

@import url(../../../../css/generic.css); EUR-Lex - 61999J0213 - EL

## Avis juridique important

/

# 61999J0213

?????? ?? ?????????? (???? ???) ??? 7?? ?????????? 2000. - José Teodoro de Andrade  
???? Director da Alfândega de Leixões, ?????????? ????: Ministério Público. - ?????? ?? ????  
????? ?????????? ????: Tribunal Fiscal Aduaneiro do Porto - ??????????. - ????  
?? ?????????? ?? ??????? ?????????? - ???????? ??? ?????????? ??? ?? ??????????  
????????? ?????????? - ?????????? ?????????? ???? ?????????? ???' ?????. - ??????  
C-213/99.

?????? ?? ?????????? ??? ?????????? 2000 ?????? I-11083

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

## ?????? ???

1. ?????????? ?? - ??? ?? ??????? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
?????? ?? ?????????? ?????????? - ??????? ??? ?????????? ??? ?? ?????????? - ????  
?? ?????????? ? ?????? ?????????? ?????? ?????? ?????? ?????? ?????????? ?????????? -  
?????????

(????????? 2913/92 ?? ????????, ??? 6 § 3, 53 ?? 243)

2. ?????????? ?? - ?????????? ??? ?????????? - ??? ?????? ?????? ?????????? - ????  
?????? ?? ?????????? ?????? - ??? ?????? - ??? ?????? - ??? ?????? - ??? ?????? ??  
????????? ?? ?????????? ?????? - ??? ??????????

(?????? 77/388 ?? ????????, ??? 2)

## ???????

1. ??? ?? ??? 6, ??????? 3, ??? ??????? 2913/92, ??? ??????? ??????????  
????????? ???, ?? ??? ??????? ??????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???  
????????? ??? ??????? ??? ???????, ??? ?? ??? 53 ??? ???????, ?? ???  
????????? ??? ??????? ??? ??????? ??? ??????? ?? ??????? ?????? ?????? ?????????? ?? ??????????  
????? ?????????? ?? ??????? ? ??????? ??? ??????? ??? ?????????? ??? ?? ??????? ??? ??  
?????? ?? ?????????? ??????? ??? ??????? ??? ?????????? ??????? ??? ?????????? ??? ??  
243 ??? ?? ??????? ???????, ?? ??? ??????? ??????? ??? ??????? ??????? ??? ??????? ??? ??

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

? ?????????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ???? ??????????????  
????? ??? ?????? ?????????????? ???' ?????? ??? ??? ?????????? ??? ?????????????? ???  
????????????? ??? ?????? ??? ?????????? ??' ?????? ??? ?????? ??? ?????????????? ??? ??????  
????????? ??? ?????????? ?? ?????????? ?? ? ?????????? ?????? ?????? ?????? 5 % ??? ??? ?????? ???  
????????? ?????????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ???.

( ???. ??????? 11-13, 25, 33, ??????. 1-3 )

2. ??? ?????? ?? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????' ?????? ?????? ?????????? ???  
????? ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??????????????  
????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??????????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??????  
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ???  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ???,  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? 2 ??? ?????? ??????  
77/388, ??? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??????.

( ???. ??????? 21, 36-38, ??????. 4 )

## ?????????

???? ?????? C-213/99,

??? ??? ?? ?????????? ??? ?????? ??? Tribunal Fiscal Aduaneiro do Porto (?????????) ??? ??  
?????????, ???' ?????????? ??? ?????? 234 ??, ?? ??? ?????? ?????????, ??? ?????? ???  
????????? ??? ?????????? ?????? ??? ?????????? ?????????? ?????????? ???.

José Teodoro de Andrade

???

Director da Alfândega de Leixões,

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

Ministério Público,

? ?????? ?????????????? ?????? ??? ?????? ??? ?????????? ??? ?????????? (???) 2913/92  
??? ??????????, ??? 12?? ?????????? 1992, ??? ?????????? ?????????? ?????????? ??????????  
????? (?? L 302, ?. 1), ?????? ?? ??? ?????? 6, 53 ??? 243 ??? ?????????? ????, ???? ???  
??? ?????????? ?????? ??? ?????? ??? ?????? ?????????????? ????,

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

?????????? ?? C. Gulmann, ??????? ????????, ?. ??????, J.-P. Puissochet (?????????),  
R. Schintgen ?? F. Macken, ???????,

?????? ??????????: N. Fennelly

?????????: R. Grass

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

- ? J. T. de Andrade, ??????????????? ??? R. G. Soares, ??????? Porto,

- ? ?????????? ??????????, ?????????????? ??? ??? L. . Fernandes, ?????????? ???  
?????? ???????? ??? ?????? ?????????? ?????????? ?????????? ??? ??????????  
??????????, ??? Á. C. de Seiça Neves, ????? ?? ????? ??????????, ??? A. da Silva Teles,  
???? ?? ?????? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ???  
?????????????,

- ? ?????????? ??? ?????????? ?????????? ?????????? ??? ??? R. Tricot, ?????? ???  
?????? ????????, ?????????? ??? ??? A. Castro, ??????? Porto,

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

???? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??? ????  
?? 21?? ?????????? 2000,

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

??????

## ????????? ??? ????????

1 ?? ?????? ?? 11?? ??\_?? 1999, ? ?????? ??????? ?? ?????????? ?? 4 ??????? 1999,  
?? Tribunal Fiscal Aduaneiro do Porto ??????, ???' ??????? ?? 234 ??, ???  
?????????? ??????? ?? ??? ?? ??????? ?? ?????????? (??) 2913/92 ??  
??????????, ??? 12?? ??????? 1992, ??? ?????? ?????? ?????????? ??????????? ???  
(?? L 302, ?, 1, ??? ???: ??????), ????? ?? ??? ?????? 6, 53 ??? 243 ??? ??????????  
????, ??? ?? ??? ?????? ?????????? ?????? ??? ????? ?????????? ????? (?? ???:  
??)).

2 ?? ?????????? ??? ??????? ?? ?????? ?????????? ?? J. T. de Andrade ??? ??  
Director da Alfândega de Leixões, ??? ?????? ??? ?????? ?????????? ??? ??  
????????? ??? ?????????? ??? ??? ?????????? ??? ?????????? ?????????? ???????????.

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

3 ? ??????? ??????? ??, ??? ?????? ?? 49, ??? ?? ?????????????? ??  
????????? ??????? ??, ??? ?????? ?? ?????????? ?????????????? ?? ??????? ??  
????????? ?????????? ??, ??? ?????? ?? ?????????? ???????????, ??? ?????? ?????????? ??  
?? ?????? ?? ?????????? ?? 20 ? ?? 45 ??????, ?????? ?? ?????? ?????? ?? ?????? ??  
?? ??????????? ?? ???????????, ? ?????????? ?? ?????? ?? ?????? ?? ?????????? ??  
?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??  
?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ??

????????????? ??? ?? ?????? 53 ?????? ??? ? ??????????? ????? ?????????? ????? ?????????? ?????? ??????????????  
???? ?????????? ???, ?????????????????? ??? ??????, ?????????? ??? ?????? ?? ?????????? ?? ?????????? ?  
????????? ??? ?????????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?????? ?? ?????????? ???  
???? ?????????? ??? ?????????? ?????? ?????? 49.

4 ??? ?? ?????????? ???, ?? ?????? 638 ??? Regulamento das Alfândegas (?????????????)  
?????????) ?????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??  
????????????? ?? ?????????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??  
????????? ?????????? ?? ?????? 639 ??? ?????? ?????????? ??????????, ??????, ??? ??  
????? ?? ?????????? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?????? ?????? ?????? ??  
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??  
????????? ?????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? 5 % ?? ??  
????? ???.

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

5 ? ?????? Curtume Kiriazi Ltda, ?????????? ??? ???????, ?????????? ??? ?????????? ???  
?????? ?????? ?????? ?????? ??? J. T. de Andrade. ?? ?????????? ???  
????????????? ??? ?????? ??? Alcântara ??? ?????? (?????????) ??? 11 ?????? 1995  
??? ?? ?????? ?????? ?????????? ?????? ??? Leixões, ??? ?????? ??? 20  
??????, ??? ?????????? ??? ?????? ?????????? ????. ??? ?????????? ??? J. T. de  
Andrade, ??? 24 ?????? 1995, ??????? ??? 45 ?????? ??? ?????????? ???  
????????? ?????????? ??????????, ?? ?????????? ?????????? ??? 3 ?????? 1995  
???? ?????? ??? Serviç? Português de Contentores (????????????? ??????????  
????????????????, ??? ????: SPC), ??? Sao Mamede de Infesta, ??? ?????????? ???  
????????? ??? Leixões ??? 15 ?????? 1995, ?????????? ?? ?????????? ???  
????????? ?????????? ?????? ??? ?????? ?????????? ??? SPC ??? ??? ??????  
??? ?????????? ??? ?? ??? ?????? ?????????? ??? ?? ??? ?? ?????????? ?  
????????? ??? ?????? ??? 19 ?????? 1995 ??? ?????? ??????, ??? 9 ?????? 1995  
??? ??? ??????, ??? 19 ?????? 1995 ??? ?????? ??? ?????? ??? 2 ?????? 1996  
??? ??? ??? ?????? ??????. ?? ?????? ??? Leixões ?????? ??? ?????? ?????? ??????,  
???? ?????????? ??? ?? ?????????? ??? 3 473 724 ?????????? ?????? (PTE).

6 ??? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ?????????? ??? ?? ??????????, ??  
????????? ??? Leixões ?????? ??? 9 ??\_?? 1996 ?? ?????????? ??? ?????????? ??  
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????????? ?????? ???  
????????? ?????? ??? 11 ?????? 1995. ?? ?? ??? ?????? ?????? ??? J. T. de Andrade  
??? 22 ?????? 1997 ?? ?????? ??? ?????? ?????? ?????? ?????? ??? 905 483  
PTE, ?????????????? ??? ?????? ?????? ???, ?????? ?? ?????? ?????? ?????? ?????? ??? 3  
????????? 1997.

7 ? J. T. de Andrade ?????? ??? ?????? ?????? ??? Tribunal Fiscal Aduaneiro do Porto ??  
????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? 905 483 PTE ??? ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???,  
????????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??????, ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????????? ???, ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ???.

8 ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???  
??????, ?? Tribunal Fiscal Aduaneiro do Porto ?????? ?? ?????????? ?? ?????????? ???  
?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???

«1) ??? ? ? ?????? ??? ??????????? ???, ?????????? ??? ????? ?????????? ???????????, ??  
?????????? ??? ?????????????? ??? ???? ??? ?????? ?????????? ?????????? ?????????? ???  
????????? ?????????????? (?????), ?????????????? ? ?????? ?????????? ?????????? ??????????  
?????????, ??? ?????????? ?????, ?? ? ? ???? 53 ??? ?????????? ?????????? ??????????  
????? ??? ?????????? ?? ??? ?????????? 1 ??? ?????? ?????;;

2) ??? ? ? ?????? ??? ? ?????? ?????????? ?????????? ?????????? ?????????? ?? ??????????  
????? (???????, ??? ??????) ??? ?????? ?? ?????????? ?? ?????? ?????????? ??????  
?? ?????????? ??? ?????????? ?????????????? ??? ?????????? ?????? ?????? ??????????  
?? ?????????? ?????? ?????? ?????????????? ??? ?????? ?? ?????????? ?????????? ?? ??????????  
?? ?????????? ?????? ?????? ?????????????? ??? ?????? ?? ?????????? ?? ?????????? ??  
????????? ?????????? ?????? ?????? ?????????? ?????, ?????? ?????? ??? ?????? ?????? ?????? ??  
????????? ?????????? ?????? ?????? ?? ?????????? ?????, ??? ?????? ??? ?????? ?????? ?????? ??  
????? ??? ?????? ?????????? ?????????? ?????, ?????? ??? ? ?????????? ?????? ?????? ?????? ??  
?????????;;

3) ??? ? ? ?????? ???, ??? ? ? ?????????????? ??????, ?????? ?????? ??? "?????" ??  
?????????, ??? ??????????????, ?????????? ? ?????? ?????????? ?????????? ??????????  
????????? ? ? ?????? ??? ?????? 6, ?????????? 3, ??? ?????????? ?????????? ?????????? ?????;  
4) ??? ? ? ?????? ???, ??? ?????? ??? ?????????? ?????????????? ?????????????? ??????????????, ???  
????????? ?????????????? ?????????????? ?????? ?????????? ?????????? ? ??????  
????????? ?????????? ?????????? ?????, ??? ?????????? ??? ?????? 638 ?. ??? ??????????????  
????????? ?????????? ?????, ??? ?????? 243 ??? ?????????? ?????????? ??????;;

5) ??? ? ? ?????????????? ??? ?????? 638 ?. ??? ?????????? ?????????? ?????????? ??????????  
????? ?????????????? ?????????? ?????????? ?????????? ?????????? ?????????? ??????  
(????? ?????????? ??? ?????? ?????? ??????????), ?????????? ??? ?????? ??? ?????? ??????????????  
?????;;

6) ?? ?????? ?????? ? ?????? ??? ?????? ?????????? (?? ? ? ?????? ??? ??????????  
????????? ?????????? ?????????? ?????), ?? ?????? ??? ? ? ?????? ?????? ?????????? ???'  
????? (?????????????) ??? ?????? ??? ?????????? ??? ?????????? ? ?????? ???  
????????? ??? ?????? ?????????? ?????????? ??? ?????????? ?? ?????????? ?????? ???  
????????? ??? ?????? ??????, ?????????? ???, ?????? ??? ?????? ?? ?????????? ?? ?????????? ???  
????? ??? ??????????;;

7) ??, ??????????, ??? ?????? ??? ? ? ?????????? ?????? ??? ?????? ?????????? ??????????,  
???' ?????????? ??? ? ? ?????? ??? ?????? ?????? ?? ?????? ?????????? ??? ?????????? ???,  
????????????? ? ?????? ??;»

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

9 ?? ? ? ?????? ??? ??????, ?? ?????? ?????????? ?????? ?? ? ? ?????? 53 ??? ??????  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ?????? ?????????? ?????????? ???  
????? ??? ?????? ?????????? ? ?????????? ??????, ? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?????????? ?????? ??? ?????? ???  
????????? (?? ? ?: ?????????? ?????? ??????????).

10 ? J. T. de Andrade ?????? ??? ? ???? 53 ??? ?????? ?????????? ?????????? ??????????  
??? ?????????????? ?????? ?????????? ? ?????? ?????????? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????????? ?????? ?????????? ?????, ? ?????????? ?????? ?????? ??? ? ????;

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

11 ???????, ????? ? ?????????? ??? ?? ?????? 53 ??? ?????? ?????? ?????? ??? ?  
????????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ???,  
????????????????? ??? ???????, ?????????? ?? ?????????? ? ?????????? ???  
????????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?? ?????????? ?????? ???  
????????????? ?????? ???, ? ?????? ??? ?????? ?????? ?????? ?? ?????? ???  
????????? ?? ??????? ?????, ?????????? ??? ?????? ?????? ?????????? ?????? ???  
????????????? ??? ? ?????? ??? ?????? ?????? ?????????? ?????????? ?????? ???  
?????????.

12 ??? ?????????????? ??? ?????? 4 ??? ?????? ???????, ? ?????????? ??????  
????????? ?????????? ?????? ??? ?????????? ?????? ?????????? ???, ??? ?????? ??  
????????????? ?????? ?? ?????????? ??? ??? ?????????? ?????? ??? ?????? ??????  
????????????? ??? ?????, ?????????? ?????? ??? ?????????? ?????? ??? ??? ?????? ???  
?????????.

13 ??????, ??? ?????? ?????? ?????? ?? ?????? ? ?????? ??? ?? ?????? 53 ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????????? ?????? ?????????? ?????????? ?????????? ???  
???? ??? ?????? ?????????? ? ?????????? ??????, ? ?????? ?????? ??? ?????? ???  
?????????.

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

14 ?? ?? ?????? ?? ?? ?????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ??  
????? ?????????? ???' ?????? ?? ? ?????? ?????? ?????? ??? ?????????? ?????? ??????????  
?? ?????????????? ?????????? ?? ?????? ?????? ?????? ?????? ?????????? ???' ?????? ??? ??  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ???  
?????????.

15 ??? J. T. de Andrade, ? ?? ?????? ?? ?????????? ?????? ?????? ??????, ?? ??????  
????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ??????????  
???? ??? ?? ?????? ??? ? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???  
?? ?????? ??? ?????? ??? ?????????? ???, ??????, ??? ?????? ??? ?????? ??? ?????? ???  
???? ??? ???????????. ?? ??? ?????? ??? ??? ?????? ?????? ?????????? ???, ??? ??????  
?? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
?? ?????? ??? ?????? ??? ?????????? ???, ?????? ??? ??? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ??????????.

16 ???????, ? ?????????? ?????? ?????? ??? ?????? ? ?????????? ?????????? ??????????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

17 ? ??????? ?????? ???, ??? ?? ?????? ??? ? ?????????? ??? ?????????? ??????????  
????????? ?????? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?? ??  
????????? ??? ?????????? ?? ?????????? ??? ?????????? ???, ??? ?????? ??????????  
?? ?????? ?? ?? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?? ??

????? ??? ?? ??????????? ?????? ??????????? ???' ????? ?? ??????? ??' ??????  
????????? ??? ?? ????? ?? ??????????????.

18 ? ?????????? ??????? ?? ?????????? ?????????????? ?????????????? ??????? ?? ?????????? ??  
????????? ??? ?????????? ?? ?????????????? ??? ?? ?????????? ?? ?????? ?? ????? ??  
????????? ?????????? ?? ??? ?? ?????? ????? ?????????????? ??????????. ??? ??????????????  
?? ?????? 11 ??? ??????? ??????????, ? ?????? ????? ?????? ?????? ?????? ?????? ?????? ??????  
??? ?? ??????? ?? ??????? ????? ?????????? ?????, ?????????????????? ??? ???????,  
????????? ?? ?????????? ? ?????????? ??? ?????????????? ?????????????? ??? ???????.

19 ??? ?????? ????????, ? ?????? ?????????????? ??? ?????? 20 ??? ?????????? ?? 26??  
????????? 1995, C-36/94, Siesse (?????? 1995, ?. ?-3573), ?????? ?????????? ??????? ??  
????????? ?????? ?? ?????????? ?????????? ??? ?????????? ??? ?????????? ?? ???????????, ??  
??? ?? ?????? ???, ??? ?????? ?????????? ?????????? ??? ?????????? ?? ???????????  
?????????, ?? ?????? 5 ??? ??????? ?? (?? ?????? 10 ??) ?????????? ??? ?????? ??? ??  
????????? ??? ?????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??  
????????????????? ??? ?????????? ??????. ??? ??????, ?????????? ?????????? ??????????  
????????? ?? ??? ?? ?????? ??? ???????, ?? ?????? ??? ?????? ?? ?????????? ??? ??  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ??????????  
??? ?????????????? ?????????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???, ?? ?????? ??????????,  
????????????? ??? ?????? ?????????????? ?????????? ??? ?????????? ??? ??????????.

20 ??? ?????? ??? ?????????? ??? ??????????, ?? ?????????? ??? ?????????????? ???,  
????????? ?????????? ??? ?????????? ?????????? ?????????? ??? ?????? ???, ?? ?????? ???  
????? ??????? ?? ?????????? ??? ?????????? ??? ?????????? ?????????? ?????????? ??? ??  
????? ??? ?????????? ???, ?????????? ?? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??  
??, ??? ??????????, ?????????? ??? ?????? ??? ?????????????? (?. ?????????????? ???  
Siesse, ??? 21).

21 ??? ??? ?????????? ??? ?????????? ?????????????? ?????????? ?????????? ???, ??????????  
?? ??????? ?????? ?????? ??? ?????? ?? ?????????? ?????????? ?????? ??? ?????????? ??????????  
??? ??????????, ?? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ?? ?? ?????????????? ???  
??? ?????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????? ??? ???????, ?????????? ??? ?????? ?????? ?????????? ??? J. T. de Andrade ??? ??  
?????????, ?? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ??? ?????????? ???  
????????????? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ??????????  
????????? ??? ??? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

22 ??? ?????????? ?? ?????????? ??? ?????? 22 ??? ?????????????? ?????????? Siesse, ?  
????? ??? ?????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????, ??  
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????????????? ??? ??? ?????? ?????? ???  
????????????? ?????????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ???  
????? ??? ??????, ?????????? ?????? ??????, ?? ?????? ??? ?????????? ?????????? ??????????  
?? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

23 ? ?????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??? ??? ?????????  
????????????? ??? ?????????????? ?? ?????? ??????? ??? ?????????? ?????????? ?????? ??  
????????? ??????. ??????, ? ?????????? ??? ?????? ?????????? ?????? ?????? ?????? ??????????  
????????????? ?? ?????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ??????????  
????????????? (?? . ?????????????? ?????? Siesse, ??? 23).

24 ??? ?????? ?? ??? ?????? ??? ???????, ??? ?????? ??????? ?? ??? ?????? ?????????? ???,  
??? ?????????????? ??? ???????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????????? ??? ??? ?????? ?????? ??? ??????. ??? ?????????? ?? ?????????? ??? ?????? ???  
????????? ??? ?????? ?????? ??? ??????. ??? ?????????? ?????????? ??? ?????? ??? 24  
??? ?????????????? ?????? Siesse, ??? ?????? ?????????? ?????????? ??? ?????? ???  
??? ? ?????????? ??? ?????? ?????????? ?????? ?????? ?????????? ??? 5 % ??? ??? ?????? ???  
????????????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

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

26 ?? ?? ?????? ??? ?? ???????, ?? ?????? ?????????? ?????? ???' ?????? ?????? ??  
????? 6, ?????????? 3, ??? 243 ??? ?????? ?????????? ??? ?????? ?????????? ?????????? ???  
????? ??? ?????? ???, ? ?????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ???  
????? ??????????.

27 ? J. T. de Andrade ?????? ??? ?? ?????????? ?????? 4, ?????? 5, ??? 6, ??????????  
3, ??? ?????? ?????????? ??? ?? ?????? ??? ?????????? ?????? ?????? ?????????? ??????????  
????????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??  
????????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ?????? 243 ??? ??????, ?? ?????? ?????? ?????? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ???.

28 ??? ?????? ?????????? ???????, ???????, ? ?????? ??? ?????????? ?????????? ???  
????????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ???,  
????? ? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ???, ? ?????????? ??? ???  
????????? ??? ?????? 6, ?????????? 3, ??? ??????, ?? ?????? ?????? ??? ?????? ???  
????? ??? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ???  
????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ???.  
????????? ?????? ??? ?????? 243 ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ??? ?????? ???, ?????????? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ???.

29 ? ?????? ??? ???? ? ?????? ?????? ?????? ?????? ?????? ?????? ??? ? ?????? ???  
????????? ??? ?? ?????? 6 ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? ?? ?????? ?????? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????? ??????, ??? ?? ?????? ??? ? ?????????? ?????? ?????? ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???  
????? ?? ?????? ?????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ???

? ?????? ?? ???????????, ??? ???? ???????, ??? ?????? ???? ??????????? ?? ?????? ??  
?????? ??????? ??? ???? ??????? ?? ?????? 243 ??? ?????.

30 ??? ???? ?? ?????? 6, ??????????? 3, ??? ??????, «?? ?????????? ??? ?????????????? ?????? ???  
???? ??????????? ??? ??????? ??? ?????? ?????? ?????????? ?????????? ??? ?? ?????? ???  
????? ?????????????? ?????????????? ??? ??? ?????????? ??????. ?? ?? ??? ?????? ??????????  
????? ?? ?????????? ?? ?????????? ?????? ?????? ?????????? ??? ?????????? ??? ?????? 243».  
???? ??? ?????????? 1, ??? ???? ??????, ??? ?????????? ?????? ??????????, «???? ?????? ???  
?? ??????? ?? ??????? ??????? ??? ??? ?????????? ??? ?????????? ?????? ?????? ??????? ??  
??? ??????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ??????? ??  
??? ??????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ?????? ?????? ??????? »..

31 ??? ???? ??, ??????, ??? ??????? ?????????????? ??? ?????????? ??? ?? ?????? 6,  
?????????? 3, ??? ??????, ? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ???  
?????????? ??????? ??? ??????? ?? ?????? ? ?????? ?????????? ?????????? ??????????.  
??????, ????? ? ?????????? ???, ?? ??????????, ????? ?????????? ?????? ?????????? ??? ??????????  
?? ?????????? ??? ???, ?????? ??? ?????? 53 ??? ??????, ???  
????????????? ?? ??? ??????? ??? ?????? ?????????, ? ?????????? ??? ?????? ??? ??????  
????????????? ?? ??? ?????? ??????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ??  
?????????.

32 ???????, ??? ???? ?? ??????? ?????????? ?? ?????? ?????????? ?? ?????? 243 ???  
??????, ????? ? ?????????? ??? ?????? ?????? ?? ?????? ?? ?????? ?????? ???  
??????????, ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????????? ??? ??????????  
?????????? ? ?????, ??? ?????? ??? ?????? ???, ??? ?? ??? ?????? ??? ??????  
????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ??????????????  
??? ???????????.

33 ??????, ??? ???? ?? ??????? ?????????? ?????? ?? ?????? ? ?????????? ??? ?? ??????  
6, ?????????? 3, ??? 243 ??? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ???  
?????? ??? ?????? ???, ? ?????? ??? ?????????? ??? ?????? ?????????? ?????????? ???  
????? ??????????????.

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

34 ?? ?? ?????? ??? ?? ?????? ???????, ?? ?????? ?????????? ?????? ?? ? ??????? ???  
?????? ??? ?????? ?????? ?????????? ?????? ?? ?????????? ?? ??, ?????????? ??????????  
??? ?? ? ?????????? ??? ?????? ?????????? ??? ???.

35 ? J. T. de Andrade, ? ?????????? ?????????? ??? ? ?????????? ?????? ???, ??? ?? ??????  
??? ??? ?????????? ?? ?????????? ?????? ?????? ?????????, ? ?????????? ?????? ?????????? ??  
????????? ?? ?????????? ??? ?????????? ??? ?????????? ?? ?????? 49 ??? ?????? ??? ??????  
?? ?????????? ?? ??.

36 ??????? ?? ?? ?????? 2 ??? ?????? ??????? 77/388/??? ??? ??????????, ??? 17?? ??\_??  
1977, ??? ?????????? ??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ?????? ??????  
????? ?????? - ??? ?????? ?????? ?????? ?????????? ?????: ?????????? ??????????  
???? (?? ??. ???. 09/001, ?. 49), ??? ?????? ?????????? ?????? ?????????? ??  
????????? ?????? ??? ?? ?????? ?????????? ??? ?????????? ?? ?????????? ?? ?????? ???  
??? ?????????? ??? ?????? ??? ?????????? ??? ??????, ??? ?????? ??? ??? ?????? ???  
?????, ??? ?????? ??? ?? ?????????? ???.

37 ??? ?????????? ??? ?????? 22 ??? ?????? ???????, ??? ?????? ??? ? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ??? ?????? ??????  
??? ?????????? ??? ?????? ??? ?????? ?????? ??????, ?????????? ??? ?????? ???  
??? ?????? ?????????? ??? ?????? ?????? ??? ???????, ?????????? ??? ?????? ???

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

38 ??????, ??? ?????? ??? ?????? ?????? ?????? ?? ?????? ? ??????? ???  
????????? ? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????? ??? ?????????? ???  
????????? ?????? ??? ?????? ?? ?????? ??? ?????? ???.

## ?????? ??? ?? ?????????? ????

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

39 ?? ?????? ??? ????? ?????????? ? ?????????? ?????????? ??? ? ????????, ??  
????????? ?????????? ??? ??????????, ??? ??????????. ?????????? ??? ? ???????  
????????? ??? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??????????????  
?? ?????? ?????? ??? ?????? ??????????, ?' ??? ?????????? ?? ?????????? ??? ???  
????????? ????.

## ???????????

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

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

????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? 11?? ??\_?? 1999 ?? *Tribunal Fiscal Aduaneiro do Porto*, ??????????:

1) ?? ??? 53 ??? ?????????? (???) 2913/92 ??? ??????????, ??? 12?? ?????????? 1992,  
???? ?????????? ?????????? ?????????? ??????, ??? ?????????? ??? ?????????? ??? ??????  
????????? ?????????? ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??????????  
????????? ??????, ? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ???  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?? ?????????? ???  
????????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ?????????? ??? ?? ?????????? ???.

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

3) ?? ??? 6, ?????????? 3, ??? 243 ??? ?????????? 2913/92 ??? ?????????? ???  
????????? ?????????? ??? ? ?????? ??? ?????? ???, ? ?????? ??? ?????? ??? ?????? ???.  
????????? ?????????? ??? ?????? ??? ??????????????.

4) ?????????? ? ?????? ?????? ??? ?????? ?????? ?????? ??? ?? ?????????? ??? ??????????????  
????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????????? ???.