

Conclusions

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L. A. GEELHOED

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?????? C-308/01

GIL Insurance Ltd

UK Consumer Electronics Ltd

Consumer Electronics Insurance Co. Ltd

Direct Vision Rentals Ltd

Homecare Insurance Ltd

Pinnacle Insurance plc

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Commissioners of Customs & Excise

[?????? ??? VAT and Duties Tribunal London (England and Wales) ??? ??? ??????
????????????? ??????]

?????? ??? ??? ?????? ?????????????? ?????????? – VAT and Duties Tribunal, London –
????????? ??? ?????? 27 ??? 33 ??? ?????? 77/388/?? – ?????????? ??? ?????? 87 ?? –
????????? ??? ??? ??? ?????????? ?????????? – ?????????? ?????????? ??????????
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I – ????????

1. ??? ?????? ??????? ?? VAT and Duties Tribunal, ??????, ?????? ??? ??????????
????? ??????????? ??????. ?? ??? ?????? ?????????? ?????? ??? ??? ??????
77/388/?? ??? ??????????, ??? 17?? ????? 1977, ??? ?????????? ??? ?????????? ???
????? ?????, ??? ??????? ?? ??? ?????? ?????? ?????? ?????? – ????? ?????? ???
????????????? ?????: ?????????? ?????????? ??? (??? ????: ??? ??????) (2).
??????????, ??????? ??? ??????? ??? ?????? 27 ??? 33 ??? ?? ??? ??????
2. ?? ??? ?????? ??????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???????, ? ?????? ?????? ?????? ?????????? ?????? ??? ??????????
????????????? ?????? ?????????? ?????? ?????? ??? ?????????? ?????????? ???
?????????????, ??? ??? ?????? ??? ?????? 87 ??? 88 ?? . ??????????, ?? ?? ??? ??????
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 87, ?????????? 1, ?? ??????
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? (????????? 3 ??? 4) ???
?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (?????????
5).
3. ?? ?????? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ??? ?????? ?????? ??? ?????? ??
????????? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????? 87 ??? 88 ?? ??
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

???? ?????????????? ????, ??? ?????? ??? ?????? ?????????? ??? ?????? ????
?????????. ????????????, ?? ?? ?????? ?????????? ?????? ??? ?????? ?????? ???
????? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??????????, ???? ?? ?????????? ???
????????????? ??? ?? ?? ??? ?????? ?????? ?????????? ?????? ?? ?????????? ?????????????? ???
???? ?? ??? ?????? ??? –?????? ?????????????? – ?????? 96 ??? 97 ??, ?? ??????
????????? ?????? ??? ?????? ?? ?????? ?? ?? ????? 87 ??? 88 ??.

4. ? ?? ??? ????? ???????????????, ??? ?????? ?????????????? ??? ? ?????????? ?? ??? ??? ?????????? ???
??????????????, ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ?????? ?????????? ??' ???
????? ?? ??????? ??? ?????? ?????? ??? ?????????? ?????????????? ??????????.

II - ?? ??????? ??????????

A - ?? ?????? ??????

5. ?? ?????? 31 ??? ? ??????? 2 ??? ?????????????? 9 ??? Value Added Tax Act 1994
????????? ??? ? ?????? ?????????????? ??? ?????? ?????????? ?????????????? ??? ??? ??? ???
????????????? ??? (TVA) (??? ????: ???) ??? ?????? ???????, ??????? ?? ?? ??? 13
?? ?????? ???????.

6. ? Finance Act 1994 ?????????? ??? ?? ?? ????????????, ?? Insurance Premium Tax, ?
?????? ??????????? ?? ?? ??????? ?? ?? ?????????? ?? ?? ?????????? ?? ?? ??????????. ??????? ?
????? ??????????? ?? ?? ??????? ?? ?? ?????????? 2,5 %. ?? ?? Finance Act 1997 ? ??????????
?????????? ?? ?? 2,5 % ?? 4 % ?? ??????? ?? ?? ?????????? ?????????? 17,5
%.

7. ? ?????????? ?????????? ?????? ?????? ?????? ???????. ? ?????????? ????????????, ? ??????
????? ? ? ?????? ?????? ?????? ?????? ?????????????? ?????? ?????? ?????? ?????????? ??? ?? ????
????? ????????, ?????????? ??? ???? ???? ?????? ?????????? ?????????? ?????????? ??????????,
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8. ????? ?????? ?? ???????, ? ?????????? ?????????????? ?????????????? ??? ?????? ?????? ??????????
????????? ??? ?????????? ??? ?????????????? ?????????????? ? ?????? ?????????? ?????????? ??????????
????????? ??? ?????????????? ?????????? ??? ?????????? ?????????? . ?? ??? ?????? ??? ?????? ???
????? ?????? R ??? Commissioners of Customs and Excise, ex parte Lunn Poly Limited and
another [1999] STC 350, ?? Court of Appeal of England and Wales ?????? ??? ??
????????????????? ?????????????? ?????????????? ??? ??? ?????????? ?????????? ??????????
????? ?????????? ??? ??? ?????? ??? ?????? 87, ?????????? 1, ??.

9. ??????? ??? ?????????? ??????, ? ?????? ??? ??? ?????? ?????? ?????????????? ???
????????????? ?????????? ??? Divisional Court, ?? Commissioners of Customs and Excise
????????????? ?? Business Brief ??? 24 ???????? 1998 ??? ?????????? ??? ??? ??? ??????
??? ?????????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ?????????? ?????? ??? ??? ??????????
????????? ??? ?????????? ?? ?????? ?????? ???????. ??? ??? 1? ???????? 1998 ??? ??
????????? ?????????? ?????????? ?????? ?????? ?????? ??????????.

10. ????? ?????? ??? ??????????? ?????????? ??????????, ? ?????????? ??????????? ?????????? ?????????
????????? ?????? ??? ? ?????????? ?????????? ?????????? ?? ???? ?????????? ??? ?????????? ???? ???? ?
????????? ?????????????? ??? ???? ??? ?????????? ? ?????? ??? ?????????? ?????????? ?????????? ???
????????? ?????????? ??? ??? ?????????? ??? ?????????? ????? ?????????? ?????????? ?????????? .
?????????, ?????????? ?????????? ?? ???? ?????? ?????????? ??? ?????? ?????????? ?????????? ?
????????? ??? ?????????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??????????

$B = ?? \quad ?????????? \quad ??????$

12 ??????? ?? ?? ?????? 13 ? ??? ?????? ????????

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

[...]»
13. ?? ????? 27 ??? ?????? ?????? ?????? ??? ?? ?????????? ?????? , ?????????? ???
????????? , ?? ?????????? ?????? ?? ??? ?????? ?????? ??? ?? ?????? ?????? ?????? , ???
????????? ??? ?? ??? ?????? ?????? , ?? ?????? ??? ?????????? ??? ?????????? ??? ???? ???? ?
??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? , ??? ???? ?
????? ?????? ?????? , ?? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?
????????? .

14. ?????, ?? ????? 33, ?????????? 1, ??? ?????? ?????? ?????? ???, «?? ??? ??????????
????? ?????????? ?????? , ?????? ?? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????? ??????
????????? ??? ?? ??? ?????? ?????? ?????? ?????? , ?????????? ??? ?? ?????? ?????? ???
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? , ?? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
??? ?????????? ?????? ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? , ?????????? ?????? ?????? ???, ?????????? , ?????????? , ??????????
????? , ?????????? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????
??? ?????????? , ?????? , ??? ?????? ?? ?????? , ?????????? ? ?????? ??? ?????? ?????? , ???
????????? ?????? ?????? ?????? , ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ???
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15. ??? ? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ?????????? ? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? . ?????? ?????? ?????? ?????? ?????? ?????? ?????? (?) Consumer Electronics
Insurance Company Limited ? ?????? ?????? ??? ?? ?????? Thorn, Homecare Insurance Limited
??? Pinnacle Insurance Plc) ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
????????? , ?? ?????? ?????? ??? ?????????? ??? ?? ?????????? ?????? ?????? (?) Gil Insurance
Limited, ? UK Consumer Electronics Limited ??? ? Direct Vision Rentals Limited, ?? ??????
????????? ??? ?????? Granada).

16. ?? ?????? ?????? ?????? ?????? ?? Commissioners of Customs & Excise, ?? ??????
????? ?????????? ??? ?? ?????????? , ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ??
????????? ??? ?? ??? ?????? ?????? .

17. ?? ?????????? ?????????? ??? ?????????? ?????????? ??? ?? ?????? ??? ?? ??????????
??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??????
????????? ?????? . ?????? ?????? ??? ?????????? ??? Court of Appeal ??? ?????????? ??? ??
????????? ?????? 8 ?????? Lunn Poly, ?? ?????????? ?????? ??? ?????? Commissioners of
Customs & Excise ??? ?????????? ??? ?????????? ?????? . ?????? ?????? ??? ?????????? ???
????????? ???, ?? ?????????? ?????? ?????? ?????? ?????? ??? VAT and Duties Tribunal.

18. ?????? ??? Tribunal ?? ?????????? ?????????? ??? ?? ?????? ?????????? ??? ??????
????? ??? ?????????? ??? ?? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????? ???:
-? ?????????? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?? ??? ?????????? ???
????? ?????? ???, ??? ?????? ??? ?????? 27, ?????????? ??? ?????? ?????? ?????? ?????? ??????
????????? ?????? ???, ? ?????? ??? ?????? ?????? ??? ?????? ??????
-? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
?? ?????? 33 ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
-? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ??? ?????? ??? ?????? 87 ??, ??? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? 88, ?????????? 3, ??.

19. ?? Commissioners of Customs & Excise ?????????? ?? ?????????? ??? ?????? ???

???????????? ???? ??????? ??????. ?????????? ??? ????? ?????????? ????? ?????? ?????? ?????
????????????? ?????? ??? ?????? 27 ??? ????? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??????????????
??? ??? ??????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????????????,
????????? ?? ?? ?????? 88, ?????????? 3, ?? . ?????????? ???, ?? ?????????? ?????????? ?????????? ???
????? ???????, ?? ?????????? ?? ????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???
?????????, ??? ????? ????? ?????????? ???, ??? ? ?????????????? ?????? ??? ?????? ??? ??????????
?????????? ??? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????
????????????? ?????? ?????? ??????????, ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?? ??????????
????? ?????? ??????????.

20. VAT and Duties Tribunal ??????? ??
?????????? ????? ??????????? ???????.

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

1)?????? ?? ????? 27 ??? ????? ??????? 77/388/??? ??? ???????????, ??? 17?? ????? 1977,
???? ?????????????? ??? ?????????? ??? ??????? ?????, ??? ?????????? ?? ??? ????? ?????? ??????
???????? – ????, ??? ?????? ????? ?????????????? ?????: ?????????? ?????????? ???, ??
????????? ??? ?? ?????? ??? ?????????? ?????????? ?????? ??? ?????????? ??? ??
????????? ?????????? ?????????? ??? ?????? ??? ??? ??????????, ? ?????? ?????? ??? ??
????????? ?????????? ??? ?????????? ?????? ??? ?? ????? 13 ??? ?????? ?????????? ???
????????? ?????????? ??? ???, ??? ?????? ?????? ?????? ?????? ?? ??? ???, ?????????? ??????????
?? ?????????? ??? ?????????? ?????? ??? ??? ???, ??? ?????? ??? ?? ??? ?????? ?????????? ???
?????????;

2)?????? ?? ?????? 33 ??? ????? ??????? 77/388/??? ??? ???????????, ??? 17?? ????? 1977,
???? ?????????????? ??? ??????????? ??? ??????? ?????, ??? ?????????? ?? ??? ????? ?????? ??????
????????? – ????, ??? ?????? ?????? ?????????????????? ?????: ?????????? ?????????? ???, ??
????????? ??? ??? ?????? ??? ?????????? ?? ??????? ?????? ?? ?????????? ??? ?????? ??? ??
??????????, ? ?????? ?????????????? ?? ??? ?????? ??? ?????????? ?????, ?????? ???????
???? ??? ??? ??? ???????????, ??????? ??? ?????????? ??? ?????? ??? ???????
??????, ??????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??? ???, ??
?????? ? ?????????? ?? ?????????? ??? ?????? ?????, ??? ?????????? ???
????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ???????
????????? ?? ??? ??? ??? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ???????;
3)?????? ?? ?????? 87, ?????????? 1, ?? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ??? ???????
????????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?? ???, ? ?????? ?????? ?? ???,
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????; ?? ?????? ?????? ??????????
??????????, ??? ?????? ??? ?????? ?????? ?????????? ?? ?????????? ?? ??? ?????? ??? ??
???? ?????? ?????? ???????;

4)?????? ?? ?????? 87, ??????????? 1, ?? ?? ??????????? ??? ?? ?????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (1) ??
?????? ?? ?????????????????? ?????? ??????, ?? ??????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ?????????? ?????? ? (2) ?????????? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?????????? ?????????? ?????? ?????? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ?????????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? - ? (3)
?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????;
5)??, ?????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? , ?
????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ?????? ??? ?????? 87, ?????????? 1, ??, ?????? ?? ?????? 88 ?? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????? ???, ??? ? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?????????? . ?? ?????? ?????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??

? ?????????? ?????????? ??? ? ?????????????? ?????? ??? ?????? ?????? ?????? ?????? ??
??????????;
? ?????????? ??? ?????? ??????????
21. ?? ?????????????? ??? ?????????? ?????????????? ??? ?????? ??? 24?? ??????? 2001, ?
????? ??????? ??? ?????????? ??? 6 ?????????? 2001. ?? ?????????? ??? ?????? ??????, ?
????????? ??? ?????????? ?????????? ??? ? ?????????? ?????????? ?????? ??????????????.
??????, ?????????????? ??? ?????? ??? ?????? ??? ??' ?????????? ?????????? ?????? 19
?????? 2002. ??? ??' ?????????? ?????????? ?????????? ?? ?????????? ??? ?????????????? ??? ??
? ?????????? ??? ??? ?????.

III – ?? ?????? ??? ?? ?????? ?????????????? ????????

22. ?? ??? ?????? ?????????????? ?????????? ?????????? ?????????? ?? ?? ?????? ??????? ??? ??
??? ??? ?????????? . ? ?????? ?????? ?????? ?? 1994 ?? ?????? ?????????? ?????????? ??
????????? 2,5 %. ?? 1997 ? ?????????? ?????? ?? 4 %. ?? 1999 ??????? ?? ??? ??
?????? ?? 5 %. ?? 1997 ?????? ?????? ?????????? ?????????? ??? ?????? ??? ??
????????? . ? ?????????? ?????? ?????????? ?????????? ?????????? ?? ?????????? ??
? ?????????? ??? «value shifting», ??? ?????? ??????????.

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

24. ?? ??????????, ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??????????
????????? ?????????? ?????????, ??? ?????????????? ?????????, ?????????? ??????????
??? ??? ?????????? ?????????, ?????????? ?? ?????????? ??? ?? ??? ?????????? ??? ??
?????????. ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ??
??? ??????????. ?? ??? ?????? ??? ??????, ? ?????????? ??? ?????????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? (3) . ? ?????? ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
1960, ?? ?????????? ?????????? ??? ?????? ???, ?????????? ?????????? ?? ??
????? ?? ?????? ?? ?? ?????? ?????????? ???, ?????????? ??? ?????? ?????????? ?? ??
????????, ?? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ???
?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ??
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
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25. ? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????????? ???
????????? ?????????? . ?? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ??????????
??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? -
????????? ?? ?????? ?????? ?????? ?????? . ? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? . ? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

26. ?? ?? ??????, ?? ?????????? ?????? ?????? ?????? ?????? ??? ?? ??
??? ?????? ??? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??????????
????????? ??? ?????? ?????? . ???, ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? . ?? ?? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

27. ? ??????? ?????????? ??????? ?????????? ?????????? ?????????? ?????????? ?????????? ?????? ??? ??
????????? 17,5 %. ?? ??????? ???, ????? ?? ?????? 13 ?, ??????? ??, ??? ??????
???????, ?? ?????????? ?????????????? ??? ?? ?????? ?????? ?? ?????????? ?????????? ??????????
????????? ?? ?????????? ??? ?? ?????? ?????? ?????????? ?????????? ?????????? ??? ??????????
????????? ?????????? ??? ?? ?????????? ??? ?? ?????? ?????? ?????????? ?????? ??? ?? ?????????? ??
1994 ??? ??????? ?? ?????????? ??? ?? ?????? ????. ?? ?????? ?????????? ?????????? ?????? ??? ?? ?????????? ??
????????? ??? ?? ?????? ???, ?????? ??? ?????? ?????? ?????????????? ?????????? ? ?????????? ??
?? ?????????? ??? ?????????? ?????? ?????????? ?????????? ?????????? ??? ?? ??????????
????????? ?????? ?????????? ??????????.

28. ?? ?????????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ?????????? ??????????
????????? ??? ?? ?????? ?????????? ??????????. ???, ? Granada –?? ?? ??????????????
????????? ?????? ?????????? ?????????? ??? ?????? ?????????? ?????????? – ?????????? ???
????? GIL, ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ?????????? ??????????
????????? ??? ?? ?????? ?? ?????????? ??????????, ? ?????? ??? ?????????? ??????????
???? ?????????? ???????????. ?? ?? ?????????? ??? ??' ?????? ??? ?????? ??????????????
????????????? ?????????? ?, ? GIL ?????????? ?? ?????????? ??? ?????????? ??? Granada
????????????? ?? ?????????? ??? ?????????? ???????????. ?? ?? ?????? ?????????? ?????????? ??
????????? ?????????? ??? ?? ?????????? ?????????? ??????????.

29. ?? 1994 ? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ?????? ???
????????? ?????????? ???, ??? ?? 85 ?? 90 %, ?????????? ??? ?? ?????????? ???
?? ?? ?????? (?) ?? ?????? ??? ?????? ?????????? ?????????? ??? ?? ?????????? ???
????????? ??????????). ??? ?????? ?????? ?????? ?????????? ?????????? ?????????? ?????????? ???
???? ?????????? ?????? ??????????.

30. ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ? ?????? ?????? ??? ??????
????????? ?????? (????????? ?????? ?????????? ?????????? ?????????? ??? ?? ??????????
?????????) ?????? ?????? ?? ??? ?? 400 ?????????? ?????????? ?????????? ???, ?? ???
????? ?? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??????????.

31. ?? Commissioners of Customs & Excise ?????????? ??? ?????? ?????? ??????????????
????????? ?????? ??? ?????? ??? ?? ?????????? ????. ?? ?????? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????????? ?????????? ?????????? 17,5 % ??? ?? ?????? ???
?????????, ? ?????? ?????? ?????????? ?????????? ?????????? ??? ?? ?????????? ?????????? ??
????????? ??? ?? ?????? ?????????? ?????????? ?????????? ???, ??? ?? ?????? ?????????? ??
????????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????????
??? ?? ?????????? ??? ?????? ??????.

32. ? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????????? ?????????? ???
????????? ??? ?????????? ??????. ?? ?????????? ?? ??? ?????????? ?????? ?????????? ???
?? ?? ?????? ?????????? ?????? ?????????? ?????? ?????? ?????????? ??? ?? ?????????? ???
????????? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????????? ?????? ?????????? ???, ??
????????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????? ??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???.
????????? ??? ??????

33. ?? ?????????? ??? ?????????? ?? ??? ?????? ?????? ?????? ?????????? ??????????,
??????, ?? ?????? ?????????? ?? ?????? ?????? ???, ???????, ??? ?? ?????????? ??????????
?? ?? ??????, ?????????? ?? ??? ?????? ??????. ??????, ??? ?????????? ??? ?????? (??
????????? ??????????) ??? ?? ?????????? ?? ?????? ?????? ???, ???????, ???
????????? ??? ?????????? ?? ?????? ?????? ?? ?????? ??? ?????? ?????? ???, ?????????? ??
????????? ?????? ??? ?????? ??? ?????? 27 ?? 33 ??? ?????? ??????.

34. ? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?? ?????????? ?? ???:

-?? ??? ????? ?????????????? ?????????? ?????? ??? ?????????? ?????????? ??? ?????
??? ??? ?????????????? ??? ??? ??? ?????????? ??????????. ? ?????? ?? ?????????? ??????????
??? ??? ?????????????? ??? ?????? ?????? ?????????? ?????????? ?????? ?? ???
????????? ?????? ?????????? ????. ? ?????????? ??? ?? ??? ?????? ?????????? ??? ?? ???
??? ?????????? ??? ?????? ?????????? ??? ?????????? ?????? ?? ?. ?????????? ??? ?? ???
??? ?????????? ?? ??? ?????? ?????????? ??????????, ?? ?? ??? ?????? ?????????? ???
?????? ?? ?????? ??? ?????????? ??????????.
-????????? ??? ? ?????????? ?????????????? ??? ? ???, ? ?????? ?????????????? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??????????,
????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?? ??? ?????? ?????? ?????
????????? ?????????? ?, ? ?????????? ?????????? ?????????? ?????? ?????????? ?? ?????????? ?? ???
??? ??? ?????? ??????????, ?????????????? ??? ?? ??? ?????? 33 ??? ?????? ?????? ??????.
-??? ?????? ??? ?????? ??? ?????? ???????, ? ?????????? ?????????? ?????????? ?????????? ??? ??
????????? ?????????????? ??? ??- ? ?????? ??? ?????? ?????? ??? ?? ??? ?????? ??? ?????? ??? ??
????????? ???, ?? ?????, ?????? ??? ?????? ?????????? ??????????. ?? ?????????? ??? ?? ???
????????? ??? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????????
???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ??????????
????, ??? ?????????? ??????????, ? ???????, ?????????????? ??? ?????????? ??? ??????????
????????? ??????, ?????????? ??? ?????? ?????? ?????, ??? ?? ?????????? ?????? ?????????? ??? ??????????
??? ???????????. ?????? ?????? ??? ?? ??? ?????????? ?????? ?????????? ?????????? ??? ?? ???
????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ??????????
??? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
???? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ???
????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??' ???? ??? ?????? ?????????? ???
????????? ?????? ?????? ?????????? ?????? ????.
-?? ??? 33 ??? ?? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????, ???
??? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ???
????????? ?? ??? ??? ??? ?????? ??????????, ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ???
????????? ?????????? ??? ?? ?????? ?????? ?????????? ?????????? ?? ?????????? ??? ?????????? ???
????????? -????? 13 ?, ?????????? ??- ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????????? ?????? ?????????? ??? ??? ??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??
????????? ??? ?????? ?????????? ????.
-? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????, ?????????? ??? ?????????? ??? ?????????? ???
????? 27 ??? ?????? ?????? ?????????? ?????????? ?????? ??????. ?????????? ??? ?? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ???????, ??? ?????? ??? ?????? ???
????????? ?????? ??? ??????, ? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??
????????? ?????? ??? ?????? 27 ??? ?????? ??????.
35. ?? ?????? ?????????? ???, ??? ?????????? ?????? ???, ? ?????????? ?????????? ???
??? ?????? ??????:
-? ??? ?????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ? ?????? ?? ?????? ??? ?????????? ???
33 ??? ?????? ??????.
-????????? ???, ? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????
????????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ?????????? ??? ?? ?????????? ??? ??????
????????? . ? ?? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ????.
-?? ??? 33 ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????, ??? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??????????-
-?? ? ?????? ??? ?? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????
?????????? ?? ??? ?????????? ??? ?????? ?????????????? ?????????? ??? ??? ?? ???, ??? ???
????????? ?? ?????? 13 ??? ?????? ??????. ????????, ? ?????????? ??? ??? ?????????? ???
????????? ?????????? ?????? ??? ?????? 27, ?????????? 1, ??? ?????? ??????.
?????????????, ? ?????? ?????? ?????? ?????????????? ?????????????? ??? ??? ??? ?????????? ??? ???-
-????? ?????????? ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???, ?????? ??? ??? ???
?? ??? ?????? ?????? ??? ?????????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ???
??????????. ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ?? ?????????? ?????????? ???, ??? ? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ?????????? ?? ?????????? ?????? ??????.
?????????
36. ??? ? ?????????? ??? ?????????? ?????????? ??? ? ??????????, ?? ?????????? ???' ????
??? ?????? ??????. ? ?????????? ??? ?????? ?????? ?????? ?????? ??? ??? ?????????? ???
????? ?? ?????? ??? ?????? ??????.
????? 33 ??? ?????? ??????: ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????????
37. ???' ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?? ??? ?????? ?????????? ???
?????????, ?????? ?? ??? ?????? ?? ?????????? ?????? ?????????????? ??? ?????? ??????????
????????? ?? ??? ?????? ??? ?????? ?????? ???????????.
38. ???????, ???????? ??? ?????? ?????? ??? ? ?????????? ?????? ??? ?????????? ?????? ?? ??? ????
????????? ?????????? ??? ??? ? ?????????? ?????? ??? ?? ?????????? ?????? ?? ?????????? ??? ?
????????? ?????? ?????????? ??? ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ??? ?
????? ?????? ??? ???, ??? ?????? ??? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ??
????????? ?? ?????????? ?????????? ?????????? ??? ??????, ?????????, ?????????? ?? ?????????? ???
????????? ?????????? ?? ??? ?????????? ?????? ??????, ?????????? ?? ?????????? ?? ?????????? ???
????????? ?? ??? ?????? ??? ?????? ??? ?????? 33 ??? ?????? ??????, ?????????? ?? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????? ???, ?????????? ?????? ?????? ??? ?????? ??? ??????????
????????? ??? . ??? ?????? ???, ??? ?????? ?????????? ??? ?????? ??? ?????????? ?? ?????????? ??
?????????: ??? ? ?????? ??? ??? ?????????? ?????? ?????? ?????????? ?????????? ??? ??,
??????, ?????????? ??? ??? ?????? ??? ?????? ??? ??? ?????????? ??? ?????? ?????????? ??? ??
??, ???????, ???????????. ?? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ?? ??? ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???????????.
39. ?????????? ?? ?????? ?????? ??? ?????? ?? ? ?????? ??? ?????? ?????????? ??
????? ?? ??? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?????????? ?? ??? ??????
33 ??? ?????? ???????.
40. ??? ?????? ?? ??? ?????? ???, ?? ?????????? ?????????? ??? ?????? ?? ??? ??? ??
????????? ?? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?? ??? ??
????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??
????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ??
??? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (5) .
?????????, ?? ?????? 33 ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??
????????? ?????????? ??? -????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????? ??? ?????????? ??? ?????? (6) .
41. ?? ?????? ?????????? ??? ??? ?????? ?? ?????????? ?? ?????: ?????????? ??
????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??????, ?????????? ?? ??? ??? ??????
??? ?????????? ?????????? ??? ?????? ??? ?????? ??????, ?????? ?????? ?????? ?????? ??? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? ??? ???????.
42. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????, ??? ?????? ??? ?????? ??? ?????? ???

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

50. ????????, ?? ?????????? ??? ?????? ?????? ?????????????????? ??? ?????????? ?????? ????
(7) ??? ?? (8) ??? ??????????. ?? ??? ?????????????, ?? ????????????? ?????????????? ???
????????????? ?? ??? ??? ??? ??? ?????? ?????????? ?????? ?????????????? ??? ?????? ???
????????? ??????????. ??? ??????? ??? ?????? ?????????????, ?? ??????? ?????????? ??? ??
???? ?? ??? ?????? ?????????? ??? ?.?. ?????????????, ??? ?? ?????? ?? ?????????? ?? ??? ?
????????? ??? ?????? ?????? ??????. ?? ?????????? ?????????? ??? ?? ?????? ???
????????? ??? ?????????? ??? ?????? ??????. ?????? ???????, ? ?????? ??????????
????????? ?????? ??? ?????? ?????????, ??? ?????? ?????? ?????????????? ??? ?? ???
????????????? ??? ?????? ?????????, ?? ?????????? ?? ?????????? ?????? ?? ?????????? ???
????????? ??? ?????? ??? ??????????, ???' ??????, ?? ?????? ?? ?? ?????? ??????. ??
????????? ??? ?????????? ?? ??? ?????? ?????? ??? ?????????????? ?????????? ???
?????. ? ?????????? ??? ?????? ??? ?? ??? ?????? ?????????? ??? ?????????????? ??? ??
????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??????????. ??????, ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ??? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.
?????, ? ?????? ??? ??????????, ?? ?????????? ?????? ??? ?????? ??? ?????? ???
??? ????. ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

IV – ?? ?????????? ??????? ?? ??? ?????????? ??????????

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

52. ??? ?? ?????? ??????? ??? ?????????? ??? ?????????? ???, ??????????, ???
????????????? ??? ?? ?????? ?????????? ??? ?????? ??? ?? ?????????????? ??? ?????? 8
??? ?????? ??? Court of Appeal ??? ????? R v Commissioners of Customs and
Excise, ex parte Lunn Poly Limited ??? ?? ?????????? ??? ? ?????????? ??? ?????
????????? ?? ?????????????? ??? ?????? ??? ??????????

54. ???? ????? ?? ??????? ?????????? ??? ??????? ????? ?? ??????? ??????,
??????, ??? ?????? 96 ??? 97 ?? ???, ???????, ??? ?????? 87 ??? 88 ??, ?? ?????? ????? ??
????? ?????? ??? ??????? ??? ?????????? ??? ?????? ?????? ?? ?????????? ??? ?????? ???
?????. ?????? ??????? ?? ??????? ?? ?????????? ?????? ??? ? ??????? ?? ?????????? ???
????????????? ??? ??????? ?? ??????? ?????? ?????????? ?????????? ???

55. ??????? ?? ??? ????????, ??????? ?? ??? ?????? ??????? ????????:
-? «??????» ???????, ? ??? ?? ?????? ?????? ??????? ?????? ?????????????? ??????????????
????????????? ??????????????. ? ?????? ??? ?????????????? ??' ?????? ??? ?????????????,
??? ?? ??? «??????» ??? ??????????????, ??????? ??? ?????????????? ??? ?? ??? ??????????????
????? ??? ?????????????? ?????????? ??? ??? ?????????????? ??? ?????????????? ??? ?? ??? ??????????
? ??? ?????? ??? ?????????????? ??? ?????????????? ??????, ?????????? ??? ??????????
??? ??????????.

-?? «??????» ??????????, ??? ?? ??? ?????? ??? ?????????? ?????????? ??????????
?????? ??? ?? ??? ?????? ????. ?? ??????????, ? ??????? ??? ?????????? ??????????
?? ?? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?? ??? ?????? ???, ?? ????
????? ??? ?? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ???
????????? ??? ?? ??? ??????, ?????????? ??? ?????????? ??? ?????????? ??? ?? ???
????????? ??? ?? ??? ??????, ?????????? ??? ?????????? ??? ?????????? ??? ?? ???
????????? ???, ??????, ?? ?????????? ??? ?????????? ??? ?????????? ??? ?? ???
56. ??? ?? ??? ?? ??? ?????? ??? ?????? ??????????, ? ??????? ?????????? ??? ?????????? ???
???????. ?? ?????????? ???, ?? ??????, ?? ?????????? ?? ?????????? ??????????
????????? ??? ?? ??? ?????? ??? ???????????. ? ??????? Banks ?????????? ?? ?????? ???
????????? (9). ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?? ??????????
????????? ????????, ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
??? ?????????? Ferring (10).

57. ??? ?? ??? ?????? ??? ????????, ??? ?? ??? ?????? ?????????? ?????????? ??? ?? ???
??? ?? ?????????? ??? ?????????? ?? «??????» ?????????? ??? ?? ???
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? 87 ?? . ??? ?????? ??? ?????? ???
?? ?? 87 ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ??????.

58. ??? ?? ??? ?????? ??? ?????????????? ??? ?????????? ??? ?? ??? ?????????? ???
???????, ? ?????????? ??? «??????» ?????????? ??? ?? ???
????????? ???, ?????? ??? ?????? ?????? ??? ?? ??? ?????????? ??? ?? ??? Spaak, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? ???

59. ??? ?? ??? ??????, ?? ?????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
60. ?? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?? ?????????? ?? ??????????
????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
61. ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? . ?? ?????????? ???, ?? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
62. ?? ?????????? ?? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????? ??? ?? ??? ?????? ???, ??' ???, ?? ?????????? ?? ??? ??? ??? ?????? ???
??? ?????? ??? ?????????? ???, ?????? ???, ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 103 ??? 109 ???
????????? ?? . ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? 99 ??? 104 ??,
????? ??? ??? ?????????? ?????? ???, ??? ??? ?? ??? 105 ??? 111 ??, ??? ?????? ???
????????? ?????? ?????????? ?????? ??? ???.

63. ?????????? ??? ?????????? ?????????????? ?????????? ?????????????? ?????????? ???
????????? ?? ?????????? ?????????????? ?????????????? ?? ??????????????, ?????? ??????, ????????. ??
????????????? ?????? ?????????????? ??? ?????????????? ?????? ?????? ?????? ?????????????? ??????
??? ?????? ?????????? ?????? ?????, ??? ?????????? ?????? ?????? ?????, ??? ?????? ?, ??????
????? ??? ?????????? ?????? ???, ??? ?????? ?, ?????? ?????? ??? ?????? ?????? ?????????? ??????
????? ??? ?????? ?? ?????????? ?? ?????? ??? ?????????? ??? ?????????????? ?????? ?????? ?????.
????? ?????? ?????? ?????????? ?????????? -????, ?????????????? ???, ?????? ?? ?????????? ??????
??? ?????? ??? ?????????? ?????????????? ??? ?????????? ??? ?????????????? ???
????????????- ?????? ?????????????? ?? ?????????? ?????? ?????????? ?????????????? ???
????????????? ?????????? ??? ?????? ?????? ?????? (?) «????????????? ??? ?????? ?????? ??????»).
????? ??? ?????? ???, ?? ?????? 100 ?? ?????????? ?? ?????????? ?????????????? ???
?????????. ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????????? ? ?????, ??? ??????
??? ?????? ??????, ??? ?? ?????????? ??? ?????????????? ?????????? ??? ??????????-
?????????, ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????????? ??????
?? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?. «?????????» ???
????????? ?????????????? ?????? ??? ?????? ??? ?????? ?????? ?????, ??? ? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
64. ?????, ?????????????? ?????? ?????? ?? ?????????? ?????? ??? ?????????? ??? ?????????? ??????????
??? ?????? ??? ?????? ?? ?????? ??-?????: ?????????? ??? ??? ?????????? ??????
?????????. ??? ?????? ?????????? ??? ?????????????? ?????????? ?????????? ?? ??? ??????
????????????? ?????????? ?????????????? ?????? ?????????????? ?????? ?????????????? ??
????????????? ?????? ?????????? ?? ?? ?????????? ?????????????? . ??? ?????? ??? ??????????
?????????????, ?????????? ?????? ??? ?????? ?????????? ?????????? ?? ?????, ??? ?????? ???
????????? ?????????? ??????????, ?????????? ?????? ?????????? ?????? ?????? ?????????? ??
????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????. ??? ?????? ?????? ??????, ?????????? ??? ?????? ?????? ?????? ??? ?????? ???
????????????? ??? ?????? ??????, ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
65. ? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????
?????????. ??? ??? ?????????? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????
?? ?????? «????????? ?????????? ??????» (???????, ? ?????? «????????? ??????????»
????? ?? ?????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ???,
????????? ???, ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ?????? 101 ??? 102 ??? ?????? ?? (????? ??? 96 ??? 97 ??). ??? ??? ??????????
????????? ?????????? ??? ?????? ??? «????????? ??????» ??? ?????? ?????? ?????? ??????????
??? ?????????? ??? ?????? ??? «????????? ??????» ?? ?????? ?????? ?????? ?????? ??????????
?????????, ?? ??? 92, 93 ??? 94 ??? ?????? ?? (????? ??? 87, 88 ??? 89 ??)
????????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????????????? ??? ?? ?????? ?????? ?????? ?????? ???, ?????????? ?????? ?????? ?????? ???
??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
66. ?? ?????? ?????? ??? ?????? ??? ?????? ???, ??????, ??? ?????????? ??? ?????? 96
??? 97 ?? ???, ???????, ??? ?????? ??? ?????? ??? ?????? 87 ??? 89 ?? ??????????
????????? ?????????? ?????? ?????? ?????? ????. ? ?????? ?????? ?????? ?????????? ??????
????????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??????
??? ??????????
67. ?? ?????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ?????? ???
????????? ??? ???????, ?? ?????? 87 ??? 89 ?? ?????????? ??? ?? ?????? ?????? ??????
?? ?????? ?? ??? ?????? ?????? ??? ?????? 96 ??? 97 ??, ??? ??? ?????? ?????? ??????
?? ?????? ??????????, ??? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??
????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???

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

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

76. ?? ??????? ?????????????? ??????????????, ? ?????????????? ??? ?????????????? ???

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

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??? ?? ?????? ??? ?????? ?????? ??? ?????? 96 ??? 97 ?. ??? ?? ?????? ??? ?????? ???

????????? ?? ?? ?????? 70 ??????????: ?? ? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

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

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

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

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

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

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

77. ? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

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

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

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

????? 96 ??? 97 ?? ??? ??? ?????? ?????? ??? ??? ?????? ??? ?????? ??? 87 ??? 88 ??.

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

78. ? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??? ?????? ????, ??? ?????? ??? 24 ??? 32 ??? ??????, ??? ?????? ???

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

79. ? ????????, ?? 1994, ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ???

????????? 2,5 %, ? ?????? ?? ?????? ?????? ?? 4 % ??? ?? 5 %, ?????? ?? ??????

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

80. ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??

17,5 %. ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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81. ??????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

82. ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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????????? ??? ?????? ???-????? ??? ?????? ??????????, ?? ?????? ??? ?????? ???

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

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

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83. ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

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

84. ?? ?????????? ?????????????? ??? ?????? ??? ?????? ?????? ?????????????? ?????? ?? ?????????? ??
????????? ?????????? ????, ??? ?????? ? ?????????? ?????????????? rationae materiae ??
????????? ??? ?????????????? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ?????
????????????? ???, ?????? ?? ?????????????? ?? ?????????? ?????? ?????????? ?????????? ?????????
????????????? ??? ?????? ?????? ?? ?? ?????? ??? ?? ?????? ??????????. ????, ??? ??
????????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??????: ?? ?????????? ??? ??????????
????????????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ??? ?????? ???
??? ?????????????????? ?????????? ?????????? , ? ?????? ?????????? ?????????? ?????????? , ?
????????? ??? ?????????? ?????????? ?????????? ?????? ?????? ?????????? ?????????? ?????????? ??????????
????????? ?? ???.

85. ?? ?????? ?? ??? ?????????? ??? ?????????? ?? ?????? ?? ?????? ?? ?????? ?????????? , ?
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??
????????? , ?????????? ?????????? ??? ?????????? , ??? ?????????? ?????? ?????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? ?? ?????? 96 ?? 97 ??, ? ?????????? ?????? ?? ?????? ?? ?????????? ??????.
??? ?? ?????? ??? ?????????? ?????????? ??? ? ?????????? ??? ?? ?????? ?????? ?????????? ??????
????????? ?????? ??? ?????? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????????? ??? ?????????? ?? ?????????? ?? ??? ?????? ?????? ?????? ?????? ???.
86. ??? ?? ?????????? ?????? ?????????? ?????????? ??? ?? ?????? ?????????? ?????????? ?????? ???
????????? ?? ??? ?????? ?????????? ?????????? , ? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?? ?????????? ?????????? ??? ?? ?????? ?????? ??? ?????????? ?????????? , ??? ??
????? ???, ????.

87. ?? ???????, ????, ??? ? ?????????? ??? ?????? ??? ?????? 96 ?? 97 ?? ?????? ??
????? ??? ???? ?????? ??? ?????????? ?????????? , ??? ???? ?????? ??? ?????? ?????? ?????????? ??????
????? , ??? ???? ??? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? , ??
????? ?? ??? ?????? ? ?????????? ?????????? ?????? ?????? ?????? ?????? ??????.

88. ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ???, ??? ?????????? ??? ?????????? ??????
????????? ??? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? , ?????? ??
????????? ? ?????????? ??? ?????? 87 ?? 88 ?? . ???????, ?? ?????? , ?????? ??? ?????? ??? ??????
????????? ??? VAT and Duties Tribunal ?????????? ?? ?????????? ?????????? ??? ?????????? ??????
?????.

89. ?????????? ?????? ??? ?????? ?????????? , ?????????? ? ?????????? ??? ?????? ??
????????? ??? ?? ?????? ??????.

V – ??????

90. ??? ?? ?????? ??? ?????? ?????????? , ?????????? ??? ?????????? ?? ?????????? ???
????????? ??? ?? VAT and Duties Tribunal ?????????? ?????? ?? ????:
-?????? ??????: ?? ?????? 33 ?? ?????? ?????? 77/388/??? ?? ??? ?????????? , ??? 17??
????? 1977, ??? ?????????? ??? ?????????? ??? ?????? ?????? , ??? ?????? ?? ??? ?????? ?? ???
????? ?????? ?????? – ?????? ?????? ?????? ?????? ?????????????? ??????: ??????????
????????? ???, ??? ?????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? , ? ?????? ?????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? , ???
????????? ??? ??? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??? ?????? ??? ?????????? , ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ?? ??? ???, ?? ?????? ? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? , ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??????.

-????? ??????: ? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????????? , ? ?????? ??? ?????? ?????? ??? 33 ?? ?????? ?????? , ??? ?????? ??????
????? ?????? ??? ?????? ??? ?????? 27 ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????

??? ?? ????????.
-?????, ??????? ?? ?????? ??????: ??????? ? ??????? ??? ??????? ?????? ??? ?????? ???
?????? ?? ??????? ?? ?????? ?????????? ?????, ?? ????? ?????? ?????? ??????? ??????????
????????? ?????????? rationae materiae, ?????? ?????? ?????? ?????? ??? ??????
??? ?????? 87 ??? 88 ??.
1 – ?????? ??? ??????????: ? ????????.
2 – ?? ??. ??? 09/001, ?. 49.
3 – ??? ?? ?????? ??? ?????????? ?????? ?? 1968 ?? 67,5 % ??? ?????????? ???
?????? ?????? ??? ?????? ??????????, ??? ?? 1998 ?? ?????????? ?????? ??? ??????????
?? 8,1 %. ?? 1979 ?? 69,6 % ??? ?????? ?????? ?????? ??????????, ??? ?? 1998 ??
????????? ?????? ??? 4,4 %.
4 – ?????? ??? 27?? ?????? 1985, 295/84, Rousseau Wilmot (?????? 1984, ?. 3759).
5 – ?????? ??? 31?? ?????? 1992, C- 200/90, Dansk Denkavit ??? Poulsen Trading (??????
1990, ?. ?- 2217).
6 – ??., ?????, ?????? ?? 17?? ?????? 1997, C-130/96, Solisnor Estaleiros Navais SA
(?????? 1996, ?. ?-5053). ??., ?????, ?????? ?? 9?? ?????? 2000, C-437/97, EWK ???
Wein & Co. (?????? 2000, ?. ?-1157).
7 – ?????? ??? 10?? ?????? 1984, 324/82, ?????? ??? ?????? ??? ?????? ???
(?????? 1984, ?. 1861).
8 – ?????? ??? 4?? ?????? 1988, 391/85, ?????? ??? ?????? ??? ?????? ???
(?????? 1988, ?. 579).
9 – ?????? ??? 20?? ?????? 2001, C-390/98, Banks (?????? 2001, ?. ?- 6117).
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