

???????? C-174/02

Streekgewest Westelijk Noord-Brabant

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Staatssecretaris van Financiën

(?????? ?? Hoge Raad der Nederlanden ??? ?? ?????? ?????????????????? ??????????????)

????????? ??? ??????? ?????????? L. A. Geelhoed ??? 4?? ??????? 2004

????????? ??? ?????????????? (????? ?????) ??? 13?? ??????????? 2005

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1. ?????????? ?????????? ??? ?? ????? – ?????? ?????????? – ?????????? ??????????
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??????????? ??? ??? ?????? – ?????????? ??? ?????? ?? ??? ???? ? ??????
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[????????? ??, ????? 93, ??????????? 3 (??? ????? 88 § 3, ??)]

2. ?????????? ?????????? ??? ?? ????? – ?????????? ??? ????????? – ????? ?????????
– ????? ?????????? ??? ?????????? ?????????? ?? ?????????? – ?????????? –
????????? – ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????

[?????? ??, ????? 92 (???, ??????? ??????????????, ????? 87 ??) ??? ????? 93 (??? ????? 88 ??)]

1. ?????????????? ?????? ?? ??? ??????????? ?? ?????????????? ?????? ?????? ?? ???????
?????????? ?? ????? ?????????? ?? ?????????????? ?? ?????????????? ?????? ?????? ?? ?
????????? ?????????? ?? ?????????????? 3 ?? ????? 93 ?? ?????? (??? ?????? 88,
????????? 3, ?????????? ????????, ??) ???. ?? ?????? ?? ?????????? ?? ????????
????????????? ?? ?????????????? ?? ?????????????? ?? ?????????????? ?? ?????? ?? ?????????? ??
????????? ???????????, ????. ?? ?????? ?? ?????????? ?? ?????????????? ?? ?????? ?? ?????? ??
????????? ????. ?? ?????? ?? ?????????? ?? ??????. ?? ????? ?????????? ?? ?????? ???????????, ?? ?? ?
????????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ??
????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?. ?? ?????? ??
??? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ? ?????????????? ?????????? ?? ?????? ?? ?????? ??
????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????????? ??
?? ?????? 93, ?????????? 3, ?????????? ????????, ?? ??????????.

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

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

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

(?. ??????? 25-26, 29 ??? ??????).

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

??? 13?? ?????????? 2005 (*)

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?? ?????????? ?? Hoge Raad der Nederlanden (???? ????), ?? ??????? ?? 8?? ?????
2002, ?? ??????? ?? ?????????? ?? 13 ????? 2002, ?? ??????? ?? ?????

Streekgewest Westelijk Noord-Brabant

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Staatssecretaris van Financiën,

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

?????????? ??? ??? P. Jann, ??????? ????????, A. Rosas, K. Lenaerts, S. von Bahr ??? K. Schiemann (????????), ????????,

????????? ??????????????: L. A. Geelhoed

?????????: ??F. Contet, ????? ?????????? ??????????,

????? ?????? ?????? ??? ??? ??????? ?????????? ??? ?????? ??? ??' ??????????

????????????? ??? 22?? ??????????? 2004,

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

- ? Streekgewest Westelijk Noord-Brabant, ??????????????? ??? ??? H. Gilliams ??? P. H. L. Kuypers, advocaten,
 - ? ?????????? ????????, ??????????????? ??? ??? H. G. Sevenster,
 - ? ?????????? ??? ?????????? ??????????, ??????????????? ??? ??? J. Flett ??? H. van Vliet,

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??? 4?? ?????? 2004,

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1 ? ??????? ??? ??? ?????? ?????????????????? ??????????? ?????? ??? ?????????? ??? ?????
 93, ?????????? 3, ??? ??????? ?? (??? ?????? 88, ?????????? 3, ??), ??????????, ??????
 ?????, ?? ??????????, ??????, ????? ?????? ?? ?????????? ??? ?????????? ??????????
 ??? ?????????? ?????? ??, ???????, ?? ?????????????? ??? ?????? ?????????????? ??????????
 ?????? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ?????? ???,
 ??? ? ?????????? ??? ?? ??? ?????????? ?? ?????????? ??? ?????? ??? ?????????? ??? ????.

2 ? ?????? ??? ??????????? ?? ?????? ?????????? ?????? ??? Streekgewest Westelijk Noord-Brabant (?????? ?? ??????? ?? ?????????????? ?? ??? ?? ??????? ?? ??????? ????????, ??? ????: Streekgewest) ??? ??? Staatssecretaris van Financiën (?? ????: Staatssecretaris). ? Streekgewest ??? ?? ?? ?????????? ?? ??? ?????????? ?? ??? ??????? ?? ?? ?? ?????????? ?? ?? ?????????????? ?? ?????? ?? ?? ?????? 18 ??? Wet belastingen op milieugrondslag ??? 23?? ?????????? 1994 (????? ??? ??????????? ?? ??? ??? ?????????? ?? ??? ?????????? ?? ??????????????, *Staatsblad* 1994, 923, 924 ??? 925, ??? ????: WBM), ??? ??? ??? ?? ?????????? ?? ?? ?????????? ?? ??? ?????????? ?? ??? ?????????? ?? ??? ?????????? ?? ??? ?????? 93, ?????????? 3, ?????????? ????????, ??? ????????.

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

3 ?? ?????? 93, ?????????? 3, ??? ?????? ??????:

«? ?????????? ?????????????? ?????????? ???? ??? ?????????? ??? ?????????????? ?? ?????????? ? ??
???????????????, ??? ?? ?????????? ?? ?????????? ??? ?????????????? ?? ?????????????????? ???. ??
????? ??? ?????? ?????????? ??? ?????????????? ?? ?????????????? ?? ??? ?????? ??????, ??? ?? ?????? 92,
????? ?????????? ?? ?????????????? ??? ?????????????? ?? ??? ?????????????? ???????????. ??
????????????? ?????? ??? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????????? ?????? ??
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4 ? ?????????? ????????, ?? ?????? ??? 7?? ?????????? 1992, ?????????? ???
???????, ?????? ??? ?????? 93, ?????????? 3, ??? ?????? ??, ?? ?????? ??? Wet op de
verbruiksbelastingen op milieugrondslag (????? ??? ?????? ?????????? ??? ??? ??????)

???, ??????????????), ?? ????, ???????, ??????? ?????????????, ??????? ? WBM. ??
?????? ??? 3?? ?????????? 1992, ? ??????? ?????????????? ??? ?????????? ??????????
??? ?? 25 ?????????? 1992 ??????? ?? ??? ?????????? ??? ????? ?????????? ??? WBM
??? ?????????????? ?? ??? ?? ?????? ?????.. ? ??????? ??? ?????????????? ???
?????? ?????????? ??? ?????????? ?????????? ??? 24?? ??????? 1993 (?? C 83, ?. 3).

5 ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ??????? ??????????????,
????????????? ?????????? ??????????????. ??? ? ?????????? ?????????? ?????????????? ???
????????????? ?????? ??? ?????????? ?? ??????? ??? 6?? ?????????? 1993, ? ?????????? ???
????????????? ?? ??????? ??? 13?? ??????? 1994 ??? ???????, ??? 29 ??????? 1994, ??
??? ?????????? ??? ?????????????? ?????????????? . ? ??????? ??? ?????????????? ???
?????? ?????????? ??? ?????????? ????? 4?? ??????? 1994 (?? C 153, ?. 20).

6 ??? 13 ??????? 1994 ?????????? ??? ?????????? ?????????? ??? ?????????? ???
?? ?????????? ??? WBM ?? ??? ??????? ??? ?????? ?????????? ?????????? ??? ??
????????????? ?????????? ??????. ?? ?????????? ??? ?????????? ????? ?????? ??? ???
??? ?? ??????????, ??? ??? ??? 28,50 ?? 29,20 ?????????? ???????? NLG ??? 1
000 kg ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?? ?????????? ??????????
????????? ?????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ?????????? ??????????
????????? ?????????? ??? ?????? ??? ?????????? ?????????? ?????????? . ? ??????????
????????? ?????????? ??? ?????? ??? ?????????? ?????? ?? ?????????? ??? “?????????????”
????? ?? ?????? ??? 27?? ??????? 1994.

7 ?? ?????? ??? 25?? ??????? 1994, ? ??????? ?????????? ??? ?????????? ??
????????? ??? ? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??????????. ?
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? 20?? ?????????? 1994. ??
?????? ??? ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
????????? ??? ??? ??? ?????? ?????????? . ?? ??? ??? ?? ?????? ??? ?????? ?????????? ?? ???
????????? ?????? ??? ??? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?? ?????? ?????????? ??????????.

8 ? WBM, ? ?????? ??? ?????? ??? ?????????? ??? ? ?????????? ?????????? ???
?? ? ?????? ??? Staten-Generaal ??? 21 ?????????? 1994. ?? ?????? ???
?? 23?? ?????????? 1994 ?????????? ? 1? ?????????? 1995 ?? ?? ?????? ???
????????? ?????? ??? ?????????? WBM.

9 ??? ? ?????? ??? ?????????? ??? ? WBM, ??? ??????????????, ?????? ?? ?????? ???
1?? ?????????? 1995, ?????????? ??? ?????????? ??????????, ?? ?????? ??? 25??
????????? 1995, ??? ?????? ?? ?????? ??? ?????? ?? ?? ?????????????? ??????????,
????????? ??? ?????????? ??? ?????? ??' ?????? ? ?????? ??? ?????? ??? ?????? ???
????, ?? ?????? ?????? ??? WBM. ? ?????? ?????????? ??? ??? ?????? ??? ?????? ???
????????? ?????????? ??? ?????? . ?? ?????????? ??? 23?? ??? 1995,
????????? ??? ??? 3?? ?????? 1995, ? ?????? ?????? ??? ?????? ??? ??? ???
????????? ??? ?????? ?????? ?????? ??? ??????.

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

10 ? Streekgewest ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ???
?? ?????? ??? 18 ?????????? ??? ?????????? ?????????? Westelijk Noord-Brabant.
?? ? 1? ?????????? 1997, ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
? Streekgewest ??? ?????????? ?? ??? ?????????? ??? ?????? ?????????? ?????????? ??? ?? ??
????????? ??? ?? ?????????? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ??????.

????, ?????????? ????? ?????? ??? ?????? 18 ??? WBM.

11 ???? ?? ??????? ??????? ?? 1?? ??? 31?? ?????????? 1995, ? Streekgewest
????????? ??? 499 914 NLG ??? ?????? ??? ?????? ??? ?????? ??? ?????? . ??????????,
????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ????. ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
Streekgewest ?????? ?????? ??? Gerechtshof te's-Gravenhage (????? ?????) ???
?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 80 796,40 NLG.

12 ? Staatssecretaris ?????? ??????? ??? ?????? ??? ?????? ??? ?????? ??????????
????? ??? Hoge Raad der Nederlanden. ? Streekgewest ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? Gerechtshof ?? ?????? ??? ?????? ???
?????.

13 ?????? ??? ???? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? 93, ?????? 3, ??? ??????, ?? Hoge Raad der Nederlanden ?????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ???
????????? ????:

«1) ???? ??? ?????????? ?? ?????? ??? ?????????? ?? ?????? ??? ?????? 93,
????????? 3, ?????????? ??????, ??? ?????? ?? [...] ??? ?????? ?????? ?????? ??????
????? ?????????? ?? ?????? ?????????? ?? ?????? ??? ?????? ?????? ??????;
2) ?? ?????????? ?? ??? ?????? ??????????, ??? ??? ?????? ??? ?????? 93, ??????????
3, ?????????? ??????, ??? ?????? ?? [...], ?????????? ??? ?????? ?????? ??? (?)
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ?????? ?????? ?????????????, ??? ??? ?????????? ??? ?????? ??? ??????
????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????
????????? ?? ?????? ??? ?????? ?????? ?????? ?????????, ??? ??? ??? ? ?????? ???
????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????, ??? ?????? ??? ?????? ???
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? (??? ??? ?????? ???);
3) ?? ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????: ?????? ??????????
? ?????? ??????, ??? [?? ?????? ??? ?????? ??? ?????? ??? ?? ??? ?????? (0,70 NLG ??? ???
?????????) ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? 6 ??? ?????? ?????? ??????], ?????? ??? ??????
????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????
??? ?????? 93, ?????? 3, ?????? ??? ?????? ??? ?????? [...], ?????? ??? ??????
??? ?????? ??? ?????? ??? ?????? ??? ?????? (?) ?????? ??????), ??? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??????; ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????
?????;

4) ?? ? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ??????;

5) ?? ? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ???
????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????? ??????????? ??? ?????? 93, ?????????? 3, ??? ?????? [...] , ?? ??? ??????????? ??
????? ??? ?????????? ? ??? ?????? ???;

6) ??? ??????????? ??????????, ?????????? ??? ?? ?????????? ?????? ???????
????????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? 93, ?????????? 3, ?????????? ???????, ???
????????? [...];»

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

14 ?? ?? ?????? ???????, ?? ?????? ?????????? ?????, ???' ??????, ?? ??? ??????????????
?????? ?? ?????????? ??? ?????????? ??? ?????? 93, ?????????? 3, ?????????? ???????,
??? ??????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ?? ?????? ?????????? ???
????????? ??? ?????? ??????????.

15 ??? ?????? ?????????? ??? ???????????, ??? ?? ?????? ?????????? ??? ??
????????? ??? ?????????? ? ?????? ?????? ?????? ?????? ?????? 3 ??? ?????? 93 ??
????????? ?????? ??? ? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
?? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
(?. ?????? ??? 21?? ?????????? 1991, C-354/90, Fédération nationale du commerce extérieur
des produits alimentaires ??? Syndicat national des négociants et transformateurs de saumon,
?????? 1991, ?. I-5505, ??? 11, ??? ?: ????? FNCE).

16 ??? ?????? ???, ??? ? ?????? ?????????????? ??? ?????? ?????????? ??? ??
????? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? 93, ?????????? 3,
????????? ???, ??? ?????? ?????? ?????? ?????? ???' ?????? ??? ?????? ??? ??????
????????? (????? ??? 21?? ?????????? 2003, C-261/01 ??? C-262/01, Van Calster ?..,,
??? ??? ??? ?????? ?????? ??? ?????? 52). ??? ??? ?????? ???, ????????,
?? ?????? ??? ?????? ?????? ???' ??????, ?? ?????????? ??? ?????? ??? ?????? ??? ??????
???? ?????? ??? ?????? ?????? (?. ?????? ??? 14?? ?????????? 1997,
C?192/95 ??? C-218/95, Comateb ?..,, ?????? 1997, ?. I-165, ??? 20, ??? Van Calster
?..,, ???????????, ??? 53).

17 ??? ?????????? ??? ?????? ?????????? ?? ?????????? ?? ?????????? ??? ?????????? ??
????????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ???, ???
????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???
????????? ?? ?????????? ??? ?????? ?????? ???, ?????? ??? ?????? ??? ?????? ???
????? ?? ?????? ??? ?????? (?., ?????? ???, ?????? FNCE, ??????????????, ???
12, ??? ??? 16?? ?????????? 1992, C-17/91, Lornoy ?..,, ?????? 1992, ?. I?6523, ??? 30).

18 ??? ?????? ??? ?????? ?????????? ?????? ?? ?? ?????????? ??? ??
????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?? ?????? ??? ?????? ??? ??
????????? ?????? ?????? ? ?????? ?????? ?????? ?????? ??? ?? ?????? ???
????????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? (????????? ??? 11?? ?????? 1991, C-87/90 ??? C-89/90,
Verholen ?..,, ?????? 1991, ?. I?3757, ??? 24, ??? ??? 11?? ?????????? 2003, C?13/01,
Safalero, ?????? 2003, ?. ??8679, ??? 50).

19 ? ?????????? ??? ?????? ?? ??? ?????? ?? ?????? ?????? ??? ?????? ???
????????? ?? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? 3 ??? ?????? 93 ??? ?????? ??? ?????? ???

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

20 ?? ?????????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????????? ??? ?????????? ??? ?????? 93, ?????????? 3,
????????? ??? ??????, ??? ?????? (?., ?????? ???, ?????? FNCE, ?????????? ?,
????? 16).

21 ???????, ??? ?????? ?????? ??? ?????? ?? ?????? ? ?????? ??? ?? ?????? 93,
????????? 3, ?????????? ??????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ??????
??? ? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ??? ??????
????? ?????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

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22 ?? ??????? ??? ?? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
??? ??? ??? ???, ?? ?????????? ? ?????????? ?????????? ??? ?????? 93, ?????????? 3,
????????? ????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ???
????? ????. ?? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

23 ?? ?? ?????? ??? ?????? ???, ?? ?????? ?????????? ???, ???' ??????, ?? ?
????????? ??? ?????? ??? ?????? 93, ?????????? 3, ?????????? ??????, ??? ??????
????? ?? ?????????? ?? ??? ??? ??? ?? ?????? ?????????? ?????????? ??? ?????? ??????
??? ??? ??? ????. ?? ?? ??? ?????? ?????? ???, ?? ?????? ?????????? ?????? ?? ??????, ???
????? ?????????? ??? ?????????? ???, ??? ??? ?????? ??? ?????? ??? ?????, ??? ?????? ??? ??????
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????, ???
? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

24 ?????????? ??? ?????? ?? ?????? ?? ??????????, ??? ?????? ??? ? ?????? ??? ?????????? ??????????
??? ?????? 28 ??? 29 ??? ?????????? ???, ??? ? ?????? ?????????? ??? ?????? ??????????
????? ??? ?????????? ??? ??????, ??? ?????, ??? ?????? ?????????? ??? ?????? ??? ?????? 92 ???
????????? ?? (??, ?????? ??????????, ??? 87 ??), 93 ??? ?????? ??? 94 ???
????????? ?? (??, ?????? 89 ??) ???, ??????, ??? ??????????, ??? ?????? 101 ???
????????? ?? (??, ?????? ??????????, ??? 96 ??) ??? 102 ??? ?????? ?? (??
????? 97 ??), ??? ?????????? ??? ?????? ??? ?????? ??? ??????????, ??? ??????????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????, ???, ??? ?????? ???
????????? ??? ?????? ???.

25 ?? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??????????, ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

26 ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ???
????? ??????????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ???

???????????? ?????? ??? ?????????? ?????????? ??????????????, ??? ??? ?????? ??? ?? ?????? ???
????? ?????? ?? ??????????? ?????????? ??? ?? ?????????????? ??? ???????????. ??
????????? ?????? ?????, ?? ?????? ??? ????? ?????????? ?????? ?? ?????????? ??? ?????????? ??? ??????????
??, ??? ??????????, ??? ?????????? ??? ?? ?????? ??? ?????????????? ? ?????????? ??? ?? ??? ??? ???
????? (??., ??' ???? ??? ??????, ??????? ??? 25?? ??????? 1970, 47/69, ?????? ???
?????????, ??????? ?????? 1969-1971, ?. 341, ?????? 17, 20 ??? 21). ?????? ??? ??????????
?????, ?? ?????????? ????, ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ???
????? ?????????? ????, ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??????????
??? ?????????? ??? ?????? 93, ?????????? 3, ??? ?????????? ?????? ?? ?????? ??? ?????? ???
????????????? ???, ??? ?????? ? ?????? ?? ?????????? ?? ?????? ?? ?????? ??? ?????? ??? ??????
???????? ??????????????. ??????, ??? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????????
???????? ??? ?????? ?????????? ?? ?????? ??? ?? ?????????? ?? ?????????? ?????? ?? ?
???????? ?????? ??? ?????? ?????????????? ??? (????????? Van Calster ??.,
?????????????, ?????? 49 ??? 50, ??? ??? 15?? ?????? 2004, C-345/02, Pearle ??., ???
??? ??? ?????? ?????????? ??? ???????, ?????? 30).

27 ??????????? ???? ?????? ??????, ?? ?????? ?????????????? ????? ?? ?????? ??????????? ???
 ??? ?????? ??? ?? ??????????. ?????? ??? ??, ??? ??? ?????? ?????????? ?????? ??? ??????????????
 ??? ?? ?????? ????????, ?? ??????????? ?????????? ?????? ?????? ?????????????? ?? ???
 ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? 28,50 NLG ?? 29,20 NLG ??? 1 000 kg
 ?????????, ? ?????????? ??? ?????? ??? ?????, ??? ??? ???, ??? ?? ?????????? ? ??????
 ????????????? ??????? ??????? ??? ?????? ??? ?????? ??? ?????????????? ??????????????.

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

29 ????????, ??? ?????? ?? ???? ?????? ??????? ?????? ?? ?????? ? ?????????? ??? ??
????? 93, ?????????? 3, ??????? ??????????, ??? ?????????? ?????? ?? ?????????? ??? ??
????? ??? ? ?????????? ??? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??
?????????. ?? ?????? ??? ? ?????? ?????????? ?????????? ??? ?????? ?????????? ??? ??
??? ? ?????? ??? ?????? ??? ?????? ?????????? ?????????????????, ??? ??? ?????? ??? ??
????????? ??? ?????????????? ??? ?? ??? ?????? ??????, ?? ?????? ??? ??????, ???
????? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ??????.

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

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

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

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

1) ?? ?????? 93, ?????????? 3, ?????????? ???????, ??? ??????? ?? (???)
88, ?????????? 3, ?????????? ???????, ??) ?????? ?? ?????????? ??? ?? ????
???? ? ?????????????? ??? ?????????? ?? ?????? ??? ?????????? ?????????????? ???
????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
??? ?????????? ??? ?????????? ?? ??? ?????????? ??? ?????????? ??? ??????????

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

2) ?? ????? 93, ?????????? 3, ?????????? ??????????, ??? ?????????? ??????? ??
?????????? ??? ?? ?????? ??? ? ?????????? ??? ?????????? ??? ?????????????? ??
????? ??? ?????? ?? ??????? ?????????????? ?????? ?????? ??? ?????????? ??? ??????
????? ??? ??? ??????? ??????? ??????????. ?? ??????? ??? ? ???????
????????? ??? ????? ?????????? ??? ??? ??? ? ??? ? ??????? ?????? ??? ??? ??
????????? ???????????????, ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ???????????????
?? ?? ??? ????? ???????, ?? ?????? ??? ?????, ??? ?????? ??? ?????? ??? ?????? ??? ??
?? ?????????????? ??? ?????? ??? ??????.

(?????????)

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