

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

PHILIPPE LÉGER

?? 29?? ?????????? 2005 1(1)

?????? C?210/04

Ministero dell'Economia e delle Finanze,

Agenzia delle Entrate

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FCE Bank plc

[?????? ??? Corte suprema di cassazione (?????) ??? ??? ?????? ?????????????? ??????????]

«???? ?????? ??? – ????? 2, ?????? 1, ??? 9, ?????????? 1 – ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ?????????? – ?????? ?????????? – ??????? ?? ??????????
???? ??? – ??????? ??? ??? ?????? ?????? ?????? – ?????????? ??? ??????? ???
????????? ??? ?????????? ??? ??? ?????? ??? ?????????? ?????? ??? ?????? ?????????? ???
???? ??? ?????? ?????????? – ??? ?????? ?????? ??? ??? ???»

1. ? ??????? ?????????? ??? ??? ?????? ?????????????? ?????????? ?????' ??? ?????? ??
?????? ?? ??? ??? ?????? ?????????????? ?? ?????????? ??? ?????????? ??? ??????? ??
????? ??????? ?????????? ??? ??? ?????????? ?? ?????????? ??? ?????????? ?? ??????? ??
??????, ?? ?????? ?????????????? ??? ??? ?????? ?????????????? ?????? (2) ??????? ?? ??? ???
????? 77/388/??? ??? ?????????? (3).

2. ??? ?????? ??? ??? ?????? ??? ?????????? ?????? ?????? ??? ?????? ?????? ???
????????? ??? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????????? FCE Bank
plc (4), ?? ?????????? ??? ?????? ?????????? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????, ?? ?????? ??? ?????? ?????????? ??? ?????? ??
????? ?????????? ????. ?? ?????? ??? ?????? ??? ?????? ?????? ?????????? ?? ?????? ?? ?????? ??
?????? ????, ?? ?????? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????? ??
????? ?? ?????????? ?? ?????? ?????????? ?????????? ?????????????? ?? ?????? ??? ?????? ??
????? ?????? ?????????? ??? ???.

I – ?? ?????? ???????

? – ?? ?????????? ???????

3. ?? ?????? 2, ?????? 1, ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ?? «??
????????? ??? ??? ?????? ??? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ?? ??????? ??
??? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

?????».

4. ? ??????? ??? ???????????? ??? ?????? ?????? ?????? ??? ?????? 4, ??????????? 1, ??? ??????
???????, ??????? ?? ???? ?????? ?????????? ?? ?????? ?????????????? ??????, ??? ?????
?????????? ?? ???? ?? ?????????????? ????, ?????????? ??????????????, ?????????????? ??
????????????? ?????? ??? ?????? ?????????????? ??? ?????????????? ??????. ??????? ?? ??
????? 4, ?????????? 4, ????? ??????, ??? ?????? ??????, ? ?????????????? ????
????????? 1 ?????? «????? ?????? ??????????» ?????????? ??? ?? ?????????? ???? ??????????
??? ?????? ?????? ??? ?? ?????? ??? ?????????? ?? ??? ?????? ?????????? ???? ?? ??????
????????? ?? ???? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ?????? ??????????
????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??????????.

5. ?????? ??????? ?? ?????????? ??? ?????????????? ??? ?????? ?????? ???????, ??? ?????? ??? ???????
?????????, ?????????? ??? ?? ??? 9, ?????????? 1, ??? ?????? ???????, ?? ????
????????? ???:

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

? – ?? ?????? ??????

|| – ?? ??????????? ?? ??????????? ?? ? ?? ??????????? ?? ?? ?? ??????????? ?? ?? ??

8. ?????????? ?????? ??? FCE Bank ????? ? ?????? ?????????????? ??????????????????
????????????? ??? ???. ??????? ????? ?????????????? ?????????????? ??? ??????????
????????????? ??????????????, ??????????????, ?????????????? ??????????????, ??????????????
????????? ??? ?????? ??? ?????? ??? ?????????????? ?????????? ??????????, ?? ?????? ???
????? ?????????? ??? ?????? ??? ?????????????? ???.

9. ?????? ??? ??????????? ??? ?? Corte Suprema di cassazione (???????) ???????????
???????????, ? FCE IT, ?????? ??????????? ?? FCE Bank ??? ??????, ?????? ??
?????????????? ?? ??? ?? ?????? ??? ??????????????? ?????????? ?? ?? ?? 1996-1999. ??????
?? ?????????? ?? ?????????????? ?? ??? ?? ?????? ?????? ???, ? FCE IT ?????? ?? ??
????????? ?? ?????? ?????? ?????? ??? ?? ?????? ?????? ?????? ???????????????.

10. ??????? ? ??????? ??????? ?????? ??? ?????????? ?' ??? ?????? ??? ?????? ?????????? ?????
????????? ??? ? ?????? ??? ?????????????? ?? ?????? ??????, ? FCE IT ?????? ?????? ?
????? ?????? ??????. ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????
????????????? ?? ?????? ?????????? ?????? ??? ? ?????? ?????? ?????? ?????? ??????

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

11. ??? ?????? ?????? ?????????? ??? ?????? ?? ?????????? ?????????? ?????????? ??? ?????????????? ??? ??
?????????. ?? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? 7 ??? DPR ???
????????????? ??? ?????? ?????????? ??? ?????? ?? ?????? ?????? ?? ?????? ??? ?????????? ???
????????? ? ?????????? ??????????, ??? ?????? ?????????? ?????????? ?????????? ??? ?????? ??? ??????
?????????????, ?? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ??? ??.

III – ?? ?????????????? ??????????

12. ?? ?????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??????????, ??
????? ?? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??????
??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
«????? ?? ?????? ??????».

13. ?? ??? ???? ?? ?????? ???????, ?? ?????? ??? ?????? ?????? ?????? ?? ?? ?????? ?????????? ???
????? ?? ?????????? ??, ??? ?????? ??? ?????? ?????????? ??? ?????? ?? ?????? 2 ??? ?????
??????, ??? ?????? ?????????? ?? ?????? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????????? ??????????
??? ?? ?? ?????? ?? ??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ??????
?????????, ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????????? (5).

14. ?? ?????? ?? ?????? ??????, ?? Corte suprema di cassazione ?????????? ???, ?? ??? ??
????????? ??? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??????, ?? ?????? ?????? ??????
??? ?????????? ? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ??????
????? ?????????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? . ?? ??????
????? ?? ?????? ?????? ??? ??????.

15. ????????, ??? ?????? ??? ?????? ??????????, ?? ?????? ?????????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ??
????????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? (????) ?????? ?????? ?????? ?????? ???
????????? ??? ?????? (6) ??? ?????? ?????? ?? ?????? 7 (7). ?????? ??? ?? ??????
??? ??? ?? ??? ?? ?????? 7, ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?? ??????
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

16. ?? ?????? ?????????? ?????????? ??? ?????? ?? ? ?????? ?????????? ??? ?????? ?????????? ???
????? (cost-sharing agreement), ? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? , ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

17. ?? ??? ?????? ??????? ???????????, ????????, ??? ?? ??? ?????? ?????? ?? ???????????
????? ??? ?????? ??????????? ??????? ?? ?????? ?????????? ?????? ?? ?????????? ???
????? ??????? ??????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????????? ???
?????????? ???????, ??????? ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ???
??? ?????? ??????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ???????????, ?????? ?? ??????????? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ??????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
?????????? ??? 17?? ??????????? 2002, Town and County Factors (8).

18. ???? ??? ?????? ?? ?????? ?? «?????? ?? ?????????? ??????», ?? ?????? ??????????? ???
?? ??????? ?? ? ?????? ?? ??????? ??, ???????????, ? ?????? ?????? ?? ?????? ??
????????? ??????????? ?? ???? ?????? ?? ???????????, ?????? ?? ???????????????
????????? ??????.

19. ???? ??? ??????? ?????? ?? Corte suprema di cassazione ?????????? ?? ??????????? ???
????????? ??? ??????????? ?? ???? ?????? ??? ?????????? ?? ?????????? ???????????????
?????????:

«1) ?????? ?? ?????? 2, ?????? 1, ??? 9, ?????????? 1, ??? ?????? ?????? ?? ???????????
?? ???? ?????? ?? ? ?????????? ?????? ?????? ?????? (?????????? ?? ???? ??
????? ?????? ?????????? ?????), ? ?????? ??? ?? ?????????????? ?????????????? ???????,
????? ?? ??????? ?? ?????? ?????? ???????????, ?????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ??? ??????????, ?? ?????????? ?? ?????????? ?????? ??? ?? ??????????
??? ??????? ? ?????? ???????; ??? ?? ?????????? ???, ?????? ?? ??????????????? ??
????????? ??? arm's length ??? ?? ?????? 7, ?????????? 2 ??? 3, ??? ???????????
????????? ??? ??? ??? ??? ?????? ??? ?????? ?????????? ??? ??? ?????? ?????? ??? 21??
????????? 1988 ?????? ?? ??????? ?? ??? ?????? ?????????? ?????????? ??? ?????? ??????????
??? ??? ??????? ?????????; ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ?????? cost-
sharing agreement ??????? ?? ??? ?????? ?????????? ??? ?????????????? ??????????????; ??
????????? ?????????? ???????, ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?? ?????????? ???
????????? ?????? ?????? ?????; ? ?????? ??? ?????? ?????? ?????? ?????? ?? ?????????? ??? ??
????? ? ??? ?? ?????????? ?????;»

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

3) ?? ?????????? ?? ??????????? ?????? ?????? ?????????? ?? ?????????? ?????????? ??' ????
????????????? ?? ??? ?????? ?????????? ?????? ?????????? ?? ?????????? ?? ?????? ???
????????? ?? ???? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?????? 43 ??, ??? ?????? ?????????? ?????????? ?? ?????? ?????? ??? ??
????????? ??? ??????????? ?? ??????????;»

IV – ??????

? – ??? ??? ?????????????? ?? ?????????????? ???????????

20. ?? ??? ??? ?????????????? ?? ?????????????? ?????????? ?? ?????? ?? ???????????
????? ???????, ? ?????? ?????? ?? ?????? ?????????? ?? ?????????????? ?? ???????????

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

21. ???' ????, ??? ?????????? ??? ??????? ??? ??????? ??? ?????????? ??? ?????? ??? ?????????? ???
????? ?????????? ???, ?? Corte suprema di cassazione ??????????
????????????? ??? ?? «?????????», ?????? ?? ?????? ?? ?????????? ?? ?????????? ???
????????? ??? FCE IT ?????? ?????? ?????????? ??????? ?? ?? ?????? ?????? ???
????????, ?? ?? ?????, ?????? ?????? ?????? ??? FCE Bank.

22. ????????, ??? ?? ?????????? ??? ??????? ??? ?????????? ??? ?????????? ??? ? ??
????? ??? «?????????» ??? ?????? ?? ?????? ?????????? ?? ??? ?????????? ???
??????, ??? ?? ??? ?????? ?????? ??? ?????????? ?????????????? ?????????? ???, ??
?????? ?????????? ??? ?????? FCE IT ?????? ?????? ?????????? ??? FCE Bank (9)
??? ?? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
?????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ???
????????? ??? (10).

23. ????????, ??? ??' ?????????? ??? FCE Bank ?????????? ??? FCE IT
?????? ?????????? ??? 1, ?????? 3, ??? ?????? 2000/12/CE ???
????????? ??? ?????????? ??? (11), ? ?????? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ???
?????????. ?????? ?? ??? ?????? ??? ?????????? ???, ? FCE IT ??? «?????
????????????? ??? ?????? ?????? ???, ? ?????? ??? ?????? ?????? ?????? ?????????? ???
??? ?? ?? ?????? ???' ??????, ?? ?? ??? ?????, ?????? ??? ?????? ?????? ?????????? ???
????? ??? ?????? ?????????? ???».

24. ?????????? ??? ?????? ?????????? ?? ?????????? ??? ?????? ?????? ??? FCE
IT. ??????? ????, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

25. ?? ??????? ?? ?????? ?????????? ???, ??? ?????? ???, ??? FCE IT
????????? ??? FCE Bank. ?? ?? ??? ?????? ?????????? ???, ??? ? ??
????? ?????????? ??? ?????? ?? ?????????? ?? ?????? 2, ?????? 1 ?? 9, ?????????? 1, ??
????? ??????. ?? ?????? ??? ?????? ??? ?????? ???????, ???????, ??? ? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? (12).

26. ? ?????? ??? «????? ?????? ???» ??? ?????? ??? ?????? ???, ???,
????? ?????? ??? ?????? ???, ?????? ??? ? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ?????? ??? (13). ?????? ?????? ??? ?????? ???
?????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? (14), ???
?? ?????? ??? FCE IT ?????? ??? ?????? ??? ?????? ??? ?????? ??? 9,
????????? 1, ??? ?????? ???.

27. ?? ??????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? FCE
IT ?????? ?????????? ??? FCE Bank ??? ?????? ??? ?????? ???

????????? ??? ???????? ??? ?? ??? ????? ?????? ?????????????? ??? ?? ??? ?????? ???
?????? 9, ??????????? 1, ??? ??? ????? ??????.

? – ??? ??? ?????? ?????????????? ??????????

28. ?? ?? ?????? ?? ?????????????? ??????? ?? ?????? ?????????? ??????, ???' ??????, ??
?? ?????? 2, ?????? 1, ??? 9, ??????????? 1, ??? ?????? ?????????? ?????? ?? ?????????????? ??
??? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?????????? ???
????????? ??? ?????????????? ?????????? ?? ?????? ?????? ?????? ?????? ?????????? ???
?????????, ? ?????? ?????????? ?????? ?????????? ??? ?? ?????? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ??????????, ??????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ???
?? ?????? ??? ?????????? ?????? ?????? ?????????????? ??? ?????????????? ???.

29. ?? ?? ?????? ??? ?????? ?????????? ?????? ?? ?????????????? ?? ?????? ??
????????? ??? ?? ?????? ?????????? ?????????? ?????????? ?????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????? ?????? ?? ?????? ?????????? ?????? ??? ?????? ???
????????? ??? ?????????? ?? ?????? ?????????? ??? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ?? ?????? ?????????? ?????????? ???.

30. ??? ?????? ??? ?????? ?? ? ?? ?????? ?????????? ?????? ?? ?????????? ??? ??
????????????? ??? ?????????? ?????????? ??? ?????? ?????????????? ?????????? ???
????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????? ?????? cost sharing agreement
? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????? ???
????????? ?????????? ??? ?? ?????? ??? ?????? ??????. ?????? ?????????? ??? ?? ?????? ???
????????? ?????? ??? ?????? ?? ?????????? ?????? ??? ?????? ?????? ??? ?????????? ???.

31. ? ?????? ??? ? ?????????? ?????? ?????????? ?????????? ??? ?? ?????????? ??? ??????
??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?? ??????
????????? ?????????? ??? ?? ??????, ??? ?? ?????? ?????? ?????????? ?, ????
????????? ??? ?????? ?? ?????????? ?? ?????????? ?????? ?????? ??? ?????? ???
?????????.

32. ? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? 9,
????????? 1, ??? ?????? ?????? ??? ?? ?????? ??? ?????? 1 ??? ?????? ??????
79/1072/??? ??? ?????????? (15), ??? ?? ?????? «[?]?? ??? ?????? ??? ?????????? ???
????????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ???
????????? ? ?????????? ??? ?????? 4 ?????????? 1 ??? [?????] ??????, ? ?????? [...]
??? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????????? ???
????? ?????????? ??? ?????????? ??? ?????? [...]». ??? ??? ?????? ?????? ???, ??? ??
?? ? ?????? ??? ?????? ??? ?? ?????????? ??? ?????? ?????? ?????? ?????? ???,
????????? ??? ?????? ??? ?????? ??? ?????????? ???.

33. ? ?????????? ?????? ?????? ??? ?????? ?????? ??? ?? ?????? ?????????? ??? ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?? ?????? ???
??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? 4, ?????????? 1, ??? ?????? ???,
????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

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

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

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

?????.

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

35. ???????, ??? ?????????????? ??? ?? ????? ?????????? ??? ?? ????? ?????????? ??? ?? ????? ?????????? ??? ??
 ?????? ?? ???????, ????? ?????????????? ??? ?? ????? ?????????? ??? ?? ?????????????? ?????????????? ??? ??
 ?? ?????? ??? ?????????? ??? ?? ?????????? ??? ?? ?????????? (16). ?? ?????? 2, ?????? 1, ???
 ?????? ??? ?????? ?? ?? ?????? ?? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?? ?????? ??? ??
 ?????????? ??? ?????????????????? ?? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??
 ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ?????????? ??? ??????. ?? ??????????, ???
 ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ?????????????? ??????????????, ??????????????
 ?????????? ??????????, ?????????? ?????? ?????????? ?????? ??? ?????????? ??? ?????????? ??? ??
 ?????????? ??????????, ?????? ?? ?????????? ?????? ?????????? ?????? ??? ?????????? ??? ??
 ?????? ??? ?????? 6, ?????????? 1, ??? ?????? ??????, ?????? ?????????????? ???
 ?????????? ??? ??? ?? ?????????? (17).

36. ? ?????????? ?????? ??? ?????? ??????? ?????????? ?????????? ??? ??? ?????? 4, ?????????? 1,
 ??????, ??? ?????? ??????? ?? ?????????? ??? ?????? «?????????» ????, ??? ??????
 ?????????? ??? ?? ?????????? ???, ?????????? ?????????? ???, ?????????? ???
 ?????????? ??? ?????? ? ??? ?????????? ??? ?????????? ??? ??????. ??? ??????
 ?????????? ? ?????????? ???, ? ?????? ??? ?????????? ??? ?????? ???
 ?????????? ??? ?????? ?? ?????? ??? ?????? ???????, ??? ?????? ?? ?????????? ??? ??????
 ?????????? ??? ?????? ?????????? (18).

38. ??????????, ????????, ?????????????? ?????? ?? ?????????? ?????? ??? ???, ??? ??????
?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????????? ?????? ??????
?????? ?????????? ??? ?? ?????????? ??? ??? ?????????? ??????, ??? ?????????????? ?
?????? ??? ? ?????????? ?????? . ?????? ?????? ?????? ?????? ?????? ??? ??? ??? ??????
????????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?? ?????? ??? ??????,
????? ??? ?????? ??? ?????? 4, ?????????? 1, ??? ?????? ??????. ????????, ??? ??????

????????????? ??? ???? ?????? ??? ?????? 9, ??????????? 1, ??? ?????? ?????? ??? ??????

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

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

?????????????, ??? ???? ??? 4, ?????????? 1, ??? ?????????????? ?? ?????????????? ???

????????? ??? ?????????? ??? ?, ?????? ?????? ?????? ?????? ?????? 4, ????

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

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

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

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

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

40. ???' ?????? ??? ?????? ??????????, ?? ?????????? ??? ?????? ??? ??

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

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

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

??? ?????? ??? ?????????? ?? ?????????? ??? (20). ??? ?????? ?????? ??? ?

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

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

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

????? ??? (21). ??????, ?????? ???, ??? ??? ?????? ?????? ?????? ?????? ?????? ??? ??? ???

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

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

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

????????? ??? ??? ?????? ?????? ?????» (22).

41. ?? ??? ???? ?? ??????, ?? ?????????? ?????????? ??? ?????? ?????????????? ????

Heerma ??? ? ?????????????? ??? ???? ??? ?????? ??? ?????????? ??? ?????? ????. ????????

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

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

????????? ??? ? J. Heerma ??? ?????? ?? ?????? ?? ?????????? ??? ?????? ??? ??? ???

????? ??? ?????? 4, ?????????? 1, ??? ?????? ???, ?????? ??? ?????? ??? ?????? ???

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

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

????? ?? ?????? ??? ?????? ??? (22).

42. ?? ?????????? ??? ?????? ??? J. Heerma ??? ??? ?????????? ?????????? ???

????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? 4, ?????????? 4, ????

?????, ??? ?????? ??????. ??? ???? ??????, ? J. Heerma, ?????????????? ????

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

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

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

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

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

????? ?? ?????? ??? ?????? ??? (23).

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

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

????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???' ?????????????? ??? ?????? ???

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

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

???? ??????? ??????????????. ??????????, ?? ?????????? ????? ??? ??????? ?? ???
????????????? ??? ?????? ??? ?????????? ??????????. ???????, ?????????? ??? ??? ??????
?? ?????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ?????? ??????????
????????? ?????? ?????? ?????????? ?????? ?? ?????? ?????????? ??? ??? ?????? ?????????? ???
???? ??? ?????? ??? ?????? 4, ?????????? 1, ?????? ??????, ??? ?????? ?????? ??? ??
????????????? ?? ?????????????? ?????? ?????????? ???, ??? ??? ?????? ?????? ???? ??
????????? ?????????? ?????? ??????????. ?????? ???, ??? ?????????? ?????? ?????? ?????????? ??
????????? ??? ? ?????????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??????????????
????????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????????.

44. ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ???????, ???? ?? ?????? ???, ????
????????????? ?????? DFDS, ???? ?? ?????????? ?????????? ??????? ?? ??? ?????? ???
??? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????????????? ?????????? ?????? ??? ??? ?????? ?????? ?????????? ????. ??
????????? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ???,
????? ??? ? ?????????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ???, ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
??? ?????? ?? ?????? ??? DFDS ??? ?????? ??? ?????? ?????? ?????? ??? ?? ???
????????? ??? ?????? ??? ?????? ??? ?? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?? ?? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???
(24).

45. ?? ??? ??????? ??? ??????? ??? ?????? ?????? ?????????????? ?????? ?? ??????????,
????? ??? ?????????? ??? ??????? ??? ?? ?????? ??? ???????, ?? ?????? ?????? ???, ???
??? ?????? ?????????? ??? ??????? ?????? ?????? ??? ?????? ??? ???????, ???
????????? ???, ?? ??????? ?????? ?????? ??? ?????? ??? ?? ?????????????? ?? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??????
????????? ??? ?????? ?? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???, ???' ????, ???
????????? ??? (25).

46. ?? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ? FCE IT
?????? ?????? ?? ?????????? ?????? ?????????? ?????? ??? ?????? ????. ?? ???????, ?
?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
????????????? . ?????? ??? ?????? ??? ?????? ?????? ?????????????? ??? ??? ?????? ??? ?????? ???
????? ??? ?? ?????????? ??? ?????????????? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ?????? ??? ?????? ?????? ?????? ???, ??? ?????? ??? ?????? 2000/12 ??
????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ?????? (26).
?? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? (27). ??????, ??? ?? ??????
??? ?????????? ??? ???????, ?????????????? ??? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?? ??? ?????? ?????????????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ???, ?????????????? ???, ?? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ???.
?? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???.

47. ?? ?????????? ??? ?????????? ??? ?? ?????? ?????? ?????? ?? ??? ?????? ??????
????????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?????? ???, ??? ?? ?????? ???, ??
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ???, ???,
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ????. ?
????????? ??? ?? ??? ?????? ?????? ?????????? ?????? ??? ?????? ?????? ?????? ????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

49. ?? ?????? 9, ??????????? 1, ??? ?????? ???????, ?? ?????????? ?? ??? ?????? ??????
 ?????????? ?????? ???, ?????????? ??? ?????????? ??? ?????? ?????? ?????????? ?????????? ???
 ?????? ?????????? ??? ? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ???
 ??? ?????????? ??? ?????? ?????? ? ?? ?????????? ??? ????. ??????? ?? ?? ??? 9,
 ?????????? 1, ??? ?????? ??????, ??? ?????? ?????????? ??? ?? ??????????, ?????? ???
 ?????????? ?????????? ??? ?????? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
 ??? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???, ??? ??? ??
 ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?
 ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? (28). ?? ?????????? ??????
 ??? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
 ??? ??? ??? ??? ?????????? ??? ?????? ??? ?????? ??? ? ?????????? ??? ?????? ?????? ???
 ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??????
 ??? ?????? ??? ?????? (29).

50. ?????, ? ??????? ?? ???? ?????? ?????????? ?????????? ?? ?? ?????? ?????? ?????? ?????????????? ??????????
????? ??? ?????? ?????? ?? ???? ?????? ?????? ?? ?????? ?????????? ?? ??, ?????? ?? ????
????? ?? ?????? ?? ???? ?????? ?? ???? ?????? ?? ?????? ?????? ?????? ?? ???? ?????????????? ?? ?? ??
????? ?????? ?????? ?? ???? ?????? ?????? ?????????????? (30). ?????? ?? ?????? ?????? ??
????? 9, ?????? 1, ??? ?????? ?????? ??, ??? ??????, ??, ?? ?????? ??, ?? ?????? ??, ??
????? ?? ?????????? ?? ???? ?????? ?????? ?? ???? ?????? ?????? ?? ???? ?????? ?? ???? ??????????
?????????, ??? ?? ?????????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?? ???? ?? ???? ??
?? ?? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??
?? ?? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ?????? ?? ???? ??

51. ???????, ?? ??????? ?? ???? ?????? ?????????????? ?????????????? ?????? ?????? ??????
????????????? ?? ???? ?????? ?????? ??? ?????????????? ?????? ??? ?????? ?????????? ?????? ??????
??? ?????????????? ??? ??????????????, ??? ? ? ?????? ???, ?? ?????????????? ??? ?????? ???
????????????? ??? ?????????????? ??? ? ? ?????? ??? ?????????? ??? ? ? ?????? ??? ?????? ???
4, ?????????? 1 ??? 4, ??? ?????? ??????? ??? ? ? ?????? ?? ?????????? ?? ??????????
????????? ??? ????.

52. ??????? ????? ?? ?????????????? ?????????????? ?????? ?????????? ???
????????????? ??????? DFDS, ??? ??? ????? ?????????? ?????? ??? ??? ??????
????????????? ??????? ?? ?????? ?????????????? ?????????????? ?? ?????? ?????????? ??????
??? ??????? ??? ?????? (31). ? ??????? ??? ?????? ?????????????????? ?? ?????? ?? ???
????????? ? ?????, ??? ??? ??? ?????? ??? ?????? ?????? ??????????????, ?????????? ??????
????? ??????? ??? ?? ?????? ??? ???????, ??? ?????? ?????????????? ?????????? ??
????? ?????? ??? ?????? ??? ???????, ??? ?????? ???, ??? ?????? ?????????? ??????
????????????? ? ?????? ??? ??? ?????? ?????????? ?????? ?????????? ?????? ???
?????????????.

53. ??????? ?? ?????? ?? ?????????? ?????????????????? ?????????????????? ?? ??????????????, ??? ?????????????? ?
?????????? ?? ?????????? ???????????, ??? ?????????????? ?? ??????????? ?? ?????????? 9,
?????????? 1. ???????, ?? ? ?????? ?????????????? ?? ? ?????? ?????????? ??????????? ??
?????. ?? ??????? ? ??????? ?? ?????????? ?? ?????????? ?? ?????? 22 ?? ?????? ???????, ??????? ??

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

54. ?? ?????? 1 ??? ?????? ?????? 79/1072 (32) ??????????????, ??????, ??? ?????? ???
??? ?? ?????? ??? ?????????? ??? ?? ?????? ??? ??? ?????? ?????????? ??? ??????
?????? ?????????? ??? ?????? ?????? ?????????? ?????????? ?? ?????????? ??? ?????? ???
????????? ?????? ??? ?????? ?????? ?????????? ?????????? a contrario, ??? ?????? ???
??? ?????? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ?????? ???, ??? ?????? ?????? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
?? ?????? ?????? ??? ?????? ??? ? ?????? ?????? ?????????? ?????????? ?????????? ???
????????? ?????? ???, ?????????? ?? ?????? ??? ?? ?????????? ?????? ??? ?????? ?????????? ???
?? ?????? ?????? ??? (33).

55. ??? ?? ???? ?????? ?????????? ???, ??? ?????????? ? ?????????? ??? ??????????
????????? ??? ??' ?????????? ???, ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ??? ?? ?????? ?????? ?????? ???.

56. ??? ????? ?????????????? ??? ?????? ??? ?????????? ?????????????? ??? ?????? 4,
????????? 4, ?????? ???, ??? ?????? ??????, ?????? ??? ?????? ???, ?? ??? ?????? ???
????????? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 29, ??? ?????? ??? ?????? ???
????????? ?? ?????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ???
????????, ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ???
????? ??? ?????? ??? ??????????????, ?????????? ??? ?????? ?????? ??????. ??? ??????????????
? ?????????? ??? ?????? ?????? ??????, ? ?????? ??? ?????? ?? ?????? ??? ?????? ?????? a
contrario, ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ???.

57. ? ??? ?????? ?????? ?????????????? ??? ?????? ??? ??????, ??? ?????? ??? ?????? ???,
????????? ?????? ?? ?????? ?????? ?????? ?????????? ??? ?????? ?????? ?????????? ???
????????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
??????????. ?????? ?????? ?????? ?? ?????? ?????? ??? ?????? 28, ?????????? 5,
????????? ?, ?????? ?? ?? ?????? ?????????? ?? ?????? ?????? ??? ?????? ?? ?????? ???
????????? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ???
????? ???». ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? a contrario, ??? ??? ?????? ?????? ??? ??????, ???' ????, ?????? ???
????? ?? ?????? ???.

58. ? ??? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??????????, ??? ?????? ???
????? 6, ?????????? 3, ??? ?????? ??????, ??? ?????? ?????? ?????????? ??? ?????? ???
??? ??? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ?? ?????? ???
????????? ?? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

59. ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ??? ?? ??????????, ???
????????? ??? ?????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

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

60. ?? ??????? ??? ? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????????? ???
?? ?????? ?????????? ?????? ?????? ?????? ?????? ?????????? ??? ?????? ?????????? ???
????? ??? ? ? ???? ?????????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ???
????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???, ???, ???, ???
????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????? ??? ? ???.

61. ?????, ??? ? ?? ? ???? ?????????? ?? ???? ???? 7 ?? ???? ?????????? ?????????? ???
????? ?????????? ?????? ?????????? ?? ???? ???? ???? ?????????? ?????? ??? ??????
????????? ??? ? ???? ?????? ?????? ?? ???? ???? ?????????? ?????? ??? ?????? ??? ?????????? ???
????????? ????. ?? ?????? ??????, ?? ?????? ?????????? ?????? ??? ?????? ??? ??????
?????????, ??? ?????????? ?? ?? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ????
????????? ??? ? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ????. ??
????????? ?????? ??? ?????? ??? ?????? ?? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

62. ?? ?????? 7, ??????? ??????????, ??? ?????????? ?????? ??? ?????? ???
????????? ??? ?????? ?????????? ?? ???? 4, ?????????? 2, ??? ?????????? ??? ??
????? ??? ????' ??????? ?? ???? 293 ?? ??????? 90/436/??? (34), ??? ? ???? ??
????????? ?????????? ?? ???? ?????? ?????? ??? ?????????? ??? ?????????? ??? ??????
????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? 1 ???
?? ??? ??????, ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ???,
????? ?? ? ?????????? ?????? ??? ?????????? ??? ?? ??? ?????? ?????????? ??? ?????? ???
????? ?????? ?????????? (35). ??? ?????? ???, ? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
???? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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?? ?????? 7, ??????? 2, ??? ?????????? ??? ?????? ???, ?????????? ??? ??
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? «?????? ?????? [...] ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ??? ?????? ?????? ???».

63. ??? ?????????? ??? ? ??? ?????? ??? ? ?????? ???, ?????? ?????????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???, ?????? ?????????? ??? ??
????? ??? ??????. ? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

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

64. ???????, ?????? ?? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ?????? ?????????? ??
????????? ??????, ?????? ?????? ??? ?????????? ??? ???????, ?? ?????????? ??? ??????
??? ?? ?????? ?? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????
??? ??????, ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ??????, ? ???
??? «arm's length», ? ?????? ?????????? ??? ?????? 7, ?????????? 2, ??? ??????????
????????? ??? ???, ?????????? ?? ?????? ??????, ?????? ?????????? ??? ?????? ??????
???? ?????? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?? ???
???? ?????????? ????. ??? ?? ?????? ?????? ?????? ??? ?? ? ?????????? ???
????????? ?????????? ?????????? ?????? ?????? (36). ??????? ?????? ???
????? ?????? ?????? ? ??? ?????? ?????? ??? ?????? ?????? ?? ?????????? ??? ??????
????? ?????????? ??? ?? ?????? ?????? ?????? ??? ?? ??? ?? ??? ?????? ?????? ??????
????????????? ?????? (37). ?? ?? ?????? ?? ??? ?? ?????? ?????? ?????? ??? ??
????????????? ??? ?? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ?????? ?????? ??????
??? ?????????? ??? ?????? ??? ?? ?????? ???.

65. ??????, ?????? ?? ?? ? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????? ??
????? ?? ?????????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?? ?????? ??????
????????? ?? ?????? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ?? ??? ??
??????????. ? ?????? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ?? ??? ??
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????????? ??? ??????????, ?????? ??? ??????, ??? ?????? ?????? ?????? ?????? ??? ??
????????? ? ?????????? ??? ?? ?????? ??? ?????? ?????? ?????? ????. ???????, ?? ??? 7,
????????? 3, ?? ?????????? ??? ?????? ??? ?? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??
????? ??? ?????? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ??
????? ??? ?????? ?????? ???, ?????????? ??? ?? ?????? ?????? ?????? ?????? ??? ??
????????????? ??? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ??
??? ?????????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ?????? ??? ??
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????????? ??? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ?????? ??? ??
????????? ??? ?? ?????? ??? ?????? ??????.

66. ?? ?????? ?????????? ????, ??????, ??? ?????? ?? ?????? ?? ?????? ?? cost
sharing agreement. ??????, ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?? ?????? ??
????????? ??? ?? ?????? ?????? ?????? ?????? ??? ?????? ???, ??????, ?? ???
?? ??? ?????? ?? ?????? ?? ?????? ?? «agreement». ?? ??? ?????? ??????, ??? ?? ?? ??
?????????, ??? ?????? ??? ?????? ?????? ??? ?????? ???, ??? ?????? ?? ?????? ??
??? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??
?????????, ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??
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67. ?????, ??? ?????????? ? ?????????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ??????????, ??? ?????? ?????? ?? ?????? ?????? ??? ??, ?????????? ??? ??
?? ?????????? ??? ?????? ?? ?????? ?? ?????? ??? ?????? ?????? ?????? ?? ?????? ??
????????? ??? ?? ?????? ??? ?????? ?????? ?????? ?. ?? ?????? ??? ?????? ?? ?????? ??
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????????? ????. ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??
????????? ?? ?????? ??? ?????? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??
??? ?? ?????????? ??? ?? ?????? ??? ?????? ?????? ??? ?? ?????? ??? ?????? ??? ??
??? ?? ?????????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ??

???, ?? ?????????????? ?? ???????? ?? ???????? ?????? ??? ?????????????? ??? ?????? ??? ??????????
????????????? ??? ?????? ?????? ?????????????? ?? ?????????? ?????? ??? ?????? ??????????
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68. ????? ??? ?????? ??? ??????????????, ?????????? ??? ?????????? ?? ?????????? ???
????? ?????????????? ?????? ?? ?????? 2, ?????? 1, ??? 9, ?????????? 1, ??? ??????
????? ?????? ?? ?????????? ?? ?????? ???, ??? ?????? ?????????? ???
????????? ??? ?????? ???, ?? ?????????? ??? ?????????? ??? ?????? ?????? ???
????????? ??? ?????? ?????? ?????? ?????????????? ?? ?????? ???, ? ?????? ???
????? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????????????? ?????? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ???, ?????? ??? ?????? ??? ?????? ??? ?????? ???
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? – ??? ??? ?????????? ?????????????? ??????????

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

70. ?? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?? ?????????????? ?????????? ??? ?????? ??? ?????? ???.
??? ?????????? ??? ?????????? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ???, ??? ?????????? ?? ?????? ???, ??? ?? ???
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???, ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???.

? – ??? ??? ?????? ?????????????? ??????????

71. ?? ?? ?????? ??? ?????????????? ???????, ?? ?????? ?????????? ??????, ???' ??????, ??
????? ???????, ?????? ??? ?????? ?????????????? ??? ?????? ?? ?????????? ??? ?????????? ???
????? ?????? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???, ???
????? ?????? ??? ?????? ??? ?????? 43 ?? ?????? ??? ??????????.

72. ? ??????????????, ? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ?????? ??? ?????? ????. ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ?? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ???.

73. ? ?????? ??? ? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?????.

74. ??????????, ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ????. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ????. ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ???, ???, ??? ??? ?????? ????. ?????? ??? ?????? ??? ?????? ???.

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

75. ??? ??????, ??? ?? ??? ?? ?????? ?????????????? ??? ?????? ??? ?????? ??????????.

V – ????????

76. ?????? ??? ???????????, ?????? ??? ?? ?????? ?????????????? ??? ?????? ??? ?????? ?????
?????????? ?????? ??? ?????? ?? Corte suprema di cassazione ?? ???:

«?? ??? 2, ??? 1, ??? 9, ?????????? 1, ??? ??? ?????? ?????? 77/388/?? ?? ?? ??????????,
?? 17?? ??? 1977, ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???, ?? ??????????
?? ??? ?????? ?????? ?????? – ??? ?????? ?????? ?????? ?????????????? ????: ??????????
????????? ???, ?????? ?? ?????????? ??? ??? ?????? ???, ??? ??? ?????????? ???
????????? ???, ??? ?????? ??? ??????, ?? ?????????? ??? ?????????? ??? ?????? ???
????????? ???, ??? ?????? ??? ?????????? ??? ?????????? ?? ?????? ???, ? ??? ???
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ???, ??? ?????? ??? ?????? ?? ?????? ???
????????? ??? ?????? ??? ?????????? ??? ?????? ???».

1 – ??? ?????? ??? ??????????: ? ??????.

2 – ??? ????: ???.

3 – ??? 17?? ??? 1977 ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???,
????????? ?? ??? ?????? ?????? ?????? – ??? ?????? ?????? ??? ?????????????? ????:
????????? ??? (?? ???, ?? 09/001, ?, 49), ??? ?????????? ??? ??
????? 91/680/?? ?? 16?? ??? 1991, ??? ?? ?????????? ???
????? ?????????? ??? ?????? ?????????? ??? ??? ??? ?????????? ???, ??? ?????? ???
????? ??? ?????? ??? ?????????? ???, ??? ?????? 77/388 (?? L 376, ?, 1, ??? ????: ???
?????).

4 – ??? ????: FCE Bank.

5 – ?? ?????? ?????????? ??????????, ?????? ????, ??? ?????? ??? 3?? ?????? 1994,
C?16/93, Tolsma (?????? 1994, ?, I?743), ?? ??? ?????? ?? ?????????? ?????????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 2, ????,
??? ?????? ??????, ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ?????? ??? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? 2, ????, 1, ??? ?????? ????. ?? ?????????? ???, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????? ???, ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
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????????? ?????????? ???' ????????. ??? ??????? ?????????? ? ???????? ?????????? ????????

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

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

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

6 – ?????????? ?? ??? ????? ?????????? ??? 29 ??????? 2000 ??? ??? ????????

????????? ?????? ??? ???, ??? I, ??? ????: ?????????? ?????????? ??? ???.

7 – ?? ??? 7, ?????????? 2, ??? ?????????? ??? ?????? ??? ??? ?????????? ??????????

??? ??? ?????? ??? ?????? ?????????? ?????????? ???, «??? ??? ??????????

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

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

??? ?????? ?????? ?????? ??????????».

? ?????????? 3 ??? ?????? ?????? ?????? ???:

«??? ??? ?????????? ??? ?????? ??? ?????? ??????????????, ?????????? ?? ??? ???

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

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

?????».

8 – C?498/99 (?????? 2002, ?. I?7173, ?????? 21 ??? 22).

9 – ?. ?????? ??? ??????????, ?????? 5.1.

10 – ?. ?, ?????? 5.5.

11 – ??? ?? 20?? ?????? 2000, ??????? ?? ??? ?????? ??? ??? ??????

????????????? ?????????? ?????????? (?? L 126, ?. 1).

12 – ? ?????????? ????

13 – ?. ?????????? ?? 4?? ?????? 1985, 168/84, Berkholz (?????? 1985, ?. 2251, ????

18), ??? 20?? ?????????? 1997, C?260/95, DFDS (?????? 1997, ?. I?1005, ??? 20), ???

17?? ?????? 1997, C?190/95, ARO Lease (?????? 1997, ?. I?4383, ??? 15), ??? ??? 7??

????? 1998, C?390/96, Lease Plan Luxembourg (?????? 1996, ?. I?2553, ??? 24).

14 – ?. ?????? ?????? ?? 1?? ?????? 2004, C?286/02, Bellio F.lli (?????? 2004, ?. I?3465, ??? 27 ??? ?????? ?????????? ??????).

15 – ?????? 79/1072/??? ??? ??????????, ??? 6?? ?????????? 1979, ??? ?????????????? ???

????????? ??? ?????? ?????? ??? ?????????? ?? ??? ?????? ?????? ?????? ?????? – ????

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

????? ?????????? ??? ?????? ?????? (?? ??. ??. 09/001, ?. 111).

16 – ?. ?????? ?? 15?? ?????? 1989, 348/87, Stichting Uitvoering Financiële Acties

(?????? 1989, ?. 1737, ??? 10).

17 – ??., ??' ????. ??? ??????, ??????? ?? 14?? ?????????? 2000, C?142/99, Floridienne et Berginvest (?????? 2000, ?. I?9567, ???? 19).

18 – ??., ?? ???? ?????? ??????? ?????????? ??????????, ??? ??????? ??? 27?? ??????????
2000, C223/98, Heerma (?????? 2000, ?. I?419, ??? 8).

19 – ?. ?????????????? ??????? Town and County Factors, ????? 21, ?? ????? ?? ??????? ??
?? ?????????? ?? ??????????? ?? ??????? ?????? ?????? ?????? ?? ??????????? ????? ???, ??????
????????? ?? ?????????? ?????????? ?????? ????? ?????? ?????? ?????? ?????? ??? ????
?????????.

20 – ?. ??????? ?? 26?? ??????? 1987, 235/85, ??????? ???. ????. ???? (?????? 1987, ?. 1471, ????. 14).

21 – ?. ??????? ?? 25?? ??????? 1991, C?202/90, Ayuntamiento de Sevilla (?????? 1991, ?. I?4247, ??????? 11 ??? 15).

22 - ???.???, ?????? 13.

23 - ??, ???????????????, ??????? Heerma, ???? 8.

24 - ??, ??????????????? ??????? DFDS. ????? 26.

«???? ??? μ??? ??μ??? ??????? ????? ?????????????? ??? μ?? μ???μ?? ????????????????, ??
?????????? ??? ??????????? μ?????? ?????? ??? ?????????????? ??? ??????????? ?? ???????
??????????.»

????? ??????????? ??????????? ?? ??????????? ??? ? ?????????? ?????????? ???
????????? ???????, ?? ?? ??????????? ?? ??????? ??? ??? ?????????? ???, ??
?????????? ?? ??????????? ?? ??????? ??? ?? ??????????? ?? ?????? ???????, ??
????????? ?? ??????? ?? ??? ??????? ??????? ?? ?????????? [?????????? ?? ?? ???????????
?????????? ?? ??????????? ??????? ?? ??? ??????? ??????? ?? ??????????? ?? ?? ??
?????????? ?? ??????? 77/388/E?? ??? ????? ?? ??? ????? ?????? ?????? [(COM(2003)
822 ?????— 2003/0329 CNS (?? 2004, C 117, ?. 15)].

26 – ? ??????????? ???. ????. ?????????? ???. ????. ?????????????? ??????. ????. ????. ?????????? ???.
????????????? ???. ?????????? ???. ?????????? ???. ????. ????. ??????. ????. ???. ????. ??????????????
????????? ???. ????. ???. ?????????? ???. ????. ?????????? ???. ??????. ????. ??????. ????. ??????. ????.
????????? ???. ????. ??????. ????. ??????. ????. ?????????????? ???. ????. ??????. ????. ??????. ????.
?????. ????. ????. ??????. ?????????????? ???. ????. ??????. ????. ??????. ????. (??.. ??????
?????. ??????. ??????. ????. ????. 18 ????. ??????. 2000/12).

27 – ??????? ?? ?? ?????? 13 ??? ?????? 2000/12, ?? ?????? ?????? ?????????? ??? ?????? ??
????????? ??? ?? ??????? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ???
????????? ?????? ???????.

28 – ???. ??????????????? ??????? Berkholz, ????? 17, ??????? ??? 2?? ????? 1996,

C?231/94, Faaborg-Gelting Linien (?????? 1996, ?. I?2395, ???? 16), ??? ????????????????????? ARO Lease, ???? 15, DFDS, ???? 19, ??? Lease Plan Luxembourg, ???? 24.

29 – ???. ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? 11.

30 – ??., ??' ??? ?? ??????, ?????????????? ??? DFDS, ???? 23.

31 – ???. ??? ?? ??? ?????, ?????? 25.

32 – ?????????? ??? ?? ??? ?????? ??? ?????? ???:

«??? ??? ?????????? ??? ?????????? ???????, ?????????? ?? ?????????????? ??? ??? ?? ?????????????? ??? ?????????? ??? ??????? ???? ?????????? ??? ?????????? ??? ?????? 4
????????? 1 ??? ????? ???????, ? ?????? [...] ??? ????? ??? ????? ????? ????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????????? ??? ?????? ??? ?????????? ?????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? [...]».

33 – ? ?????????? ?????????? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ?????????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
????????? ??? ???????????, ?????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????????? ???? ?????? ???
??? ?????????? ???? ?????? ?????????? ?????? ?????????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????????? ??? ?????? ???
??? ?????? ??? ?? ??? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
(?????? 21 ??? ?????? ?????????????? ???).

34 – ??????? ??? ?? ?????????? ??? ?????? ?????????? ?? ?????????? ?????????? ??? ?????????? ?????????? ???
?????? ?????????????? ?????????????? (?? 1990, L 225, ?. 10).

35 – ? ?????? ??? «?????? ??????????????» ?????????? ??? ?????? 5 ??? ??????????????
????????? ??? ????. ??????? ?? ?? ??????? ???, ?? ??? ?????? ??? ?????????????? ???
?????? ?????????? ?????????? ??? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ????. ?????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???, ??
?????????????, ?? ???????, ?? ??????????, ?? ?????????? ???.

36 – ???. ?????????????? ??? DFDS, ???? 23.

37 – ???. ?????????? ??? 23?? ?????????? 1988, 230/87, Naturally Yours Cosmetics (??????
1988, ?. 6365, ???? 16), ??? 2?? ?????? 1994, C?33/93, Empire Stores (?????? 1994, ?.
I?2329, ???? 18), ??? 22?? ?????????? 1998, C?308/96, Madgett ??? Baldwin (?????? 1998,
. I?6229, ???? 40), ??? ??? 3?? ?????? 2001, C?380/99, Bertelsmann (?????? 2001, ?.
I?5163, ???? 22).