

????????????????? ?????????? C-181/04 ??? C-183/04

Elmeka NE

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(????????? ??? ??????????? ??? ????????????

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«????? ??????? ?? — ?????????? — ?????? 15, ?????? 4, ?????????? ?, 5 ??? 8 — ?????????? ??
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1. ?????????????? ?????????? — ?????????? ?? ?????????????? — ?????? ?????? ?????????? —
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(?????? 77/388 ??? ???????????, ?????? 15, ?????? 4, ?????????? a?, ??? 5)

2. ?????????????? ?????????? — ?????????? ?? ?????????? — ?????? ?????? ?????????? —
????? ??????? ?????? ?????????????????? ??? — ?????????? ?????????????? ??? ??? ??? ???
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(?????? 77/388 ??? ???????????, ?????? 15, ?????? 8)

3. ?????????? ?????? — ?????? — ?????????? ?? ?????????????????? ????????????????

1. ?? ?????? 15, ?????? 4, ?????????? ?, ??? ?????? ?????????? 77/388, ??? ??????????????
??? ?????????? ??? ?????? ?????, ??? ?????????? ?? ??? ?????? ?????? ?????????? ??????????, ???
????? ?????????? ?? ?????? 5 ??? ?????? ?????, ??? ?????????????? ?? ??? ?????? ??????
92/111, ??? ?????? ??? ?????? ??? ?????? ?????? ?????????????????? ??? ?????????? ??????????
????????? ??? ??? ??? ?????? ?????????? ?????????? ??????????, ??? ??? ??? ??? ??????
????????????????? ??? ?????????? ?????????? ?????????? ??? ??? ??? ?????? ??????????
????????????????? ? ??? ?????????? ?????????? ?????????? ??? ??? ??? ?????? ??????????.

?????????, ?????????? ??? ??? ?????????? ??? ?????? 15, ?????? 4, ?????????? ?, ??? ???
????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????????? ???????????, ???????????,
? ?????????? ??? ? ?????? ??? ?????????? ?????? ?????? ?????????? ?????? ??? ?????????? ???
????????? ??? ?????????????? ??? ?? ?????????? ?????? ?????? ??? ?????????? ?????? ??? ??? ?? ???
??? ?????? ?????????? ? ?????? ??? ? ?????? ?????????????? ??? ?????????? ?????? ??? ?????? ???
??? ?????? ??? ?????? ?????? ?????????????? ??? ?????????? ?????? ?????????? ?????? ??? ?? ???
????????? ? ?????? ??? ?????? 4, ?????????? ?, ??? ?????? ?????, ??? ??????????
??????, ??? ?????????? ??? ??? ??? ?????? ??? ?????????????? ??? ?????? ?????????? ???.

(?. ??????? 14, 16, ??????. 1)

2. ?? ?????? 15, ?????? 8, ??? ?????? ?????? 77/388, ??? ?????????????? ??? ???????????

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

?????????, ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???, ?
????????????? ??? ?????? 15, ?????? 8, ??? ?????? ?????????? ??? ?????? ?? ?????????? ??? ??????????
????????? ??? ?????????? ?? ?????????????? ?????? ??? ??????.

(???. ??????? 24-25, ????????. 2)

3. ??? ?????? ??? ?????? ?????????? ?????? ?????????????? ???, ?? ??????????
????????? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ?? ?????? ???, ???
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ???
????????? ?? ?????????? ??? ?????? ?? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???
???? ?????????????? ???, ? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?? ?????????? ?? ??????????
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(???. ??????? 26, 36, ????????. 3)

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??? 14?? ?????????? 2006 (*)

«???? ?????? ??? – ?????????? – ?????? 15, ?????? 4, ?????? ??, 5 ??? 8 – ?????????? ???
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???? ?????????????? ?????? C-181/04 ??? C-183/04,

?? ?????????? ?????? ?????? ?????????? ?????????? ?????????? ?????? ??? ?????? 234 ??,
?? ?????? ?? ?????????? ??? ?????????? (??????) ?? ?????????? ??? 3?? ?????? 2004,
?? ?????? ?????? ??? ?????????? ??? 19 ?????? 2004, ????

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

????????? ??? ??? C. W. A. Timmermans, ?????? ???????, J. Makarczyk, R. Silva de
Lapuerta, P. K?ris ??? ?. ?????? (??????), ???????,

????????? ??????????: C. Stix-Hackl

?????????: H. von Holstein, ?????? ??????????,

????????? ??? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
8?? ?????????? 2005,

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- ? ?????????? ??????????, ??????????????? ??? ??? M. ??????, ?. ??????????, I. ?????????? ??? ?? ?. ????,
- ? ??????? ??????????, ??????????????? ??? ??? I. M. Braguglia, ?????????????? ??? ??? G. De Bellis, avvocato dello Stato,
- ? ??????? ??? ?????????? ??????????, ??????????????? ??? ??? ?. ??????????????,
???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ?????? ?? ?????? ??? 1?? ??????? 2005,
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1 ?? ??????? ?? ??????? ?? ??????????? ?? ??????? ?? ??????? ?? ??????? ?? ???? ?? ??????? ?? ???? ?? ???????
15, ?????? 4, ??????? ?, 5 ??? 8, ??? ????? ?????? 77/388/???, ??? ???????????, ??? 17??
????? 1977, ??? ??????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ???
????? ?????? ?????? – ??? ?????? ?????? ????? ?????????????? ?????: ??????????
????????? ??? (?? ????. ??? 09/001, ?. 49), ??? ??????????? ?? ??? ?????? 92/111/???
?? ???????????, ??? 14?? ?????????? 1992 (?? L 384, ?. 47, ??? ????: ??? ??????), ????
?? ??? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ??? ??????
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3 ?? ?????? 15 ??? ?????? ???????? ???????;

«?? ??? ?????????? ???, ?? ?????? ?????? ???????????, ?? ???? ?????? ?????? ???????????, ?? ????
????????????? ??, ?? ?????? ?????? ??, ?? ?????????????? ??, ?? ?????? ??, ?? ?????? ?????? ??,
????????????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ??, ?? ?????? ?????? ?????? ?????? ??,
????????????? ??, ?? ?????? ??????;»

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4. ????????????????? ??????? ?? ????? ?????????????????? ??? ?????????????:

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

?) ?????????????????? ??? ?????? ?????? ?????????????????? ???????, ?????? ??? ??????
????????? ???????, ?????????????? ??? ?????????? ?????????? ??? ?? ??? ????? ?????? ??????????
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5. ??????????????, ??????????, ??????????????, ?????????? ??????????, ?????????? ????
????????? ?????? ?????? ??????, ?????????????? ??? ?????????? 4, ??? ?? ??? ??, ?????? ??? ????
???????????, ??????????, ?????????? ??? ?????????? ?????????????? ??????????????
-????????????????? ??? ?? ?????????? ??????????- ?? ?????? ??? ?????????????? ???
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8. ?????????????????????, ?????? ??? ?????????????????? ????? ?????????????? 5, ?? ??????
????????????????????? ??? ??? ?????? ?????? ??? ?????????????? ????? ?????????????? ???
????? ?????????? ??? ??? ?????? ???-.

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4 ?? ?????? 22, ?????????? 1, ??? ????? 1642/1986, ??? ??? ??????? ??? ??? ??? ?????
????????? (???A 125), ?? ??? ????? ??????????? ?? ?????????? ??? ?????? ?????? ?????? ???
????????? ?????? ????. ??? ?????? ??? ??????? ????, ?????:

«????????????????? ??? ??? ??? ???·

?) ? ?????????? ??? ? ?????????? ?????? ??? ?????????????? ?? ?????????????? ???
????????? ??????????, ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ? ??? ??? ?????????????? ? ??? ?????? ? ??? ?????? ??? ??? ?????? ??? ?????? ???
???????, ????, ? ?????? ??? ? ?????? ??? ?????????????? ??? ?????? ???
????????????? ????, ????, ??? ? ?????????? ??? ??????, ????, ??? ?????????? ???
????????????? ? ?? ?????????????? ??? ??????, ??? ?????????? ??? ?????? ???
????????????? ????. ??? ?????????? ?? ??? ????? ?????????? ????, ??? ?????????? ???
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?) ? ?????????? ???. ? ?????????? ??????????, ???????????, ?????????????? ???. ?????? ?????? ??????
???? ?????????????? ??? ???. ?????????? ??? ??????, ?????? ?????? ??? ?????????? ???. ?????? ?????? ???.
????????????? ??????? ???. ?????? ?????????? ??? ?????????????? ???. ?????? ???. ?????????? ???
????? ???. ?????? ??? ?????? ??? ?????????? ?????????????? ?????????????? ???. ?????? ??????????????
??????????, ?????? ??? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ???,
????????? ?????????????? ??? ?????????? ??? ??????????:

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

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

5 ? ??????? ?????? ??? ?? ?????????????? ???????? ??? ?????????????? ??????????????????,
?? ?? ?????? ??????? ?????????? ?????????????? ?????????????? ??? ?????????? ??? ?????? ??? ??????????
????????? ??????-?????? ?????? ?????? ??????.

6 ????? ??? ?????????????? ??????? ??? ?????????????? ??????? ??? ?????????????? ??? ?????????? ?
?????? ??? ??????? ??? ?????????????? ??????? 1994 ??? 1996, ?????????????? ??? ?????? ???
????????-????????? ??? ?????????? ????? ?????????????? ??? ? ?????????? ??? ?????? ???
???????? Oceanic International Bunkering SA (??? ????: Oceanic), ?? ?????????????? ??????????
??? ??????? ?????????????? ????????. ??????????????, ??????, ??? ? ?????? ??? ?????
??? ??? ??? ?????????? ??????? ??? ????? ?????????? ?????? ??? ?? ??? ??? ??? ??????????
????????? ??? ??? ?????????? ?????????????? ?????????? ??? ?????? ??? ?????????? ??? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? Oceanic, ??? ??? ???
??? ?????????? ??? ?????? ?????????????? ??? ?????? ???.

7 ? ???????, ?? ??????? ??? ?????????? ??? ??????? ?????????? ?????????? ?????????? ??????
????????? (??? ????: ??? ???????), ?????? ?????????? ?????? ?? ???? ??, ???
????????? ??? ??????????, ?? ???? ?????????? ??? ??? ?????????? ??? ?????????? Oceanic,
?????? ??? ??????? ?????? ?????? ?????????? ?? ??????? ?????????? ??? ?? ??? ??? ?????? ??? ?????
?????????, ??? ?? ??? ????? ?????????? ?? ??????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ???
?? ?? ??? ?????? ?? ?????????? ?????? ??? ?????????? ??? ?????????? ?????? 1642/1986
??, ??? ?????????? ???, ?? ??? ??????????. ? ?? ?????????? ?????????? ??? ??
????????? ??? ?????????????? ???.

8 ????? ???. ???????????, ??? 1?? ??????????? 1993, ??? ?????????? ??? ???. ??? ???? ????
????? ??? ???. ?????? ??????? ?????????? ?????????? ?????????????? ??????????, ?? ??????????????
??? ??? ?????? ?????????? ??????????? ?? ???, ??? ??? ????? ??? ?????????? ???
????????? ??? ????, ?????????? ??? ?????????? ??? ? ?????????? ??? ?????????? ??? ?????
???? ??? ??? ??? ??? ????? ??????????. ??? ??? ?????????? ?????, ? ?????? ?????????? ???
????????? ??? ????, ?? ??? ????? ?????????? ?????????? ??? ?????? ??? ?????
????????? ??????????, ??? ?? ?? ?? 1994 (C?183/04), 1995 (C-182/04) ??? 1996 (C-181/04),
?? ?????? ??? ??? ?????????? ?????? ???, ?????????? ?????? ??? ????? ?????????? ??????
??? ?????? ??? ??????? ???????, ?????? ??? ???????.

9 ? ?????? ?????????? ??? ?????????? ?????? ?????? ?????? ??? ?????????????? ??????????????
?????????. ??????? ?? ?????????? ??? ?????????? ??? ?????????? ???, ?? ??? ?????? ?????? ??????
????????? ??? ?????????????? ?????????? ?????????? ?? ??????, ??? ?????????????? ??? ?????????? ???
?????????????, ????, ?? ??????????, ?????? ?????????? ??? ?????? ?????????? ??? ??????????
????????????? ??? ?????????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????????? ??? ??????
??? ?????????? ???, ?? ?????????? ?????? ?? ??? ??? ????? ?????????????? ??? ?????? ??????????
??? ?????????? ??? ? ?? ??? ?????? ?????????? ?????? ??? ?????? ?? ?????? ?????? ?? ?????? ???
????????? ?????????? ??? ?????????????? ????. ??????????, ?????? ? ?????? ??????????
?????????, ?? ?? ?????????? ??? ? ?????? ??? ?????????? ?????????????? ?????????????? ??????????
????? ?? ?? ?????????? ??? ?????????? ???, ???????, ??? ?????????? ??? ?????????? ?
??? ??? ??? ?????????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????????? ??????????????
?????????. ?? ?????????? ?????? ?????????? ??????, ??????, ??? ?? ?????????? ??????????
??? ?????????? ? ?????? ??? ?????????? ??? ?????? ??? ?????? 22, ?????????? 1, ?????????? ?, ???
????? 1642/1986, ?????? ??? ??? ? ??' ????. 6 ?????? ??? ?????????? ?????????????? ??????, ???
5? ?????? 1997, ?????? ?????????? ??? ??? ?????? ?????? ????. ??? ??????????, ? ??????
????????? ?? ???? ?? ?????? ???.

10 ? ?????? ?????? ??????? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????????? ???
????????????? ?? ?????? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?? ?????????? ??

?????????? ?? ??????? ??????????? ????????, ??????? ?? ?????? ?? ??????????? C-
181/04 ??? C?183/04:

1) ? ??????????? ?? ??? ??????????? 4 ??? ?????? 15 ??? ?????? ??????? [...] , ??? ?????? ?
?????? ??? ?????? 15, ??????????? 5, ??? ?????? ?????? ???????????, ??? ?????? ??????? ???
?????? ??????? ??????? ?? ?????? ?????????? ??????? ??????? ??? ??????? ??? ??????
?????? ?? ?? ?????? ??????? ???????, ?????????? ??????? ??????? ??????? ???????, ????
?????? ?????? ?????? ??????? ??????? ??? ?????, ??? ?????? ?????? ??? ???????, ????
?? ?????? 22, ?????????? 1, ?????????? ?, ??? ?. 1642/1986 ??????? ?????????? ???????,
?? ??? ?????? ??????? ??? ?????? ??? ?????? ? ???????, ??????? ??? ??????;

2) ??? ??? ??????? ?? ??? ???, ??? ?? ??????? ??? ?????? 15, ?????????? 8, ??? ??
??? ?????? ???????, ?????????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ??????? ? ?
?????????? ??? ??? ?????????? ?????????? ?? ?????? ?? ?????? ??? ?????? ??? ?????????? ???
????????????? ??? ??? ?????? ?????? ??? ?????????? ?????? ?????? 5 ??? ?????? ???
??????, ?????? ??? ??? ??? ?????????? ?? ??? ?? ??? ?????????? 4 ??? ?????? ???
??????;

3) ??????????? ?? ??? ??? ??? ?????? ???????????, ??? ??? ?????? ?????????? ???
??? ??? ??? ??? ??????? ?? ??????? ?????????? ???????, ? ?????????? ??? ??? ???
????????? ??? ??? ?? ??????? ???, ??? ??? ?????? ???, ??? ?????? ?????? ???, ???
??? ??? ?????? ???, ???, ? ?? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ??? ?????? ?? ?????????? ??? ??? ??? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ??? ?????? ??????;»

11 ?? ??????? ?? ??????? ?? ?????????? ??? 2?? ??????? 2004, ?? ???????
C?181/04 ??? C?183/04 ??????? ??? ?????????? ??? ??????? ??? ???????
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12 ?? ?? ??? ?????? ??????? ??, ?? ?????? ?????????? ?????, ???????????, ?? ?? ???????
??? ?????????? ??? ?? «????????? ?????? ???????», ??? ?????? ?? ?????? 15,
?????? 4, ??????? ??, ??? ?????? ???????, ??? ?????? ?????????? ?? ?????? 5 ??? ??????
??????, ?????? ?????? ?????? ?????????????? ??? ??? ??? ?????? ?????? ?????? ??????
??, ??????, ?????? ?????? ?????????????? ??? ??? ?????? ?????? ?????? ?????? ??????
? ?????????? ???????????.

13 ? ??????? ??????? ?? ? ??????? ?? ?????? ?????? ?????????? ?????????? ???????????,
?????????, ??? ?? ??????? ?? ?????? 15, ?????? 4, ??????? ??, ??? ?????? ??????
?????? ?? ?????? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ???????,
????????? ??? ?? ?????? ?????? ?????????? ???????, ? ?????? ?????? ??????
????????? ??? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?
????????? ??? ?????? ?????? ?????, ??????, ?? ?????? ??? ?????????? ??? ?????? ???
????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ???, ???????, ?????? ???
????????? ?????? ??? ?? ?????? ?????? ?????? ?????? ???, ???????, ?????? ???
????????? ??????.

14 ?? ??? ?? ?????? ???, ??????? ?? ??? ?????? ??? ?????? 15, ?????? 4, ???????
??, ??? ?????? ?????? ?? ??????? ?????? ?????? ??? ?????? ??? ???????????

??????????, ????????, ? ?????????? ??? ? ?????? ??? ?????????? ?????? ?????????? ?????? ?????????? ?????
??? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?? ?????????? ?????? ?????????? ?????
??? ??? ? ? ?????? ??? ????? ?????????? ? ?????? ?????? ??? . ??? ??? ???? ??? ?????? ??? ?????? ???
«????????? ??? ?????? ??? ?????? ??? ?????? , ??? ?????? ??? ?????????? , ??? ?????????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ?????? » ?????????? ??? ?? ??? ???? ?????????? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ??? ??? ?????????? ???, ??? ?????? ???
????????????? , ??? ?????????? ??? ?????? ?????? ?????? ?????? . ? ?????????? ??? ?????????? ???
????????????? ??? ?????? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ???
????????????? , ??? ?????? ?????? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ???
????????????? , ??? ?????? ?????? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ???
????????????? , ??? ?????? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ???
????????????? , ??? ?????? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ???
????????????? , ??? ?????? ?????? ?????? ?????? , ?????????? ??? ?????? ??? ?????? ???
????????? 4, ??????? ??, ??? ?????? ?????, ??? ?????? , ?????? , ??? ?????? ?????? ??? ??
????? ??? ?????????? ?????? ?????? ?????? .

15 ??????, ??????? ??? ??? ?????? ??? ?? 15, ?????? 4, ??????? ??, ??? ???
?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ??? ??? ?????? ?? ?????????? ?????? ?????????? ??? ?????????? ??? ?? ??? ???
????? ??? ??? ?????? ?? ?????? ?????? ?????????? ?????? ??? ?????? ??? ?????? ???
????????????? ?????? ?????? (??., ????, ?????? 26??
?????? 1990, C-185/89, Velker International Oil Company, ?????? 1990, ?. I-2561, ?????? 19,
??? ?? 16?? ?????????? 2004, C?382/02, Cimber Air, ?????? 2004, ?. I?8379, ?????? 25).

16 ???????, ??? ??? ?????? ?????? ?? ?????? ? ?????? ? ?????????? ??? ?? ?????? 15, ?????? 4,
?????? ??, ??? ??? ?????? ?????? , ??? ??? ?????? ?????????? ?? ?????? 5 ?? ?????? ?????? , ???
????????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ?????? ???
??? ??? ??? ?????? ?????? ?????? , ??? ??? ??? ?????? ?????????? ??? ?????????? ?????? ???
????????? ?????? ?????? ??? ?????? ?????? ?????? , ??? ?????? ?????? ?????????? ?????? ???
????????? ?????? ?????? ?????? , ??? ??? ?????? ?????? ?????? , ?????????? ?????? ? ??????????
?????????????.

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17 ?? ?? ?????? ?????? ???, ?? ?????? ?????????? ?????? , ?????????? , ?? ? ???????
??? ?????? ?? 15, ?????? 8, ??? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?? ?????? 5
??? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ? ? ?????? ?????? ?????? , ?????? , ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
?????.

18 ??????, ???????, ?? ?????????? ??? ?????????? ?????? ?????????? ??? ?????????? ???
?????? ?? ?????????? ?????????? ?????? ?????? ?????????? ?????? ?????? ?? ?????? ???
????? ?? ?????????? ??? Oceanic ? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ???
????? ??????. ???????, ? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? , ??? ??? Oceanic, ? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ???.

19 ? ?????????? ?? ? ?????? ?????? , ?????? ??? ? ?????? , ?????????? ??? ?? ??
????????? ?? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ???
??? ?????? ?? ?????? 15, ?????? 8, ??? ?????? ??????.

20 ?????????? ??? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???
??????, ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ???
????????? ?? ??? ?????? ?????? (??., ????, ?????? , ?????? ??? 5?? ?????? 1997, C-

2/95, SDC, ??????? 1997, ?. ?-3017, ????? 21- ??? 10?? ?????????????? 2002, C-141/00, Kügler, ??????? 2002, ?. ?-6833, ????? 25, ??? Cimber Air, ??????????????, ????? 23). ???????, ??? ?????????? ??? ?????? 15 ??? ??????? ?????????, ?? ?????????? ??? ??? ??? ??? ?????? ?? ?????????? ?????????? ??????????.

21 ????? ?????????? ??? ?????? 15 ??? ?????? ??????????, ?? ?????????? ??? ??? ???
?????? ?? ?????????????? ??????????????. ?? ??????? ?? ?????????? ?? ??? ?????????? ??????
???? ?????? ?????????? ?? ??? 15, ?????? 4, ??? ?????? ?????? ?????????????? ??????
????????????? ?? ??????? ??? ??? ?????? (??., ??' ??? ???? ??? ??????, ??????? Velker
International Oil Company, ??????????????, ????? 21).

22 ????? ?????? ??? ??????? ?????, ??? ??????????, ??? ? ?????????????? ?????????? ???
????????? ?? ????? 15, ?????? 1, ??? ????? ?????????? ?????????????? ?????????????? ???
????????? ?????????? ?????? ?????????????? ? ?????????????? ??? ??? ?????? ? ???
????????? ??? ?????? ??? ??????????, ? ?????????? ??? ?????????? ?? ?????? 4 ??? ???
?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ?
?????? ?? ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ???, ???????, ??? ?????? ??
????????? ?????????? ?????? ??? ?????? ??? ?????????????? ??? ?? ?????????? ?????? ???
????????? (??., ??' ??? ???? ??? ??????, ??? ?????? Velker International Oil Company,
??????????????, ??? 22).

23 ??????????, ? ??????? ?? ?????????? ?? ?????? ?????????????? ?? ?????? ??????????
????????? ?? ?????? ?? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ?? ??????????, ?? ?????? ?? ??????,
????????? ?? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????????? ?? ?????? ?????? ?????????? ??
????? ?? ?????????? ?? ?????? ?? . ?? ?????????? ?? ?????? ??????????????, ?? ?????? ??
????? ?? ?????? ?? ?????? ?????? ?????? ??????????????, ?? ?????????? ?? ?????????? ??
«????? ?? ?????? ??????» ?? ?????? ?????? ?? ?????? 15, ????, ?????? ??????,
??? ?????? ?????? (??., ??' ???? ?? ?????, ??? ?????? Velker International Oil Company,
?????????????, ??? 24).

24 ????? ?????????? ? ?????? ??????????? ??? ?????? 28 ??? ?????????? ???, ?? ??????
????? ??????, ???' ???????, ??? ??? ???? ?????? ??? ??? ?????? ??? ?????? ??? ?????? 15,
????? 8, ??? ?????? ??????? ????????. ???????, ??? ?????????? ??? ??????
????????? ??? ?????? ??????? ??? ?????? ???, ? ?????????????? ??? ?? ?????? ??? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ????????,
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ????????

25 ????????, ??? ?????? ?????? ?????? ?? ????? ? ??????? ???? ?? ?????? 15, ?????
8, ??? ????? ??????? ????? ?? ?????? ??? ? ?????????????? ??? ?? ??????? ?????? ????? ??????????
????? ??? ?????????? ??? ?????????? ????? ?????????? ??? ?????????? ????? ?????????? ?????
?????? ??? ?????? ???????.

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

27 ? ?????????? ??????????? ?? ? ??? ? ???? ? ???? ?????????? ?? ? ?????????????????
????????????? ?? ? ??? ? ?????????? ?? ? ??? ? ?????? ? ???? ? ???? ? ???? ? ? ? ? ? ? ?

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

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

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

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

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

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

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

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

30 ??? ???. ?????????? ?????? ?????? ?????????? ?????????? ?????????? ??? ?????????? ??? ??????????
????????? ??? ??????? ?????????? ?????????? ??????, ??? 5?? ?????? 1997, ??? ??????????????
??? ??? ??? ??? ?????????? ?????? 1994 (C-183/04), 1995 (C-182/04) ??? 1996 (C-181/04),
??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??? ??? ??? ??? ???? ???.
???? ?????????? ?????? ??? ?????? ??????.

31 ????????, ??? ????? ??????????? ?? ???????????????, ?? ?????? ??? ?????????????? ???
????????????????? ?????????????? ??? ?? ?????????? ?????????? ?????????????????? ???
????????? ?????? ????. ????????, ?? ?????????? ??????, ??? ?? ?????? ??? ?????? ???, ?????? ??
??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?? ?????????? ?????? (??.,
????? ?????, ?????????? ??? 3?? ?????????? 1998, C-381/97, Belgocodex, ?????? 1998, ?. I-
I?8153, ????? 26, ??? ??? 26?? ???????? 2005, C-376/02, «Goed Wonen», ?????? 2005, ?. I-
3445, ????? 32). ??? ????????, ?? ?????? ?????????????? ?? ?????????? ??? ?????? ??? ???? ???
????????? ??? ?????????????????? ?????????????? ??? ??????????????.

32 ???? ?????? ??? ??? ?? ?????????????? ??? ?????????????????? ?????????????????? ???
????????? ?????????????? ???????, ??????????????, ???????, ?? ?????????? ?? ?? ??????? ???
????????? ?????? ?????????????? ??? ?????? ??? ?????????? ??? ?????????????? ???
????????????? ?????????????? ?????????????? (??., ??' ???? ??? ?? ??????, ?????????? ??? 10??
????????? 1975, 95/74 ??? 98/74, 15/75 ??? 100/75, Union nationale des coopératives
agricoles de céréales ?.?. ??? ?????????? ??? ??????????, ??????? ?????? 1975, ?. 503,
?????? 43 ??? 45, ??? ??? 1?? ?????????? 1978, 78/77, Lührs, ??????? ?????? 1978, ?. 71,
????? 6). ?? ? ??????? ??? ?????? ??? ????? ???????????, ???????, ??? ??????????, ??
????????? ? ?????????????????? ?????????? ?????? ??? ??????????????.

33 ?? ???????????, ??? ?????????? ??? ?????????? ??? ???????????, ? ?????? ???
????????? ??? ???? ?????????? ?????? ??? ??, ?????? ??? ?????????? ?? ??????
??????, ?????????????? ??? ???, ?????? ??? ?????? 22 ??? ????? 1642/1986, ??? ??
???? ??????????. ? ?? ??? ??? ??? ??????? ??? ?? ?????????? ?????????????? ??? ??? ??
????????? ?? ?? ?????? 22, ??????? ?? ??? ??.

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

35 ????????, ????, ??? ?????? ?????????? ?? ????????, ?? ? ??????, ??? ??? ??
????????? ??? ?????????????? ??? ?????????????? ??? ?????????????? ??????????????
?? ?? ?????? ?????? ?????????? ?????????????? ??? ?????????? ?????????? ??????
?????? ?????? ???????, ??????? ?????? ??? ?????? ??? ???? ?????? ?????? ???
?? ?????????? ?????? ?? ??? ?????? ?????? ??? ?????????? ?????????? ??? ??????

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

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

37 ????????, ?? ? ?????????? ???, ?? ??? ?????? ?????????? ??? ?????? ???,
????????? ?????????????? ??? ?????? ?????? ??? ?????????? ??????????????, ?' ???
????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????
????????? ?? ?????????? ?????????? ??? ?????????? ?????? ??? ??? ?? ???
????????? ??? ??????????.

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

1) ?? ????? 15, ????? 4, ??????? ??, ??? ?????? ??????? 77/388/??? ??
??????????, ??? 17? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ???
????, ??? ??????? ?? ??? ?????? ?????? ?????? ?????? - ??? ?????? ?????? ???
????????????? ?????: ?????????? ?????????? ???, ??? ?????? ?????????? ??
????? 5 ??? ?????? ?????, ??? ?????????? ?? ??? ?????? 92/111/??? ??
??????????, ??? 14? ?????? 1992, ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ??? ??? ??????
????????? ???????, ??? ??? ??? ?????? ?????????????????? ??? ??????????
????????? ??????? ??? ??? ??? ?????? ?????????? ??? ?????????? ? ??????????
?????????????.

2) ?? ????? 15, ????? 8, ??? ?????? ??????? 77/388 ??? ?? ?????? ??? ??
??????????, ??? ?? ?????? ?????? ?????? ?????? ??? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????????.

3) ??? ??????? ?? ?????? ?????????? ??? ?????? ?????????? ???, ?? ???????
????????? ?????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ??????????
????????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ??? ??????????
??, ??? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ? ?????????? ???

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

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

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