

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

YVES BOT

??? 13?? ?????????? 2011 (1)

?????? C?530/09

Inter-Mark Group sp. z o.o., sp. komandytowa w Poznaniu

????

Minister Finansów

[?????? ??? Wojewódzki S?d Administracyjny w Poznaniu (???????) ??? ??? ??????
????????????? ??????]

«?????? 2006/112/?? – ??? – ?????? ?????????? – ?????????????? ??? ?????? ??????????????
??? ?????????? ?????? – ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??????????
????»

1. ? ??????? ??????? ??? ??? ?????? ?????????????? ?????????? ??? ?????? ??? ??????
2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ?????? ??????? ???
????????????? ??? (2), ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??????????
??? ?????? ?? ?????????? ??? ??? ?????? ?????? ?????????? ?????????? ??????????.

2. ?? ?????? ?????????? ???, ???' ??????, ??? ?? ?????????? ?? ?????????? ??? ?
?????? ?????????? ??? ?????????? ??? ??? ?????????? ?????? ?????? ?????????? ?????????? ???
????????? ? ?????????? ?????????? ?????????? ?????? ?????? ?????????? ?????????? ??????????
???? ??? ?????? ??? ?????? 56, ?????????? 1, ??????? ??, ??? ?????? 2006/112 ??
????? ?????????? ??? ?????? ??? ?????? ?????????? ?????? ??????, ? ??? ?????? ???
????? ?? ?????????? ?????????? ??? ?????? 52, ??????? ??, ??? ?? ?????? ??????, ?? ????
???? ?????? ?? ??????????, ??????????, ??????????, ??????????, ??????????,
?????????????, ?????????? ? ?????????? ??????????????, ?????? ??? ?? ?????????? ???
??? ?????????????? ?????? ??????????, ???, ??????????, ?????????????? ??? ?????? ???
????????? ????.

3. ?? ??? ??????? ?????????? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??
????? 52, ??????? ??, ??? ?????? 2006/112 ??? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ?? ?????????? ???
????????? ?????????? ?????????? ??? ??? ?????????? ?????? ?????????????? ?????????? ???
????????? ?????????? ?????????? ???, ???????, ?????????? ?????????????? ??? ?????? ???
????????? ????.

I – ?? ?????? ???????

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

4. ? ???? ?????? 77/388/??? (3) ??????????????? ?? ??? ?????? 2006/112, ??? ???? ????
???? ?????????????? ?????????????? ??? ?????? ?????? ??????????.

5. ?? ?????? 1, ?????????? 2, ????? ??????, ??? ?????? 2006/112 ?????? ??? ? ??????
????? ??? ?????? ?????????? ?????? ?????????????? ?????? (??? ????: ???) ??????? ?
??????? ??? ??? ?????? ??? ??? ?????????? ??? ?????? ?????? ?????? ??????????????, ???????
????????? ?? ??? ?????? ??? ?????? ??? ??? ??????????.

6. ????????, ? ?????????? ??? ???? ???? ?????? ?? ????? ?????? ??? ????? ???? ???? ???? ???? ????
????????????? ??? ???? ???? ???? ????? ?????????????????? ? ?????????? (4), ? ??????
????????????? ??? ?? ???? ???? ???? ?????????????? ??? ???? ?????????? ??? ??? ???? ?????????????? ???
?????? ???? ???? ???? ???? ?????????????????? ? ?????? ?????????? ??? ?????? ?????? ?????? ????
?????????.

8. ??????????? ?? ?????????? ?????? ? ?????????? ??? ?? ??? ?????? ??? ??
?????????? ?? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ?????? (5), ?????? ??? ?
????? ?????????? ? ?? ??????????, ? ?????????? ??? ?????? ??????, ??? ?????? ???
????? ??????????, ??? ?????? ??????, ?????? ??? ?????? ??????, ? ?????????? ???
????? ?????????? ??? ?? ??? ?????? ?????????? ??????????.

9. ????????????, ?? ??? 43 ??? ?????? 2006/112 ?????? ??? ? ?????? ??????
????????? ?????? ? ???? ??? ?????????? ?????????????? ??? ?????????? ??? ?????????? ?
??? ?????? ?????????? ??? ??? ??? ????? ?????? ??? ?????? ?, ??? ???
????? ??? ? ?????? ?????????? ?, ??? ??? ?????? ??? ?????? ?????? ????.

10. ????? ?????? ??? ??????????????, ??????????????, ??????????, ??????????????,
?????????????, ?????????? ? ?????????? ??????????????, ?????????????????? ???
????????? ??? ?????????? ?? ?????? ??? ?????????? ??? ?? ??? ????? ??????????????, ???
?? ??? ??????????, ??? ??????????, ??? ??? ?????????????? ??? ????? ??????????, ??
????? 52, ??????? ?? ??? ?? ??? ?????? ?????? ??? ? ????? ?????? ??? ?? ???
????????? ?????? ??? ?? ?????? ?????? ?????????? ???.

11. ?? ??????, ?? ?????? 56, ??????????? 1, ?????????? ??, ??? ?? ???? ?????? ?????? ?????? ?? ?
????? ??????? ?????????????? ???????, ?? ?????? ?????????? ?? ??????
????????????? ?????? ??? ?????????? ?????????? ?????????? ? ?? ?????????????? ??? ??????
????????????? ??? ??????? ??? ?????? ??? ?????????, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ?????????????? ??
????????? ??? ?????? ??? ?????? ?????????????? ??? ??? ?????? ??? ?????? ?????????????? ?? ??????????
?????, ?? ?????????? ?? ?????????? ?????? ??? ?????? ??????????????, ? ??? ?????? ??? ??????????
?? ? ??? ?????????? ?????????? ???.

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

12. ?? ?????? 27, ?????????? 2, ?????? 3, ??????? ??, ??? ?????? ??? 11?? ?????? 2004
????? ?????? ?????????????? ??? (Ustawa z dnia 11 marca 2004r. o podatku od towarów i
usług) (6) ?????? ??? ?????? ??????? ??????? ??? ?????? ?? ?????????? ????????????,

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

13. ?? ??? 27, ?????????? 3, ??? ?? ??? ????? ?????? ???, ?????? ?? ?????????? ???
?????? 27, ?????????? 4, ??? ??? ????? ?????? ??????????? ?? ?????? ???????, ?????? ??????
? ?????????? ?????? ?????? ?????? ?????? ????????????, ?? ?????? ??? ??? ?????? ??? ? ???
????????? ??? ?? ?????? ?????? ?????? ???????, ? ?? ?????????????? ??? ?????? ?? ?????? ???
??? ??? ??? ? ??? ?????????? ??? ?????? ??? ????????????, ??? ?????? ??? ?????? ?? ?????? ???
????? ??? ?????????? ??? ???????????, ? ?????? ?????? ??? ?????????? ??? ?????? ??? ???? ? ???
????? ??? ?????? ? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
????????????? ? ?? ?????? ?????????? ??? ??? ?????? ?????????? ??? ?????? ??? ? ?? ???
?????????, ???????? ?? ?????? ??? ?????? ??? ?????????? ??? ? ??? ?????? ?????? ?????????? ???.

14. ?????? ?? ?? ??? 27, ?????????? 4, ?????? 2, ??? ?????? ?????? ? ?? ???
?????? ??? ?????? ?????? ?????? ?????? ?????????????? ??????.

II – ?? ?????????? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ????

15. ? ?????? Inter-Mark Group sp. z o.o., sp. komandytowa w Poznaniu (??? ?: Inter-
Mark) ????? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????????? ?? ???.
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ???????, ??????
?????????, ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
?????????. ?? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???, ?????? ??? ??????
??????.

16. ??? ?????? ??? ?? ??? ?????? ?????????? ??? ????????, ?? ?????? ??????????
????????? ??? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ????
????????? ??? ?????? ?????? ???, ? Inter-Mark ????, ??????????, ?? ?????? ??? ?????? ????
????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ???.

17. ?????????? ?? ??????? ?? ??? ??? ???? ???? ???? ???? ???? ???? ???? ???? ???? ???? ????
??, ? Inter-Mark, ?? ??? ?? 11? ? ?????????? 2009 ?????? ??, ?????? ??? ???? Dyrektor
Izby Skarbowej w Poznaniu (????????? ??? ?????? ?????? ?????? ??? Pozna?) ??
?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???.

18. ?? ??? ??? 4? ??? 2009 ?????? ???, ? ?? ??? ?????? ?????? ?????? ???, ??
?????? ?????????? ??? ?????? ??? ?????? ? Inter-Mark, ? ?????? ?????? ???
????????? ???, ??? ?? ??? 27, ?????? 2, ?????? 3, ?????? ??, ??? ?? ???
????, ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???, ?????? ???
????? ???, ?????? ??? ?????? ?????? ? Inter-Mark, ?? ?? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

19. ? Inter-Mark ??????? ??? ?? Dyrektor Izby Skarbowej w Poznaniu ?? ?????????????? ??
???????. ? ???????????, ?? ??? ??? 12? ?????? 2009 ??????? ??, ??????????? ??.

20. ?????????????? ??? ?? ?????????? ??? ?????????? ?? ?????????? ?????? ?? ?????????
??? ?????????? ?????????????? ??????????, ? Inter-Mark ?????????? ??? ?????????? 4??
????? 2009 ?? ?????????? ??? ?????? ?????????? ??? ?????????? ??????????????.

III – ?? ??????????????? ??????????

21. ?? Wojewódzki S?d Administracyjny w Poznaniu (????????), ??????? ??????????
?????????? ?? ??? ?????????? ?????????? ?????????? ?????????? ?? ??????? ?? ??????,
????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????? ?? ?????????? ??
????????? ?????????? ??????????:

«1) ????? ?? ?????? 52, ?????????? ??, ??? ??????? 2006/112/[...] ??? ?????? ??? ??
????????? ?? ?????????? ?? ??? ??????? ?????? ?????? ?????? ?????????? ?????????? ??
???????, ?? ?????? ??????? ?? ??????? ?????? ?? ?????? ?? ??????? ?? ?????????? ??????????
??????????, ?????????????? ?????? ?? ?????????? ?????? ?? ?????????? ?? ?????? ?? ?????? ??????
????????????? ?? ?????????? ?????? ?????? ?? ?????????? ?????? ?????????? ?????????? ??????????
????? ???????, ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ?????????? ??
????? ???????, ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ?????????? ??
????? ???????, ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ?????????? ??
????? ???????, ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ?????????? ??;

2) ? ??????? ?? ?????????? ??? ?????????? ??? ??????? ?????????????????? ????????????, ??
?????? ????????????????, ??? ? ? ????? 56, ?????????? 1, ??????? ??, ??? ??????
2006/112, ??? ???? ??? ???? ??? ?????? ??? ?????????????? ?????????????????? ??? ?????? ? ??? ??????
?????????????? ??? ??? ??? ?????? ?????????????? ?? ?????????? ?????, ?? ?????????? ??
????????? ??? ???? ? ?????? ??????????????, ??? ??? ??? ?????????? ??? ? ??? ??????????
????????? ???,

— ?????????? ??? ? ?? ????? ??????? ?????????? ?????? ?? ?? ?????????? ?????? ?????? ???????
????????? ?? ??????? ?? ?????????? ?? ?????????? ?? ??????? ?? ?????????? ?? ?????? ?? ?????????? ??
????????? ?????????? —?????? ?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ??
????????? ?????? ?? ?????????? ?? ?????? ??????, ?? ?????? ???????, ? ?????????? ?? ?????????? ??
??? ?????????? ?? ? ?????????? ?????? ?? ?????? ?????? ?????? ?????????? ?? ?????????? — ??? ?? ??
????? ?? ?????????? ?? ?????? ???????, ?? ?????? ??????? ?? ?????? ?????????? ?? ?????? ?? ?????? ???????
????, ?????????? ?? ?????? ??????? ?????????? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ???????
????? ?? ??????, ?? ?????? ??????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????? ???????, ??
????????? ?? ???????, ?? ?????? ??????? ?????? ?? ?????? ?? ?????? ?? ?????? ?????????? ???????,,

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

???

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

IV - ???????

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

23. ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ?????? ??? Inter-Mark
??? ??? Dyrektor Izby Skarbowej w Poznaniu ?? ?????????? ?? ?????????? ??? ?????? ?
????????? ??? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? Inter-Mark.
????????, ??? ?? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ???
????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??????. ?? ?? ??????, ??
????????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
??????.

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

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

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

30. ???????, ?? ??? ??????? ???? , ?? ?????????? ?????? ?? ?????????????? ?? ???? ????
 ???? ?????? ??? ?????? ?????????? ??? ?????????? ??????, ?? ?????? ??? ?????? ?????? ???
 ??? ??? ????? ?????????? ?????????? , a priori, ?????????? ?????? ??????????. ?????????? , ??
 ?????????? ?????? ???, ??? ?????? ?????? ?????????? , ??? ?????? ??? ?????????? ?????? ???

????????????? ?? ???? ??????? ????????????, ?????????? ?????????????? ?? ???? ?? ???? ??????
 ??????????, ?? ????? ?? ???? ?????????? ?? ?????????? ?? ???? ?? ???? ?? ???? ??????
 ??? ?????????? ?? ???????, ?? ??????????, ?????????????? ?? ???? ?? ???? ??????
 ?????????????? ?? ?????????? ?? ?????????? ?? ?????????? ??, ?? ?????????? ?? ???? ??????
 ??? ?????????? ?? ?????????? (9). ???????, ??? ?????????? ??????, ?? ?????? ??????????
 ??? ?????? ?? ???? ??????? ?????????? ??????????, a priori, ?????????????? ??????????, ??
 ?????????? ?????? ?? ???? ??????? ?????????? ?? ?????????????? ?? ???? ?? ???? ?????????? (10).

31. ????????, ?? ?????????? ?????? ?????? ??? ? ?????? ??? ?????????????? ??????????
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??? ??????
???????????, ?????? ?????? ??????????, ?? ?????? ??? ?????????????? ??? ?????? ?????? ??????
??? ?? ?????? ??? ?????????? ??? ?????????? (11).

32. ??????????, ??? ?????????????????? ?????? Design Concept ??? ?????? ??
????????? ??? ? ??? ?????????? ?????? ?????? ?????????? ?????? ?????????? ???? ?????????? ? ??????????
????????? ?????????? ?????? ?????????????????? ??????????, ??? ?????? ?????? ??? ?????? 56,
????????? 1. ?????????? ??, ??? ?????? 2006/112.

33. ???????, ?? ??? ??????? ?? 9?? ??????? 2006, C?114/05, Gillan Beach (12), ??
?????????? ??????? ?? ??????????? ?????????????? ?? ??????????? ?? ?????????? ?????????? ??
??????.

36. ?? ????????, ?? ?????????? ?????????? ??? ? ? ?????? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??
 ?????? ?? ?????????????? ??????????, ???' ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??'
 ?????????? ?????? ??? ?????????????? ??????????, ?????????? ?????????? ?????????? ?????????? ??????????,
 ?? ?????, ?????, ??? ?????? ?????????? ??? ? ? ?????????? ?????? ? ?????? ?? ?????????? ??
 ?????????? ??? ?????? ??? ?????? ??? ?????? (14).

37. ??????? ??????, ?? ?????????? ?????? ???, ??? ??????? ?????? ?????? ????????, ? ????????

?????? ?? ???? ?????????? ??? ???? ???????, ??' ??????? ??? ?????????? ??? ???

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

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

????????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? 9, ?????????? 2,

????????? ??, ?????? ??????????, ??? ?????? ?????? (15).

38. ??????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ? ?? ??? ????? ??????? ??? ??
????????? ?????????? ?????????? ??? ?????? ??? ? Inter-Mark ??? ?????????? ??????????
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ??? ??????????
????????? ??????. ?? ?????????? ??? ??? Inter-Mark ?????????? ?????????? ??? ???
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ???' ?????????? ??? ?????????? ???
?????????????.

39. ??? ??? ??? ???, ? ?????????? ?????????? ??? ?????????? ?????????? ??? ?? ??? 52, ?????????? ??,
??? ?????? 2006/112 ??? ?????? ?? ?????? ?????????? ??? ?????? ?????? ??????. ??????????
???, ?????? ?? ?????? ??? ?????????? ?????????? ?????????? ??? ?????? ?????? ???
????????????? ??? ?????? ?????? ??? ?? ?????? ??? ?????????? ?????????? ??? ?????? ?????? ???
????????? ? ??????????, ?? ?????????? ??? ??? Inter-Mark ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? (16). ??? ??? ??????, ?????? ?? ?? ??????
????? ?????????? ??? ?? ?????? ???, ? ?????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????, ?????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ??????, ?? ?????? ??? ?????? ???, ?? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? 44 ??? 59 ??? ?? ?????? ?????? (17), ??? ?????????? ??? ?????? ???
??????.

40. ?? ?? ??????, ? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????????? ???
??? ??? ?????? 52, ?????? ??, ??? ?????? 2006/112 ??? ??????
?????????.

41. ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???.

42. ???' ????, ?? ??? ?????? ??? 7?? ?????? 2010, C?222/09, Kronospan Mielec (18),
?? ?????????? ?????????? ??? ?? ?????? ??? ?????? «?????» ??? ??????
????????? ??? ?????? ??? ?????? (????? ?????? ?????????? ?????? ??? ?????? ??? ??????
2006/112) ?????????? ??? ?? ?????? ?????????? ??? ?????? 9, ?????????? 2, ??? ??????
????????? (????? 52 ??? ?????? 2006/112) ??? ?????????? ?? ?????? ?????????? ???
??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
(19). ???????, ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 1 ? ???
????????? 2 ??? ?????? 9 ??? ?????? ?????? (20).

43. ?? ?? ??????, ?? ?? ?? ?????? ??? ?????????? ?????????????? ? ?? ??? ??? ?????? ???
????? ??? ???, ??? ?? ?????? ???, ?????????? ??? ?????? ??? ??? ?????? ??? ??????????
??? ?????? 52, ?????? ??, ??? ?????? 2006/112.

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

45. ??????????, ? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???, ?????????????? [??]
????????? ??? ?????????? ?? ??????] ??? ?????? ??? «?????» (21). ??? ?? ?????? ???,
????? ??? ??? «?????????????» ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?? ??? ?????? ?????????? ?????????? ??? ?????? ???

????????????? ??? ?????? ??????????? ???????????, ??? ??? ?????????? ??? ?????????? ??? ?????????? ???
???? ???????????, ??? ??? ?????????? ??? ?? ??????? ?????????? ?????? ?? ?????????? ???
??? ?????????????? ??? ?????????????? ??? ?????? 52, ?????????? ??, ??? ?????? 2006/112.

46. ???????, ????, ????? ? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ??? ?????? ???
????????? ??? ?????? ?? ?????????? ???????????????, ?????????????? ??? ??????
????????????? ?? ?????? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????????? ?????, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? 52, ?????????? ??, ??? ?????? 2006/112 ???????
??? ? ??????? ? ?? ??? ?? ?????? ?????????? ?? ?????????? ?????? ?????? ?????????? ?????????? ???
??? ?? ?????????? ??? ?????? ?????????? ?????? ???????, ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ?????? ???????, ?????????? ?????? ??? ?????? ??? ?????? ???
?????.

47. ? ?? ??? ???????????, ???????????????, ??? ???? ?????? ???, ??? ??? ?????????? ???
?????? 9, ?????????? 2, ?????????? ??, ??? ?????? ???????, ??? ?????? ?????? ?? ???????????
?? ??? ?????????????? ?????? Gillan Beach. ???????????, ?????????? ?? ?????? ??? ??
????????? ??? ?????? ??????? ?????? ?????????? ?????????? ??? ?? ?????? ???????, ?? ???????????
????????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ?????????? ???
????????? ??? ?????????? ???????, ?????????? ???????, ?????????? ??? ?????? ??? ?????????? ?????
????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????????? ???
????????????? ?? ??? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????? ??? ??? ?????????? (22).

48. ??? ???????, ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???
????????? ?????????? ??? ?????? ??????? ?????????? ??? ?????? ?????????? ???
????????????? ??? ?????? ?????????? ??? ?????? ??????? ?????????? ?? ?????????? ?????????? ???,
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????
????????????? (23). ???????, ?????? ??? ?? ?? ?????? ?????????? ?????? ?????? ?? ?????
????????????? ??? ?????????? ?????? ??' ?????? ?????? ?????????? ?????? ?????? ??? ??
????? ??? ?????? ?????? ?????????? ?????? ???' ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ???
?? ?? ??? ?????? ?????????? ?????????? ?? ?????????? ??? (24).

49. ?????????? ??????? ??? ???? ?????? ??? ?????? 52, ?????????? ??, ??? ??????
2006/112 ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ???????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ???.

50. ???????, ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? 26??
????????? 1996, C?327/94, Dudda (25). ???????????, ?? ??? ?????? ???, ??
????????? ???????????, ??? ?????? ??? ?????? ?????????? ??? ?????? ???????????
????????????? ??? ???????, ?????????????? ??? ?????????? ?????????? ??? ?????? ???????????
????????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????? ?????????? ???
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? (26). ???????,
????? ??? ? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 9, ?????????? 2,
????? ??, ??? ?????? ???????, ??? ?????? ???????, ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????????????? ?,?. ?????????????? ??? ?????????? ???, ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????????? ??????. (27).

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

52. ?????????? 2006/112 ?????????? ? ?????????? ?? ??????????????????, ???? ?? ?????? ???
???????, ???? ???? ?????? ???? ?????? ? ?????????? (28). ???????, ? ?????? ???? ?????
????????????? ???? ?????? ???? ?????? ?? ?????????? ?????? ???' ?????? ?????? ????
????????????? (29). ?? ? ??????, ?? ?????????? ?????? ??? ?????? ?????? ????
????????? ???? ???? ???? ?????????? ???? ?? ?????? ?????? ?????? ?? ?????? ????
????????????? ???? ?????????? ???? ?????? ???? ?????? ???? ?????????? ???? ??????????
????? ???? ???? ?? ?????????? ???? ?????????? ?????? ???? ?????? ???? ??????????
????? ???? ???? ?????? ???? ?????? ?????? ???? ?????????? ???? ?????? ???? ?????????.

52. ???? ???? ???? ???? ???? ?? ?????????? ???? ?????????? ???? ?????? ???? ????
??????????, ?? ?????? ?????????? ???? ?? ?????????? ???? ?????? ???? ????
????????? ???? ?? ?????????? ???? ?????? ?????????? ?????? ???? ?????? ????
??? ?????? 56, ?????????? 1, ?????????? ?, ??? ?????? 2006/112, ?? ?????? ??????????
????? ???? ???? ?????? ???? ?????????? ?????????? ???? ?????? ???? ??????.

53. ?? ?????????? ???? ?????????? ?????????? ?????????? ???? ?????? ???? ??
????????? ???? ??? Inter-Mark ?????????? ?????????? ???? ??? ?????????? ??????????
??? ?????? ???, ???? ???? ???? ???? ?????? ???? ?? ?????????? ???? ??????????
?? ?? ??????, ? ?????????? ???? ?????????? ???? ???? ???? ?? ?????????? ???? ??????????
??? ?? ?????? ?????????? ???? ?????????? ?? ?????????? ?????? «?????????» ?? ??????????
?? ?????????? ???? ???? ?????? ?????? ???? ?????? ???? ?????? ?? ?????? ???? ?????? ????, ?
????? ???? ?? ?????? ?????????? ?????????? ???? ?????? ?????????? ??????????.

54. ??????, ? ?????? ???? ?????????? ???? ?????? ???? ? ?????????? ???? ??????????
????? ?? ?????? ?????? ???? ?????? ?? ?????? ???? ?? ?????????? ???? ???? ?????? ????
(30). ?????? ????, ?????????? ???? ?????? ?????????? ?????? ???? ?????? ????
????????? ???? ?????? ?????????? ???? ?????? ???? ?????????? ???? ?????? ???? ??????
????????? ?? ??? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ??????
????????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? (31).

55. ? ?????? ???? ?????? ?????????? ?????? ?????????? ???? ?????? ???? ?????? ???? 17?
????????? 1993, C?68/92, ?????? ???? ?????? (32). ?? ??? ?????? ????, ?? ??????????
????? ???? ? ?????? ???? ?????????? ?????? ???' ?????? ?? ?????? ???? ??????????
????????? ?? ?????????? ???? ?????????? ???? ?????? ???? ?????? ???? ???? ?????????? ????
????????? ? ???? ?????? ?? ?????? ???? ?????? ???? ?????? (33). ??????????, ????,
??? ? ?????? ???? ?????? ???? ?????? ???? ?????? ?? ?????????? ???? ???? ????
????????? ????, ??????, ?? ?????? ???? ???? ?????? ???? ?????? ?????????? ???? ???? ????
????? ???? ???? (34).

56. ??????, ?? ?????????? ???? ?????? ???? ? ?????? ???? ?????????? ???? ??????????
????????? ?????????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ??????
????????? ???? ?????? ???? ?????? ???? «?????????», ???? ?????? ???? ??????
????????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ??????
????????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ??????
????? ? ? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ????
????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ????
????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ???? ?????? ????
?? ???? ???? ???? ???? ?????? ???? ???? ?????? ???? ?????? ?????? ???? ?????? ????
????????? ???? ?????? ???? (35).

57. ?? ???? ??????? ??? ????? ?????? ??? ?????????? ?????????????? ?????? ??????????????????
????????????? ??? ??? ??????????, ?? ?????? ??? ?????, ??? ?????????? ??? ??????????????
????????? (36).

58. ?????????? ?????????? ??? ? ?????????????? ??? ?????????????? ??? ??? ?????????????? ??? ?????????????? ???
????????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ??????????, ?????????? ??? ?????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ?? ??? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 56,
????????? 1, ??????? ?, ??? ?????? 2006/112.

59. ???????, ??? ???? ???? ???? ? ?????? ?????????? ??' ???????, ???????, ??? ????
????? ?????? ?????? ?????????? ?????? ??????. ????????, ?? ??????
????? ?????? ?????? ?????????? ?????? ?????? ??? ???? ?????????? ??? ?? ???
?????????????. ???????, ? ?????? ?????????? ?????????? ???, ??? ?? ??? ???? ??, ??
????? ??? ???? ??? ?????? ??? ?????? ?????????? ?????????? ??? ???????,
????????????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????? ???.

60. ???????????????, ? ?????????? ?????????????? ?????????????? ??? ??????????
????????? ?????? ??? ?? ?????????????? ??? ?????????? ?????????? ? ?????????? ??????????
????????? ?????? ?????????????? ??? ?????????????????? ??? ?????????????? ?????????? ? ??????????
????????? ??????????, ????? ?????? ?????? ?????????? ?????????? ??? ??? ?????????? ??? ??
???? ?????????????? (37).

61. ??????? ???? ? Inter-Mark ??????? ?????????????????? ?????????????? ??? ???????????
?????????? ??? ????? ??????, ??? ?? ????? ???, ?? ?????????????? ??? ?? ??? ?? ???
?????????????. ?????????? ??? ?? ?????????? ?? ?????????? ? ??????????, ??? ?????? ???,
????????????? ?? ?????????? ? ?????????? ?????????? ??? ?????????????? ??? ?????????????? ???
????? 52, ??????? ?, ?? ??????? 2006/112, ?? ?????????? ?????????? ??? ??????????????
?? ?? ?????????? ??? ?????????? ?????? ?? ????? ?????????????? ??? ?? ???
????????????????? ??? ?? ?????????? ??? ?????? (38).

62. ?????? ??? ?????????? ??????? ?? ?????????? ???, ??????? ?? ?? ??? ?????? ???
????????????? ??? ?? ?????? ??????? ? ?????????? ??? ??????? ?? ?? ?????????? ???
?????? ???, ? Inter-Mark ?? ?????? ?? ?????? ??? ?????????? ?????????? ???
????????? ??? ?????? ?????? ?????????? ??????????. ??? ??????????, ??? ? ??????
????????? ?????? ?????? ?????????? ?????????? ??? ?????????? ?????????? ?????????? ??
????????? ?????? ??? ?? ??????, ??? ?? ?????? ???, ?????? ?? ??????, ???,
????????? ??? ?????? ???, ?????? ?? ?????? ???, ?????? ?? ?????? ???.

63. ? ?????????? ?????? ??????????? ??? ?????????????? ??? ?????? ?????? ?????? ??????????
????????? ?????? ?????? ??? ?????? ??? ?????????????? ?????????????? ?????????? (39) ? ??
????????????? ??? ?????????????? ?????????????? ?????????????? ?????????? ??? ?????????????? ???
????? ?????? ??????. ??????????, ??? ?????? ?????????????? ?????????? ??? ??????????, ? ??????
????????????? ?????????? ?????? ?? ??? ?????? ?? ?????? ?? ?????? ?????? ?????????? ?????????? ??????????????
?? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ?????? ??????
????????? ? ??????????.

64. ??????? ?? ?? ?????????? ??? ?????????????? ??? ????? ?????? ?? ??????????????, ????? ??
????????? ?? ?????????? ??? ????? ?????? ??? ?????, ??????? ?? ?????? ??????????
????????? ??? ? Inter-Mark ??????? ??? ?????? ??? ?????????????? ?????????????? ??? ??????
???, ????? ?? ?????? ??? ?????? ??? ?????????? ??? ?? ?????????????????? ??? ?????????????? ??,
?????????????. ??????? ?? ?????????? ??? ??????? ?????? ??? ?????? ??? ?????????????? ???

????????????????? ??? ?????????????? (40).

V - ???????

66. ?????????????? ????. ??? ??????????????, ????????. ??? ?????????? ?? ?????????? ???
Wojewódzki S?d Administracyjny w Poznaniu ?? ????:

«?? ?????? 52, ???????? ??, ??? ?????? 2006/112/?? ??? ????????????, ??? 28?? ??????????
2006, ??????? ?? ?? ????? ??????? ?????? ?????? ??????????????? ?????, ??? ?? ??????? ??
????????? ??? ??????????? ??? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ??
????????? ?????????? ?????????? ?????????? ?????? ??? ?????????????????? ??????????????
????????? ??? ?????????? ?????????? ?????????? ???, ???????, ?????????? ??? ?? ???
?????..»

1 – ?????? ?? ?????????????: ? ???????.

2 - ?? L 347, ?. 1.

3 – ??????? ??? ??????????? ??? 17?? ????? 1977 ??? ?????????????? ??? ??????????? ???
?????? ??????, ??? ??????? ?? ??? ????? ?????? ?????? ??????? – ????? ?????? ?????? ???
????????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49, ??? ????:
???? ??????).

4 – ?. ????? ?????????????? ?????? ??? ??????? 2008/8/?? ??? ???????????, ??? 12??
????????????? 2008, ??? ?? ?????????????? ??? ??????? 2006/112/?? ??? ????? ??? ??
?????? ?????????? (??. L 44, ?. 11). ??., ??????, ?????? 3.1.1 ??? ?????????????? ??
????????? ??? ?? ??????????, ?? ?????????? ??????????? ??? ??? ?????????? ??????????
??? ?????????? ????????? – ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ??? ???, ??? 20?? ?????????? 2003 [COM(2003) 614 ??????].

5 – ?? ?????? ?????? ?????????????? ?????? ??? ??????? 2006/112.

6 – Dz. U ??. 54, ???? 535.

7 – ?. ??????? ???. 18?? ?????????? 1999, C?200/98, X ??? Y (????????? 1999, ?. I-8261, ??????? 21 ??? 22).

8 - ??????? 2003, ? I-5617.

9 – ????? 14.

10 – ????? 15.

11 - ???

12 - ????'

13 22222 18 222 22222 2222

14 – ???? 25.

15 – ???? 27. ?????????????? ???, ??????? ??? ??????? ??? ?????????????? ?????????? Gillan Beach, ? ?????????? ??? ?????? ?????????, ?? ??? ??? 1?? ?????????? 2010, ??? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ?????? 52, ??????? ??, ??? ?????? 2006/112 (???. ?????? 2, ?????? 1, ??? ?????? 2008/8).

16 – ?? . ?????? 34 ??? 37 ??? ?????? ?????????????? ??? ??????????.

17 – ?? . ?????? 37 ??? ?? ??? ??????????????.

18 – ?? ?????????????? ??? ?????? ??? ??????.

19 – ???? 28.

20 – ???? 29.

21 – ? ?????????? ??? ??? ???.

22 – ???? 22.

23 – ???? 23.

24 – ???? 24.

25 – ???? 1996, ? I-4595.

26 – ???? 27 ??? 28.

27 – ???? 29.

28 – ??., ??????, ?????? ??? 3?? ?????????? 2009, C?37/08, RCI Europe (?????? 2009, ? I-7533, ????? 39.)

29 – ?? . ?????????????? ?????? Gillan Beach (????? 24).

30 – ?? . ?????? 20 ??? ?????? ?????????? ??? ??????????.

31 – ???.

32 – ???? 1993, ?-I 5881.

33 – ???? 16.

34 – ???.

35 – ???? 17 ??? 18.

36 – ???? 19.

37 – ?? . ?????????????? ?????? Dudda (????? 27).

38 – ?? . ?????? 20 ??? 21 ??? ?????? ?????????? ??? ??????????.

39 – ?. ?????????????? ?????? Gillan Beach (????? 25).

40 – ?. ?? ??????? ??????? ??? ???????? ??? ???????????, ?. 3.