

@import url(../../../../css/generic.css); EUR-Lex - 61998J0034 - EL

Avis juridique important

1

61998J0034

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[?????? ??, ????? 48 ??? 52 (???, ??????? ??????????????, ????? 39 ?? ??? 43 ??).
?????????? 1408/71 ??? ???????????, ????? 13]

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?? ???? ?? ???? 48 ???? 52 ???? ?????? (???, ?????? ??????????????, ?????? 39 ?? ??? 43
??), ??? ?????? ????? ??? ?????????? ??? «??????? ??? ??? ??? ???????? ???
????????????????????? ??????», ?????????????? ??? ??? ?????????? ??? ?????????????? ???
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(?. ?????? 36, 38-39, 48-49, 51, ??? ??????????)

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???? ?????? C-34/98,

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?????????, ??? ??? H. Michard, ????? ??? ?????? ??????????, ?? ?????????? ???
????????????? ??? C. Gmez de la Cruz, ????? ??? ?????? ??????????, Centre Wagner,
Kirchberg,

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????????? ??????????, ?????????????? ??? ??? K. Rispal-Bellanger, ?????????????? ???
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"??? ??? ? ? ?????????? ?? ?????????? ??? ? ?????? ??????????, ?????????????? ???
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????????? (??) 1408/71 ??? ??????????, ??? 14?? ?????? 1971, ??? ?????????? ???
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1997, L 28, ?. 1), ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????????
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?????????????, ??? 39 ?? ??? 43 ??) ??? ??? ?? ?????? 13 ??? ??????????????
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????????? ??? ??? G. C. Rodr?guez Iglesias, ??????, J. C. Moitinho de Almeida (?????????),
D. A. O. Edward, L. Sev?n ??? R. Schintgen, ?????????? ????????, C. Gulmann, J.-P.

Puissochet, G. Hirsch, P. Jann, H. Ragnemalm ??? M. Wathelet, ????????,

?????? ??????????: A. La Pergola

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?? 7?? ?????????? 1999,

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1 ?? ?????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ?????????????? ??? 12 ?????????? 1998,
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(?? ?????? 226 ??), ??????? ?? ??? ?????? ?????? ?? ?????????? ??? ??????????? ?? ? ??????
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?????? ?????? ??? ?? ??????, ??????? ??? ?????????? (???) 1408/71 ??? ??????????, ???
14?? ?????? 1971, ??? ?????????? ??? ?????????? ?????????????? ?????????????? ?????????????? ??????
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????? ??? ??????????, ??? ?????????????? ??? ?????????????? ?? ??? ?????????? (?) 118/97
?? ??????????, ??? 2?? ?????????? 1996 (?? 1997, L 28, ?. 1, ??? ?: ??????????
1408/71), ??? ?????????? ??? ?????? ?????????? ??? ?????????? ?????????????? ??????????, ?????? ???
????????????? ??? ?????? ??? ?????? 48 ??? 52 ??? ?????????? ?? (???, ??????
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2 ?? ??? 4, ?????????? 1 ?? 2, ??? ?????????? 1408/71 ?????? ?? ???:

«1. ? ?????? ?????????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??????????????
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2. ? ?????? ?????????? ?????? ??? ?? ?????? ??? ?????? ?????????? ?????????? ??????????
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3 ??? ?????? 1, ?????????? ?, ??? ?????????? 1408/71 ?????????? ??? ? ??? «?????????»
???????????, «??? ??? ?????? ????, ??? ?????????? ? ?????????????? ????, ???
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4 ?? ?????? 13 ??? ?????? ?????????????? ??????? ?? ????:

«1. ?? ??? ??????????? ???. ?????? 14?, ?? ??????? ???. ?? ?????? ?????? ???. ?????? ?????? ?????? ???. ?????? ?????? ?????? ???. ?????? ???. ???. ?????? ???. ?????? ???. ?????? ???.

2. ?? ??? ?????????? ??? ?????? 14 ??? 17:

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

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5 ? CRDS ?????????? ?? ?? ????? 14-? ??? ?????????????? ??????? (ordonnance) 96-50, ???
24?? ?????????? 1996, ??? ?? ?????????? ?? ?????????????????????? ?????? (JORF
??? 25?? ?????????? 1996, ?. 1226, ??? ????: ?????????? ??????).\$

7 ??? ???. ?????? ???. ?????? 4 ? ???. ?????? ?????????? ??????, ?????????? ???. ??????
?? ?????????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???. ??????
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8 ? ??? ?????????????? ??? CRDS, ??? ?????? ? ?????????? ??? ?????? 0,5 %, ???????????????,
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9 ??????? ??? ?????? 15-???, ?????? 1, ??? ?????????? ?????? ??? ?? ??? ??????????
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10 ??????? ?? ?? ????? 6-? ??? ?????????? ??? ??????, ?? ?????? ??? CRDS ??????????
?? Caisse d'amortissement de la dette sociale (????? ?????????? ???
????????????? ??????, ??? ????: Cades), ?? ?????? ??? ?????? ?????????? ??????????
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???? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ??????, ?????? 137 ?????????????? ??????????
????? (FRF), ?? Agence centrale des organismes de s?curit? sociale (????????? ??? ??
????????? ?????? ??? ??????, ??? ????: ACOSS) ??? ?? Caisse des d?p?ts et
consignations (????? ?????? ???, ??? ????: CDC), ?? ?????? ?????????? ??? Cades
?? 1?? ?????? 1996. ?? ?????? ??? ?????? ??? ?? ?????? ?? ?????? ??? CDC
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? 1994 ?? ?? 1995 ?? ??????
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????????? ??? 1996. ?? Cades ?????? ??? ?????? ??? ?? ?????? 1996 ?? ?????? ?? ?????? ???
3 ?????????? FRF ?? Caisse nationale d'assurance maladie et maternit? des travailleurs
non salari?s des professions non agricoles (????? ?????? ?????? ?????? ??? ?????? ???
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11 ???????, ?????? ?? ?? ????? 4-???, ?? ?????????? ??? ??????, ?? Cades ??????? ??
??????, ?? ?????? ?? ?? 1996 ?? 2008, ?? ?????? ??? ?????? ??? ?????? ??????????????
?? ?????? ??? ?????? 12,5 ?????????? FRF. ?? ?? ?????? ??? ?????? ??? ?????????? ???
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????????? ?????? ??? ?????? ??? ?????? ?????? ??? Fonds de solidarit? vieillesse
(????? ?????? ??? ?????? ??? ?????? ???) ?????????? ?? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ACOSS.

12 ?? ??????? ?? ?????? ??? Cades ?? ?????????? ??? ?????? ??? ?????????? ??
?? ?? ?????? ??? CRDS, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
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13 ?? ?????? ??? ?????? ??? 6?? ?????? 1996, ? ?????? ??? ?????? ??? ?? ??????

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14 ????? ???. ??????????, ?????????? ??? ?????? ???. ?????? ???. ?????? ??????????????
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????? 13 ??? ?????????? 1408/71. ? ??????? ??? CRDS ??? ??? ?????????? ??????
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15 ?? ??????? ?? 3?? ??????? 1997, ?? ??????? ?????? ??????????? ?? ???? ??
?????????? ?? ??????? ????? ?? ??????????????? ?? ?? ?? ??????????? ?? CRDS.
??????????, ?? ??????????? ?? CRDS ???. ????? ?? ??????? ?????? ??????????? ??
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16 ?? ??? ??????????????? ??? 23?? ??????? 1997, ? ?????????? ?????????? ???
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17 ?? ??????? ??? 21?? ?????????? 1997, ?? ?????????? ????? ?????????????? ?? ??? ?????? ??? ?
CRDS, ?????????? ??? ??? ?????????????? ??????????, ??? ?????????? ??? ????? ?????????? ???
?????????? 1408/71 ???, ??? ?????? ??? ?????? ??? ????? ?????????????? ??????????????, ???
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18 ?????????? ?? ???? ??????? ?????? ?? ?????????????????? ?? ?? ?? ?????????????????? ??
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19 ??? ????? ?????? ?????????? ?????? ??? ?????????? ??? CRDS ??? ?????? ?????? ??? ???
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??????, ?? ?? ??????, ?????????? ??? ?????? ?????????? ?????????? ?????? ??? ?????? ??????
????????????? ???, ??????? ?? ??? ?????? ?????????? ??? ?????????? 1408/71.

20 ????. ????. ????????, ? ?? ?. ????. ????????. ????. CRDS ??????. ??????. ??????. ??????. ??????.
?????. ??????. ??????. ??????. ??????. ???. ??????. 13 ????. ??????. 1408/71 ????. ????. ????. ???.
48 ????. 52 ????. ????????

??? ??? ?????????? ??? ????? ?????????? ??? ?????? 13 ??? ?????????? 1408/71

21 ????? ??? ???????, ? CRDS, ? ?????? ???????? ??? ?? ??????? ??? ?????????????? ???
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?????? ??????? ??? ?????? ?????? ??????? ?????????? ?????????? ??? ?????????? ???
????? 4, ?????????? 1, ??? ?????????? 1408/71, ?????? ?????? ?????????? ??????????
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22 ? ??????? ?????????? ??? ?? ??????? ???, ??????, ? CRDS ?????????? ?? ??? ??
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?? ?????? ?????????? ??? ?????? ?????? ?????????? ???, ??????, ??? ? ?????????? ???
CRDS ??????????????, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ? ??????
?????????, ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
??? ?????????? ?????????? ?????????? ???, ??????, ??? ?? ?????????? ???
????????? ??? Cades ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?? ?????? ?????????? ??? ?????????? 1408/71.

23 ??????, ? ?????? ???????, ?????????? ??? CRDS ??? ?? ?????????? ???
????????? ??? ?????????? ??? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
?? ?????????? ?????????? ??? ?????? ??? ??????, ??? ?????? ?????????? ???
????????? ??? ?????? ??? ??????, ?????????? ??? ?????? ??? ?????? ??? ?????
????????? ??? ??????, ??? ?????? ?????? ?? ????? 13 ??? ?????????? 1408/71, ???
????? ??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ?? ?????? ???
????????????? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ?????? 13.

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

25 ? ?????? ??????? ??? ?????? ??? ? ?????? ??? ?????????? ??? ?????? ?????? ??? ??????
?? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ???
??? ?????? ??? ?? ?????????? ??? ?????? ??? ??????, ??? ?????? ?? ?????? ?? ?????? ???
????????? ??? ?????????? ??? ?????? ??????. ? CRDS, ??? ?? ? ?????? ??????
????????? ??? ??????, ? ?????? ?????? ?? ?????????? ??? ?????? ?????? ??????
????????? ??? ??????, ??? ??? C-169/98, ?????? ??? ??????, ?????????? ???
????????? ??? ?????? ?????????? «?????????????» ??? ?????????? ??????????.

26 ???????????, ??? ?? ?????????????? ??? ?? ??? ?? ?????? ???, ? CRDS ?????? ??
????????? ?? ?????? ??? ?????? ??? ??????, ?? ?? ??????, ??? ?????? ?????????? ???
????????? 1408/71 ??? ?? ?????? ?????????? ?????? ?? ?????????? ??? ??????????????
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27 ??? ?????? ??? ?????? ???, ? ?????? ?????????? ???????, ?????? ??? ? CRDS
????????? ?? ??? ?? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????,
????????? ??? ?? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ???
????? ?????????? ? ?????????? ??? ??????, ?? ?????????? ??? CRDS ?????? ???
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????, ??? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? CRDS, ???,
??? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

??? ?????? ??????????????? ?? ??? ???? ?????????? ??? ?? ?????? ?????????? ??? CRDS, ???
????????? ?????????? ?????????????????? ?????????? ??? ?? ?????????? ??????????
???????????, ??? ?????? ? ??????? ?????????? ??? ?????????? ??? ?? ?????? ???
????????? ??????????, ??? ??? ACOSS, ? ?????? ??? ?????? ?????? ??? ?? ??????????
??? ?????? ? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????.

28 ? ?????? ?????????? ?????????????? ??? ? ?????????? 1408/71 ??? ?????? ??????????
????? ??? ??? «????????? ?????????? ??????????» ??? ?????? ??? ?????? ??? ???
????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ???
????????? ??????.

29 ??, ??? ?????? ? ????????, ?? ?????? ?????????????? ??? ?????????? ??????????
?? ?????????? ??? ?????? ?? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ???
?? ?????????? ??????, ? ??? ?????? ?????????? ??? ?????? ?????????? ??? CRDS. ? CRDS
????????? ?????? ?????? ?????? ?????????? ???, ?????? ?????????? ?? Cades ??
????? ?? ?????????? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ???
????????????? ? ?????????????? ??? Cades ?? ?????? ?????????? ??? ??? ??????????????,
????????????? ??? ?????? ??????, ??? ?????? ???, ?? ?????????? ?????????? ??? ??????????
????, ??? ?????? ??????????, ??? ?????? ???, ?? ?????????? ?????????? ??? ??????????
??? ??????. ? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?? ?????? ??
????????? «?????????» ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????????? ?? ?????? ??? ?????? ?????? ?????????????? ??????.

30 ?????, ? ?????? ?????????? ?????????? ??? ? CRDS ??? ?????? ?????? ??? ??????
???? ?? ?????????????? ?? ?? ?????? ??? ?????? ?????? ?????????? ?????????? ???
????????? ?????????? ??? ?????? ??? ?? ?????? ??? ?????????? ?????? ?? ??????
??? ?????? ?????? ???' ?????? ??? ?????????? 1408/71. ???????????, ?
????????? ??? CRDS ????? 0,5 %, ??? ?? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ?????????? ??? 42 % ??? ?????? ??? ?????????? ??? ??????.
??????.

31 ?????? ?? ?????? ?????? ???, ??? ?????? ?????? ??? ?? ?????? ??? ?????????? ??? ???????????, ??
????????? ??? ?????????? ??? ?????? ???, ??? ?? ?????? ???, ??????????
????????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???, ???
??? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ????, ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?? ??????
????????? ??????, ?????? ??? ?????? ??? ?????? ??? ?????? 13 ??? ?????? 1408/71
(?, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
?, 259, ???, ???, 13, ???, ???, 29??, ???, 1994, C-60/93, Aldewereld, ???, 1994, ?, ?-2991,
????, 26).

32 ??? ?????????????? ??? ?? ?????? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???
??????????, ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?? ??????, ?????? ??? ?????? ?????????? ???
????? 13 ??? ?????? 1408/71, ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ??????
????????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

33 ? ??? ? ?? ??????? ??????????? ??? ? CRDS, ??? ???? ? ?? ?????? ???
?????????????? ?? ?????????????? ?? ??????, ??????? ? ?? ?????? ?????????? ???
????????? 1408/71 ???, ??????, ??? ??????????? ??? ?????????? ??? ??????????
????????? ??? ?????? ?? ????? ???.

34 ???????????, ?? ?????? ?? ?????????? ?????????????? ?????????????? ?? ?????? ??? ? ?? ?????
????????? ?? ?????????? ??, ??? ?????? ?????????? 1408/71, ??? ?????? ? ??? ???
????????? ?? ?????????? ?? ?????????? ?? ?????? ?????????? ?? ?????????? ??? ?????? ??? ??,
??????, ??????? ??? ?? ?????? ??? ?????? ??? ?????????? ?? ?????????? ??? ?????????? ???
?????????.

35 ??? ???? ?????? ?? ??????????, ?????? ???, ?? ??? ?????? ??? 18?? ??? 1995, C-
327/92, Rheinhold & Mahla (?????? 1995, ?. ?-1223, ??? 15), ?? ????? 4 ??? ??????????
1408/71 ??????? ?? ????? ?????????? ?? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ??
????????? ?? ??? ????? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????? ???
????????? ??????? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ????. ??? ????? 23
?? ????? ????? ??????????, ?? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??
??? ??? ?????????? ??? ?????????? 1408/71 ?????????? ??? ?????? ??? ?????? ?? ?????? ??
????? ?????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?????? 4 ??? ????? ??????????, ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????????.

36 ??? ???? ?????? ? ???????, ? CRDS ??? ? ?? ?????? ?????? ??? ??????????
????????? ??? ?? ? ?? ?????? ?????? ?????? ?????????? ??????????, ??? ?? ???
?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??????????.

37 ???????, ??? ?????? ? ?????? ?????????? ??? ?????? 25 ??? 27 ??? ?????????? ???,
? CRDS, ??????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????
????? ??? ??????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????????? ???
??? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ?????????? ???
????????? ???, ??? ?????? ?? ?????? ??? ?????? ??? ?????? CRDS ?????????? ??? Cades ??? ???
????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ? ?????????? ???
CRDS ?????????? ???, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? CRDS ?????????? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????????? 1408/71.

38 ? ??????? ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????????? ?????? ?????????????? ?? ?????????????? ?? ?????? ??? ?????????? ???
????????? ?????????? ?? ?????????? ??? ?????? ?????????? ?????????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? CRDS ?????????? ??? Cades ??? ???
????????? ??? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ? ?????????? ???
CRDS ?????????? ???, ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? CRDS ?????????? ?????? ??? ?????? ??? ??
????????? ??? ?????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ???
????????? ??? ?????? ?????????? ??? ?????????? 1408/71.

39 ??????, ? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ? ?????? ???
????????? ??? CRDS ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???

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

40 ??????, ??? ?????? ?? ??????? ?? ??????? 13 ??? ?????????? 1408/71, ??
????????????? ??? ??????? ?? ?????? ?? ?????? ?????????????????? ??? ?????????? ??? ??
????????????? ?? ?????????? ?????????? ?????????? ??? ?????? ?????? ??????. ???????,
????? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????????? ??? ?? ?????? ??????.

41 ???????, ?? ?? ?????? ?????? ?? ?????????? ??? ?? ??????? ??? ? CRDS ?????????? ??
????????????? ??? ?????????? ?????????? ?????????? ??? ?????? ?? ?????????? ??? ??????????
?? ?? ?? ?? ?????? ?????????? ??? ?????????? 1408/71 ?? ?????????? ?? ?? ?? ??????????
?? ?????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ??
???? ?????? ??? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????????? ?????, ?? ?????? ?????????? ?? ?????????? ??
????????????? ??? ?????????? ??? ?????????? ?????.

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

??? ??? ?????????? ??? ?????? ?????????? ??? ?????? 48 ??? 52 ??? ??????

43 ??? ??? ???????, ?? ?????????? ??? ?????? ?????? ??? ?????????? ?? ?????? ???
????????? ??? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????? ?? ?????????? ??????????
?? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????, ??? ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???
?? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? 48 ??? 52
?? ???????, ??? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ?????????? ??? ?????? ??? ?????? ???' ?????????? ??? ?????????? 1408/71. ?
????????? ??????????, ?? ?????????? ??? ?????? ??? ?????????? ??????????, ??????????
??? ??? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ??? ??????????.

44 ???????, ??? ?? ?????? ?????????, ?? ?????????? ??? ?????? ?????????? ?????????? ???
????????????? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ?????????? ???
????????? ??? ?????? CRDS ?? ?????????? ?????????? ?? ?????? ??? ?????????? ??? ??????
????????? ?????? ?????????? ??? ??????, ??? ??? ??? ?????????? ?????????? ??? ?????????? ???
?? ??? ?????? ???' ?????, ? ?????????? ??? ?????? ?????????? ??? CRDS ?????? ?? ??????
?? ?????? ??? ?????????? ??? ??????, ?????????? ??? ??? ?????????? ??? ?????????? ???, ?? ??????
????????? ?? ??? ??? ??? ?????????? ??? ?????? ?????????? ??? ?????. ??? ??? ?????????? ???,
? CRDS ?????? ?????? ?????????? ?????????? ??? ?????? ?????????? ?????????? ?? ??????
????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ?? ??????, ? CRDS ?????? ??? ?????? ?????????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? ??????
?? ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??????????
????????? ????, ?????????? ?? ?????????? ??? ?????? ?????? ?????????? ????, ? ??????
????????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??????????.

45 ??????, ?????? ?? ?????? ???, ?????? ?????? ??? ? CRDS ??????????
????? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????, ??? ?????????? ??? ?????? ???
????????? ???, ?????? ?? ?? ?????? 13 ??? ?????????? 1408/71, ?????????? ???
????????????? ??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????????? ??? ??????
?????????????, ??? ??? ?? ?????, ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ??
????????? ?????? ?????????? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ???

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

46 ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????????? ??????????? ??? ?????? ???
?????????? ???????????, ??? ??????? ?? ?????? 13 ??? ??????????? 1408/71, ?????? ??????
? ?????????? ??? ?????? ??????????? ??? ?? ??????????? ? ?????? ? ?????? ??????? ???
?????????? ???????????.

47 ???????????, ??? ?????????? ??? ?? ?????? ??????????? ?????? ??? ???????????
1408/71, ?????? ??? ?????? ??? ?????? ??????????? ??????????? ?????? ??
?????????? «????????? ? ?????? ??????????? ??? ?? ??????????? ??? ??????????? ???
?????????? ??? ?????? ??? ?????? ???».

48 ??? ?? ??????????? ???, ??? ?????? ??? ?????? ??? ?????? ??????????? ??? ?????? 35
??? ??????? ???, ? ???????, ??????????? ??? ??????? ???, ?????? ???????, ??? ??
?????? ??? ?????? 48 ??? 52 ??? ???????, ??? ??? ??????????? ?? ?????? ??? ???????????
??? ??????? ??? ??????? 13 ??? ??????????? 1408/71. ??????????? ??? ?? ??????????? ??? CRDS
????????? ?????? ??????????? ??????? ??? ?? ?????? ???, ??????? ?? ??? ?????? ??????? ???
????????? ??? ???????, ??? ??????? ??? ?????? ??????????? ?? ?????? 13. ???????????,
? ?? ??? ??????????? ??? ?????? ??????????? ?????? ??????? ??? ?????? ???????????
??? ???????????, ?? ??? ??? ??????, ??????????? ??? ?????? 13 ??? ???????????
1408/71, ?????? ??????????? ??? ?????? ??? ?????? ???.

49 ??? ?????? ??? ??????????????? ??? ?????????? ??????????? ??? ? CRDS ???
??????, ?? ??? ???????????, ??? ??????????? ?????? ?????? ??? ??????????? ???
?????? ??? ??? ?????? ???????, ??? ??? ?????? ?????????? ?????? ??? ??????? ???
?????? ?????????? ??? ??? ?????? ??????? ? ?????? ?????????, ??? ??? ? ??????????? ???
????????? ??????? ??? ?????? ???????, ??? ??? ?? ?????????? ???, ??????? ?? ?? ??????????
??? ???????????, ?? ??? ??? ??? ??????? ??????? ?? ??? ?????????? ??????????? ???
??????????, ??? ???????, ??? ??????? ??? ??? ??????? ??? ??? ?????????? ???????????
????????? ??? ?????????? ??? ??? ?????? ?????? ?????????? ???, ??? ??? ? ???????????,
????????? (??., ?????? ???, ?????? ??? 13?? ?????????? 1989, C-49/89, Corsica
Ferries France, ?????? 1989, ?. 4441, ??? 8).

50 ???????, ? ?????? ?????? ??? ?????? ??? ?????????? ?????? ??? ??? ???????.

51 ??? ?? ?????? ??? ??????????? ??? ?????????? ??? ? ??????? ???????????, ???????????
?? CRDS ??? ??????????? ??? ??????????? ?????? ??????????? ??? ??????????? ??? ??
????????? ??? ??????? ??? ??? ?????? ?????? ?????? ??? ?? ??????, ??????? ?? ??? ???????,
??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?? ??????, ??????? ?? ??? ???????
1408/71, ??? ?????????? ??? ?????? ?????????? ?????????? ???????????, ?????? ??? ??
????????? ??? ?????? ??? ?? ????? 13 ??? ?? ??? ???????????, ?????? ??? ?? ??? ??
48 ??? 52 ??? ???????.

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52 ??? ?? ?????? 69, ??????????? 2, ??? ?????????? ???????????, ? ??????? ???????
????????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ???????????
???????. ??????? ??? ? ??????? ?????? ??? ?????? ??? ??????? ??? ??????? ??????????? ???
????????? ??? ??? ? ??????? ?????? ?????? ??????? ??? ??????? ??????????? ???

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1) ? ??????? ????????????, ?????????????? ??? ??????? ??? ?????? ?????? ?????? ?????????? ???
????????????????????? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????????????? ???
??? ?????????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?????????? ?????????? ???
????????? ??? ??????, ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ??????,
????????? ??? ?????????? (???) 1408/71 ??? ??????????, ??? 14?? ??????? 1971, ???
????????? ??? ?????????? ?????????? ?????? ?????? ??????????, ?????? ?? ??????????
??? ??? ??? ??? ?????????? ??? ?????? ?????????? ?????? ??? ??????????, ???
????????????? ??? ?????????? ?? ??? ?????????? (??) 118/97 ??? ??????????, ??? 2??
????????? 1996, ??? ?????????? ??? ?????? ?????????? ?????????? ??????????, ???
??? ?????????? ??? ?????? ??? ?? ????? 13 ??? ?? ??? ??????????, ?????? ??? ??? ?? ??
????? 48 ??? 52 ??? ?????? ?? (???, ?????? ??????????, ?????? 39 ?? ??? 43 ??).

2) ?????????? ?? ?????? ?????????? ??? ?????????? ?????.