

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

??? 25?? ???????? 2013 (\*)

«????????? ??????? ????? – ????????? – ?????? 2006/112/? – ????? 11 – ?????? ??????????  
? ?????? ??????? ??? ?????????????????? ??? ?????????????????? ??? ?????????????????  
????? ?? ?????????? ?????????????? ?????? ?????????? ??? ?????????????? ?? ?????????? ??  
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???? ?????? C-480/10,

? ?????????? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?????? 258 ????, ?????????? ??? 5  
????????? 2010,

????????? ???????, ?????????????? ??? ??? R. Lyal ??? K. Simonsson, ?? ???  
????????? ??? ????????????,

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????????? ??? ???????, ?????????????? ??? ??? A. Falk ??? S. Johannesson, ?? ???  
????????? ??? ????????????,

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

??? ????????, ?????????????? ??? ??? D. O'Hagan, ?????????????? ??? ??? G. Clohessy,  
SC, ??? ??? N. Travers, BL,

? ?????????? ??? ????????, ?????????????? ??? ??? H. Leppo,

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

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

????????? ??? ??? L. Bay Larsen, ?????????????? ??? ?????????? ??????????, J.-C. Bonichot, C.  
Toader, A. Prechal ??? E. Jaraši?nas (?????????), ????????,

????????? ??????????: N. Jääskinen

?????????: C. Strömholm, ?????????? ????????????,

????????? ??? ??? ??????? ?????????? ??? ??????? ??? ?' ?????????????? ?????????? ???  
6?? ?????????? 2012,

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

??? 27?? ?????????? 2012,

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1 ?? ??? ???????? ???, ? ?????????? ???????? ??? ?? ?????????? ?? ?????????????? ?? ??????????????  
?? ? ?????????? ?? ????????, ?????????? ?? ??? ????? ?????????? ?? ?????????? ?? ?????????????? ??????????  
????? ?????????? ?? ????? ?????? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ?? ?????? ???  
????????????? ?????? (?? ???, ??????????: ?????? ??? ???) ??? ?????? ??????????  
????????????????? ??? ?????????????? ???????, ?????? ??? ?????????????? ??? ?????? ???  
??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????????? 2006, ??????? ?? ?? ???  
????? ?????? ?????????????? ??? (?? L 347, ?. 1, ??? ?: ?????? ???).

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2 ?? ????? 11 ??? ?????? ??? ?????? ?? ???:

«????? ??? ?????????? ?? ?? ?????????????? ?????????? ??? ??? [??], ??? ?????? ?????? ??????  
????? ?? ?????????? ?? ?????? ?????????? ??? ??? ?? ?????????????? ??? ?????? ???  
????? ?????? ?????? ?????? ???????, ?? ?????? ?????? ??? ?????????? ?????? ??? ???  
????? ??????, ?????????? ?????? ??? ?????? ??? ?????????????? ?????? ??? ???  
????????? ????.

?? ?????? ??? ?????? ?? ?????? ?? ?????????? ?????????? ?? ?????????????? ?? ?????? ??????  
????? ?? ?????????? ??? ?????? ??? ?????????? ??? ??? ?????????? ??? ?????????????? ?? ???  
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3 ?? ????? 1 ??? ?????? 6a ??? ?????? ??? ?????? ??? ?????? ?????????????? ???  
(1994:200) [mervärdeskattelagen (1994:200), ??? ?: ?????? ???] ?????? ?? ????:

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

4 ?? ????? 2 ??? ?????? 6a ??? ?? ?????? ??? ?????? ?????????????? ?? ????:

«????? ?????? ??? ?????? ?? ?????????????? ????:

1. ?????????? ?????? ?????? ??? ?????? ??? ?????? ?????????? ??? ??????????????  
????????????? ????, ?? ?????? ?????? ?????????? ?????????? ??????????????, ??? ?  
????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ??? ?????? 9 ? ???  
????? 10 ??? ?????? 3, ???

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

3. ?????????? ?????? ?? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?  
????? ?? ?????? ?????? ??? ? ?????????? ??? ?????? 36 ??? ?????? ??? ???? ?  
????????? (1999:1229).»

5 ?? ????? 9 ??? ?????? 3 ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????

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

6 ?? ??? 10 ??? ???????? 3 ??? ????? ?????? ?????????? ?????? ??? ??????  
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???, ??? ?????? ???, ??? ?? ?????????? ??? ?????????????? ??? ?????? ??? ??  
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? ??? ??? ?????? ??? ?????? ?????? ??? ? ?????????? ?????? ??? ??  
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7 ?????? ??? ?? ???????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? 11 ??  
?????? ???, ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???  
????? ?????????? ?????????????? ??? ?????????? ?????????? ?, ??? ?????? ???????,  
????? 23 ?????????? 2008, ?????? ?????? ??? ?????? ??? ?????? ???, ?????? ?? ??  
????????? ??? ?????????? ???.

8 ?? ??? ??? 19 ?????????? 2008 ?????? ??? ?? ??? ?????? ?????? ???, ??  
????????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ??? ?????????? ???  
????? ???.

9 ?? ?????????? ?????????????? ??? ?????? ???, ? ?????????? ???????, ??? 20  
????????? 2009, ?????????????? ???, ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??  
????????? ??? 20?? ?????????? 2010, ?????????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?? ??? ?????? ?????? ???.

10 ??? ??? ?????? ???, ? ?????? ?????? ?? ?????? ??? ?????? ??? ??? ?????? ??????.

11 ?? ?????????? ??? ?????? ??? ?????????? ??? 15?? ?????????? ??? ?? ?? 6??  
????? 2011, ?????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ???  
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12 ?? ?????????? ??? ?????? ??? ?????????? ??? ? ?????? ?????????? ?????????? ???, ???  
????????? ???, ??? ??? ??? ??? ?????????? ???, ??? ??? ?????????? ??? ??????  
????????? ??? ? ?? ?????? ??? ?????????? ??? ?????? 11 ?? ?????? ??? ?????? ???  
????? ??? ?????????? ???????????. ?? ?? ?????? ?????????? ?????????? ???, ??? ?????? ???  
????????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ???, ???, ?????? ???, ??????????.

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

14 ?????????? ????? ?????????????????????? ?????, ? ?????????? ?????????????? ??? ??  
?????????? ????? ?? ?????? ?????????? ??? ?? ????? ?????? ?????????????? ? ?????????? ???  
?????????? ????? ?? ?????? ?????????? ??? ?? ?????????????? ??? ?? ?????????????? ??? ??  
?????????. ??? ?????????? ??? ?? ?????????? ?????????????? ??? ?? ?????? ???  
????????????? ??? ?? ?????? ?????????????? ??? ?? ?????????? ??? ?? ?????? ???  
????????????? ??? ?? ?????? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??  
????? ?????? ??? ?????? ??? ???? ???? ?????? ?????????? ?????????? ??? ?? ?????? ???  
????????? ??? ?? ?????? ??? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ???  
?????????. ?????? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ??? ??  
????????? ?? ?????? ?? ??? ?????????????? ??? ?? ??????????????, ??? ?? ?????? ???  
????????? ???, ?????????? ??? ?????????? ??? ?? ?????? ??? ?????? ??????????????.

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15 ?????????????? ??? ?? ??????? ?????????? ??? ?????? ?????????? ??? ?? ?????  
????????? ??? ??????? ?????? ?? ?????????? ??? ?????? ?????? ??? ?????????? ??? ??  
????????? ??? ?????????? ??? ?????????? (??., ?????? ?????, ??????? ??? 24?? ??????  
2011, C- 400/08, ?????? ??? ??????, ?????? 2011, ?. I-1915, ????? 36 ??? ???  
????????? ??? ??????). ?? ??????????, ?? ?????????? ??? ?????????? ??? ??????????, ??  
?? ????? ?????????? ????? ??? ? ?????????? ??? ??????????, ??? ?????????? ??? ?????????? ???,  
????????? ??? ????? ??? ?????????? ??????????????, ??? ?????????? ??? ?????? ??? ???  
?????????????, ?????????????? ??? ?????????? ???.

16 ?????????????? ?????? ???, ??? ?????? ??????????, ?? ?????????? ??????????  
????????? ???' ?????????? ??? ?????? 258 ??? ?????????????? ??? ??? ?????????? ???  
????? ??? ?????????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? . ????????, ?  
????????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ?? ???  
????????????? ????. ??????????, ? ?????????? ??? ??? ?????? ?? ?????? ?????? ?? ??????  
?? ?????????? ?? ??? ?????????? ?????? ?????? ?????? ??? ?????????? ??  
????????? ??? ?????????? ??? ?????????????? ??? ?????? ??? ??? ?????????? ??? ??????????,  
????? ?? ?????????? ??? ??????????, ??? ?????????????? ?? ??? ??? ?????????? ????,  
??? ??? ?????????? ? ?????????? (??., ?????? ????, ?????????? ??? 11?? ?????? 2002, C-  
139/00, ?????? ??? ?????????, ?????? 2002, ?. I-6407, ?????? 18 ?? 19, ?????? ??? ??  
18?? ?????? 2010, C-458/08, ?????? ??? ?????????? , ?????? 2010, ?. I-11599,  
????? 43 ??? 44).

17    ???????, ??? ??????????????, ? ??? ?????? ?? ?????????????? ?????????????? ???????  
??? ???????, ??? ?????? ?? ?, ??? ?????? ?? ????? ??????????????, ? ?????? ???????????  
??? ?? ??????????? ?????????????? ??? ??????? ?? ?????????????????? ???????????, ?????? ??  
? ??????????? ?????????????? ??????????????. ??????, ??? ? ?????????? ??? ?????? ??  
?????????? ?????????????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????????????? ???????????????,  
? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????? ?? ?????????????? . ???

?????????? ??????, ??? ??? ???? ??????????? ??? ?????? ?????????????????? ?? ?????? ???  
????? ???' ??????? ??????????????, ??? ?????????? ?????? ?? ?????????? ??? ??????  
????????? ?????????? (??., ??? ??? ?????? ???, ?????? ??? 10?? ?????????? 2008, C-309/06,  
Marks & Spencer, ?????? 2008, ?. I-2283, ?????? 49 ??? 51).

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

19    ??? ??????, ? ??????? ??? ?????????? ?????? ?????? ?????????? ?? ?????? ???  
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20    ? ?????????? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?? 11  
??? ?????? ???, ??? ?????? ??? ?? ?????? ?????????? ??? ?????? ?????????? ??? ?? ?????????? ???  
??? ?????????????????? ??? ?????? ?????????? ???.

21    ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??  
????????? ?? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ??  
????????? ???, ??? ?????? ?????? ?????????? ??? ?????? ???????. ?????????? ???, ???' ???,  
????????? ??? ?? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ?????????? ???  
??? ?????? ??? ?????????? ??? ?????? ?????? ???' ?????, ?? ??? ?????? ?????? ??????????.

22    ? ?????????? ??? ?????? 11 ??? ?????? ??? ?????????? ??? ?????? ??? ?? ?????? ???  
????????? ???, ?? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
????????? [COM(73) 950 ??????] ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 77/388/??  
??? ??????????, ??? 17?? ????? 1977, ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
?????, ??? ?????? ??? ?????? ??? ?????? ?????? ??? - ??? ?????? ??? ?????? ???  
????????? ????: ?????????? ?????? ??? (?? ????. ????. 09/001, ?. 49), ???  
????? ?????????? ??? ?????? ???, ??? ?????? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

23    ??????, ?????? ? ?????? ?????? ??? ?????? ??? ? ??? ???? ?????? ?????????? ?????????? ???  
??? ???, ??? ???? ??????, ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ??????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

24      ?? ??????? ?? ??????? ?? ?????????? ?? ???? ?? ?????? ?? ?????????? ?? ???? ??  
?????????. ?? ??????????, ???' ????, ?? ??????? ?? ???? ?? ????? ?? ???? ?? ??????? ?? ???? ??  
?? ???? 11 ?? ?????? ??.

25      ???' ??????, ??????? ???, ?????? ???, ?????? 11 ??? ??????? ???, ???????, ???? ??  
?????? ???, ?? 1998, ??? ??????????? ???, ?????????????? ???. ?????????? ???. ?????????? ???.  
????????? ???. ?????????? ???. ?????????? ???. ?????? ???. ?????? ???. ?????????? ???.  
????????? ???. ?????????? ???. ?????? ???. ?????? ???. ?????? ???. ?????? ???.  
????? ? ?????????? ???. ?? ?? ??????, ?????????? ???. ?????????? ???.  
????????? ???. ?? ?????? ???. ?? ?? ?????????? ???. ?? ?????? ???.  
?? ?????????? ???. ?? ?????????? ???. ?? ?????????? ???.  
????????? ???. ?? ?????????? ???. ?? ?????? ???.  
?????, ?? ?? ? ?????????? ???. ?? ?????????? ???.  
?????, ?? ?? ? ?????????? ???. ?? ?????????? ???.

26 ? ?????? ??? ??????????? ?????? ??? ?????????????????? ??? ??? ????? ???????????  
????? ?????????? ?????????? ????????, ??? ???? ? ? ?????????????? ??? ??????????  
??? ?????? ?????? ?????? ?????? ?????????????????? ?????? ?????????? ??????????  
?????????. ?????????? ??? ?? ??????? ??? ?????????????? ?????? ?????????? ??? ??????  
????? ?????? ?????? ??? ?? ?????????????? ?????? ?????????? ???, ??? ?????? ???,  
????????????? ?????????????? , ?? ?????????? , ??? ?????? ??? ???, ??? ??????????  
????? ??? ?????? ?????? ?????????? ?????? ??? ?????? ????. ?? ?????????? ????  
????? ?????????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??????  
????????????? ?? ??? ?????? ????. ?????? , ??? ?????? ??? ?????? ??? ?????????? ??? ??  
????????? , ??? ?????? ?? ?? ?????? 11, ??? ?????? ????, ??? ?????? ???, ? ??????????  
????????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ??????????  
????? ????, ??? ?????? ? ?????? , ??? ??? ?????? ??? ?????????? ??????????????????  
????????? ??? ?? ?????? , ?????? , ?????????? ??? ?????? ?????????? ??????????????.

27 ?????????? ??? ???????????, ?? ?????????? ??? ?????????? ?????? ??? ?? ?????? 11 ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ?? ?????????????? ??? ?????? ??? ?????? ?????????? ??? ??????  
????????? ??? ?????? ??? ?????????????? ??? ?????????? ?? ?????????? ?????????????????? ??? ??????.

28 ???????????, ?????????? ?? ???? ????? ?????????? ?? ?????????? ?????????????? ???????,  
????????????? ?? ?????????? ?? ?????? ?? ?????????????? ?? ??? ?????????????? ?? ??? ??, ??  
????? 11 ?? ??????? ?? ?????? ?? ?????????? ?? ?????? ?? ??????????, ?????????? ?? ??  
????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????????????? ?? ??  
????? ???????????. ??????, ?? ?????? ?? ?????? ?? ?????????? ?? ?????????????? ?? ??.

29      ????? ???? ?? ??????? ?????? ??? ????? ?????????? ??? ?????? 11 ??? ?????????? ??? ??????????  
???? ? ?????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ?? ???  
???? ?????????????? ??? ?????? ??? ?????????????? ? ?????????? ?? ?????????? ?? ?????????????? ?? ??  
????? ????. ??????, ? ?????? ?????????????? ??? ?????? ?????? ?? ?????????? ?????? ?????????????? ???  
????????? ?????????? ??? ?????? ?????? ?? ?????????? ?????? ?? ?????????? ?????? ?? ?????????????? ??  
?????? ?????? ?????? ??? ?????? ?????????? ? ?????????? ????. ???????, ?? ?????? ???  
????????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????????  
??? ?????? ??? ?????? ??? ?????????? ??? ? ?????????? ??? ?????????? ?????? ?????????? ??? ??????  
??? ?? ?????? ??? ?????? ?????????? ??????, ?????? ?? ?????? ??? ?????????? ??? ?????? ??? ??  
???? ?????????? ?????.

30 ????????, ? ?????? ?????? ??? ??? ?????????????? ?????? ?????? ??? ??????????????

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

31 ? ?????????? ??? ?????????? ??? ??????, ??? ???? ???? ?????? ??? ???????, ??? ??? ??  
????? ??? ?????? 11 ??? ?????? ??? ??? ?????????? ??? ?????? ?????????? ?? ?????? ??  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ??? ?????? ?????? ??????. ?????? ??? ???? ?????? ??? ?????? ??? ??????????  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??' ?? ? ?? ? ??  
????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? 11, ?????????? ??? ???? ?????? ???  
????????? ?? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ?  
????? ??? ??? ???? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ???  
?? ?????? ??? ??????????. ? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ???  
??? ?????? ??? ??????, ???' ?????, ?? ?????????? ??? ?????? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???????????. ? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ?????????? ??? ?????? ???  
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32 ? ????????, ??? ?????? ?????????? ?? ?????????? ?????????? ????????????,  
?????????, ??? ???? ???? ?????????? ?????????, ??? ?? ?????? 11 ??? ?????? ??? ??  
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33 ? ?????????? ??? ? ?????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ??????????  
????????? ??? ?????????? ??? ?????????? ??? ?????? 11 ??? ?????? ???, ??? ??? ?????? ??  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????, ??????????????, ???'  
?????, ???, ??? ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????????  
????????? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ? ?????????? ??? ?????? ??????????  
??? ?? ?????? ???, ??????, ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ???  
????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???, ??  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (?????? ???  
29? ?????????? 2009, C-174/08, NCC Construction Danmark, ?????? 2009, ?. I-10567,  
?????? 23 ??? 24).

34 ? ?????? ?????????? ??????????, ??? ??? ?????????? ?????????? ??? ?????? ???, ??  
????? ? ?????? ??? «????????? ??? ?????? ???» ??? ?????? ??? ?????? III ??? ?????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ?????? ??????????  
????????? ??? ???? 11 ??? ?????? ???, ??? ??? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ???, ???  
????????? ??? ?????????? ??? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ???, ?? ?????????? ??? ?????? ??? ?????? ???.

35 ? ??????, ??? ?? ?????? ??? ?????? 11, ?????? ??????, ??? ?????? ??? ?????? ???  
?? ?????? ??? ?????????? ?? ??? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????? ?? ??????  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??? ??????  
????? ?????? ??? ?????? ???, ?????? ?????? ?????? ?????? ?????????? ??? ?????? ??? ?????? ???

???????????? ?????? ??? ????????????????, ???????????? ??? ?????????????? ??????. ?? ????  
????, ??????? ?? ?? ?????? ???, ??? ?????? ??? ?????????? ??? ??? ????? ??????????????  
(??????? ??? 9?? ??????? 2013, C-85/11, ??????? ??? ???????????, ????? 36). ???????  
??? ?????????? ?? ?????????? ??? ?????? ?????? ?? ?????????? ?????? ????? ?????????????? ???  
????????????? ?????????? ?? ?????? ?????? ?? ?????????? ?????? ?????? ???, ??? ?????? ?  
????? ?????????? ?????? ?????????????? ?? ? ?????? ?????? ?? ?????????? ?????? ???, ??? ??????  
?????????????.

36 ??? ?????????? ??? ?? ?????? ??? ?????? 11 ??? ?????? ??? ??? ??? ?? ??  
????????? ??? ?????? ?????????? ?? ?????? ???, ?????? ??? ?????? ??? ?????? III ??? ?? ??  
???????, ??? ?? ?? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????????? ? ??????? ??????????  
??? ?????? ?? ?????????? ??????????????, ??? ?????????????? ?? ?????????? ??? ??????????  
??? ? ?????????? ??? ??????????.

37 ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 11 ??? ?????? ???, ???  
??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?  
?????? 77/388 ?????????? ???, ?????????? ?? ?????? 4, ?????????? 4, ?????? ??????, ???  
?????? ????, ?? ?????? ?????????????? ?? ?? ?? ??? ?????? 11, ? ?????????? ??? ??????  
?????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????????????, ???  
????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ??????????  
????????? ??????????????, ??? ?. ? ?????????? ??? ?????????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? (????????????? ???  
????????? ??? ?????? ???, ??? 47).

38 ?? ????? 11, ??????? ??????, ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
????? ??? ?????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???  
?? ??????, ??? ??? ?????????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
??? ?????? ??? ?????? ??? ?????? ??? ?????? 11 ?????????? ??? ?????? ??? ?????????? ??  
????????? ??? ?????? ???.

39 ?? ??????????, ??? ?????? ??? ?????? 26 ??? ?????? ?????????? ??????????, ?? ??????  
??? ?????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???,  
?????????, ??????? ?? ?? ??? 11, ?????? ???, ??? ?????? ???, ?? ?????????? ???, ?? ?????????? ???  
????????? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ???, ??? ??????  
??????, ??? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?????? ??? ?????? ??? ??  
??????, ???????, ?????????? ?? ??? ?????? ?????? ?????? ??? ?????? . ? ?????????? ??? ??????  
????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
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40 ?????????? ?????? ? ?????????? ??? ? ?????????? ??? ? ?????????? ??? ? ?????????? ??? ?  
???? ?????????? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ??????  
??? ?????????? ??? ?????????? ??? ?????? 11 ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
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41 ?????? ??? ?????????? ??? ? ?????????? ??? ? ?????????? ??? ? ?????????? ??? ?  
??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ???, ? ?????????? ??? ??????  
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42    ???? ?? ?????? 138, ?????????? 1, ??? ?????????? ???????????, ? ???????? ???????  
????????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???????.  
????????? ??? ? ?????????? ?????????? ??? ?? ?????????? ??? ?????????? ?????? ??????????  
??????, ?? ?? ??? ?????? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ???????.  
?? ?? ?????? 140, ?????????? 1, ??? ?????? ??????????, ??? ?? ?????? ?? ?????? ??? ?????? ???  
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- 1)    ?????????? ??? ???????.
- 2)    ?????????? ??? ?????????? ?????????? ??? ?????????? ??????.
- 3)    ? ?????????? ??? ? ?????????? ??? ?????????? ?????? ?? ?????????? ?????? ???.  
(?????????)

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