

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

VERICA TRSTENJAK

??? 12?? ?????????? 2012 (1)

?????? C-591/10

Littlewoods Retail Ltd ?..?

????

Her Majesty's Commissioners of Revenue and Customs

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

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

I – ????????

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

II – ?????? ???????

A — ?? ?????? ??????

2. ? Value Added Tax Act 1994 (????? ??? 1994, ??? ?: VATA 1994) ???????
?????? ?????????? ??? ?????????? ?? ?????? ??? ??????????, ??????? ??? ?? ??????
?????? ??? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?? ?????????? ??????? ??? ????????
?????? ??????????.

3. ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
??????????, ?? ????? 80 ??? VATA 1994 ??? ?????? ?? ?????????? ?? ?????? ???
????????? ??? ???' ?????????? ?????????????? ????. ??? ?????? ??? ?????? ???
???? ?????? ??? ??????, ?? ????? 80 ??? VATA 1994 ?????? ?? ??????:

«80 ??????? ? ?????????? ??? ???' ?????????? ?????????? ? ??????????????

1) ?????? ? ?????????? ??? ???

(a) ?????? ????? Commissioners ?????? ??? ?? ?????? ?????????? ?????????? ??????
(????????? ??? ?????? ?????), ???

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

?? Commissioners ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?? ?? ???.

[...]

(1B) ?????? ? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ??????
(????????? ??? ?????? ?????) ????? Commissioners ?? ??? ??? ?? ?????? ???
????????? ?? ???, ??? ??? ?????????? ??? ??? ??? ??????

(a) ??? ??? ??? ?????????? ?? ?????????? ??? ?????? ?????? ?????????????? ?? ???
????? ?

[...],

?? Commissioners ?????? ?? ?????????? ?? ??? ?????? ??? ?????? ?????????? ??? ???.

(2) ?? Commissioners ?????? ?? ?????????? ? ?? ?????????? ? ?? ?????????? ?????????? ???
??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

(2A) ??????

(a) ?????? ??? ?????? ?????? ??? ?????? ???, ?????? ??? ?????? 1 ? 1A
???????, ?????? ?? ?????? ?????? ??? ?????? ???, ?????? ??? ?????????? ?????? ???, ???

(b) ??? ??? ?????????? ??? ????? ?????????? ??? ?? ???' ?????????? ?????????? ??
????? ??? ?????? ???, ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ???,
????? ??? ?? ??? ?????????? ???, ???,

?? Commissioners ?????? ?? ?????????? (? ?? ??????????) ??? ?????? ?????? ??????????
????? ??? ?? ??? ?????? ??????.

[...]

(7) ??? ??? ?????? ??? ?????????? ??? ?? ?????? ?????? ?????? ?????????? ??
Commissioners ??? ?????? ?? ?????????? ? ?? ?????????? ??? ?? ?????????? ??? ??
????????? ??? ?????? ?????? ??? ?? ??? ?????? ?????? ?????? ???, ??

4. ?? ?????????? ?? ??? ?????? 80 ??? VATA 1994 ??????, ? ?????????? ???
????? ?????? ?? ?????????? ?????? ??? ???' ?????????? ?????????? ?????? ???, ??
????? ?????????? ?? ??? ?????? ??? ?????? ??? ?????? 78 ??? VATA 1994. ?? ???
78 ?????? ?? ???:

«78 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

- (1) ?? ?????????? ??? ??????????? ??? ????? ???? ?????? ??? Commissioners
- (a) ??????? ?? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??????????? ??? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ?? Commissioners ??????? ?????? ??? ?????? 80 (2A) ?? ?????????? (? ?? ???????????) ??????? ??? ?????? ?????? ??????????? ??? ???, ?
- (b) ?????????? ?? ?????? ?????? ?????? ?? ?????? 25 ??? ?????? ?? ?????? ?????????? ??? ?????? ?????? ?? Commissioners ??????? ?? ??? ???????????, ?
- (c) (????? ??? ??????????? ??? ?????? a ? b ??????) ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?? Commissioners ??????? ?? ??? ???????????, ?
- (d) ?? Commissioners ??? ?????????? ??????????? ??? ?????? ??? ?? ????????????,
????? ?? Commissioners ??????????? ??? ?????? ??? ??? ?????? ?????? ??? ?? ????????????,
??????, ??? ??? ??? ?????? ??? ??? ?????? ??????????? ?? ?? ?????? ???' ?????????? ???
??????????, ?? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???.
- [...]
- (3) ?? ?????? ??? ?????? ??? ?????????? ??????? ?????????????? ?? ?? ?????????? ??? ?????? 197
??? Finance Act 1996 [????????????? ??? 1996].
- [...]»
- III – ?? ?????????? ?????????? ??? ???? ?????? ?????????? ?????????????? ??? ??????????
5. ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????).
6. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ?????? 1973 ??? ??????????
2004 ? ?????????? ??? ?????????????? ??? ?????? ?????? ?????? ??????????????, ??? ?????? ??? ???,
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ??????).
7. ??? ??? ?????? ??? 2004 ?? Her Majesty's Commissioners for Revenue & Customs
(??? ????: ??? ??? ?????? ???) ?????????? ??? ?????? ?????????????? ??? ?????? ?????? ???'
????????? ??? ?????? ??? 204 774 763 ??? ?????? ?????????? (GBP) ???????, ???'
????????? ??? ?????? 80 ??? VATA 1994. ?????? ?? ?????? ??? ?????? ?????? ?????? ??????
????? ?????? ??? 268 159 135 GBP ?????? ?? ?? ?????? 78 ??? VATA 1994.
8. ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? GBP ???????, ?? ?????, ??? ???????????????,
????????????? ?? ?????? ??? ?????? ??? ?????????? ?? ?????? ?????? ??? ?? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????????? ???' ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? 19 ???

2010 ??????? ??, ?? ?????? ??????????? ?????? ???, ??? ???? ?????? ?????? ??? ?????? ??

9. ??????????????? ??????? ?? ???? ?????? ??? ??????, ? ?????? ?????? ?????? ??? ?????? ????????????

1) ??? ?????????? ??? ? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ???, ??? ???? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???) ?????? ???
????????????? ??? ?????? ??? ?) ?????? ?????? ??? ??? ?????? ?????? ?????? ??? ?????? ???
????? ?????? ???, ??? ???? 78 ??? Value Added Tax Act 1994;

2) ?? ?????????? ?????????? ???????????, ?????? ?? ?????? ??? ?????? ?? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ???) ?????? ???
????????????? ??? ?????? ??? ?) ?????? ?????? ???' ?????????? ??? ???? ??? ?????? ???
??? ?????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??? /??? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???;

3) ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ??
??????????, ??? ???? ?? ?????? ??? ??????, ?? ?????? ?????????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ??? ???
????? ??? ?????? ??? ?????? ??? /??? ??? ?????? ???;

4) ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ? ?????? ???
??? ?????????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? (????? ??? 78 ??? 80 ??? Value Added Tax Act 1994) ???
????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ? ???
????? ??? ?????? ??? ?????? ???;
????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ???;

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

10. ? ??? ?????????? ?????? ??? 4?? ?????? 2010 ?????????? ??? ?????? ???
??? ?????? ?????????? ??? 14 ?????? 2010. ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??????
????????? , ? ?????????? ??? ?????? ???, ? ?????? ??? ?????? ???, ?? ??????
??? ??? ?????? , ? ?????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ???
????????? . ??? ?' ?????????? ??? ?????? ??? 22?? ?????? 2011 ?????????? ??
????????? ??? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ??? ???
?????????.

V – ?????????? ??? ?????????? ??? ??????????

? – ??? ??? ??????, ?????? ??? ?????? ?????????? ??? ??????????

11. ? ?????? ??? ???????? ?? ????, ?? ?????? ??? ?? ????, ?????????????????
?????? ?????? ??? ?????????? ??? ? ?????????????? ???????????, ??????? ???????
?????????? ??? ?? ?????? ??? ?????? ????? ??????? ??? ?????? ??? ??????? ???
??????, ??? ?? ???' ???????? ??? ?????? ??? ???????, ?? ?????? ?????????????? ???
?????????? ?? ?????? ??? ?????? ??????? ?? ?? ?????? ??? ?????? ?? ??? ?????? ?????????????? ???
?????????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??? ?????? ???????,
?????? ??? ?? ??? ?????? ?????? ?????????????? ?????????????? ? ?????????????????? ??
?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ???
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ???

12. ? ?????????? ??? ??????? ??????????, ? ??????? ??????????, ? ??????? ??????????
?? ? ?????????? ?????????? ?????????? ??? ? ??????? ?????? ??? ?????? ??????? ??
?????????? ??? ?? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???????, ???
?? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??????? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ??? ?????? ?????????? ???
?????? ?? ?? ?????? ??? ??????. ?????????? ??? ??? ?????? ?????? ?????? ???????, ??? ?? ???
??????, ? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??????
??? ?????????????????? ??? ??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?? ?????????? ??????
????????????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??
????? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??
?????. ??????? ?????? ?????? ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ??? ?????????? ??????????, ??? ??? ??? ?????????? ??? ??? ?????? ??? ?????? ?????? ???
?????????, ? ?????????? ??? ??????, ?? ?????? ??? ?? ?????? ?????? ?????????? ??????.

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

? — ??? ??? ??????? ??????????

14. ??? ??? ?????? ??? ?????????????? ??? ?????? ?????? ?????? ?????? ??? ??????
????????????? ??????? ??? ?????? ?? ?????????????? ??? ?????? ?????????????? ?? ??? ???
????????? ??????? ??? ?????? ??? ?? ?????? ??? ?????? (????? ? ?????????????? ???
????? 78 ??? 80 ??? VATA 1994), ? ?????? ??? ?????? ??? ?????????????? ?????? ??????????????????,
?????? ?? ??? ??????????? ?? ??? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???.

15. ??? ??? ?????? ??? ?????????? ??? ?????????? ?? ?????????? ?? ?????? ??? ??????
?????? ??? ?? ?????????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ???, ???
?????? ?? ?????????? ??? ?? ?????? 78 ??? VATA 1994 ??? ?????? ?? ?????????? ???
?????? ??? ?????? ?????????? ??? ??? ?????? ?????? ??? ?? ?????? ??? ???.

VI – ?????? ???????

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

16. ?? ?? ?????, ?? ??????? ?? ?? ????? ?????????????? ??????? ?? ?? ??????
?????????? ?????? ???' ?????? ?? ?????????????? ? ?????? ?? ?? ?????? ?????????????? ??
????????????? ?? ?? ? ?????????? ? ?????? ?? ?????? ?????????? ?? ?? ?????????? ??
????????????? ?? ?? ?? ?????? ?????????? ?? ?? ?????? ?????? ?????? ?? ?????????? ??
????????? ?? ?? ?? ?????? ?????????? ?? ?? ?????? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ?? ?? ?????? ?????????? ?? ?? ?????? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ??' ?????? ?????????? ?????????????? ?? ?? ?????? ?????? ?? ?????????? «?????»
????? ??' ?????? (????? ??????), ? ??? «????? ??? ?????» (????? ??????) ? ?????? ???
?? ?? ?????????? ?? ?? ?????????? (????? ??????).

17. ?? «????» ??? ?????? ?? ?????? ?????????? ?? ?????????? ?? ?????? ?????? ??????
????????????? ?? ?? ?????? ?????????? ?????? ?????? ?????????? . ? ?????? «????? ??? ?????»
?? ?????? ?????? ?? ?? ?????? ?????????? ?????? ?????? ?????????? ?????????? ?????? ??
????????? ?????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?? ?????? ??
????????? ?????? ?????? ??????.

18. ? ?????????? ?? ?? ?????? ?????? ?????????????? ?????????? ?? ?????????? ?? ?? ?????????? ??
????? ? ?????? ?????? ?? (2) ??? ? ??? ?????? ?? (3) ?????????? ?????? ?? ?????? ?? ??????
?? ?????????? ?? ?? ?????? ?????? ?????? ?????????? ?? ?? ?????? ?????? ?? ?????? ?? ??????.

19. ?????? ?????? ?? ?????? ?? ?????????? ?? ?? ?????????????? ?? ?????? ?????? ?? ??????
????????? ?? ?? ?????? ?????????? ?????? ?????? ?????????????? ?? ?? ?????????????? ??
????????? ?? ?????? (4). ??? ?????? ?? ?????? ?????????? , ?? ?????? ?????? ?? ??
????????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?? ?????? ?????? ??
????????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?? ??????.
?? ?? ??????, ?? ?????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????? ?? ?? ?????? ??
????????????? ?? ?? ?????? ?????? ?????? ?????? ?????? , ?? ?????? ?? ?? ?????? ?? ?? ?????? ??
????????? ?? ??????.

20. ?????? ?? ?????? ?????????????? , ? ?????? ?? ?? ?????? ?? ?? ?????? ?? ?? ?????? ?? ??
????????? ?? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????????? ?? ?? ?????????? ??
?? ?? ?????? ?? ?? ?????? ?? ?????? ?????????? , ??' ???, ?? ?????????? ?? ?? ?????? ?? ??
????????????? ?? ?? ?????? ?????? ?????? ?????? (5). ?? ?????? ?????? ?????????? ?? ??
????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (6).

21. ??? ?? ?????????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?? ??????
????????? ?? ?? ?????? ?????? , ?? ?????????? ?????? ?? ?? ?????????? ?? ?? ?????????? ??
????????? ?? ?? ?????? ?????? (7).

22. ?????? ?????? ?????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ?? ?? ?????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??
?? ?? ?????? ?????? ?????? ?????? , ?????, ?????? ?? ?? ?????? ?????? ?????? ?????? ?? ??
????????????? (8). ?????? , ?? ?? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????? ?? ??
????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? , ?? ?? ??
????????? , ?????, ?? ?? ?????? ?????? ?????? ?? ?? ?????? ?????? ?????? ?????? ?? ?? ?????? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (????? ??? ??????????) ??,
????????? , ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?? ?????? ??
????????? ?? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (????? ???)

?????????????????????????) (9).

24. ????? ????????, «?????????????????????» ??? ??????? ?????????????? ?????????? ???
??? ??????? ?????????? ?????????? ??? ??????? ??? ?????????????? ??? ??????????
????????? ??? ??????? ?? ?????????? ??? ??????? ??? ?? ?????????? ??? ?? ?????????? , ??? ??????? ?
????????? ??????? ??? ?????????? ??? ??????? ??? ?? ??????? ??? ?? ?????? (11). ????? ????,
??? ?????????? ??? ?????????? ? ??????????» ??? ?????? ??? ??
????????? ??? ?????????? ?????????? ??? ??????? ??? ?????????? ??? ?? ?????? ??? ?? ??? ??????????
????????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????? ??? ?? ?????????? (12), ?? ?????????? ?
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?? ?????????? remedial autonomy
??? ?????? ??? (13).

25. ????????, ?? ??? ???? ??????????????, ? ??? «????????????? ?????????? ??? ??????
?????» ????. ?????? ?????? ??????????, ?????????? ??? ?????????????? ??? ?????????? ???
????????????? ?? ?????????? ?????? ?????????? (14), ??? ??? ??? ??? ??? ??? ??? ??? ???
????????????? ??? ??? ??? ?????????? ??? ?????????? ??? ??? ??? ??? ?????????? ??? ??????
????????????? ???.

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

27. ????? ?????? ?????? ???????????, ??? ?????????????? ??? ??????????????, ?? ?????????????
?????? ????? ?? ?????? ??? ?????????? ?????? ??? ?????? ?????????????? ??? ?????????????? ???
????????? ??? ?????? ?????????? ?????????? ?????? ??? ?????????? ?? ?????? ?????? ??????. ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?? ?????????? ?? ?????? ??? ?????????? ???
????????? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?? ?????????? ?? ?????? ??? ??????????. ? ?????? ???
????????? ?????? ?????????? Roquette Fr  res ??? ?????????? (15) ??? Express Dairy Foods
(16) ??? ????????????, ?????? ????, ?? ??? ?????????? Ansaldo Energia (17) ??? N (18).

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

????????????? ?????? ??? ?????????? ??? ?????? ?????? Metallgesellschaft ??. (19),
????????????? ??? ?????? ??? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ???
????????? ??? ??????. ??? ?????????? ??? ?? ????????????, ??? ?????????????? ??? ??????????????
????????? ??? ??? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ?????????????? ??? ??, ???
????? ? ?????????? ??? ?????? ???, ? ?????????? ??? ??? ?????? ?????????? ??? ?????? ???
??? ?? ?????????? ?????????? (20), ?????????? ??? ?????? ??? ?????? ?????????? ??? ?? ?????
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ??????, ? ?????????? ???
????????? ??? ??? ??? ??? ?????? ??? ?????? ??? ??????. ??? ?????? ?????????? ??? ??????, ? ?????? ???
????????? ??? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ??? ??????, ?????????? ??? ??????
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?? ??????
????? ??? ?????? ?????????? ??? —????????? ??? ?????? ?????????? ??? ?????? ??? ??????
?????— ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??????????
????? ?? ?? ?????? ??? ?????? (21).

30. ??? ?? ???? ?????? ?????????? ?????????? ??? ???? ?? ???? ???? ?????? ??? ???? ?????? ?????? ??? ???? ?????? ??????
????? ?????????? ??? ??????? ??? ?????? ??????, ??? ???? ?? ???? ?????? ?????????? ???
???????????, ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??????????????
????? ??? ?? ?????????? ??? ?????? ?????? ?????????????? ??? ?? ?????????????? ??? ?????? ?????????? ??? ??????????????
?????????. ?? ?? ??????, ? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??????
????? ??? ?? ??? ?????? ?????.. ?? ?? ?????? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??????????????
????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????????????? ???.

31. ??????????? ???. ????. ????. ?????????????? ?????????????? ???. ??????. ????. ??????????????

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

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

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

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

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

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

32. ??? ?? ???? ??????? ?? ???? ?? ?????????? ?? ?????????? ?? ???? ?? ???? ?? ?????????? ?? ????
????????????? ?? ???? ?? ???? ?? ?????????? ?? ???? ?? ?????????? ?? ???? ?? ???? ?? ???? ?? ???? ?? ???? ??

? ?????????? ??? ??????? ???? ????? ?????????? ?????????? ??? . ?????????? ???
????????? ?? ?? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?? ???
????????? ?????????? ??? ?????? ??? ?????????????????? /??? ??? ??????????
????????? ??? ?????? ??? ?????? ?????? ??????.

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

34. ??? ?????? ??????????, ? ??? ?????? ?????????????????? ?????????? ??? ?????? ???
?? ??? ?????????? ?????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? ??? ?????? (25). ?????????? ???, ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????????????? ??? ?? ?????? ???
??????, ? ??? ?????? ??? ?????????????????? ??? ?????????? ?????? ?????? ?????? ?? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ?????? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??????.

35. ??? ?????? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ?????????? ??? ?????? ??? ?????? 78 ??? VATA 1994.

36. ? ??? ?????? 78 ??? VATA 1994 ?????????? ??? ?????? ?????????? ??? ??????
????????? ??? ?????? 197 ??? Finance Act 1996 ??? ??? Air Passenger Duty and Other Indirect
Taxes (Interest Rate) Regulations 1998. ?????????? ??? ?????? ?????? ??? ?????? ??? ?? ??
1998, ??? ??? ?????? ??? ?????? 78, ?? ?????? ?????????? ??? ?????? ??? ?? ??
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? «?????????
?????????». ??? ??? ?????? ?????? 1973 ??? 1998, ?? ?????? ?????????? ??? ??????
????? 7 ??? Regulations ??? 1998. ?? ?????? ??? ?????? ??? ?????? ??? ?????? 78 ??? ??
????????? ?????? 1 %. ?? ?????? 78 ?????? ??? «????????? ??????» ??? ??? ??
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?? Commissioners ?????? ?? ?????????? ??? ?????? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ?? Commissioners ?????? ?? ?????????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??? ??????.

37. ???' ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ???
?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 204 774 763 GBP,
??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 1973-2004,
????????? ??? ?????? ??? ?????? ??? ?????? 268 159 135 GBP. ??????????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? 78 ??? VATA 1994, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? (268 159 135 GBP) ?????????? ??? ?????? ??? ?????? ??? ?????? (204 774 763 GBP)
????? ?????????? ??? 25 %. ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? 78 ??? VATA 1994 ?????? ??? ?????? ??? ?????? ?? ??? ?????? ???
?????????????????.

38. ????????, ? ???????? ??? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????? ? ??? ?? ?????? 78 ??? VATA 1994 ?????????? ??? ?????? ??? ?????? ??? ?? ???
????? ??? ?????????? ??? ?????? ??? ?????? ???.

39. ??? ?????? ?????????, ? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? (26). ??? ??? ?????????? ??? ?????? ??? ??????.

???? ???? ?????????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????????????????? ???
?????????? ??? ??????? ??? ?????? ??? ?????? ?? ?????? ?????????? ?????????? ??? ??? ??? ???
??? ??????? ?????????? ?????????? ??????, ?? ?????? ?????????? ?????? ?????????? ??? ??? ??? ?????????? ???
????????? ?????? (??? ????: ?????????? ?????? ?????? ?????? ?????????? ?????). ?
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ??????????
??????, ?? ?????? ?? ?????????? ??? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ??????????
?? ?????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ??? ?????? ??????????
????????????? ?????? ??? (27).

40. ??? ???????, ?? ?????? ??????????, ?? ?????? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?? ??? ?????????? ??? ?????? ??? ??????
????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?? ?????? 78 ??? VATA 1994 ?????? ? ??? ?????????? ?? ??? ?????? ???
????????? ?????????? ?????? ?????? ?????????? ?????? ??????.

41. ???????, ?????? ?? ?????????? ??? ?? ?????????? ??? ?????? ?????? ?????????? ??????????
????????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??????????
????? ?? ?????? ?????? ?? ?????? ??? ?????? ??????.

42. ??? ??? ???????, ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ??? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ?????? ??? ??????
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???.

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

44. ??????, ??? ??? ?????? ??? ?????????? ?????? (28) ? ??? ??? ??????????
?????????, ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????????
???? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
????? ???' ?????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??????
??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????.

45. ? ?????? ?????? (29) ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???
??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ??????.

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

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

47. ? ?????????????? ??? ?????????? ?????? ?????? ?????????? ?????? ?? ?????? ???
????????? ?????????? ?????? ?? ?????? ?????? ?????? ?????? ?????????? ?????????? ???
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ???
???. ?????????? ??? ?? ?????? ?? ?????????? ?????? ?? ?????? ??? ?????? ?????? ??????
??? ?????????? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ???
??? ?????????? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
????????? in abstracto (30). ??? ?????? ??? ?? ?????? ?????? ?????? ????? de facto ???
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ??????
????????? ?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ???
????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????.

48. ?? ?????????? ??? ?? ??????????, ?????????? ?????? ??? ?????? ?????? ??????
????????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
??? ?????? ??? ??? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???,
????????? ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?? ?????????? ?? ?????????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ???
????? ??? ?????? (31).

49. ??? ? ??????, ? ?????? ??? ?????, ??? ?????? ??? ?????? ?????? ?????? ??????????
????? ?????? ?? ?????????? ??? ? ?????????? ???, ? ??????, ??? ??? ?????? ??? ??
????? ?????? ?? ?????? ?????? ??? ?????? ?????? ??? ??????, ?????? ??? ?????? ??? ??
????????? ??? ?? ?????????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??
??? ?????????? ?????? ?????? ?????? ?????? «????? ?????» ? ??? «????? ??? ?????»
????????? ?? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ???
????? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ??
????????????? ??? ??? ??????????.

? — ??? ??? ?????? ?????????? ??????

50. ?? ? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??
????????? ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
??? ?????? ??? ?????? ?????? ?????? 78 ??? VATA 1994, ??? ???' ??????
????????? ??? ?????? ??? ?????? ?????? 1973-2004 ?????? ??? ?????? ??? ??
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ??????.

51. ??????????? ?? ??????????? ??????, ? ?????? ??????? ?? ????' ??????????
????????????? ?? ????? ?? ????? ?? ?????? 1973-2004 ?? ??? ?? ?????? 78 VATA 1994 ???
????????? ???' ????? ?? ????? ?? ?????? ??????????????????. ? ?????????? ?? ????? ???
????????? ?? ?? ?? ??????? ??????????? ??????? ?????????? ?????? ??????. ?????
???? ?????????? ?? ??????? ??????????? ?? ????? ?? ??????? ?????????? ?????? ???????
?????????? ?????????? ??, ??? ?? ????? ??????? ????? ?? ?????? ??? ???????????????????, ??
????????? ?? ?????????? ??????? ?? ?? ??????????? ??? ?????? ??? ???????????.

52. ???? ?? ?????? ?????????? ?????????? ?? ??????? ?????????????? ??????? ??????, ???
?????, ?? ?????? ??????? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????? ???
????? ?????????????? ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????
????? ??? ?????? ??????. ??? ?????????? ??? ??? ?????? ?????????? ?????????? ??????????????
?????????, ??? ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? 78 ??? VATA 1994
?????????? ??? ?????? ??????? ?????? ??? ?? ?????????? ??? ?????????? ? ?? ??????? ???
????????????? ??????????. ?????????? ?????? ??? ?? ?????????? ??? ??? ?????????? mistake-based
claim ??? Woolwich claim, ??? ?????? ?????? ??? ??????? ?? Common law ??? ?? ??????,
???? ?????? ?? ?????? ???????, ?????????? ??? ?????? ??? ?????????? ??? ?????? 78 ???
VATA 1994.

53. ???? ??? ??????????? ???, ?? ????. ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???
????????????? ??????????, ? ??????????? ??? ?? ?????? ?????? ?????? ?????? ??? Common law
???? ??? ?????????? ??? ?????? 78 ??? VATA 1994 ?????? ?????????? ??? ?????????? ???
????? ??? ??????, ?? ?????? ?????????? ?????????????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????????? ???
????? ??? ?????? ??? ?????? ?????? Woolwich claim, ?? ?????? ??? ?????? ?????? ??????
mistake-based claim.

54. ??????? ?? ?????????? ??????, ?? ?????? ?????????????? ?????????????? ?????? ?? ?? ???????
????????? ?? ?? ?????????????? ?, ??? ?????????????? ?? ?????????????? ?? ?? ?????? 78 ?? 80
??? VATA 1994 ??? ?????????????? ?? ?? ?????? ?? ??????, ?????? ?? ?????????? ??
????????? ?????? ?? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?? ?????????????? ?? ?? ?????? ??
?? ?? ?????? ?? ?? ?????? ?? ?? Woolwich claim ?? ?? ?????????????? ?? ?? ?????? 78 ?? 80 ??
VATA 1994 ??? ?????? ?? ?????????? ?? ?????????????? ?? ?? ?????? ?? ?????????????? ?????? ??
?? ?????????? ?? ?????????? ?? ?????????????? ?? ?????????????? ?? ?? ?????????????? ?? ?? ??
Common law.

55. ??????? ?? ??? ?????????????? ?? ?????????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??
?????? ?????????? ?? ??? ??' ?????????? ?????? (32), ??? ?????? ?? Common
law ?? ??????? ?????? ??? ?????? ?????????????? ?????? ?????? ?????? ??????, ??
????????? ?? ??????? ??? ?????? ?? ?????? ?? ?????? ?????? ?? ?????? ?????? ?????????? ??
?? ?????? ??????, ??????, ?????? ??? ?????? ??? ?????? ?????????? ??????????. ??? ?????? ??
????????? ?? Common law (mistake-based claim ??? Woolwich claim) ?????? ?? ?????? ??
????????? ?? ?????????? ?? ?????????????? ??? ?????? ?????? ?????? ?????? ?????????? ??
??? Woolwich claim ? ?????????? ?????????? ?????? ??? ?????? ?????? ??????????, ?? ??
mistake-based claim ??? ?? ??????? ?????? ??? ? ?????????? ??? ?????? ?????????? ??
????????? ?????? ?? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????????? ??
????????? ?? ?? ??????????????, ??? ??????????????, ?????? ??? ?????????? ?? ?????? ?????????? ??
?? ?????? ??? ?? ??????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??
??? ???????, ??? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ??? mistake-
based claim ??? ?????????? ??? ?????? ???

????? ??? ? ??????????? ??? ??????????? ??? ????? ?????? ?????? ?????? ??????????????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ???, ?? ?????? ?????????? ??
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? . ?????? ???
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? ?????? ??? ?????? , ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? 78 ??? VATA 1994, ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????????????? (33).

57. ?? ?????? ?? ? ?? ??? ?????? ?????? ???' ?????? 78 ??? VATA 1994 ??? ? ???'
????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??????
????? ??? ?????? ?? Common law ?????? ??? ??? ?????????? ??? ?????? ??? ??????????
?? ?????? ?? ?????????? ??? ?? ?????? ?????????? ?? ?????? ?? ?????? ?? ?????????? ???
????? (34). ??? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?? ?????? ??? ??????????
????????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ?? ?????? ?????????????? ??
????? ?????? ?? ??? ?????????? ?????? ?????? ?????? ?????? ?? ?????? ??? ??????????
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ???
????????? ?????? ?????? ?? Common law ?, ??????????, ??? ??? ??? ??? ??? ??
?????????, ??? ?????? ?????????? ?? ?????? ?????????? , ??? ?? Woolwich claim, ???
?? mistake-based claim, ??? ?????? ?????? ???, ?????????? ?? ?? ??? ?????? ??? ? ???
????? ?????????? ??? ?????? ??????.

58. ?? ?????????? ??? ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? , ??? ?????? ?????? ??? ?????????? , ?
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59. ??? ?????????? ??? ?????? ?????????????????? ??? ?????? ??? ?????? ???
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?? ?????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
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????????? ?????? (35). ? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ?????? ??? ?????? ?????? (36) ??? ?????? ??? ?????? ???
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60. ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ? ??? ?????? ??? ?????? ???
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61. ?? ??? ???? ??? ??????? ???????????, ? ??????? ??? ?????? ??????????? ?????? ??????
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VII – ???????

62. ?????? ??? ??????, ??????? ??? ?????????? ?? ?????????? ?? ?????????? ?? ??? ??? ??
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1) ? ?????????????? ? ??????, ??? ?? ??????? ??? ?? ?????? ?????? ??? ?? ??? ??
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2) ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??
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1 — ?????? ??? ??????????: ? ???????.

2 — ?????? ??? 67/228/??? ??? ??????????, ??? 11?? ??????? 1967, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? — ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? (?? ????. ???.. 09/001, ?. 5).

3 — ??? ?????? 77/388/??? ??? ??????????, ??? 17?? ?????? 1977, ??? ??????????
??? ?????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? — ???
????? ??? ?????? ?????????? ????: ?????????? ?????? ??? (?? ????. ???.. 09/001, ?. 49).

4 — ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
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?????? ?????? ??? ?? ?????????? ?????????????? ??????, ?. ?????? ??? 20??
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6 — ???. ???????? Danfoss ??? Sauer-Danfoss (????????????? ??? ?????????? 4,
????? 20), ??? 6?? ?????????? 2011, C-398/09, Lady & Kid ??. (?????? 2011, ?. I-7375,
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7 — ? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
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????????? ??? ?????? 263, ?????????? 4, ????, 268 ??? ? 270 ???, ??? ?????? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? . ??., ??????, Basedow, J., «Der
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(2010), ?. 157, 192 ??., ??? ??? ????? ? ?? ?????????? ?????????? ?????? ?????? ??
????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????
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8 — ???. ???????? Danfoss ??? Sauer-Danfoss (????????????? ??? ?????????? 4,
????? 24), ??? 6?? ?????? 2005, C-291/03, MyTravel (?????? 2005, ?. I-8477, ???? 17),
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Rewe-Zentral (?????? 1976, ?. 747), ? ?????? ?????? ?? ?????? ??? ?????? ??? ??????????
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??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?, ?????, ?? ?? ?????? ??? ?????? ???
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??? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 4 ???, ??
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??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? 15?? ?????? 2008, C-268/06, Impact (?????? 2008, ?. I-2483, ???? 41

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?????????? ??????? ?????????????? ??????? ??., ??????, Wagner, G., ?: Stein/Jonas,
Kommentar zur Zivilprozessordnung, 22? ??????, Tübingen 2011, ?????????? ??? ?? ????
1, ?????? 68 ?.

15 — ??????? ??? 21?? ????? 1976, 26/74, Roquette Frères ??? ?????????? (??????
????? 1976, ?. 274, ??????? 22 ??.).

16 — ??????? ?? 12?? ??????? 1980, 130/79, Express Dairy Foods (?????? ?? 1980/??, ?. 271, ??????? 16 ??).

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18 — ??????? ??? 7?? ?????????????? 2006, C-470/04, N (?????? 2006, ?. I-7409, ????? 60).

19 — ??????? ??? 8?? ??????? 2001, C-397/98 ??? C-410/98, Metallgesellschaft ?.?.?
(?????? 2001, ?, I-1727)

20 — ??., ???. 86.

21 — ???., ??????? 87 ??? 89.

22 — ??????????????? ???? ??????????? 9, ??????? 202 ??.

23— ?????????????????? ??? ?????????????? 9, ????? 112.

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????????????? 9, ???? 205).

25 — ???. ?????????? Accor (?????????????????? ????. ?????????????? 5, ????. 79) ????. ????. 30??

