?????????????? ??? ?????????? ??? ????????, ??? ?????? ?????? ??? ?????? ??????
?????????, ??? ?????? ?????????? ??? ?????? 2000/17, ?????????? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????, ? ??????
????????? ?? ?? ?????????? ??? ?????????? ??????????, ??? ?????????? ?????? ?????????? ???
????????? ?????????? ??? ?????????? ??? ??????????, ?? ?????? ??? ?????? ??????, ??????, ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ???'
????????? ??? ?????? 18, ?????????? 1, ??????? ??, ???, ???????, ??? ??????????
????????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? 2
?? 4 ?????????? ??? ?? ??? ?????? 22.

??????????, ? ?? ??????, ?? ?????? ??? ?????????? ??? ?????? ???, ??? ?????????? ???
????????? ?????? ???' ?????? ??? 18, ?????????? 1, ??????? ??, ???,
????? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ??? ??????, ?????????? ???,
????? ??? ??? ??? ?????????? ??????????, ?????????? ? ?????? ?????????? ???
?? ??? ??? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ??????????, ?????? ??? ??
?? ?????????? ??? ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????.

??????, ?? ?????? ??? ?????????? ?? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ?? ??????
?? ?????????? ??? ??? ?????? ?????? ?????? ?????????? ??? ??? ?????? ?????? ??? ?????????? ???
????? ? ??? ??? ?????? ?????? ?????? ??????????, ??? ?????? ?????? ?????? ?????????? ??? ??
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????? ?? ?????????? ?????? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ??????????
?? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ?????? ?????????? ???
????????? ? ?????? ?????????? ?? ?? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ???
?? ?????????? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?????? ??? ??????????
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????? ???
?? ?????? ??? ?????? 22, ?????????? 7, ??? ?????? ??????, ?????????? ??? ?? ??????????
????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????, ?????? ??? ?????? ?????? ?????????? ??? ??
????????? ?????? ?????? ?????? ?? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????? ??? ?????????? ??????. ? ?? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????????
????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???
?? ?????? ??? ?????????? ?????, ?????? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????? ??? ?????????? ?????? ?? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ??? ??? ??? ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???

(???. ??????? 62-63, 65-68, 72, ????????. 2)

?????? ??? ?????????? (????? ????)

??? 8?? ????? 2008 (*)

«???? ??????? ??? — ???????????? ??? ???????????? — ?????????? ??? ????????? — ????????????

???? ?????????????????? ?????????? C?95/07 ??? C?96/07,

?? ?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? 234 ??,
?? ?????? ? Commissione tributaria provinciale di Genova (?????) ?? ?????? ?? 13??
????????? 2006, ? ????? ?? ?????? ?? ?????? ?? 20 ?????????? 2007, ??
?????? ?? ?? ??

Ecotrade SpA

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Agenzia delle Entrate — Ufficio di Genova 3,

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

?????????? ??? ???. A. Rosas, ??????? ????????, U. Löhmus, A. Ó Caoimh, P. Lindh ??? A. Arabadjiev (?????????), ???????,

?????? ??????????????: E. Sharpston

?????????: C. Strömholm, ??????? ??????????,

????????? ?????? ??? ??????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
16?? ?????????? 2008,

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

- ? Ecotrade SpA, ?????????????? ??? ??? A. Lovisolo ??? N. Raggi, avvocati,
 - ? ??????? ????????, ?????????????? ??? ??? I. M. Braguglia, ?????????????? ??? ???
G. De Bellis, avvocato dello Stato,
 - ? ??????? ????????, ?????????????? ??? ??? ?. ??????-???????,
 - ? ??????? ??? ?????????? ??????????, ?????????????? ??? ??? A. Aresu ??? ??? M.
Afonso.

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

??? 13?? ??????? 2008,

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

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?????????????? ???: ??????????? ??????????? ??? (?? ??. ???. 09/001, ?. 49), ??? ???.
???????????? ?? ???. ?????? 2000/17/??. ???. ??????????, ??? 30??. ?????? 2000 (??. L 84, ?. 24, ??? ???: ????. ??????).

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

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

3 ????? ???? ?? ??????? ?????? ??, ?? ?????? 17, ?????????? 1 ??? ?????????? 2,
?????? ??, ??? ?????? ??????, ??? ?????????? ??, ??? ?????????? ??, ??? ?????????? ??
?????? ?? ?????? 28??, ?????????? 1, ??? ?????? ??????, ?????????? ?? ?????????:

2. ????? ?? ?????? ??? ?? ?????? ? ?? ??????????? ?????????????????????? ??? ??
????????????????? ??? ?? ?????????????????? ??????? ???, ? ?????????????? ??? ?? ??? ?????????? ??
????????? ??? ?? ??? ?????: ??

?) ??? ???????????? ? ?????????????? ??? ?????????? ??? ?????? ??? ????? ?????????????? ???
??? ?? ?????? ??? ??? ?????????? ? ?????????? ?? ??? ?????????? ??? ?? ??? ?????????? ??? ?? ??? ?????? «.

4 ??????? ?? ??? ?????????? 6 ??? ?????? 17, ??? ??? ?? ?????????? ??? ?????????? ??, ??
????? ?????????? ??? ??????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???, ??
????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ??????????, ??? ?????? ?????? ??? ??????
????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?????????? ???
??? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ??????, ?? ?????? ???
????? ?????????? ??? ?????? ??????????????, ??? ?? ?????? ?????????? ??? ??????????, ?????????? ?
????????? ??????????. ? ?????????? 7 ??? ?? ?????? ?????? ?????????? ??? ?????? ???, ??
??? ?????????? ??? ?????????? ?????? ?????????? ?????????? ??? ?????????? ??? ?????? 29 ??? ??????
?????, ?? ?????????? ?? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ??????????, ??? ??????
?????????, ?????????? ??? ?????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ??????

5 ??????? ?? ?? ?????? 21, ??????????? 1, ??????? ??, ??? ????? ???????, ???
?????????? ??, ??? ?????????? ??, ??? ?????????? ??, ??? ?????? 28?, ??? ???????, ?
??? ???????, ??? ???????, ??? ???????, ??? ?????? ???????, ??? ???????????, ??? ???????????,
?????? ?????, ??? ?????? 28?, ??????? ?, ??? ????? ???????, ?????? ???????????, ??? ??????
?????????? ??? ????? ?????????????? ??? ????????. ?? ?????? 28?, ?????? ?, ??? ??????
?????? ????????, ??? ?????? «?????? ???????, ?????????????? ???????????, ?????????? ??????».
?????? ???, ?? ?????? ?????????? ??????? ?? ?????? ???????, ?????? ?????? ??????
?? ??? ??????? ?????????????? ??? «?????????? ??? ???????????».

6 ????? ?????? ????? ??????? ?????????? ?????????? ?? ?????????????? ????? ?????????? ?? ??????????????
????? ?? ?????????????? ??? ?????????????? ??????, ?? ????? 18, ?????????? 1, ?????????? ?,
??? ?????? ???????, ??? ?????????????? ??? ?????????????? ??? ?????? ?????????? ?? ?????? ?????????? ?? ??????
28??, ?????????? 2, ??? ?????? ???????, ?????????? ??? ? ?????????????? ??? ?????? ?????? ???????,

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

7 ?? ?????? 18, ??????????? 2 ??? 3, ??? ????? ??????? ??? ?? ????:

«2. ?? ??????? ??????????? ??????? ??? ??? ??????????? ??? ????? ??' ??????????? ??? ??
???? ??? ????? ??? ??????????? ??? ??? ?????? ??????????? ??? ????? ?? ????? ??? ??? ??
????? ??????????? ??? ???????, ??????? ??? ??????????? 1, ?? ??????? ??? ???????, ???
?? ??????? ??? ??? ????? ???????.

3. ?? ?????? ??? ??????????? ??? ?????? ??? [??] ??????????? ??? ?????? ??? ??????
?????????? ?? ??????? ??? ??????????? ??? ?????? ?? ??????? ??? ???????, ??? ?????? ???
????????? ??????? ?? ??? ??????????? 1 ??? 2.»

8 ??????, ??? ??? 22 ??? ??? ?????, ??? ??????????? ??? ??? ??? ???????????
??? ??? ??????? ?? ??? 28? ??? ?????? ???, ??????????? ?????? ??????????? ???????
?????????? ??? ??????? ??? ??????????? ??? ?????. ?????? ??? ??????????? ?????
?????????????? ? ??????????? ??? ??????? 22, ??????????? 2, ??????? ??, ??????? ?? ???
????? ? ??????????? ??? ?????? ??????? ?? ?????? ??????????? ?????? ??????? ???????,
????? ?? ??????????? ??? ?????? ??????? ?? ?????? ??????????? ??? ?? ??????? ???
?????????? ???, ?????? ??? ? ??????????? ??? ??????????? 4, ??????? ?? ??? ??, ???
????? ??????, ??????? ?? ??? ?????? ??????????? ??? ??????????? ??? ??????? ?? ???????
?????????? ??? ?? ??????????? ??? ?? ??????????? ??? ??????????? ??? ?? ??? ???????
??? ?????? ??? ??????????? ??? ?????? ??? ?????? ??? ??????????? ??? ??????? ??
??????????????.

9 ?????, ?? ??????? 7 ??? 8 ??? ?? ??? ????? 22 ??????? ?? ??????:

«7. ?? ?????? ??? ??????? ?? ??????? ??? ?????? ??? ?? ??????? ???, ?????? ??? ?????
21 ?????????? 1, ??????? ?? ??? ??, ?????????? ?????? ??? ????? ?? ????? ???????????
????????????? ??? ?????????? [...] ?? ?????????? ??? ?????????????? ???????????
????????? ??? ???????.

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

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

10 ??? ??????? ????, ?? ??????? ?? ??? ??? ??????????? ??????????? ???????????,
??????, ??? ??' ????. 633 ??????? ?? ??????? ??? ???????????, ??? 26?? ???????
1972, ??? ??????????? ??? ??????????? ??? ?????? ??????????? ?????? [??????]
?????????? ??? GURI(????????? ??????????? ??? ???????????) ????. 292, ??? 11??
?????????? 1972], ??? ??? ??????????? ??????????? (??? ????: ?? 633/72), ???,
????????, ??? ??' ????. 331 ??????????? ???????, ??? 30?? ??????????? 1993 (GURI ????.
203, ??? 30?? ??????????? 1993, ??? ????: ?? 331/93).

11 ?? ?????? 17, ?????????? 3, ?????? ??????, ??? ?? 633/72 ??????? ?? ????:

«?? ??????????? ??????? [...] ??? ?????? ?????????? ??? ?????????? ??? ?????? ???
?????? ?? ?????????????? ??? ?????????? ??? ??????, [...] ?????????? ??? ?????????? ???
????????? ?? ?????? ?????? ?????????????? ??? ?????????? ??? ?????? ??? ?? ?????? [...]
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???, ??????????????
? ?????????????? ??? ??????????»

12 ?? ?????? 19, ??????????? 1, ??? ? 633/72 ?????????? ?? ????:

«[...] ?????????? ????? ??????? ??? ?????????????? ? ?????????????? ?????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????
?? ???????? ?? ???????? ?? ?? ?????? ??? ?????? ?? ?????????? ??? ?????? ??????? ??? ??????
????????? ?? ???????? ??? ??? ??? ?????????? ??? ?????????? ??? ??? ??? ??????
????????? ??? ??????????»

13 ??????? ?? ??? ?????????????? 1 ??? 2 ??? ?????? 23 ??? ?? 633/72, ?? ??????
????????????? «?????????? ??????????», ?? ?????????????? ??? ?????? ?????? ??
?????????????, ?????? ?????????? ??????, ??? ?????????? ?????????? ??? ?????? ??????,
????? ?????? ?? ??????????, ??? ??? ??????????, ? ?????? ?????? ??? ? ??????????
?????????, ?? ?????????? ??? ?????? ?????? ??? ?????? ??? ? ??????????, ?? ?????? ??? ? ??????????
??? ??? ?????????? ?????????? ?????? ??? ? ??????????, ?? ?????? ? ? ??????????
????????? ??? ?????????? ??? ?????? ? ??? ??????????, ?, ??? ?????????????? ??? ?????? 17,
????????? 3, ??? ????? ??????????, ?? ?????? ??? ?????????? ??? ?????????? ?? ?????? ??
????????? ??? ??????????.

14 ? ?????????? 1 ??? ?????? 25 ??? ?? 633/72, ?? ?????? ?????????????? «??????????
?????», ?????????? ??? ?????????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ???'
????? ?????? ?? ?????????? ??? ?? ?????????? ?????? ??? ?????? ?? ?????? ?? ???
????????? ??? ?????????? ? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
?????????????, ?????????????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??
????? 17, ?????????? 3, ??? ?? ??? ???????????, ??? ?? ?? ?????????? ??? ?????? ??? ??????
????? ??? ?? ??? ?????????? ?????????? ? ??? ?????? ?????? ?? ??? ?????? ??? ?????? ???
????? ??? ?? ??? ?????? ??? ?????????? ?? ?? ?????????? ??? ?? ??? ?????? ???.

15 ??????? ?? ???. ?????????? 1 ??? ?????? 47 ??? ?? 331/93, ?? ?????? ??????????????
«?????????? ?? ?????????????? ??????», ?? ?????????? ?? ??????????, ?????? ??????,
?????? ?????????? ?????????????? ?????? ??????? ?? ?????????? ?????????? ??????????
?????? ?? ?????????????? ??????, ????? ?? ????? ?????? ? ?? ?????????????? ??????,
???? ?????????? ????? ?????????? ?????? ??? ??????, ??? ?????????????? ??? ?? ????
23, ?????????? 1 ??? 2, ??? ?? 633/72 ?????? ?????????? ?????????? ?????? ??? ??
?????? ?????? ??? ?????? 25, ?????????? 1, ??? ????? ??????????, ?? ?????,
??????????, ??? ??? ?????? ?????? ? ??? ????? ??????????.

16 ??????, ?? ????? 57, ?????????? 1, ????? ???????, ??? ?? 633/72 ?????????? ??
?????????:

«?? ??????? ?? ??????? ?? ??????????? ?? ?? ?? ??????????? ?? [...] ???????????????,
?? ????? ?? ??????? ?? ??????? ?? ???????????, ?? 31? ??????????? ?? ???????
?????? ?? ?? ?? ??????? ?? ??????? »

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

17 ? Ecotrade ?????? ??????? ??????? ?????????? ????????. ?????????????? ??? ??????

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

18 ??? ???? ?? ??????? ?? ??????? 2000 ??? 2001, ? Ecotrade ??????? ?? ??????????? ??
?????????????? ??? ?????? ?? ??????? ??????? ??????? ??? ??? ?????? ??? ?????? ???
???? ??? ?????????? ??????????? ?? ?????????? ??? ?????, ??? ?????????? ??? ?????? ???
???? ?????????? ??? ??????? ??? Ecotrade, ?????????? ??? ?? ??? ?????????? ??? ??
«????????? ?????» ??? ?? «?????????» (??? ????: ??????? ??????). ?? ?????????? ???
????? ??? ?????????? ?? ??? ??? ??? ???, ???????? ?????? ??? ??? ?????? ??? ??
????? ??? ?????????? ?????? ??? ??? ??? ???.

19 ??? ? Ecotrade ??????? ?? ??????? ??????? ?? ?? ??????????? ??? ??? ??.
????????, ?????????? ?? ??????? ?? ??? ?????? ?????? ?????? ?????????? ??? ??
????? ??? ??? ??? ?????? ??? ?????????? ???????????, ?????????? ??? ??
????????? ?????????? ??? ??? ????. ???????? ? ??? ??? ??? ?????? ??? ??
????????? ??? ?????????? ?????? ??? ?????? ? Ecotrade ??? ??? ??????? 2000 ???
2001.

20 ??????? ??????? ?? ?????????? ?????? ??? ?????????? ??? 2004, ? Agenzia ???????
??? ?? ??????? ??????? ??????? ?????????? ?????????? ?????????????? ?????????? ???,
????????? ?? ???, ??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??
????????? ??? ???????????, ?????? ??? Ecotrade ??? ??????????, ?? ??? ??????????
???? ??????????. ? Agenzia ?????????? ?????? ??? ? ??????? ????? ??? ??? ?????? ???
????????? ??? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ??????????.

21 ?????? ???, ? Agenzia, ?????????? ??????? ??????? ??????? ??????? ?????, ?????? ??
????????, ?? ??? ??? ???, ??? ?????????? ??????? ??? ??? ?????? ?????? ? Ecotrade ???
??? ??????? 2000 ??? 2001, ?????? ??? ??????? ??? ?? ?????????? ???, ??????????
????? ??????? 321 000 ???, ??? ??????? ??????? ??? ?????? 361 000 ???.

22 ?? ???????, ? Agenzia ??????? ??? ? Ecotrade ??? ??????? ?? ??????? ??? ??
?????? ??? ??? ???, ?????? ??? ?? ??? ?????? ?????? ?????? ?????????? ??? ??
????? ??? ?????? ? ?????? ??? ?????? ?????? ?????????, ??? ?????????? ?? ?????? 19, ?????????? 1,
?????? ??????, ??? ?? 633/72, ??? ? ?????????? ??? ?????? ?????????? ??? ??????????
??? ??? ??? ??? ?? ?????? ???????, ?????????? ???, ?????? ??? ?????? 57, ?????????? 1,
??? ?? ??? ???????????, ?? ??????? ??? ?????? ?????? ?????????? ??? ??? ??????????
????? ??????? ?? ?????????????? ??? ?????? ?????????? ?????? ??? ??? ??????? ???
????? ??? ??? ??????????.

24 ? Agenzia ?????????? ??????? ?? ?????????? ?????????????? ??? ? Ecotrade ?????? ??
????? ?????????? ?????????? ?? ?? ???? ?????? «?????????????????» ??? ?? ???? ?????????? ??????????, ??
????? ?????????? ?? ?? ???? ?????????? ??, ?? ?? ???? ?????????????? ??? ?????? ?????????? ??????????
????????? ?? ?? ???? ?????? ?????? ?????, ??? ?? ?????????? ??? ?????? ?????????? ?????????? ???
?? ?? ???? ?????? ?? ?? ???? ?????? ??? ?? ?????? ??????. ??????? ?? ?? ???? ?????? ???, ? ?????????? ???
?? ?? ???? ?????? ?????? ?????????????? ??? ?? ???? ?????????? ??? ?????????? ???, ??? ?????? ??? ?
????? ?? ?? ???? ?????????? ??? ?? ???? ?????????? ??? ?????????? ??? ?????????? ???, ?? ?????? ???
????? ?? ?? ???? ?????????? ??? ?? ???? ?????????? ??? ?????????? ???, ?? ?????????? ???, ??? ??
Agenzia, ? Ecotrade, ??? ?? ???? ?????? ??? ?????????? ??? ?? ???? ?????? ??? ??????????
????????? ??????????, ?????????? ?? ?? ?????????? ??? ?????????? ???, ??? ?? ???? ??????????
?? ?? ???? ?????? ??? ?? ???? ?????? ??? ?????? ??? ?? ???? ?????? ??? ?????????? ??? ??????????
?????????.

25 ??? ??? ??????? ??????, ? Commissione tributaria provinciale di Genova ?????????? ??
?????????? ?? ?????????? ??? ?? ??????? ??? ?????????? ?? ?????????? ?? ?????????? ??????????
?????????, ?? ????? ?????????????? ?????????????? ??? ????? ??? ????? ?????? C?95/07 ???
C?96/07:

«1) ??????????? ?? ??? 17, 21, ?????????? 1, ??? 22 ??? ????? ?????? [...] , ?????
??????????, ??? ?????? ??????? (?? ?????????? ?? ??? 19 ??? ??????? ?? 633/72) ?
????? ??? ?? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? [??], ?
????? ?????????? ??? ??????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????????
??? ??????????????, ??? ?????? ?????????? (?? ???) ??? ?????????? ?? ?????? ??? ??
????? ??? ?????????? ??? ??????? ??? ?????????? , ??? ?????, ????, ???
????????? ??? ?????? ? ?????? ??? ?????? ??? ?????? ? ??? ?????? ?????? ??? ?? ??? ??
????????? ??? ?????????? ?????????? ??? ?????????? , ? ?????? ?????????? ??? ??????
?? ?????????? ??? ??????? ??? ?????? ?????? (????????? ?????? ??? ?????? 57 ??? ??
633/72) ?????????? ??? ?????? ?????????? ??? ??? ?????????? ??? ??? ?????? ???
????????? ??? ?????? ?????? ??? ??? ?????????? , ?? ??? ?????? ??? ?????? ?
????????? ??? ??????;

2) ??????????? ?? ???? 18, ??????????? 1, ????????? ??, ??? ????? ?????? [...] , ???????????????, ??? ?????? ??????? ? ?????? ?????? ??? “????????????” ??? ??????
?????????? ?? ?? ??? ????? ?????? ??????? ?? ?? ??????? ??? ??????????? ?????????????? ???
???????????, ? ?????? ??????? ??? ?? ????? 17, ??????????? 3, ?? ?????????? ?? ?? ???
23 ??? 25 ??? ?? 633/72, ??????????? ??? ?? ?????? ?????????? (??? ??? ????? ??????????)
??? ??????????????) ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??
????? 17 ??? ?????? ???????, ???????? ?? ??? ?????????? ??? ?????????? ?? ??? 19 ??? ??
633/72;»

26 ?? ??????? ?? ??????? ?? ??????????? ?? 27?? ?? ??????? 2007, ?? ???????
C?95/07 ?? C?96/07 ?? ??????? ?? ??????????? ?? ??????? ?? ??????? ?? ???????
?????????? ?? ?? ??????????? ?? ??????????? ?? ??????? ?? ???????.

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

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

27 ? Ecotrade ??????????? ??? ? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
?????????? ??? ?? ??????? ??? ?????? ??? ??????, ?????????? ??? ?? ??? ?????? ??? ???, ???
????????? ??? ?? ??? ?????? ??? ??????????? ??? ???????????, ??? ?? ??? ?????? ?? ??????????? ???
????????? ??? ?? ???, ?? ??? ?? ??? ??????????, ?? ?????????? ??? ?????? ??????, ?? ???
????? ??????? ??? ?? ??? ?????????? ??? ?????? ??? ?. ???????, ? ??????? ??? ?????? ???
????? ??????? ??? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 17, ??????????
6 ??? 7, ??? ?? ??? ?????? 22, ?????????? 7 ??? 8, ??? ?? ??? ?????? ???, ?? ??? ?????? ???
????????? ??? ?? ??? ?????????? ??? ?????? ???.

28 ????. ?????? ??? «????????????» ??? ??????????? ?? ?????? ???' ?????????? ???
?????? 18, ?????????? 1, ??????? ??, ??? ?????? ???????, ??? ?????? ? ?????????? ???
????? ??????? ?? ?????? ??? ?? ??????? ?? ??????? ?? ??????? ?????? ??? ??????
??? ?????????? ??? ?????????? ??? ???????????, ? Ecotrade ?????????? ??? ??
????????? ??? ?????? ?? ?????? ?? ?????? ??????????? ? ?????????? ??? ??
????????? ??? ???. ??? ???????, ? ?????? ??? ?????????? ?????? ??? ??????? ??
????????? ??? ??? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ???
?????. ?? ??? ??????????, ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?????? ??????????, ??? ??? ??? ??? ??? ?????????? ??? ?????? ??? ??????? ??
????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ??? ??? ??? ?? ??????? ??? ???????.

29 ? ??????? ?????????? ??? ? ??????? ?????????? ?????????? ?????????????? ??? ? ?????????? ???
????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???
????????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? 18, ?????????? 1, ?????????? ??, ???
????????? 3, ??? ??? ??? ?????? 22, ?????????? 8, ??? ?????? ??????. ?? ????? 18 ???
????????? ?????? ?????? ??? ?? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ?????????? ??? ?????????? .. ?????? ?? ??? ?????????? 2 ??? ??
??? ?????? 18, ??? ?????????? ??? «??? ??????», ? ?????? ??? ?????????? ???
????????? ?????? ?? ?????????????? ??? ??? ??? ?????? ??????, ?????? ???, ?? ?
????????? ??? ??? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ??????????
?????, ? ?????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? 3
??? ?? ??? ?????? 18.

30 ??????????, ?? ?? ????? ?????????????? ?????? ? ?????????????? ??? ?????????????? ??????????????

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

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

32 ? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ???? ???? ???? ????
????? ?? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ???? ???? ???? . ???
???????, ??? ?????? ?? ?????????? ??' ?????? ??? ?????? ??? ?????? ??? . ? ???????
????????? ??? ???? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
???? ???? ??? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ???? ???? ,
??? ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ???? ??????????
??? ??? ?????? ?????? ?????????? ?????????? ??? ?????? (????? ??? ??????????) ??? ??
??? ?????? ?? ?????????? ?? ?????????? ?????????? ?????? ? ?????????? ?????? ???
????? ?????????? ??? ?????????? ? ?????????? ?????? (????? ???
????????????????). ? ?????????? ?????????? ??? ???? ??? ?????????? ??? ???? ????
?? ??????????, ??? ???? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ???? ????
???? ?????????? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ???? ???? ???? ???? ,
??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???? ???? ???? ???? . ???
????? ??? ?????? ??? ?????? ??? ?????????????????, ? ?????????? ?????????? ??? ???? ?
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ???? ???? ???? ?
??? ??????, ??? ??? ?????? ??????, ?? ?????????? ?????????? ?????????? ??? ???? ???? ?
????????? ???.

33 ?????, ? ??????? ?????? ??? ?????? ??? ?????? ?????????? ??? ???? ???? ???? ????
?? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????????? ??? ???? ???? ?
????????? ?????? ?????????? ?????? ??? ?????? ??? ???? ???? ???? ???? ???? ???? ?
? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ???? ???? ???? ???? ???? ?

34 ??? ?????????? ??? ?? ?????????? ?????????? ??? ???? ???? 19 ??? ?? 633/72 ???
????? ??????? ?? ??? ??? ??????, ? ??????? ?????? ?????????? ?????????? ?? ?????????? ??
????????? ?????????? ??? ?????????? ?????? ?????????? ??????, ??? ???? ???? ???? ?
????????? ??? ??? ??? ?????????? ??? ?????? ??? ???? ???? ???? ???? ?

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

35 ???? ?????????? , ?????????? ???? ???? ?????? ??? ???? ???? ???? ???? ???? ???? ?
????????? ?????? ??? ???? ???? ?????????? ??? ???? ???? 17, 18, ?????????? 1, ?????????? ?,
21, ?????????? 1, ??? 22 ??? ?????? ?????? ?????????? ??? ???? ???? ???? ???? ?
????????? ??? ?????? ???, ? ?????, ??? ?????????? ?????????? ??? ???? ???? ???? ?
????????? ??? ?????? ?????? ?????????? , ?????? ?? ?????????? ??? ???? ???? ???? ???? ???? ?
????????? ??? ??? ??? ?????? ?????????? ?????????? ?????????? ??? ???? ???? ?
????????? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ?

36 ???? , ??? ??? ?????? ??? ?????????? ?????????? ??? ???? ???? ???? ???? ???? ?
????????? ??? ?????????? ?????????? ??? ?????????? ? Ecotrade, ?????? ??? ??? ???? ???? ?
???? ?????????? ?????????? ??? ?????????? ??? ???? ???? ???? ???? ???? ???? ?
????????????? ??? ??? ???, ?????????? ??? ???? ???? ???? ???? ???? ???? ???? ?

?? ??? ?????????????? ???????? ?? ???? ??????? ? ???????, ?????? ??? ??????? ??? Agenzia
?? ?????? ?? ??????? ????. ? ??????? ?? ?????????? ?? ?????????????? ?????? ??? ?????? ??? ?????? ?
????????????? ????, ??? ??????? ?? ??? ??????? ?????? ?????? ??????????????, ?????????????,
???? ?????????????? ? ???????, ?? ??????? ?? ??? ??????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??????? ? ???????.

37 ?????????? ?? ??????? ??, ??? ?????? ?????????? ???????, ?????????? ???
????????? ?? ??????? ?? ?????? ?????????? ?? ??????? ?????????? ??????? ??
????????? ?????? ?? ?????? ?????????? ??????? ?? ??????? ?????? ?? ?????????? ??
????? ??? ?????????? ?? ?????? ?? ?????? ?????????? ?????? ?????? ??? ?????? ??
????? ??? ?? ?????????? ??? ?????????? ??? [??., ?????? ???, ?????????? ??? 2?
????????? 1994, C-315/92, Verband Sozialer Wettbewerb, ?????? ?? «Clinique», ??????
1994, ?. I?317, ??? 7, ??? 4?? ?????? 1999, C-87/97, Consorzio per la tutela del formaggio
Gorgonzola, ?????? 1999, ?. I?1301, ??? 16, ??? 7?? ?????????? 2004, C-456/02, Trojani,
?????? 2004, ?. -7573, ??? 38, ??? 12?? ??? 2005, C-452/03, RAL (Channel Islands)
.??., ?????? 2005, ?. -3947, ??? 25].

38 ???????, ?? ??????? ?? ??????? ?? ?????????? ?? ???????, ?? ?????? ???
??????????, ?????????? ?? ?????????? ?? ???????????, ??? ?? ?????? ??
????????? ???, ???, ?? ?? ?????? 17, 18, ??????? 2 ?? 3, ?? 21, ??????? 1,
????????? ??, ??? ?????? ?????? ???????, ???, ??? ?????????? ??????????
????????? ??, ??? ?????? ?? ??????? ? ??????? ?? ?????? ??? ?????? ???????, ??? ??
????? ?? ?????????? ?? ?????? ??, ??? ?????????? ?????? ???, ??? ?????????? ??????? ??
????????? ?? ?????????? ?? ?????? ?????????? (?? ???: ?????????? ??????????), ??,
????????, ?? ?? ?????? 18, ??????? 1, ??????? ??, ?? 22 ?? ?????? ??????
????????? ?? ?????????? ?? ?????? ??????? ?????? ?? ?????? ??? ?????? ???, ??,
????????? ?? ?????? ?? ?????? ???, ??? ?????? ?????? ??? ?????? ???????, ?? ??
????????? ?? ?????????? ?? ?????? ???????, ??? ?????????? ?????? ??? ?????? ??? ??
????????? ?? ?????????? ?? ?????? ?????? (?? ???: ?????????? ??? ?????????? ???
?????????).

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

39 ?????? ?? ??????? ?? ?????? ?? ??????? ?? ? ??????? ?????? ?? ?????? ??
????????? ?? ?????? ?? ?????????? ?? ??????? ?? ??????? ?????? ?? ?????? ??
????????? ?? ?????? 17, ??????? 2, ??????? ??, ?? ?????? ?????? (?. ?????? ??
1?? ?????? 2004, C-90/02, Bockemühl, ?????? 2004, ?. I-3303, ??? 37). ???. ???.
????????? ?? ??????? ?? ?????? ?? ?????????? ?? ?????????? ?? 17 ?? ?????? ??
????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??
????????? (?. ??????? ?? 21?? ?????? 2000, C-110/98 ?? C-147/98 Gabalfrisa
.??., ?????? 2000, ?. I-1577, ??? 43 ??? ?????? ?????????? Bockemühl, ??? 38).

40 ??? ?????? ?????? ???????, ?? ??????? ?? ?????? ?????? ??????? ??
????? ?????? ?? ?????? ?? ?????? ?? ?????????????? ?? ?????????? ?????? ??
(?????? ??????) (?., ?????? ??, ?????? ?? 21?? ?????? 1988, 50/87,
????????? ?? ?????? ??, ?????? 1988, ?. 4797, ?????? 15 ?? 17, ?? 15?? ??????????
1998, C-37/95, Ghent Coal Terminal, ?????? 1998, ?. -1, ????? 15, ?? ??????????????
????????? Gabalfrisa ?.??., ??? 43, ?? Bockemühl, ??? 38).

41 ????????????, ??? ?????? ??? ?? ?????? ??? ?????? 18, ?????????? 2, ??? ????
??????, ?? ??????? ??? ?????? ???????, ???????, «????? ? ? ??????? ??? ????
??????» ?? ????? ??? ????? ?????????? ?? ???????.

42 ?????? ?????? ?? ??????? ?? ?????? ??? ?????????? ??? ?????? ?? ?????????? ???????,
????? ?? ?????? 18, ?????????? 3, ??? ?????? ???????, ?????? ??? ?? ??? ?????? ??????? ??
?????? ?? ??? ?????? ??? ??????? ??? ?????? ??? ?????? ??????? ?? ??????? ?? ????.
????, ??? ?????????? ???, ?? ??????? ??? ?????? ?????? ?????????? ?? ?????????? ???
??? ?????????? ?????????? ??? ?????????? ?? ??????? ???.

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

44 ??????, ? ??????? ?????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ????
?????? ?????????? ?? ??????? ?? ??????? ?????? ??? ?????? ??? ?????? ??????? ??? ??,
????? ?????????? ?? ??? ?????? ??' ??????? ?? ?????? ??? ?????? ??? ??????? ?? ??????????
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ???
????? ??? ?????????? ???.

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

46 ?????? ?? ??????? ??? ?????????? ?????? ??? ?????????? ???, ? ??? ?? ??????
????????? ??? ??????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????? ??? ?? ?????? ??????? ??????? ??? ?????? ??? ?????? ??? ?????? ??? ??????? ??
??? ??? ?? ???????, ??? ?????? ?? ??????? ?????? ??? ?????? ??? ?????? ??? ??????? ??
????????? ??? ???????, ?????? ? ??????? ???, ??????, ?????????? ??? ?????? ??? ??
????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????? ??
??? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? (????? ???
??????????, ??., ??????, ??????? ??? 15?? ?????????? 1998, C-231/96, Edis, ??????
1998, ?. I-4951, ??? 39, ??? ?? 10?? ?????????? 2002, C-216/99, Prisco ??? CASER,
?????? 2002, ?. I-6761, ??? 67) ???, ???????, ??? ?????? ??? ?????? ??? ??????? ?
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? (????? ???
?????????????????) (?. ??????? ??? 27?? ?????????? 2003, C-327/00, Santex,
?????? 2003, ?. I-1877, ??? 55, ??? ?? 11?? ?????????? 2007, C-241/06, Lämmerzahl, ???
??? ??? ?????????? ??? ?????? ??? ???????, ??? 52).

47 ??? ?????? ??? ?? ???????????, ??? ?? ?? ?????????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????
??? ?????? 19, ?????????? 1, ??? ?? 633/72 ??? ?????? ??? ?????? ???.

48 ?? ??? ?? ?????? ??? ?????? ??? ?????????????????, ?????? ?? ?????????????? ??? ??
????? ?????????? ?????????, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ???????, ???
??????, ??' ??????, ?? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????? ??? ??????? ??
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? 18, ?????????? 2, ??? ?????? ???????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ??????? ??
?????????.

49 ?????? ?????? ?? ?????????? ?? ?? ?????????? ??? ?????????????? ??? ?? ??????? ???,

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

50 ???????, ?????? ?? ??????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??????? ??
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ????. ??
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?????? ??? (??., ??????, ?????? ??? 19?? ?????? 1998, C-85/97, SFI,
????? 1998, ?. I-7447, ????? 32).

51 ?? ?? ??????, ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?? ??
????????? ??? ?????? ?????? (????????????? ?????? SFI, ??? 32). ??? ??
????? ?? ??????????, ?? ?????? ??? ??? ?????????? ?????? ??? ?????? ?? ?????? ?? ??????
????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ?? ??????????
????? ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (??., ??????,
????????? ?????? SFI, ??? 33).

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

53 ?? ?????????? ??? ?????????? ??? ?????? ??? ??????, ??? ? ?????? ??? ?????? ??? ??
?????, ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???, ??
????? 18, ?????????? 2 ??? 3, ??? ?????? ?????? ?????????? ?????? ?? ?????? ?? ?????? ??
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??????????
?????, ??????????, ??? ?????????? 1 ??? ?????? ???, ? ?????? ???, ??? ?? ?????? ??,
??? ?????????? ??? ?????????? ??? ?????? ???.

54 ?????? ??? ???????????, ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
?? ????? 17, ?? ????? 18, ?????????? 2 ??? 3, ??? ?? ?????? 21, ?????????? 1, ??????? ??,
??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ??????????, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?? ?????? ??? ?????? ??? ??
????????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ?? ?????? ??? ?????? ??? ?????? ???.

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

55 ?????? ?? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
??? ??????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? 36 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? Ecotrade.

56 ???????, ?????? ?? ?????????????? ???, ??????? ?? ???? ?????? ??? ??????????? ???
?????????? ??? ??????? ?? ?????? 21, ?????????? 1, ??????? ??, ??? ????? ??????, ?
Ecotrade, ?? ??????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????????, ?????? ?? ?????????? ??? ??? ??? ?????????????? ???
??????, ?????? ??? ??? ??? ??????, ??? ?????????? ???????, ???????, ?? ??????
?????? ??? ??? ??? ?????, ?????? ??? ??? ?????????? ??? ???????, ???????, ?? ??????

57 ?????, ?????? ??? ?????????? ?? ?????????? ?????????????? ??? ???????????, ??? ??
????????? ??? ?????? ???, ?? ????? 18, ?????????? 1, ??????? ??, ??? ????? ??????
????????? ??? ?????? ??? ?? ?????????? ?????????? ??? ??????? ?? ?????? ?
????????? ??? ?????? ??? ?? ?????? ?? ?????????? ??????? ??? ?????????? ??? ???????, ?? ???????.

58 ??? ?? ?????????? ?? ?????????? ???, ??? ?????????? ?? ??????? ??????
?????????? ?? ?? ????? 47, ?????????? 1, ??? ?? 331/93, ?????????? ??? ? Ecotrade ??
?????? ?? ??? ?????? ??????? ?? ??? ?????? «?????????????» ??? ?? ??????
????????? ??? ?? ??? ?????????? ??????? ?? ?????????? ??? ??? ?? ?????????? ???
?????? ? ??????? ??? ?? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??? ??
??? ?????? ??????, ??? ?? ?????????? ??? ?????????? ?????????? ??? ??? ?? ??????? ?? ???
????????? ????.

59 ???????, ??????? ?? ?? ????? 22, ?????????? 2 ??? 4, ??? ?????? ???????, ???
?????????? ??? ?????? ?????? ?? ?????? ?????????? ??? ?????? ??????? ???????, ??? ??
?????????? ?????? ? ?????? ?? ??? ?????? ??? ?? ?????? ??? ?? ?????? ??? ???????????
????? ?? ?? ?????????? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??
?????????? ??? ?????? ??? ?????????? ?????? ??? ?? ?????? ??? ?????????? ??? ?? ??????? ??
????????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ??????? ??
?????????? ??? ?? ?????????? ?????? ??? ?? ?????????? ??? ?? ?????? ???, ??????????????????
??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ??????????.

60 ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ? ???????
?? ?????? ??? Ecotrade, ??????, ??? ?????????? ??? ?????? ??? ?? ?????????? ???
????????? ? ?????? ?????????? ???' ??????? ??? ?????? 18, ?????????? 1, ??????? ??, ??
????? ??????? ???, ???????, ??? ?????????? ?????? ??????? ?????????? ??? ??????? ??
?????? ??? ?????????? ?????????? ??? ?? ????? 22, ?????????? 2 ??? 4, ??? ??????
?????? (??? ????: ??????? ??? ?????????? ??????????).

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

62 ??? ?????? ??? ?????????? ??? ?????????? ??? ?? ?????? 18, ?????????? 1, ???????
??, ??? ?????? ??????, ??????? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?? ???
?? ?????????? ?????????? ??? ?????? ?? ??? ?????? ??? ?????????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??
?????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??
??????.

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

?????????? ?? ?????????? ?????????? ?????????? ?????????? (??., ???' ????????, ????????)
??? 27?? ?????????? 2007, C-146/05, Collée, ??????? 2007, ?. ??7861, ????? 31).

64 ???????, ?????? ? ?????????? ????? ?????????? ?? ??????? ?????????? ??? ??
????????? ??? ? ?????????? ????? ???? ?????, ?? ?????????? ??? ??????? ??????????
????????? ??? ?????????? ??? ???, ??? ?????? ?? ?????????, ??? ?????? ?? ?????????? ??? ??
???? ?????????? ??? ?????? ??? ?????? ?????? ?????, ?????????? ?????????? ??????????
????????? ?? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??
????????? ?????? (??.. ?????????????? ?????? Bockemühl, ????? 51).

65 ?? ??? ?????? ??? ?? ?????? 22, ?????????? 7 ??? 8, ??? ?????? ???????, ???????
?? ?? ?????? ?? ?????? ????? ?????????? ?? ?????????? ?????? ??? ?? ?????????? ??? ??????? ??
?????? ?? ?????????? ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ?? ?????? ? ?????????? ?????? ?????????? ?????, ??? ?????? ?????? ?????? ?????? ??? ??
?? ?????????? ?? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ??

66 ???????????, ??????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ??
????????? ??????? ???, ?? ?????? ?????? ?????? ??? ?????? ?? ??????? ?????? ??? ??
????????? ??????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??
????? ???????, ?? ?????? ??? ?????? ??? ?????? ?? ?????????????? ??? ?????? ?????? ??? ??
?????? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ??, ??? ???????
????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
????????? (??.. ?????????? ??? 18?? ?????????? 1997, C-286/94, C-340/95, C-401/95 ??? C-
47/96, Molenheide ??., ?????? 1997, ?. I?7281, ??? 47, ?????? ??? ?????????? ??? ??
?????? Gabalfrisa ??., ????? 52).

67 ??? ??????? ?????????? ??? ???????, ??? ? ??????? ?????? ??? ?????? ???, ? ??????
????????? ?? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?? ??????? ??
?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??
????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ???.

68 ? ?? ??? ?????? ??????? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ?? ??????????
??? ?????????? ??????? ??? ?? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ??
?????? 22, ?????????? 8, ??? ?????? ??????, ?????? ?????? ?? ??? ?? ?????????? ??? ??
?? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? (??., ???' ????????,
????????? ??? ?????? Gabalfrisa ??., ?????? 53 ?? 54).

69 ??? ?????? ?????????? ?????????? ??? ??????? ??? ?????? ?? ?????????? ??? ??
????? ??? ?????? 17, ?????????? 6 ??? 7, ??? ?????? ??????. ???????????, ?? ??? ??
????????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????, ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??

? ?????????????? ??? ?? ???? ???? ??????? ?? ??? ???? ?????????????? ?????? ??? ?? ??? ???? ??
????????????? ??? ?? ???? ??????? ?? ??? ???? ??????? ?? ??? ???? 29 ?? ??? ????
????????? (??., ???????, ?????????? ?? 8?? ?????????? 2002, C-409/99, Metropol ??? Stadler,
???????? 2002, ?. I-81, ??????? 61 ?? 63, ????? ?? ?? 14?? ?????????? 2006, C-228/05,
Stradasfalti, ??????? 2006, ?. I?8391, ????? 29), ?????? ??, ??????? ?? ?? ??????????, ??
????? ??? ????? ??????? ?? ??????? ???????????.

70 ?????, ??? ?? ??? ?????????? ??? ?????????????? ?????? ?????????? ??? ?? ??? ???? ??
????????? ??? ??????? ?? ?????????? ?? ?????????? ?? ???? ???? Ecotrade ???
????????? ?????????? ?? ?????????? ?? ???? ???? ???? ???? ?????????? ?????.

71 ?? ??? ???????????, ? ??? ????? ?? ??? ?????????? ?? ???? ?????? ?????? ?????????? ???
?? ??????? ?? ?????? ?? ?????? ?? ?????? ?????? ?????????? ??? ?? ?????? ??? ??????????
????? ?? ?????????? ?? ?????? ?? ?????????? ??, ?????????? ?????????? ?????????? ??????????
????? ?? ?? ?????????? ?? ?????? (??., ???????, ?????????????? ?????? Collée,
?????? 35 ?? 36). ??????, ??? ?????? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????
????? ?????, ??? ?????? ?? ?????????? ?? ?????? ??? ?????? ?????????? ?????????? ??????????
?????, ?????????? ???, ??? ?????????? ??? ?????? 56 ??? ?????? ???????, ???
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??????????
?????????, ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ?????????? ??? ??????
????????? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ?????????? ??? ??????
????? ??? ?????????????? ?? ?????? ??? ?????? ?????????? ?????????? ?????????? ??? ??????
????????? (??., ???????, ?????????????? ?????? Collée, ??? 39).

72 ?????, ??? ?????? ?????????? ??? ?????? ?? ??? ???? ???? ?????? ??? ?? ??? 18,
????????? 1, ??????? ??, ??? ?? ??? 22 ?? ??? ?????? ?????? ?????????? ??? ?? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ???, ? ??? ?????? ?????? ??? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???' ?????? ??? ?????? 18, ?????????? 1,
????????? ??, ???, ???????, ??? ?????????? ?????? ?????? ?????????? ?????? ??? ??????
????????? ??? ?????????? ??? ?????? ?????????? 2 ??? 4 ?????????? ??? ?? ??? ?????? 22,
????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ???.

73 ???? ???? ?????????? ??? ?????? ?? ?? ?????? 54 ??? ?????? ?????????? ???, ???
????????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ?? ??????????
?? ?????????? ?????????? ??? ?????? ??????.

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

74 ???? ???? ???? ???? ???? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???, ?' ???
????????? ?? ?????? ??? ?????? ?????? ?????? ??????. ?? ?????? ??? ?????? ?????? ??????
???? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????.

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

1) ?? ?????? 17, ?? ?????? 18, ?????????? 2 ??? 3, ??? ?? ?????? 21, ?????????? 1,
????????? ??, ??? ?????? ?????? 77/388/?? ?? ?????? ?????? ??? 17?? ?????? 1977,
???? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???, ??? ?????? ??? ?????? ?? ???
????? ?????? ?????? — ?????? ?????? ?????? ?????? ?????????? ?????: ??????????
????????? ???, ??? ?????? ?????????? ?? ??? ?????? 2000/17/?? ???
????????? ??? 30?? ?????? 2000, ??? ?????????? ??? ?????? ?????? ?????? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
????? ?????? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????

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

2) ??????, ?? ????? 18, ?????????? 1, ?????????? ?, ??? ?? ????? 22 ??? ?????
?????? 77/388, ??? ????? ?????????????? ?? ??? ?????? 2000/17, ?????????? ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????????????? ???,
? ?????? ?????????? ?? ?? ?????????? ??? ?????????? ??? ?????????? ??? ???????, ???
????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??? ??? ???????, ??????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ??? ??????????
??? ??????? ? ?????? ?????????? ???' ?????????? ??? ?????? 18, ?????????? 1,
????????? ??, ???, ???????, ??? ?????????? ??? ?????? ?????????? ?????????? ???
????????? ??????? ??? ?????????? ??? ??? ?????????? 2 ??? 4 ?????????? ??? ??
???? ?????? 22, ?????? ??? ?????????? ??? ?????? ??? ?????????? ????? ??????????
??? ?????? ????.

(?????????)

* ?????? ??????????: ? ??????.