

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

??? 19?? ??????????? 2012 (*)

«?????????? – ??? – ??????? ??????? 67/228/??? – ????? 8, ????????? ?? – ??? ???????
77/388/??? – ??????? ????? – ??? ?????????? ??? ????? – ?????????? ?????????????? ???
?????? ??????? ??' ?????????????? ??? ?????????? ??? – ?????? ?? ?????? ???????
?????? – ?????? ??? ????? ?????? ??? ?????????? ??? ?????????????? ?????? ??? ????? –
????? ??????????»

???? ??????? C-310/11,

?? ??????????? ?????? ?????????????? ?????????? ??????? 267 ????, ???
?????? ?? First-tier Tribunal (Tax Chamber) (????????? ???????) ?? ??????? ?? 26?? ????
2011, ? ?????? ??????? ??? ?????????? ??? 20 ??????? 2011, ??? ??????? ??? ???

Grattan plc

????

The Commissioners for Her Majesty's Revenue & Customs,

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

?????????? ??? ??? A. Rosas, ??????????? ??? ??????? ???????, U. Lõhmus, A. Ó
Caoimh, A. Arabadjiev (?????????), C. G. Fernlund, ???????,

?????? ??????????: J. Kokott

?????????: K. Malacek, ??????? ????????,

?????? ??? ?? ?????? ?????? ?????????? ??? ??????? ??? ??' ?????????? ??????????? ???
12?? ??????? 2012,

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

– ? Grattan plc, ??????????? ??? ??? H. Stone, solicitor, ??? P. Lasok, QC, ??? ??? R.
Haynes, barrister,

– ? ?????????? ??? ??????? ????????, ?????????????? ??? ??? C. Murrell ??? E.
Jenkinson ??? ??? ??? L. Seaboruth,

– ? ?????????? ????????, ?????????????? ??? ??? R. Lyal ??? ??? C. Soulay,

???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ??? ?? ???????
??? 13?? ??????????? 2012,

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

??????

1 ? ?????? ?????????????? ??????? ??? ??????? ??? ??????? 8, ??????? ??,

??? ??? ??????? 13 ??? ?????????? A ??? ??????? ??????? 67/228/??? ??? ??????????,
??? 11?? ??????? 1967, ??? ?????????? ??? ?????????? ??? ??????? ??? ?????? ???,
????????? ?? ??? ????? ?????? ?????? - ?????????? ??? ?????? ?????????? ??? ??????
????????? ????? ?????? ?????????? ??? (?? ??. ??? 09/001, ?. 5, ??? ????: ??????
?????).

2 ?? ?????? ??? ?????????? ??? ??????? ??????? ??????? ??? Grattan plc (???
????: Grattan) ??? ??? Commissioners for Her Majesty's Revenue & Customs (???
Commissioners) ??????? ?? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ??? (???
????: ???) ?? ????? ?????????????? ??? ?????????? ??? ?????????????? ??? ??????????
????????????? ?? «????????????» ??? ?? ?????? ??? ?????????????? ??? ?????????? ???
????? ??? ?? 1973 ??? ?? 1977.

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

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

3 ?? ????? 5 ??? ??????? ??????? ????:

«1. ?? “????????? ??????” ?????????? ? ?????????? ??? ??????? ?? ??????? ??????
????????? ??? ?? ?????.

2. ?????? ?????????? ?? ?????????? ??? ??????? ??? ?????? ??? ?????????? 1:

[...]

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

[...]

5. ?? ?????????? ??? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????????????? ???
??????????. [...]»

4 ?? ?????? 8 ??? ?????????? A ??? ??????? ??????? ?????????? ??? «[?]?
“????????????? ??? ?????? ??? ?????” ?????? ?? ?????? ? ?????? ??? ?????????? ???.

5 ?? ?????? 8, ??????? ??, ??? ??????? ??????? ??? ?? ????:

«???? ??????? ??? ?????? ????:

?) ?? ??? ?? ?????????? ??? ?? ?????? ?????????? ???????, ?????????? ?????????? ???
????????? ??? ?? ?????? ?????, ?????????????????? ??? ??? ?? ?????? ??? ?????,
????????? ??? [???] [...].».

6 ?? ?????????? ??? ??? «?????????» ??????? ??? ?????? 13 ?? ?????????? A
??? ??????? ??? ?? ????:

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

7 ?? ?????? 11, ?, ??? ?????? ?????? 77/388/??? ??? ?????????, ??? 17?? ??? 1977,
???? ?????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ???

????????? – ????? ??????? ????? ?????????????? ?????: ?????????? ?????????????? ??? (??
???. ???. 09/001, ?. 49, ??? ?: ??? ?????), ??? ?????????????? ?? ??????? ??????? ??
?? 1978, ????, ??? ??????? ??? ??? ??????? ??????? ???, ?? ????:

«1. ??? ??????? ??? ??? ???????:

?) ??? ??? ?????????? ?????? ??? ??? ??????? ??????????, ?????? ??? ??????????????
????????? ??? ?????????? ??, ?? ??? ?, ?????????? ?????????? ?? ?????????? ??? ??????
????? ? ?????????? ?? ?????? ??? ??? ??????? ?????? ? ?????????? ?? ? ??????? ???
????????? ??? ??? ???????, ??? ?????? ??? ?????? ???????, ?????????????????? ???
????????? ??? ??? ???????, ??? ?????? ??? ?????? ???????, ??? ?????? ??? ??????? ???».

[...]

3. ??? ??? ??????? ??? ??? ?????? ???????:

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

?) ?? ?????????? ??? ?????????? ??????????, ?? ?????????????? ??? ?????????? ???
????? ??? ??? ?????? ?????????????? ??? ???????

[...]».

8 ?? ????? 11, ?, ?????????? 1, ??? ?????? ??????? ?????? ?? ????:

«?? ?????????? ??????????, ??????????, ??????, ?????? ? ??????? ?? ?????????? ? ??????????
??? ?????, ?????????? ??? ?????? ?????????????? ??? ??????, ? ????? ?????????? ??? ?????
????????? ??????, ??? ?????? ?????????????? ??? ?????????????? ??? ?? ????? ????.

?????????, ?? ?????????? ?????? ? ?????? ?? ?????????? ??? ?????, ?? ?????? ???
????????? ?? ?????????? ??? ??? ?????? ????.»

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

9 ??? ?????? ??? ?????? ??? ?????????? ?????????????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????? ?? ?????? 10, ?????????? 2, ??
????????????? ??? 1972 (Finance Act 1972), ?? ?????? ?????? ?? ????:

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

10 ?? First-tier Tribunal (Tax Chamber) ?????????? ??? ? ?????? ?????????? ??? ??????
????????? ?????????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ????, ???
????????? ??? ?????? ? ?????????? ??? ?????????????? ??? ?????? ??? ?????????? ??? ??????.

11 ??? 1? ?????????? 1978, ?? ?????? ??? ?????? ?? ?????????? «?? ??? ?????????? ???
???????? [??]» ??? ?????? ?????????? ??? ?????? ??????.

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

12 ? Grattan ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????????? ??? ??????
?? ??????, ???? ??? ?????? ??? ?????? ??? ?????? ?????? ???'
????????????? (?? ?: ?????). ?? ?????? ?????? ?????????????? ??? ??????????
????????????? ??? ?????????? ?????? ???, ??? ?????? ???, ??? ?????? ??? ?????? ??? ??????
????? (?? ?: ?????? ?? ?????? ???), ?????? ?????????? (?? ?: ?????)

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

13 ?? ?????????? ?????? ?????????? ?????? 10 % ??? ?? ?????? ?? ?????????? ?????? ?
????? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?
????????? ??? ?? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????? . ? ?????????? ?????? ?
????????? ??? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
????? ?????? ?? ?????? ?????? ?????? :

– ?? ?????????? ?????? ?? ?????? ??? ?????? ?????? ?? ?????????? ?? ?????? ?????? ?
?????????

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

– ?? ?????????? ?????? ?????? ?? ?????? ?????? ?? ?????????? ?????? ?? ?????? ???
????? ?????? ??? ?????? ?????? ??? ?????? .

14 ??? ? ?????????? ?????????? ??? ?????? ?????? ?????? ? ?????????? ?????? ???
????????? ??? ?? ?????????? ?????? ?????? , ?????????? ?? ?????? «??? ???».
???? ? ?????????? ?????????? ??? ?? ?????? ?????? ?????? , ?????????? ??
????? «??? ???». ? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????? ?????? ??? ?????????? ??? ?? ?????? ?????? ?????? «??? ???».

15 ?? ?????????? ?????????? ??? ?? ?????? ?????? ?????? ?????? , ?????????????? ???
??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? . ? Grattan ?????? ???
???? Commissioners ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???
????, ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ? ?????? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? . ?? Commissioners ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???
????? ??? ?? 1973 ??? 1? ?????? 1978.

16 ?????? ??? ?????????? ?????????? , ? Grattan ?????????? ??? ?? ?????????? ???
????? ??? ??? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??????????
??? ??? ?????????? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ?? ?????? ??????
(?? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??????) ? ??????????
(?? ?????????? ??? ?????? ??????). ?????? , ? ?????????? ?? ? ?????? ?????? ???
????? ?????? ?? ??????. ?????? ?????? ??? ?? ?????? 11, ?, ?????? 1, ??? ??????
????? ???, ??? ?? 1978, ??? ?? ?????? 8, ?????? ??, ??? ??? ?? ?????? 13 ???
????????? ?, ??? ?????? ?????? ?????? , ?????? ??, ?? ?????? ?????? , ??? ??? ??
????????? ?????? ?????? ??? ?????? ??? 1978.

17 ?? Commissioners ?????????? ??? ? ?????? ?????? ?????? ??? ?????????? ?? ?????????? ??
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ??????
????? ??? ?????? , ??? ?????? ??? ?? ?????? 11, ?, ?????? 1, ??? ?????? ??????
????? , ?? ?????? 8, ?????? ??, ??? ?????? ?????? ??? ?????? ?????? ?????? ??????
????? ?? ?????? ?????? ?????? . ?? Commissioners ?????? ??? ?????? ??????

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

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

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

18 ???, ???, ????????, ????, ?? First-tier Tribunal (Tax Chamber) ?????????? ?? ??????????
?? ?????????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?????????? ??, ?? ?????????? ??:

«???? ?? ??????? ???????? ??? 1? ??????????? 1978, ?????? ??????????? ??? ???,
?????????? ?? ???? 8, ??????? ??, ??? [????????? ??????] ???/? ??? ?? ????? ??,
?????????? ??????????? ??? ??? ??? ????? ???????????, ?????????? ?? ??????????? ?? ???
????????? ?? ??? ????? ??? ????? ??????????? ??????? ?? ??????????? ????? ??????????
???? ?? ?????, ??? ?? ??????? ??? ???????, ? ?????? ?????? ????? ??????????? ??? ??,
??????????, ??? ????? ?? ?????????? ??????? ?? ?????? ??? ????? ??????????? ?????????? ??,
??? ????? ?????????? ??????? ??? ?????? ?? ?????? ?????? ????? ??????????? ????? ?????????? ??,
??? ?????????????????? ?????????? ??? ?????? ??? ?????? ??? ??????;»

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

19 ?? ?? ??????? ???, ?? ?????? ??????????? ?????? ???' ?????? ?? ?????????????? ?? ??
????? 8, ??????? ??, ??? ??????? ??????? ?????? ??? ?????? ?? ?????? ?? ?????? ?? ??
?????????? ?? ?? ??????? ?? ??????? ?? ??????? ?? ?? ?????? ?? ?????? ?? ?? ?????? ?? ??
????? ?? ?? ??????? ?? ?????? ?? ??????? ?? ??????, ??? ?? ??????? ?????? ?? ?? ??
????? ??????????????? ?? ?? ?????? ??????? ?? ??????, ??? ?????????????? ?? ?? ?? ??
????????? ?? ?? ?????? ?? ?????? ??????? ?? ?????? ?? ?????? ?? ?????? ?? ?? ??
?????? ?? ?? ?????? ?? ?????????????? ?? ?????? ??????????? ?? ?? ?? ?? ??????????????????
????????? ?? ??????.

20 ??????????? ?? ????, ?????????? ???, ???????????????, ??????, ???????????????, ???, ???????????????, ???, ??, ????? 8,
????????? ??, ??? ???????, ???????, ?????????? ???????, ??? ? ????? ???????, ??? ?????? ??? «??? ???
??????????, ???????, ??? ??? ???????, ?????????, ?????????, ?????????, ?????????, ???, ?????????, ???, ?????????, ???
????????, ???, ?????????????????????? ???, ??? ??? ???????, ??? ?????, ???, ?????, ?????, ??? [??]».

21 ? ??? «??????????» ??? ?????????????????? ??? ??? 8, ????????? ??, ??? ??????
????? ???????? ??? ?????? 13 ??? ?????????? A ?? ?????????? «?????????
????????? ?? ?????????? ??? ?????????? ?????? ? ??? ?????? ??????????,
????????????????? ??? ?????????? ?????? (??????????, ?????????, ??????????
??.), ?????? ??? ??? ?? ??? ????? ?????????????? ?????, ??? ?????, ??????????????
?????, ? ??? ??? ?? ?????????? ?????? [...]».

22 ??????????????? ??? ? ??? «??????????» ??????????????? ?? ?????? ?????? ???
?????? ??? ??? ??????????? ??? ?????? ??? ?????? ??? ??? ??????????? ???
?????? ??? ??? ??????????? ??? . ???????, ? ??????? ??? ??? ????? ???, ??????, ???
?????? ?? ??????? ??? ??????????? ?????????? ??? ?????? ?????? ??????. ? ??????????? ???
???????? ??????????? ???, ??????? ??? ? ??? ?????? ??? ?????? ??? ?????? ??? ??? ??????
????????? ??? ? ??????? ??????????? ?????????? ??? ?????? ??? ??? ?????? ??????????
????????? ?? ??????????? ?????? (?????? ?? 5?? ??????????? 1981, 154/80,
Coöperatieve Aardappelenbewaarplaats, ?????? 1981, ?. 445, ?????? 9 ??? 13).

23 ??????????? ?? ?????? ?? ?? ?????? 8, ?????????? ??, ??? ?????????? ?????????? ??????????
???? ?????? ???? ??? ?????????? ?? ?????????? ??? ?????????? ?????? ?? ?????? ??????????
??? , ?? ?? ??????, ??? ?????????? ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????????? ??
????????? ?????? ??? ??????, ?????? ?? ?????????? ?????? ?? ?????? ??? ?????? ?????? ??
????? ?? ?????? ??? ?????? ?????? ?????? . ?? ?????? ??? ?????? ?????? ??? ??. ? ?????????? ??

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

24 ????????????????, ???????, ??? ?? ????? 5, ??????????? 5, ??? ?????????? ???????
????????? ??? «[?] ??????????? ????? ?? ????? ?????????? ????? ?? ?????? ??? ?????
????????????????? ??? ??????????». ? ????? «????????????? ????? ?? ?????» ???
????????????? ??? ?????????? ????? ?????? 8 ??? ?????????? A ???
?????? ????? ?? «? ?????? ??? ?????????? ??????».

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

26 ??? ??? ????????, ??????????????, ??? ????????????, ??? ?????????? ? ?????? ?????????? ???
?????? 41 ??? ?????????? ???, ???, ?????, ?????? ?????, ??? ?????? 5, ?????????? 5, ???
????????? ??????, ? ?????????? ?????? ????? ?????????? ?????? ?????? ?????? ?????? ???
????? ??? ?????? ??? ?????????? ??? ?? ????? ?????? ??? ?????? ?????? ?????? ?????????? ???
??? ?????? ??? ??????.

27 ???????, ?????????????? ??? ??? ?? ?????? 8, ????????, ??, ??? ?????? ??? ?????? ???
??? ??????? ?????? ??? ?????? ?? ?????????? ??? ?? ?????? ??? ?????? ?? ?????? ?? ??????
????????? ?? ?????????? ? ?????????????? ??? ?????? ?????? ?????? ??? ?????, ? ???
????????????? ??? ?????? ??????, ??? ??? ???????, ? ?????? ?????? ?? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??????.

28 ??? ???, ??? ???????, ??? ??? ??? ?????????? ??????????????, ??????? ??
????????? ??? ? ??? ???, ? ??? ??? ?????? ?????????? ??? ?? ?????? ?????????? ???,
????????? ?????? ??? ?????? ??? ????? ?????????????? ??? ?????? ??? ??? (??., ??? ???
????? ???, ?????? ??? 10?? ?????? 2008, C-309/06, Marks & Spencer, ?????? 2008, ?. I-
I-2283, ??? 47). ? ??? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????? ??? ??
????? ?? ?????????? ?????????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??
????? ?????????? ??? (??., ??? ??? ?????? ???, ?????? ??? 27?? ??????
2006, C-443/04 ?? C-444/04, Solleveld ??? van den Hout-van Eijnsbergen, ?????? 2006, ?. I-
3617, ??? 39 ??? ??? ?????????? ??? ??????).

29 ? ??? ??? ?????????? ?????????????? ??? ??????? ?????? ??? ?????????? ???
?????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ? ??? ?????? ?????? ??? ?????, ??
??? ?????? ??? ?????? 8, ????????, ??, ??? ?????? ?????? (??., ??? ??? ?????? ???,
????????? ??? 15?? ?????? 2012, C-174/11, Zimmermann, ?????? 50 ??? ????? ??????????????
?????????). ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 11, ?, ?????????? 1,
??? ?????? ??????.

30 ??? ??? ??? ?????????? ??? ?????? ??? ?????? ???, ?? ??? ??? ??? ??? ??? ?????? ??
????????? ? ?????????? ??? ?????? ?? ?????????? ?????????? ??? ?????? ??? ??? ?? ??????
????????? ??? ?????????? ??? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
????????? (?????? ??? 10?? ?????? 2008, C-484/06, Koninklijke Ahold, ?????? 2008, ?. I-
5097, ??? 36 ??? ??? ?????????? ??? ??????).

31 ??? ?????? ??? ?????? ??? ??????, ??? ??? ?????????? ??? ?????????? ??? ??????????
????????? ??? ? ?????? ??????, ??? ??? ?????? ??? ?? ?????? ?????????? ??? ?????? ???
??????, ?????? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

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

32 ???????, ?????? ?? ?????????? ?? ?????????? ??? Grattan ??? ??? ?????? ?????????? ??
????????? ?????????? ??? ?????? ??? ?????????? ??? 1? ?????????? 1978 ??? ???
????????? ??? ??? ?????????? ???, ?????? ? ?? ??? ?????? ?????????? ??? ?????????? ???
?? ?????????? ??? ?????????? ???.

33 ???????, ???????????????, ??? ?????????? ? ?????? ?????????? ? ?????? ?????????? ??? ??? 49
??? 50 ??? ?????????? ???, ??? ? ?????? ??? ? ??? ?????? ??? ?????? ??? ?????????? ??? ??????????
????????? ??????????????. ???????????, ? ??? ??? ?????? ?????????? ??? ???, ???
????????? ?? ??? ?????? ?????? 67/227/??? ??? ??????????, ??? 11? ?????????? 1967, ???
??? ?????????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ?????? ???
????????? (?? ????. ???.. 09/001, ?. 3), ??? ?????? ???, ?? ??? ?????? ???,
????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?????????? ???.

34 ??? ?????????? ?? ?????????? ??? ?????? 12 ??? ?????????? ??? 5? ??? 1982,
15/81, Schul Douane Expediteur (?????? 1982, ?. 1409), ? ??? ?????? ?????????? ???
????????? ??? ?????????????? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???.

35 ??? ??????? ???, ? ?????????? ??? ?????? ??????? ?? ?????? 11, ?, ?????????? 1, ???
????? ???????, ?? ??? ?????? ??????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???
?????????? ?? ??? ?????? ??????? ??? ?????? ??? ?????? ?????????? ??? ??????. ? ??????? ???
??????????, ???' ????, ?? ??? ?????? ??? ?? ??????? ?? ??? ?????? ?????????? ??? ?????? ???,
???? ?? ?????????? ??? ??????, ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ? ?????? ??? (?. ?????????? ??? 3? ?????? 1997, C-330/95, Goldsmiths,
?????? 1997, ?. I-3801, ?????? 16 ??? 18, ??? ??? 29? ??? 2001, C-86/99, Freemans,
?????? 2001, ?. I-4167, ??? 33).

36 ??? ?????????? ??? ??? ?????? 25 ??? 27 ??? ??????? ??????????, ??? ??????
?????? ??? ?????? ??????? ?????????? ??? ??????. ???????, ?? ??????? ??? ??
????????? ??? ?????????? ?????? ??? ?????? 11, ?, ?????????? 1, ??? ???
??????, ??????? ??? ?????? 11, A, ??????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???
????? 11, ?, ??? ?????????? ??? ?????? 11, A, ??? ?????? ?????? ? ??? ?????????? ???
8, ??????? ??, ??? ?????? ???.

37 ??????? ??? ??? ??????, ??? ?????????? ?????? ?????? ?? ?????? ? ?????? ? ?????? ???
?? ?????? 8, ??????? ??, ??? ??????? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?? ???
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38 ?????????? ??? ? ?????? ?????????? ??? ?? ??? ?????? ?????? ??? ?????? ???

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

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

??"????? 8, ??????? ??, ??? ??????? ??????? 67/228/??? ??? ???????????, ??? 11??
????????? 1967, ??? ??????????? ??? ?????????? ??? ?????????? ??? ???????, ??? ??????????
?? ??? ?????? ?????? ??????? - ?????????? ??? ??????? ?????????? ??? ??????
?????????? ?????? ?????????????? ????, ???? ??? ?????? ??? ??? ?????? ??? ?????? ?? ????
?????????? ???? ??? ?? ??????? ?? ??????? ??? ?????????? ????, ???? ?? ??????? ??????
??? ?????? ???? ?????????? ????, ???? ??? ??????? ??? ???????, ???? ?? ??????? ??????
???? ?? ?????? ?????????????? ?? ??? ?????? ??????? ????, ???? ??????????????
????? ??? ?? ?????? ?????????? ????, ???? ??? ??????? ?? ?????? ??? ?????? ??? ?? ??????
??? ?????? ???? ?? ??????? ??? ?????? ??? ?????????????? ???? ?????????????? ???? ????
??? ??? ?????????????? ????, ???? ??? ??????? ??? ???????.

(?????????)

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