

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

??? 3?? ?????????????? 2015 (*)

«????????????? ?????????? – ?????????? – ????? ?????????????? ????? (???) – ?????? 2006/112/?? – ?????? 148, ?????????? ?? – ?????????? ?????? – ?????? – ?????????? – ?????????? ?????? ?????????????? ??? ??? ?????????? ?????? ?????? ?????????????? ??? ?????????? ?????? – ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ??' ?????? ?????»

???? ?????? C?526/13,

?? ?????????? ?????? ?????????????? ?????????? ?????????? ??? ?????? 267 ????,
????????? ??? ?? Mokestini? gin?? komisija prie Lietuvos Respublikos Vyriausyb?s
(?????????) ?? ?????? ??? 30?? ?????????? 2013, ? ?????? ?????????? ??? ??????????
???? 7 ?????????? 2013, ??? ?????? ??? ??????,

«Fast Bunkering Klaip?da» UAB

????

Valstybin? mokes?i? inspekcija prie Lietuvos Respublikos finans? ministerijos,

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

????????? ??? ??? L. Bay Larsen, ??????? ????????, K. Jürimäe, J. Malenovský (?????????),
M. Safjan ??? A. Prechal, ????????,

?????? ??????????: E. Sharpston

?????????: M. Aleksejev, ?????????? ????????,

?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??' ?????????? ?????????? ???
4?? ?????????? 2014,

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

- ? «Fast Bunkering Klaip?da» UAB, ?????????????? ??? ??? I. Misi?nas, atstovas,
- ? ?????????? ??????????, ?????????????? ??? ??? D. Kriaufi?nas ??? ??? R.
Krasuckait? ??? D. Stepanien?,
- ? ??????? ????????, ?????????????? ??? ??? G. Palmieri, ?????????????? ??? ??? C.
Colelli ??? A. Collaboletta, avvocati dello Stato,
- ? ?????????? ????????, ?????????????? ??? ??? C. Soulay ??? A. Steiblyt?,

???? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ?? ??????????
?? 5?? ?????? 2015,

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

???????

1 ? ??????? ?????????????? ?????????? ?????? ??? ???????? ??? ?????? 148, ????????,
??? ?????? 2006/112/?? ??? ??????????, ??? 28?? ?????? 2006, ?????? ?? ? ????
????? ??? ????? ?????????? ??? (?? L 347, ?. 1).

2 ? ??????? ??? ?????????? ??? ??????? ???????? ?????? ??? «Fast Bunkering
Klaip?da» UAB (??? ?: FBK) ??? ??? Valstybin? mokes?i? inspekcija prie Lietuvos
Respublikos finans? ministerijos (???????, ?????????? ?????????? ??? ?? ??????????
????????? ??? ?????????? ??? ??????????), ?????? ?? ?? ??????????, ??? ??????
????? ?????????? ??? (??? ?: ???), ??? ?????????? ?????? ?? ?????????? ???
????????? ??' ?????? ???.

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

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

3 ? ??????? ??? ?? ?????? ???????, ??? ?????????? ??? ?????? (???????)
?????????) ??? 7 ?????????? 1944 (??? ?: ??????? ??? ??????), ??? ?????? ???
?? ?????? ??? ?????????? ???, ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???.
? ?????? ??? ??????????, ?????? ???, ?????? ?????? ??? ? ?? ?????????? ?????????? ???
?? ??? ?????? ???????.

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

4 ? ?????? 2006/112 ?????????? ??? ???????????, ??? 1?? ?????????? 2007, ???
?????? 77/388/?? ??? ???????, ??? 17?? ?????? 1977, ??? ?????????? ???
????????? ??? ?????? ???, ??? ??????? ?? ??? ?????? ?????? ?????? — ???
????? ??? ?????????? ????: ?????????? ?????????? ??? (EE ????. ???.. 09/001, ?. 49,
?? ??? ?: ??? ??????).

5 ?? ?????? 14 ??? ?????? 2006/112 ?????????? ?? ????????:

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

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

[...]

?) ? ?????????? ?????? ? ?????? ?????????????? ?????? ?????????? ?????????? ???
????? ? ??????.

[...]»

6 ?? ?????? 131 ??? ?????? ??????? ?????? ?? ??????:

«?? ?????????? ??? ?????????? ??? ?????? 2 ??? 9 ?????????? [...] ?? ???
????????? ??? ?????????? ?? ?????? ??? ?? ?????????? ??? ?????? ???
????????? ??? ?? ?????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??????????,,
????????? ? ???????.»

7 ??? ? ? ?????? 146, ?????????? 1, ??? ?????? 2006/112:

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

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

[...]».

8 ?? ?????? 148, ?????????? ?, ??? ?????? 2006/112 ??????????????, ?? ??????????
?????????, ??? ?????????? ??? ?????? 15, ?????? 4, ??? ?????? ??????. ?? ? ?????? ???
148 ????, ??? ????????????, ?? ????:

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

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

[...]

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

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

[...]».

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

9 ?? ?????? 44 ??? ????? IX-751 ??? ?????????? ??? ??????????, ??? 5?? ??????
2002, ?????? ?? ??? ??? ?????????????? ?????? (Žin., 2002, ????. 35?1271), ???
????????????? ?? ??? ??? X-261, ??? 21?? ?????? 2005 (Žin., 2005, ????. 81?2944, ???
????: ?????? ??? ??? ???) ?????????? ?? ??????:

«1. ?????????????? ?? ?????????? ?????????? ??? ?? ?????????? ??????, ??? ??????????
??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? 43, ?????????? 1, ??? ?????????? ??? [?????
“????? ?????????? ?? ?????? ?????????????? ??? ?????? ??? ?? ?????? ?????????? ??????????
????/? ?????? ??? ??? ?????? ?????? ?????????? ?????? ??????”] [...]

[...]

3. ??? ??? ?????? ????, ???????? ?? ?????? [...] ?? ?????? (?????????) ??? ??
?????????. [...]»

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

10 ? FBK ?????????? ?????? ?????? ??? ?? ??????????.

11 ??? ??? 1? ?????????? 2008 ??? ??? 31 ?????????? 2011, ? FBK ?????????? ?? ????????,

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

12 ??????? ??? ??????????? ???????????, ? FBK ??????? ?? ??????????? ??????? ???
??? ??????????? ??????? ??? ??????????? ??? ??????????? ??? ??????????? ??? ???????
?????????? ?? ??????? ?? ????? «FOB», ??? ????? ?? ??????????? ??? ????? ??
?????????? ???????, ????? ??? ???, ????? ??? ???????????, ??? ???? ? FBK ??
?????????? ??? ??????????? ??? ???????.

13 ???????, ?? ??????????? ??? ??? FBK ??? ??????? ??????????? ??? ???
?????????? ??? ??? ??????????? ?? ??????? ??? ????? ??? ???????????, ??? ??? ??? ??? ???????
? FBK ??????? ?? ??????????? ??? ??? ??????? ??? ????????. ?? ??????????? ??????????? ??'
???????? ?? ??? ??????? ??? FBK ??? ??? ??????? ??? ???????????, ??????????? ??? ???
???? ??? ??????????? ??? ????? ????????????. ??? ??? ??' ??????????? ???????????, ?
???????? ??????? ??? FBK ??????????? ??? ?? ??? ??? ?? ??????????? ???????????
??????????, ??? ???, ?? ???????, ??? ???? ??? ??? ??? ??? ??? ??? ?? ???????????
??? ?? ??????????? ??? ???????????, ??? ??? ?? ??????????? ??? ?? ??????????? ??
???????? ?? ??? ?? ??????? ??? ????????????. ??????, ? FBK ??? ?? ??? ??? ?? ??????????? ???
???????? ?? ??????? ??? ??????????? ??? ??????? ??? ?? ??????????? ?? ??????????? ???????????
???? ??? ??????? ??? ??????????? ??? ??????? ??? ??????? ??? ???????.

14 ? FBK ??????? ??? ????? ?? ??????????? ??????? ??? ?? ??????? ???????????,
?????????? ?? ??????? ??? ???? ??????? ??????? ??? ??? ??????????? ???????????
?????????? ??? ???, ???' ??????? ??? ??????????? ??? ??????????? ??????????? ??? ???
?????????? ??? ??? ??????? ??? ??????????? ??? ??????? 148, ??????? ??, ??? ???????
2006/12.

15 ??????? ??????????? ??? ??????? ??? ??????? ??? ??????????? ??? ??? 11 ???
????????? ??????? ??????? ???, ? Klaip?dos apskrities valstybin? mokes?i? inspekcija
(????????? ??? ??? ??????????? ??? Klaip?da) ???????, ??? 15 ??????????? 2013,
?????? ??? ??????????? ???, ????? ?? ??? ??????? ??? ??????????? ??????????? ??? ??? FBK
????? ???????????, ??? ?? ??????????? ?? ??????? ??????????? ??? ??? ??? ??? ???,
?????? ?? ??? ??? ??? ?? ??????? ??? ??????????? ??????????? ?? ??????? ??? ???
???????????. ??? ???????, ? FBK ??? ??? ??????? ?? ??????????? ??? ??????????? ???
????? 44, ??????? 1, ??? ????? ?? ??? ???, ??????????? ??? ???? ??????????? ??????? ???
?????????? ??? ?? ??????????? ??????????? ??? ????? ??????????? ??? ?? ??????? ???
?????????? ??? ?? ??????? ??????????? ??? ????? ??????????? ??? ?? ??????? ???
?????????? ??? /? ???????.

16 ??? 26 ?????? 2013 ? Klaip?dos apskrities valstybin? mokes?i? inspekcija ???????,
????? ??? ??????? ??? ??????????? ??? 15 ??????????? 2013, ??????????? ???
????????? ??? ??? ??? FBK ??? ??????????? ??????????? ??????????? ??? ???
???? ??????? ??? ???????, ??????????? ??? ?? ??? ??????????? 37 847 771 ??? (LTL),
???? ??????? 11 ??????????? ??? ???????.

17 ??? 15 ??????? 2013 ? FBK ??????? ??????????? ??????? ??? ?? ??????????? ???
Klaip?dos apskrities valstybin? mokes?i? inspekcija ??????? ??? Valstybin? mokes?i? inspekcija
prie Lietuvos Respublikos finans? ministerijos.

18 ?? ??????? ??? 27?? ??????? 2013, ? Valstybin? mokes?i? inspekcija prie Lietuvos

Respublikos finans? ministerijos ?????????? ??? ??????? ?? ??? ?????????????? ??? ??? ?? ????
????????? ??? ????????????, ??? ?????????? ??? ??? ?????????? Velker International Oil
Company (C?185/89, EU:C:1990:262) ??? Elmeka (C?181/04 ??? C?183/04, EU:C:2006:563),
????????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????????? ??? ??? ??????????
????????? ?????????? ??? ?????????? ??? ?????????? 148, ?????????? ??, ??? ?????????
2006/112, ?? ?????? ?????????? ??? ?????????? ?????????? ??? ?? ??? ?????? 44, ?????????? 1,
??? ?????? ??? ???, ?????? ?? ?????? ?????????? ?????? ??? ?? ?????????? ?????? ?????????? ???
????????? ??? ?????????? ??????, ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???
????????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????????? ???.

19 ??? 30 ?????? 2013 ? FBK ?????? ??????? ??? ?? ??? ?????????? ?????? ???
Mokestini? gin?? komisija prie Lietuvos Respublikos Vyriausyb?s (????????? ??????????
????????? ??? ?????????? ??? ??????????).

20 ?? ?????????? ??? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ???? ?????????? ???
????? ?????????? ?? ?????????? ?? ??? ?????? Velker International Oil Company (C?185/89,
EU:C:1990:262) ?????? ?????? ?? ?????????? ?? ??? ?????????? ???, ??????, ??????, ??????????
????? ??? ?????????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?? ??
????????????? ???, ??????, ?????? ?????????? ??? ?????????? ??? ?????????? ???, ??? ??????, ??????
????????? ??? ?? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?? ??? ??????????
????????? ?????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ???.
????????? ?? ??? ?????? A (C?33/11, EU:C:2012:482), ?? ?????????? ??? ?????? ???, ??
????? ?? ?? ??????????, ??? ? ?????? ??? 148, ?????????? ??, ??? ??????
2006/112, ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????????????? ??? ?? ??
????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ??????, ??? ?????? ???
????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ?? ??????????, ??? ? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ??? ?????? ??? ?????? ?????? 131 ??? ?????? 2006/112 ??? ??? ???
????? ?????? ??? ?????????? ??? ??? ???.

21 ?????? ??????, ? Mokestini? gin?? komisija prie Lietuvos Respublikos vyriausyb?s
????????? ?? ?????????? ?? ?????????? ??? ?????? ??? ?? ?????????? ??? ?????????? ??
????????? ?????????? ??????:

«????? ?? ?????? 148, ??????? ??, ??? ?????? 2006/112 ??? ?????? ??? ???? ?????? ??? ??
?? ??? ?????? ?? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ??? ??????
??? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????????? ???
?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ???' ?????? ???, ??????, ??? ?????? ?????? ??? ?????? ??? ?????? ???
?? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?? ??? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??????;»

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

22 ?? ?? ?????? ???, ?? ?????? ?????????? ???' ?????? ?? ?????????? ??? ??
????? 148, ??????? ??, ??? ?????? 2006/112 ?????? ?? ?????????? ??? ?? ?????? ???
????????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ??????
????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??????
?? ?????? ???' ?????? ???, ??? ?????? ???, ??? ?????? ???, ??? ?????? ??? ??????
????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????

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

23 ?????????????? ??? ?? ??? 148, ??????? ??, ??? ?????? 2006/112 ?????? ???
????????????? ??? ?? ??? ?? ?????????? ?????? ?????????????? ??? ?? ??? ???????
????? ?? ?????????????? ??? ?? ?????????? ?????? ?????????? ??? ?? ?? ?????? ???
????????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ???????, ?????????? ????
????????? ?????? ??????.

24 ?????????? ???' ???? ?? ?????? ??? ? ?????? ??? ?????????????? ?????????? ?? ??????????
??? ?????? 15, ?????? 4, ??? ?????? ???????, ? ?????? ?????????? ??? ?????????????? ??
??? ?????? 2006/112.

25 ??? ???????, ? ??????? ??? ?????????? ??? ?????????? ?????? ?? ?? ??? 15, ?????? 4, ???
????? ??????? ???????, ???' ?????, ?? ?????? ?????? ??? ??? ?????????? ??? ??????? 148,
????????? ??, ??? ?????? 2006/112.

26 ??? ?? ?????????? ???, ?? ??????? ?? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????????? ??? ?????????? ?????? ?????? ?????? ?????????? ?????????? ?????? ???
????????????? ?? ??????? ??? ?????? (?????? Velker International Oil Company,
C?185/89, EU:C:1990:262, ????? 21).

27 ???????, ??? ? ??????? ??? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????? ???
????????????? ??? ????? ?? ?????? ??? ?????? ?????? ?????????? ?????? ?? ?????? ?????????? ???
??? ?????? ?? ?????????? ???, ??? ?? ?????? ??? ?????? ??? ?????? 148, ??????? ??, ???
?????? 2006/112 ??? ?????????? ?? ?????? ?????? ?????????? ?????? ???????
????????????? ?? ?????????? ??? ?????? (??., ??' ???? ??? ?? ??????,
?????? Velker International Oil Company, C?185/89, EU:C:1990:262, ????? 22).

28 ??? ?? ?????????????? ??? ?????? ?????????? ??? ?????? ??? ?? ???, ?? ? ???????
????????????? ??? ?? ?????? ?????????????? ??? ?????? ?????????? ??? ?????? ???
????????? ??? ?????????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ???, ??
????? ??? ?? ??????? ?? ?????????? ?????? ?????????? ??? ?????? ??? ?????????? ???
????????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????, ?? ?????????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ????. ??????
????????? ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ??? ??
????????? ???, ??? ?? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???
????????? ???, ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? 131 ???
?????? 2006/112 ??? ??? ??? ?????? ??? ?????? (??., ??' ???? ??? ?? ??????,
?????? Velker International Oil Company, C?185/89, EU:C:1990:262, ????? 24).

29 ?? ??? ?????? ???, ??? ?? ?????? ? ?????? ??? ?????? ??? ?????? 148, ?????????? ??, ???
?????? 2006/112, ?????? ?? ?????? ??? ?????????????? ??? ?????? ?????????? ?????? ???
????????? ?? ?????????? ??? ?????? ?????? ? ?????? ?? ?? ?????????? ???, ?? ??
?????, ?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ?? ?????? ?????? ???
????????? ??????.

30 ?????? ?????? ?? ?????????? ?? ?????? ??? ?????? ?????????????? ??? ?? ??????????
????? ?? ?????????? ??? ?????? ???' ?????? ???, ??? ?????? ?????????? ??? ?????? ???
??? ?????? ???, ?????? ??? ?????????? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????????? ??????.

31 ?????????? ??? ?????? 2006/112 ?????? ?????? ?????? ???

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

32 ?????, ??? ?? ???? 14, ??????? 2, ??????? ?, ??? ?????? ?????? ?????? ?????? ?????.
??? ??????? ?? ??????? ?????? ??? ? ?????????? ??? ? ?????? ?????????? ?????? ?? ???
?????? ?????? ??? ?????.

33 ?? ?????? ??????? ??????? ??, ???' ????, ? ??????? ?? ??? ??? ?????.
?????? ?????????? ?? ?????, ??? ??? ?? ??? ?????? ??? ?????????? ?????? ???????, ??
?? ? ?????????? ?????? ??????.

34 ??????, ? ?????? ??????? ?? ?????????? ??? ?????????? ???' ?????? ????, ????
??? ?? ?????? ??? ?????????? ??? ?????????? ?? ?????? ?? ? ???????????????, ?????? ??
????????? ??? ???? ?????? ??? ?????? 148, ??????? ?, ??? ?????? 2006/112, ???
??? ?????? ??? ?????? ??? ?????? ??????.

35 ???, ? ?????? ??????? ?? ?????????? ??? ??????? ??' ?????? ??? ??
????????????? ??? ???? ?? ??????? ?? ?????? ??? ?????? ?????? ???????, ??????? ??
???? ?????? ??? ???? ?? ??????? ?? ??? ?? ???? ?????????? ???????, ??? ???? ?? ??
????????? ?? ???.

36 ??? ???????, ? ?????? ??????? ?? ??????? ?? ?????????? ??? ??????? ??' ?????? ???,
??? ?????? ?????????? ??? ??????? ??? ?????? ???, ??? ?????? ???' ?????? ?? ??????????
?? ??????? ??? ?????? ??? ?????? ??? ?????? 148, ??????? ?, ??? ?????? 2006/112, ???
????????? ?? ??????? ??? ?????????? ??? ?????? ??? ?????? ?????? ??????.

37 ?? ?????????? ??? ?????? ????, ??? ?? ?????? ??? ?????? 15, ?????? 6, ???
????? ???????, ??? ?????? ?? ??????? ?????????????? ?????? ?????? ??????? ??? ????
148, ??????? ???, ??? ?????? 2006/112, ??? ? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?? ?????? ??? ?? ?????? ?????????? ?? ?????? ?????? ????
??? ?????? ??? ???? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??????
??????, ??? ?????? ?? ?????? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????? ???????,
????? ?? ??? ?????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ??????
????????? ???, ?????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ?????? ???????, ??
????????? ??? ?????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ??????? ??
????? ???, ?????, ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?
????????? ???, ? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ???, ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
(??., ??' ??? ?????? ??? ?????, ?????? A, C?33/11, EU:C:2012:482, ?????? 56 ??? 57).

38 ?? ?????? ?????????? ?????????? ?? ??? ? ?????????? ??? ?????? ??????? ??? ??????
??? ??????? ??? ?????? 148, ??????? ?, ??? ?????? 2006/112 ??? ?? ?????? ??
????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ????
????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?? ?????? ??? ?????? ?????? ???' ??
????? ???, ?????, ??? ?????? ??? ?????? ?????? ?????????? , ?????? ?? ??? ?????? ?????? ????
????? ?????????????? ?? ?????? ??? ?????? ?????? ?????????? ?? ?????, ??? ??????
????????? ??? ?????????????? ??? ?????? ??? ?????? ?????????? ?????? ?????? ??? ?????? ??? ????
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ????.

39 ?????????? ?????? ?????????? ???, ??? ?????? 53 ??? ?????????? ? (C?33/11,
EU:C:2012:482), ?? ?????????? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ????
15, ?????? 6, ??? ?????? ??????, ?? ?????? ?????????? ?? ?? ?????? 148, ??????? ???, ???
?????? 2006/112, ??? ??? ?????? ?????? ?? ?????????? ???' ?????????? ?? ?????? ??? ????.

?????? ?? ??? ???????? Velker International Oil Company (C?185/89, EU:C:1990:262) ???
?????? ?? ?????????? ??? ?????? 15, ?????? 4, ??? ????? ???????, ?? ????? ??????????
?? ?? ??? 148, ??????? ?, ?? ?????? 2006/112.

40 ?? ????????, ?????????????? ???, ??????? ?? ?????????? ?? ?????? ??????????????
?? ?????? 148, ??????? ? ? ???, ??? ?????? 2006/112 ?????? ?? ?????? ?????????? ?? ?
????????? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????????????? ?? ??????
?????, ?????? ?????????? ??? ?? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??? ??
????????? ????, ??? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????????? ??? ??????
????????? ??????, ?????? ?? ?????? ???' ?????? ?????????? ? ?????????????? ??? ??????????
????????? ?????? ?????????? ??????????.

41 ??????, ?? ?????????? ??? ?? ??? ?????? ?????????? ?? ?????? 148 ???
?????? 2006/112 ?????????? ?????????? ?????? ??? ?????? ??? ?????? ??? ??????, ??
?? ??????, ?? ?????????? ??? ?? ?????????? ?????? ??? ?????????? ??? ?????? ??? ?????? (??.,
??' ???? ??? ??????, ?????? Unterpertinger, C?212/01, EU:C:2003:625, ??? 34).

42 ???, ??? ?????? A (C?33/11, EU:C:2012:482) ?? ??????????, ??? ?? ?????????? ??
????????? ??? ? ?????? ?????? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??????????
????????? ?????????? ??? ?? ?????????? ?????? ?????? ?????? ?????????? ?? ?????? 37 ???
????????? ??????????, ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?? ??? ?? ????
???? ?????? ?????? ?? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ????, ??? ?????????? ?????? ??? ?????? ?? ?????? ?????????? ??? ?? ??????????
??? ?? ?????? ?????????? ??????????, ??? ?? ?????? ?????? ??? ?????? ??? ?????? 3 ??? ??????
?????????.

43 ?? ?????????? ??? ?? ??? ?????? ?????????? ??? ?????????? ?? ??? ?? ??? ?????? ??? ??????
?????? ? ?????????? ?????????????? ??? ?? ?????????? ?? ?????????? ??? ?? ?????? ??
????? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ?????????? ?????????? ??????????????
????????? ??? ?????? ??? ?????.

44 ???????, ?? ?????? ? ?????????? ?????????? ??? ?????? 148, ??????? ??, ??
?????? 2006/112, ?????? ??? ? ?????????? ??? ?????? 28 ??? ?????? ??????????
????? ??? ?????????? ??? ?????????? ?????? ?????????? ??, ?? ? ?????? ??? ?????? ??
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????? ?????? ??????.

45 ??? ???????, ??? ?? ?????? ??? ??????, ??? ?? ?????????? ?? ?????????? ? ??????????
??? ??????????, ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ?? ?????????????? ??? ??
????? ??? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??
????????? ??? ?? ?????????? ??? ??????, ??? ?????? ?? ?????? ?????? ??? ? ?????????? ? ????
????????? ??? ?? ?????? 37 ??? ?????? ?????? ?????? ?? ?????? ?????? ??? ?? ??????
??? ?????????? ??? ?? ?????? 148, ??????? ??, ?? ?????? 2006/112.

46 ?? ?? ??????, ? ?????? ??? ?????? 148, ??????? ??, ?? ?????? 2006/112 ??
????? ???' ?????? ??? ?????????? ?????????? ??? ?????? ?????????? ??? ?????? ??
????????? ???, ??? ??, ??? ?????? ??? ?????? ??? ?????????? ?, ?????? ?????? ??? ??
????????? ??? ?? ?????? ??? ?????? ???, ?????? ?????? ?????????? ??? ?? ?? ??????
????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?? ?? ??????

?????????.

47 ???????, ??? ? ?? ?????????? ??????? ??? ?????????? ??? ???? ? ?? ? ??
????????????? ??? ???? ? ?????????? ??? FBK ??? ? ?? ?' ?????????? ??? ????
????????? ??? ? FBK ?????? ? ??? ? ?? ?????? ?????????? ??? ?????????? ??? ????
?? ???? ? ??????????. ??? ???????, ??????? ? ? ?????????? ?????????? ??? ????
????????? ??? ?????????? ?' ?????? ???, ??????? ? ? ?????????? ??? ?????? ??? ????
?? ???? ???? ???? ? ? ?????????? ?????? ? ?????????? ? ? ?????????? ?????? ???.
????????? ???.

48 ??? ??? ??????? ????, ??? ?????????? ?? ?????????? ? ?????????? ??? ????
?? ?????????? ??? ???? ? ?????????? ??? ???? ? ?? ?????? ??? ???? ?????. ?? ??
????? ??? ??????????, ??? ????? ? ?????? ?? ?????? ?? ?????????? ??? ??????, ?????????? ???
????? ??? ?????? ??????, ??? ?????? ?? ?????? ??? ?????? ?? ?????? ??? ?????????? ??? ????
????????? ?? ??????? ?????????? ?? ? ? ?????? ??? ?????? ?? ?????? ?? ?????????? ???
????? ??? ?????? ?? ?????????, ??? ?????, ??????? ? ? ???????, ?? ? ???? ???
????????? ???.

49 ???????, ??? ????? ?????????? ? ?????? ?????????? ??? ???? 42 ??? 44 ???
????????? ???, ??? ?? ?????? ??? ?? ?????? ?????????? ??? ?????????? ??? ??????, ?
????????? ?????????? ?????????? ??? ?????? ??? ?????? ?? ? ? ???????, ??? ?????, ?? ??
????? ??? ?????????? ???.

50 ??? ???????, ?????????? ? ?????????? ???, ??' ?????? ??? ???????, ???????
?????? ? ?? ?????? ??????? ???? ?????? ??? ?????????? ???????, ? ?????????? ???
????????? ??? ?????????? ?????? ??? ?????? ???????, ?????? ?? ?????????? ??? ?????
????????? ??' ??????? ???, ?????????? ?? ?????????? ??????? ?????? ??????? ??????????
??? ?????????? ??? ???????????, ?????????? ??? ??? ??? ? ? ??????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????????? ??? ??? ??? ? ? ??????? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ??? ??? FBK, ? ??????? ??? ?????? ???
????????? ???.

51 ??? ?? ?????? ??? ?????? ?? ?????????? ?? ?????????? ??? ???? ? ?? ???????, ???
??? ?????? ??? ?????? 14, ?????????? 1, ??? ???????, ?????????? ??? ???? ?? ???? ???? ??
????????? ??? ?? ??????? ? ? ???????, ??? ?????, ?? ?????? ?? ??????. ??
??????????, ??? ????? ?????????, ? ?????? «????????? ??????», ??? ???????????????
???? ?????????????, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??
????? ??? ?????????? ??? ?????????? ???????, ??? ?????????? ??? ?????????? ??? ?????
????????????? ?????????? ??? ?????? ??? ????? ?????????? ? ?????? ?????????? ???
????????????? ??? ?? ?????????? ?? ???????, ??? ?????, ?? ?????? ?? ?????? ???
(??????? Evita-K, C?78/12, EU:C:2013:486, ??? 33 ??? ????? ?????????? ???).

52 ???????, ??? ?????????? ??? ???? ???? ???? ???? ???? 48 ??? ???????
?????????, ?? ?????? ??? ????? ?????????? ??? ? FBK ??? ? ?? ?????? ?? ?????????????? ??
????????? ??? ?????????? ??? ?????????? ??? ?' ?????? ???, ??? ?? ?????????? ??
????? ?????????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???????, ?? ?? ???????, ??
????? ??? ?????????? ??? ?????? 148, ??????? ??, ??? ?????? 2006/112.

53 ?????? ??? ?????? ??? ???????, ??? ?????????? ??? ???? ? ?? ?????? ?
????????? ??? ?? ?????? 148, ??????? ??, ??? ?????? 2006/112 ??? ?? ?????? ??? ?
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ?????????? ???
????????? ??' ??????? ???, ?????? ??? ??, ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??????, ??? ????? ?????????? ??? ?????????? ??? ?????? ??? ?? ?????? ??? ??????????

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

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

54 ?????????? ??? ? ??????? ?????????? ??? ?? ??? ?????? ?????????? ??? ?????? ???
??? ?????????? ?????????????? ??? ?????? ?????? ?????? ??? ?????? ??????????????, ?' ???
?????????? ?? ?????????? ??? ??? ?????????? ??????. ?? ?????? ??? ?????? ??????????
????? ?????????? ?????????????? ??? ??????????, ??? ??? ?? ??? ???????, ??? ??????????.

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

?? ??? 148, ??????? ??, ??? ?????? 2006/112/?? ??? ??????????, ??? 28??
????????? 2006, ??????? ?? ?? ?????? ?????? ?????? ?????????????? ?????, ???
??? ?????? ??? ? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ?????? ??? ??????
?? ??? ??? ?????????? ?????? ?????????? ??? ??? ?????????? ?????? ??? ?????????? ???, ??
????? ?????? ?? ?????????? ??? ?????? ?????? ???' ?????? ???, ??? ??? ??? ??, ???
??? ??? ??? ??????????, ??? ??? ?? ??? ?????? ?????? ??? ?????? ??? ??????
????????????? ? ?????? ??? ??? ?????? ?????????? ?? ?????, ??? ??????
????????? ??? ?????????? ??? ?????? ??? ?? ??? ?????? ?????????? ??????????,
????????? ?? ??? ?????? ?????? ??????. ??????????, ??? ?????????? ??? ??????????
??? ?????????? ??? ?????? ?????, ?? ??? ?????? ?????? ?????? ?? ??????
?????????, ?? ? ?????????? ??? ?????? ?? ??? ?????????? ??? ?????????? ?????? ???
????????????? ??? ?? ?????? ?????? ?????????, ?????????? ?? ?????? ??? ??????????
????????? ??? ?????????? ?????? ??????, ?????????? ?? ?????? ?????????? ?????????? ??
?? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ?? ?????????? ??????, ??? ??????
?? ?????? ??? ?????? ?????, ?????? ?????? ?? ?????????? ??? ?? ?????? ??????????.

(?????????)

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