

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

YVES BOT

??? 13?? ??????????? 2007 (1)

?????? C?401/06

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

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

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

1. ? ??????? ??????????? ??? ??????????? ?????? ??? ?????????? ??? ??????????? ??? ???????  
??? ??????????? ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????? ??  
????????????? ??? ?????????? ??? ???????, ??? ??? ??????? ?? ?????? ??? ?????? ?????? ??????????????  
????? (?? ????: ???). ?? ?????????? ??????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??????????  
???? ??? ??? ??? ? ?????????? ??????? ??? ?????? ?? ?????????????? ???.

2. ? ??????? ??? ?????????? ??????????? ??????? ??? ?????? ??? ??????? ??? ??? ?? ??? ??  
????????? ??? ??????? ?? ??????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???????,  
?????? ?? ??? ?????????? ??? ?????? 9, ?????????? 2, ??????? ??, ??? ??? ?????? ???????  
77/388/??? ??? ?????????? (2), ??? ??? ?????? ??? ?????????? ??? ?????? ?? ??????????.

3. ?? ?? ??????? ??????? ? ??????? ??? ?????? ??? ?? ?????????? ?? ??????????? ??? ??  
????????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ?? ?????????? ??? ?? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??  
????? ?? ??? ?????????????? ?????????? ?????????? ??? ?????????? ??? ?? ?????????? ??? ??.

I – ?????? ???????

? – ?????????? ???????

4. ? ??? ?????? ?????? ??????????? ??? ?????? ??? ?????? ?????????? ??? ??? ??? ?????????? ??? ???????.  
?????? ?? ?? ??? 2, ??????? 1, ??? ?????? ???, ? ??? ?????????? ??? ?????? ??? ??????? ??? ???????  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????? ??? ??????? ??? ???????  
???? ??? ??? ??? ??????? ??? ??? ?????????? ??? ???.

5. ??? ?????? 9 ??? ??????? ??????? ?????????????? ? ?????? ?????????? ??? ??????  
?????????, ??????????? ?? ?????????? ?? ?????? ??? . ???? ?? ?????? ???? ?? ??????????  
??? ??????? ???? ??? ?????????? ?????????? ?????? ??? ?????, ? ?????? ?? ??????  
?? ??????? ?? ?????? ???????, ???? ???? ?? ?????????? ?? ??????????.

6. ?? ?????? 9, ?????????? 1, ??? ?????? ??????? ?????????? ??? ?????? ??????, ??????? ??  
??? ?????? ?? ?????? ??????? ?????????? ??? ?????? ?????? ???? ?????? ??? ?????????? ???  
????????????? ??? ?????? ??? ?????????????? ??? ?????????????? . ????, ?????? ?? ????  
????? ?????? ??? ???????, «?? ?????? ??????? ?????????? ?????????? ? ???? ???? ??????????  
????????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ??? ??  
????? ?????????? ?? ???????, ??????? ?? ??????, ? ?????? ??? ?????????? ? ??????????  
????????? ???».

7. ?? ?????? 9, ?????????? 2, ??? ?????? ??????? ?????????? ?????? ?????????? ??????????  
?????????. ???? ?? ??????? ??????? ?? ?????????? ?? ??? ??????????.

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

9. ? ?????? ?????? ?????????? ??????? ?????????? ?????????? ?? ?????? ?????? ??????????  
?? ???? ??? ?????? ??? ??????????. ????, ???? ?? ?????????????? ??? ?????? ?????? ??????????  
????? ??? ?????? ?????? , ?? ???? ?? ?????? ?????? ?????????? ?????????? ???' ???? ??  
????????? ? ?????? ???? ? ?????? ??? ?????????? ??? ?????????????? ??? ?????? ???  
????????????? ??? ?????????????? , ?????? ??? ?????? ?????? , ?? ???????, ?? ?????????? ???  
????? ??? ?????? ??? ?????? , ?????? ??? ?????????? ?????????? ?????????? ???  
????????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?? ??????  
????????????? ??? ?????? ??? ??????.

10. ?????? ?? ??????? ?????????? ?????????????? ??? ?????? 9, ?????????? 2, ??????? ??,  
??? ?????? ??????. ????, ??? ?????? ?????? ?????? ?????????????? , ??? ?????????? , ?  
????????? ??? ?????????? ?????????? ?????????? ?????????? , ? ?????? ??????????????  
????????? , ?? ?????????? , ?????????????? ??? ?????????? ?????????? ??? ?????? ??  
????????? ??????.

11. ??? ?????? ?????????? ???? ?? ??? ??????? ?????????? ?????? ? ?????? ??????????  
??? ?????????? ???? ??? ?????? ?????????? ?????? ?????? . ?? ?????? 9, ?????????? 2,  
??? ?????? ?????? ??? ??????:

«?? ??????:

[...]

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

?????????????? ??? ?? ???? ????? ?????????????? ?? ?????????? ??????, ?????????? ?? ?????? ?  
????? ?? ???? ??????? ??? ? ?? ?????? ?????? ?????? ???:

[...]

- ?????? ?????????? ??? ??????????, ??????????, ?????? ??????, ??????????,  
????????? ??? ?????? ?????????? ??????, ?????? ??? ? ?????????? ?????? ??? ? ??????  
???????????,

[...]»

12. ?????, ?? ????? 9, ?????????? 3, ??? ????? ?????? ??????????:

«???? ?????? ?????????? ?????? ??????????, ?? ?????????????? ? ?????????????? ???  
???????????, ?? ?????? ??? ??????, ??? ?????? ??? ?????? ?????? ?????????? ???  
????????? ??? ?????? ?????? 2, ????????, ??? ?????? ??? ?????? ?????????? ?????????? ??????  
??????, ?? ??????:

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

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

? – ?? ?????? ??????

13. ?? ????? 3a ??? ?????? ??? ?????? ?????? ?????? ?????? (Umsatzsteuergesetz, ??? ???:  
UStG) ??? ??? ?????? ??????:

«1) ? ?????? ?????????? ?????????????? ??? ?????? ??? ? ?????????????? ??? ??  
????????????? ???, ?? ??? ?????? ??? ?????? 3b ??? 3f [...]】

[...]

3) ?? ? ?????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? 4 ????????  
???????????, ? ?????? ?????????? ??????????, ??? ?????????? ??? ??? ?????????? 1, ???  
????????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????????? ???.[...]

4) ??? ??? ?????? ??? ?????????? 3, ?? “????????? ??????????” ??????????:

[...]

3. ?? ?????? ??? ?????? ??? ?????????????? ??? ?????????? [...], ??? ??????????  
????????? [...], ?????????? ?? ? ?????? ??????, ?????????? ??? ?????????? ??????????.

[...]»

14. ?? ?????? 33 ??? ?????????????? ?????? ??? ?????? ?????? ?????? ??????????  
(Umsatzsteuer?Richtlinien) ?????? ??? ?? ?????? 3a, ?????????? 1, ??? UStG ??????????  
????? ?????? ?????????? ??? ?????????? ??????????.

15. ?????? ?? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ?? Bundesfinanzhof  
(?????????), ?? ?????? ?????? ??? ?????? ?????? ??????????, ?????????????????? ???

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

## II – ?????????? ??? ??????? ??? ???????

16. ? ?????????? ?????? ??? ?????? ?????????? ??? ??????? ??? ?????? ?? ??????????????  
??? ?????????? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ? ???  
????????????? ??? ?????? ?????????????? ?? ?????? ?????? ??? ?????? ??? ?????????? ???  
????????????? ??? ?????? ?? ??? ?????????? ??? ?????? 9, ?????????? 2, ?????????? ?, ???  
?????????, ??? ?????? ??????. ?????????? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? 19? ?????? 2005.

17. ? ?????????? ?????? ??? ????????, ?? ?????? ??? 23? ?????? 2005,  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????????? ?? ??? ?????? ?????????? ??? ?????? ??? ?????????? ???  
??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? 9, ?????????? 2, ?????????? ?,  
????? ????????, ??? ?????? ??????.

18. ? ?????????? ?????? ?? ??? ?????? ??? ??????? ??? ?????? ?? ??? ?????????? ???  
????????? ?????????? ??? ?????? ?? ?????????? ??? ?????? ?? ?????????? ??? ?????? ??? 19  
????????? 2005.

19. ? ?????????? ?????? ??? ?????? ??? ??????? ??? ?????? ??? ?????? ??? ?? ?????? ???  
????? 2 ?????? 2006.

20. ? ?????????? ?????? ??? ?????? ?????????? ?? ??? ??????? ??? ?????? ??? ??????????  
??? ?????????? ??? ?????????? ??? 27 ?????????? 2006. ? ?????????? ??? ??????????  
??? ?????????? ?????????? ?? ?????? ?????????? ??? ?????????? ??? ?????? ???  
????????????? ??? ?????????? ??? ?????????? ??? ?????? 20 ?????????? 2006. ? ??????????  
????????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ??????????.

21. ?? ??? ?????? ??? ??????? ?? ?????????? ?????????? ??? ???????????. ?? ?????????? ???  
????? ??? ??? ?????? ?????? ??? ?????? ???.

22. ? ?????????? ?????? ??? ?? ?????????? ?? ?????????? ??? ? ?????????? ??? ??????????  
??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?? ?????? 9, ?????????? 2, ??????????  
??, ??? ?????? ??????, ?????? ? ??? ?????? ?????? ??? ?????????? ??? ?????????? ???  
??? ?????????? ??? ?????? ?? ??? ?? ?????? ?????????? ??? ?????????????? ??? ?? ??????????  
????????? ?? ?????? ?????????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????????  
????? ?????????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???  
????? ?????????? ???.

23. ? ?????????? ??? ?????? ??? ??????? ??? ?????? ??? ?????????? ???.

24. ? ?????????? ??? ?????? ??? ??????? ??? ?????? ??? ?????????? ??? ?????????? ???  
??? ??? ?????? ??? ?????? ??? ?????????? ???.

## III – ?????????????????? ??? ???????

25. ?????????? ??????????? ??? ? ?????????? ?????? ?????? ?????? ??? ? ?????? ???  
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?? ??????????? ?????? ?? ???  
????????? ??? ?????? 9, ?????????? 2, ???????? ?, ??? ?????? ?????? ??? ???  
????????? ??????.

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

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

28. ?? ?????????? ??? ?????????? ?????? ?? ?????????? ?????? ?? ?????????? ???  
?? «????? ?????? ??????» ??? ?????????? ??? ?????? 9, ?????????? 2, ????????,  
????? ????????, ??? ?????? ??????. ?? ?????? ??? ?????? ?????????? ??? ??????????  
????????? ?? ?????????? ??? ?????? ?? ?????? ??? ?????? ?????????? ??? ??????  
????????????? ??? ?????? ?????????? ?? ?????? ?? ??????. ?? ?????????????? ???  
????????? ??? ?????? ?????????? ?????? ?? ?????? ?????? ?????? ?? ?????????? ???  
????????????? ?????? ?????? ?????? ??????. ??? ?????? ??? ?????????? ?? ?????????? ???  
????????????? ?????? ??? ?????? ?????? ?????? ?????? a fortiori ??? ??? ?????? ??? ?????????? ???.

29. ? ?????????? ?????????? ??? ?????? ??? ?????????????? ?????? ??? ?????????? ???  
? ?????????? ??? ?????? ???, ?????? ?? ??? ?????? ? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??????????  
????? ?? ?????????? ?????? ?? ??? ?????? 9, ?????????? 2, ????????, ???, ???  
?????????, ??? ?????? ??????. ??? ??? ??????, ?????? ?? ?????????? ?????? ??????,  
????????? ??? ?????? ?????????? ??????, ?? ?????? ?? ?????????? ?????? ??????  
????????? ?????? ??? ?????? ?????? ??? ??????. ?? ?????????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????????? ??????????  
????????? ?????? a fortiori ??? ??? ?????? ??? ?????????? ??? ?????????? ???.

30. ? ?????????? ?????????? ??? ?????? ??? ? ?????????? ??? ?????? ??? ?????????????? ???  
?? ?????????? ??? ??? ?????? ??? ?????? 9, ?????????? 2, ??? ?????? ??????. ??? ??  
????????, ??? ? ?????? ??? ?????? ?? ?????????? ?? ?????? ?? ?????? ?????????? ???  
????????? ?????????? ??? ?????? ?????? ??? ?????? ? ?????????? ?????????? ??? ?????? ???  
????????? ?????????? ??? ?????? ?????? ?????? ?????????? ?????? ??? ?????? ??? ??????  
?????????, ?????? ?? ?????? ??? ?????? ?????? ?????????? ??? ?? ?????????? ??? ??????????  
???? ??????.

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

32. ?????????????? ?????????? ??? ?????????? ?????????? ??? ?????? ??? ?????? ??? ????  
????????? ????.

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

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

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

36. ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ???  
?? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???,  
?? ?????? ??? ?????? 9, ?????????? 2, ?????? ??, ??? ?????? ?????????, ??? ?????? ??????.

#### IV – ?????? ??????????

37. ??? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ???  
????????.

38. ??????, ??? ?????? ??? ? ???????, ?? ?????????? ??? ?????? 9, ?????????? 2,  
????????? ??, ??? ?????? ??????? ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? ??? ??????  
????? ??? ?????????? ??? ?????? ?? ?????? 9, ?????????? 1, ??? ?????? ??? ?????? ??? ??  
????????? ??? ?????????? ??? ?????? ?????????? . ?????? ?????? ?????????? ??? ?? ?????? 9,  
????????? 2, ??? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????????? ???????, ?????? ?? ??????  
????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??  
?? ?????? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? 9, ?????????? 1, ???  
????? ??????, ??? ??? ? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ??  
????????? (3).

39. ??????, ?????? ?????? ?????? ?????? ??? ?? ?????? 9, ?????????? 2, ?????? ??, ???  
????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? (4).

40. ?? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ??? ?? ??????????  
??? ?????? ? ?????????? ?????? ?????? ??? ?????? ?????? ?????????? ??? ?????? ??? ??????  
????????? ?????? ??? ?????? 9, ?????????? 2, ?????? ??, ??? ?????? ?????????? ???  
????? ??????, ??? ?????? ?????????? ? ??????.

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

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

42. ?????? ?? ??? ?????????????? ???? ??? ??????? ??????, ? ?????? ?????????? ???  
????????? ???? ??? ?????????? ?????? ? ?????? ? ?????????? ? ?? ?????????? ???  
?????????. ?????? ???? ??? ?????? ??? ???????, ???? ??? ?????? ??? ?????? ?????????? ????

43. ? ?????? ??? «?????», ??? ?????????????? ??? ?????? 9, ?????????? 2, ?????????? ?,  
??? ?????? ??????, ??????, ??? ?????? ???, ??? ?????? ?????? ?????? ?????? ?????? ?????? ???  
????? ???? ??? ?????????? ??? ???????.

44. ??? ? ?????? ?????? ?????? ???' ?????? ??? ?????? ?? ?????? ??? ???, ? ?????? ??????,  
?? ??????, ??? ?????? ??????????. ? ?????? ??? ?????? ? ??? ?????????? ?????? ???  
????????? ???? ?????? ??? ??????, ??? ?????? ?????? ?? ?????????? ? ?????????? ???  
????? ? ??? ?????????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
??? ??????????????, ?? ?????????? ??? ?????? ???, ??? ?????? ??? ?? ?????? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???.

45. ???, ??? ?????? ??? ???, ?????? ? ?????? ?????????? ?? ???? ?? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???, ?? ???  
????? ??? ?????? ??? ??????????, ??? ?????? ??? ?????? ?????? ?????? ?????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ??? (5).

46. ? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ???  
????????? ?????????? ??????????, ???? ??? ?????? ???, ???? ??? ?????? ??? ?????????? ???  
????? 9, ?????????? 2, ?????????? ??, ??? ?????? ??????. ?????? ??? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ??? ?????? ?? ?????????? ??? ? ?????????? ?????? ?????? ?????? ?????? ???  
??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ???  
????? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ? ?????????????? ??? ?????? ?????? ???  
?????????.

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

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

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

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

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

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

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

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

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

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

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

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

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

50. ????????, ?? ??????? ??? ? ?????????????? ?????????? ??? ??? ??? ??????, ?? ??? ???????????, ?? ?????????????? ???????, ??? ? ?????? ??????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? 9, ?????????? 2, ??????? ??, ??? ?????? ??????? ??? ?????? ?? ?????? ?? ??????????? ?? ??????? ??? ?????? ??? ???????.

51. ???????, ?????????? ??' ?,?? ?????????????? ? ????????, ??? ????? ?????????????? ??? ?  
?????? ?????????? ??? ?????????? ??? ?????????? ? ?????????? ?????????? ?? ?? ?????? ??????  
???? ?????????? ? ???????????, ? ??????, ???????????, ??? ?????? ?????? ?? ?????? ? ??????  
??????????, ??????????? ??? ?????? ??????? ??? ?????????? ?? ?? ??? ??? ??? ?????? ??????  
????????? ??? ? ?????????????? ??? ?????????? ?????.

52. ?????????????? ?????????? ??? ???? ? ?????? ? ?????????????? ??? ?????????????? ??? ?????????? ?  
?????????? ???????, ????, ???? ?????????????? ??? ? ?????????????? ?????????????? ??? ?????????? ???  
??????????, ?? ???? ???? ?????????? ?????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??????????  
??? ?????????? ???? ??? ?????????????? ???? ??? ?????????? ???? ??? ?????????? ???? ??????????. ?????? ?????? ?  
?????????? ?? ?????????? ?? ?????? ??? ?????????? ???? ??? ?????????? ???? ??? ?????????? , ?????? ????  
?????????? ???? ?? ?????????? ???? ?????????????? , ?????? ???? ? ?????? ???? ?????? ?????????? ??  
????????? ?? ???? ?? ??? ?????????? ???? ?????????? ??????????. ?????? , ?????? ?? ?????????? ???  
????????? ???? ?? ???? ??? ?????????? ???? ?????????? ???, ?????? ?????????????? ???? ? ?????????????? ???  
??? ?????????? ? ?? ?????? ?????????? ???? ?? ?????? ?????????? , ? ?????????????? ?????? ???  
????????????? ???? ?????????? ???? ?????? ?? ?????????? ?????? ??? ?????????????? ???? ?????????? ?????  
????????????? ?????? ????

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

54. ??? ?????? ??????, ??? ???? ???, ??? ??????? ?????????? ?????? ? ?????????????? ???  
????????? ??? ???? ??? ?????????????? ??? ??????? ?????????? ?? ?????????? ?? ????  
????????? ??? ???? , ?????????? ??? ?????????? ??? ???? ??? ?????? ??? ?????????? ???  
??? ?????????????? , ?????????? ??? ???? ?????????? ??? , ??? ?????????????? ??? ????  
????????? ?????? ??? ?????? ?????????? ?????? ??? ?????? ?????? (6).

55. ?????, ? ??????? ??? ?????????? ?? ?????? ?????? ?????????? ??? ?????? ???  
9, ?????????? 2, ??????? ?, ??? ?????? ?????? ? ?????????? ??? ?????? ?????????? ???  
????????? ?????? ?? ??? ?????? ?????????? ??? ?????????? ?????, ??? ???? ?????????? ??  
????? ???? ??????.

56. ??? ?????????? , ?? ??? 9 ??? ?????? ??? ?????? ??? ???? ???? ?????????? ???  
????????? ?? ?? ?????????? . ? ??????? ??? ?????????? ??? ?????????? ???? ???? ??????????  
????????? ?? ??? ??? ??? ?????? ?????? ??? ?????????????? ???, ??? ?????????? ?  
????????? ?????????? ?????????? , ?????????? ?? ?????????? ??? ?????????? ??? ??????????  
??? ?????????? ??? ?????????? ?????????? ?????????? ??? ???? ??? ?????? ?????? ??????  
????????????? , ?????????? ??? ??? ??? ?????? ?????? ? ?????? ??? ?????????? ??? ?????????? . ? ???  
??? ?????? ?????????? ? ?????? ??? ?????? ??? ???? ??? ?????????? ?? ?????????? ??? ???? ??? ???? ??  
????????? ??? ?????? ? ?????????? ?????? ??? ?????? ??? ?????????? ??? ???? ?????????? ???  
????????? ?????? ?????? ??????.

57. ?????????? ??? ?????? ?? ????????, ??? ???? ???? ? ?????????? ??? ?????????? ???  
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ??? ???? ???? ???? 9,  
????????? 2, ??????? ?, ??? ?????? ?????? ?? ??? ?????????? ??? ???? ???? ?????????? ???  
???? ???? ??? ?????? ??? ?????????? ??? ?????????? ?????? ??? ?????? ??? ??????????  
???? ?? ?????????? ??? ?????? ?????????? ?? ?????? ?????????????? ??? ?????? ??? ??????????  
?? ?????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????????? , ??? ???? ???  
????? ??? ?????????? ???.

58. ?????? ?? ??? ?????????? ??? ?????? 69, ?????????? 2, ??? ?????????? ?????????? ,  
??? ?? ?????????? ??? ?????? ??? ?????? ???, ? ?????? ?? ?????? ?? ?????? ??? ?????????? ??  
????????? ???.

V – ??????

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

1 – ?????? ??? ??????????: ? ??????.

2 – ?????? ??? 17?? ??? 1977, ??? ?????????? ??? ?????????? ?? ?????????? ??? ?????? ???  
????????? ?? ??? ?????? ?????? ?????? – ?????? ?????? ??? ?????????????? ????:  
????????? ?????????? ??? (?? ????. ???.. 09/001, ?. 49, ??? ????: ??? ??????).

3 – ?????? ??? 6?? ?????? 1997, C-167/95, Linthorst, Pouwels ??? Scheres (?????? 1997,  
. I?1195, ?????? 10 ??? 11, ?????? ??? ??? ?????????????? ??????????).

4 – ?????? ??? 16?? ?????????? 1997, C-145/96, von Hoffmann (?????? 1997, ?. I?4857,  
????? 17).

5 – ??????? ??? 23?? ??????? 2006, C?210/04, FCE Bank (?????? 2006, ?. I-2803, ???? 34, ??? ??? ??? ?????????????? ??????????).

6 – ??? ??? ??? ??? ??? ??????? ??????? ??? ? ??????? ??????? ?? ??????? ?? ??????? ??? ??????? ??? ?????????? ??? ?????????? ?????????, ??? ??? ??????? ??? ??????? 9, ?????????? 2, ??????? ??, ??? ??? ???????, ??????? ?? ?????????? ??? ?????????? ??? ?????????? ??? ??????? ??, ??? ??? ???????.