

@import url(../../../../css/generic.css); EUR-Lex - 61995J0188 - EL

Avis juridique important

/

61995J0188

?????? ??? ?????????? ??? 2?? ?????????? 1997. - Fantask A/S ??. ???. ???
Industriministeriet (Erhvervministeriet). - ?????? ??? ??? ?????? ?????????????? ??????????:
Østre Landsret - ??. - ?????? 69/335/??? - ??? ?????? ??? ?????? - ??????
????????? ??????. - ?????? C-188/95.

?????? ??? ?????????? ??? ?????????? 1997 ?????? I-06783

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

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

1 ?????????? ?????? - ?????????? ??? ?????????? - ?????? ?????? ??? ?????????? ???
????????????? ?????? - ?????? ??? ?????????? ?????? - ??? ??????????????
????????? - ?????? - ??? ?????? ?????? ?????? ??? ?? ?????????? ?????? - ???
?????????????

(????? 69/335 ??? ??????????, ??? 12 § 1, ????. ??)

2 ?????????? ?????? - ?????????? ??? ?????????? - ?????? ?????? ??? ?????????? ???
????????? ?????? - ??? ?????????? ?????? ?????? ?????? ??? ?????? 69/335 -
????????? - ?????????? - ?????? ??? ?????? ?????? - ??? - ?????? ??? ??????
????? ?????? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????????? ???
????????? ?????? ??? ?????? ?????? ?????? ??? ??? ?????? ?????? ??? ?? ??????
????? ??? ??? ?? ?????????? ??? - ??????????

(????? 69/335 ??? ??????????)

3 ?????????? ?????? - ?????????? ??? ?????????? - ?????? ?????? ??? ?????????? ???
????????? ?????? - ??? ?????????? ?????? ?????? ?????? ??? ?????? 69/335 -
????????? - ?????????? ?????? - ?????? ??? ?????? ?????? - ?????????? -
???????????

(????? 69/335 ??? ??????????)

4 ??????????? ?????????? - ?????????? ??? ?????????? - ??????? ?????? ??? ?????????? ???
????????????? ?????????? - ?????? 69/335 - ????? 10 ??? 12, ?????????? 1, ?????????? ? -
????? ??????????

(?????? 69/335 ??? ??????????, ??? 10 ??? 12 § 1, ??????. ??)

?????????

5 ?? ?????? 12, ??????????? 1, ?????????? ?, ??? ??????? 69/335, ??? ???? ?????? ?????? ???
????????????? ??? ?? ?????????????? ??????????, ?????? ?? ?????????? ??? ?? ?????? ???
???, ??? ?? ?????? ?????????????? ??????????, ?? ??? ???? ??? ?????? ??? ?????????????? ???
????????? ??? ?????????? ?????????? ??? ??? ?????????? ?????????????? ?????????? ??? ??? ???
????????? ?????????? ??? ?????????? ?????? ?????? ??? ?????????????? ?? ??? ??? ?????? ??
?????? ??? ?? ??? ??????????????, ?????????????????? ??? ?? ??? ?????? ??? ?????? ?????? ??
????????? ??? ?????????? ??? ?????????? ?? ?????????? ?????????? ?????????? ???
????????????? ????. ??? ??? ?????????? ??? ?????? ?????, ??? ?????? ?????? ?????? ??????????
?? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ?????????? ??????????????,
????????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ?? ??? ?????????? ??? ??????
?????. ???????, ?? ?????? ?????? ??? ?????? ??? ?????????? ?? ?????????? ???' ?????????? ??? ??
?? ?????? ?? ??? ?????? ??? ?????? ??? ??????, ?????? ???????????, ?? ?????????? ??????????,
?? ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??????.
????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???'
????????? ??? ?????????? ?????????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ?????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? 12, ?????????? 1, ?????????? ??, ???
??????, ??? ?? ??? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????????? ?????????? ? ?????????? ??? ?????? ??? ?????? ??????????????

6 ?????????? ?????? ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ?????? ?? ??????
????? ?????????? ?????? ??????? ?????? ??? ?????? 69/335, ?????? ? ?????? ?????? ??? ?????? ?????
????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ?????? ??????, ??? ?????? ??? ?? ?? ???
???? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?????? ?????? ??? ??
????????? ??? ??? ?? ?????? ?????????? ??? ? ?????? ?????? ??? ?????? ?????? ?????? . ???,
????????? ?????????? ?????????? ??????????, ?????????? ? ?????????? ?????? ?????? ??????????????
???? ?????????? ??? ?????????? ?????? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ??? ??????
??? ??????????, ?????? ??? ?????, ??? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ??????????
?????????, ?? ?????????? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?????? ??? ??????
??? ?????? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????
????? ?????? ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ? ??????????
????? ????. ? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ??? ?????? ???
????????? ?????? ?????? ?????? ?? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??
????? ?????? ?????????? ??? ?????? ?????? ??? ?????? ?????? ??????, ?????????? ??? ???
????????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ???
?? ?????????? ??? ?? ??? ?? ??? ?????? ??? ?????? ?????????? ??? ? ?????? ?????? ??? ?????? ??? ??????
?? ??? ?????? ?? ?????????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???
????????? ?????? ???, ??????, ?? ?????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ???
????????? ?????? ?? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???

???? ?????????? ??????????? ?????? ?? ?????? ?????????????? ??? ?????????? ??? ?????? ??? ?????
????????? ?????????? ??? ?????????? ?????? ?? ?????? ?????? ?????? ?? ?????? ??? ?????
????????? ??? ?????? ?????? ?????? ?? ?????? ?????? ??????????, ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????? ?? ?????? ?????? ?????????? ??? ?????????? ??? ??????
????????? ?????? ??' ?? ???? ?? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ??????
????? ??? ??? ?????? ?????????? ?????? ?? ?????????? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ?????? ?????? ?????????? ?????? ?? ?????????? ?????? ??? ?????? ??? ??????

8 ?? ?????????? ??? ?????? 10, ?? ?????????? ?? ??? ?????????? ??? ?????? 12, ??????????
1, ??????? ??, ??? ?????? 69/335, ?????????? ?????????? ?? ?????? ?? ?????? ?????? ??????
?? ?????????? ?????? ?? ?????? ?????????? ??????????. ???????, ? ?????????? ??? ?????? ??
????? 10 ??? ??????, ??? ?????? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??
????? 12, ?????????? 1, ??????? ??, ?????????? ?? ?????? ?????? ?????? ?????? ??? ??????
????????????? ??? ?????? ?????? ?? ?????? ?????? ?? ?????? ?????????? ?????? ??? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ??????

?????????

???? ?????? C-188/95,

??? ??? ?? ?????????? ??? ?????? ??? ?stre Landsret (?????) ??? ?? ??????????, ???'
????????? ??? ?????? 177 ??? ?????? ??, ?? ??? ?????? ??????, ??? ?????? ???
????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??????

Fantask A/S ???.

???

Industriministeriet (Erhvervsministeriet),

? ?????? ?????????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? 69/335/??? ??
?????????, ??? 17?? ?????? 1969, ??? ??? ?????? ?????? ??? ?????????????? ??? ??
????????????? ?????? (?? ???. ???. 09/001, ?. 20), ??? ?????????????? ?? ??? ??????
85/303/??? ??? ??????????, ??? 10?? ?????? 1985 (?? L 156, ?. 23)

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

????????? ??? ??? G. C. Rodr?guez Iglesias, ???????, C. Gulmann, H. Ragnemalm ??? M.
Wathelet, ???????, G. F. Mancini, J. C. Moitinho de Almeida, P. J. G. Kapteyn, J. L.
Murray, D. A. O. Edward, J. -P. Puissochet (????????), G. Hirsch, P. Jann ??? L. Sev?n,
??????,

?????? ??????????: F. G. Jacobs

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

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

- ? Fantask A/S, ?????????????? ??? ??? Thomas R?rdam, ??????? ????????????,

- ?? Norsk Hydro Danmark A/S, Tryg Forsikring skadesforsikringsselskab A/S ??? Tryg Forsikring
livsforsikringsselskab A/S, ?????????????? ??? ??? Kai Michelsen, Claus H?eg Madsen ???

Henning Aasmul-Olsen, ?????????? ??????????,

- ? Aalborg Portland A/S, ?????????????? ??? ??? Karen Dyekj?r-Hansen, ????????
???????????,

- ?? Forsikrings-Aktieselskabet Alka, Robert Bosch A/S, Uponor A/S, Uponor Holding A/S ??? Pen-
Sam ApS ???, ?????????????? ??? ??? Vagn Thorup, Henrik Stenbjerre, J?rgen Boe ???
Lau Normann J?rgensen ??? ?????????? ???????? Kromann ??? M?nter, ????????????
???????????,

- ? ?????? ????????, ?????????????? ??? ??? Peter Biering, ?????????? ?????????? ???
????????? ????????, ?????????????? ??? ??? Karsten Hagel-S?rensen, ????????
???????????,

- ? ?????? ????????, ?????????????? ??? ??? Catherine de Salins, ?????????????? ???
????????? ????????, ??? ?????????? ??? ??? Fr?d?ric Pascal, charg?
de mission ??? ??? ????????,

- ? ?????? ????????, ?????????????? ??? ??? Erik Brattg?rd, ??????? ??? ??? ???
????????? ??? ??????? ??? ?????????? ????????,

- ? ?????????? ??? ????????, ?????????????? ??? ??? John E. Collins, Assistant
Treasury solicitor, ?????????? ??? ??? Eleanor Sharpston, barrister,

- ? ?????? ??? ????????, ?????????????? ??? ??? Anders C. Jessen ???
Enrico Traversa, ??? ??? ?????? ????????, ?????????????? ??? ??? Susanne Helsteen
??? ??? Jens Rostock-Jensen, ??? ?????????? ???????? Reumert ??? Partnere, ????????????
???????????,

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

???? ?????? ??? ?????????? ?????????????? ??? Fantask A/S, ?????????????? ??? ???
Preben J?ker Thorsen, ??????? ????????, ??? Norsk Hydro Danmark A/S, Tryg Forsikring
skadesforsikringselskab A/S ??? Tryg Forsikring livsforsikringselskab A/S, ?????????????? ???
??? ??? Henning Aasmul-Olsen, ??? d'Aalborg Portland A/S, ?????????????? ??? ??? Lars
Hennenberg, ??????? ????????, ??? Forsikrings-Aktieselskabet Alka, Robert Bosch A/S,
Uponor A/S, Uponor Holding A/S ??? Pen-Sam ApS ???, ?????????????? ??? ??? Henrik
Peytz, ??????? ????????, ??? Industriministeriet (Erhvervsministeriet), ?????????????? ???
??? ??? Karsten Hagel-S?rensen, ??? ??????? ????????, ?????????????? ??? ??? Peter
Biering, ??? ??????? ????????, ?????????????? ??? ??? Gautier Mignot, ??????????
????????? ????????, ??? ?????????? ????????, ?????????????? ??? ??? Danilo Del Gaizo, avvocato dello Stato, ???
????????? ??? ??????? ????????, ?????????????? ??? ??? John E. Collins,
????????????? ??? ??? Eleanor Sharpston, ??? ??? ????????, ?????????????? ??? ???
Anders C. Jessen ??? Enrico Traversa, ?????????????? ??? ??? Jens Rostock-Jensen ???
Hans Henrik Skj?dt, ??????? ????????, ??? ??? ?????????? ??? 29?? ??????? 1997,

???? ?????? ??? ??????? ?????????? ??? ??????? ??? ?????????? ??? ??? ??? ??
??? 26?? ??????? 1997,

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

???????

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

1 M? ??????? ??? 8?? ??????? 1995, ??? ??????? ??? ??????????? ??? 15 ??????? 1995,
?? ?stre Landsret ???????, ???' ?????????? ??? ??????? 177 ??? ??????? ??, ???
?????????? ??????? ?? ??? 69/335/??? ??? ???????????,
??? 17?? ??????? 1969, ??? ?? ??????? ?????? ??? ??????????????? ??? ??? ???????????????
????????? (?? ??. ???. 09/001, ?. 20), ??? ??????????????? ?? ??? ??????? 85/303/??? ??
??????????, ??? 10?? ??????? 1985 (?? L 156, ?. 23, ??? ????: ??????).

2 ?? ?????????? ????. ?????????? ????. ?????????? ?????????? ????. ?????? ????. ?????????? Fantask A/S (???.
?????: Fantask) ????. ?????????? ????. ?????????? ? ?????? ??????. ????. ????. Industriministeriet
(Erhvervsministeriet) [?????. ??????. ??????. ??????. (?????. ??????.)] ??????. ??
?? ?. ????. ??????. ??????. ????. ????. ??????. ????. ??????. ??????. ??????. ????. ??????.
?????. ??????. ????. ????. ????. ??????. ????. ??????. ????. ??????. ????. ??????.
?????.

4 ?? ?? ?????? 154, ??????????? 3, ??? ?????? ??? ?????????? ?????????? ??? ?? ?? ?????? 124,
?????????? 3, ??? ?????? ??? ?????????? ?????????????? ?????????? ?????????????????? ?????? ?
????????? ?????????? ?? ?????? ??? ?????????? ??? ?????? ?????????????? ??? ?? ?? ?
????? ?????????? ??????????.

5 ??? ??? ??????? ?? ???? ?????? ??? ?????? ?????? ?????? ?????? ????????, ??? ??? ?? 1992, ? ??? ??
????????????? ??? ???? ??? ?? ?????????? ??? ?????? ?????? ????????, ??? ??? ?? ??????
????????? ??? ???? ??? ??????????. ?????????? ??? ??? ??????, ????????, ??? ??? ?? ??
????????? ????, ?????????? ???' ??????? ??? ?????? ??? ?????????? ?????????????? ???????????.
?????????. ??????????, ?? ?????????? ??? ?????? ?????????????? ??????????????.

6 ??? ???? ??????? ??????? 1?? ??????????? 1974 ??? 1?? ??? 1992, ?? ??????? ?????
????????? ??????? 500 ??? 1 700 ??????? ??????? (DKR), ??? ??? ??????? ??? ???.
????????? ??????? ??? ??? ??? ??????? ??????????????? ???????, ??? ??????? 200 ???
900 DKR ??? ??? ??????????? ??? ??????? ??????????, ??? ??? ??? ??? ??? ??? ??? ???
??? ?????????? ????????. ??? ??? ??? ??? ???????, ?? ?????????? ?????? ?????? ?? 4 \$???
????????????? ????????, ??? ?????????? ?????????? ?????? ??? ??????????, ??? ?? 4 \$???
????????? ??? ????????, ??? ?????????? ?????? ??????????.

7? «????????? ??????????? ?????????? ?????????» (??? ????: ?????????? ??????????????), ???
?????????????? ?? ??? ??????????????? ??? 468, ?????????? ?????????? ?? ??????????
????????, ??????????????? ?? ??? ?????????? ??? ?????????? ??? ?????????? ??? ??????????
????????? ??? ??, ??? ? 1974, ??? ?????????? ?????????????? ????????. ?? ??? ??? 851,

??? 23?? ?????????? 1987, ??? ?????????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?
??? ??? ?????? ??? ?????????? ?????????????? ?????? (Lovtidende ? 1987, ?. 3229), ?
????????? ?????????????? ?????????????? ?? Erhvervs- og Selskabsstyrelsen (?????????)
????????? ??? ???????, ??? ????: Styrelsen). ?????? ??? ??? ?????????? ?????????? ?????? ??????
?? ??? ??????????, ??? ?????????? ??? ??? ?????????? ??? ?????? ?????? ?????, ? Styrelsen
????????? ??? ?????????????? ??? ?????????? ??? ?????????? ??? ?????? ?????? ??? ??????????????
????????????? ??? ?????????? ??? ??? ?????????? ??? ?????? ?????? ??? ??????????????
????????????? ??? ?????????? ??? ??????????????.

8 ??????? ??????? ??? ??????? ?????????? ?????????? ???????????, ?? ????, ??????????????? ??
????????? ?????????? ??????? ?? ??? ?????? ?? ??? ?????? ??? Styrelsen ??? ?????????? ???
????????? ??? ?????????? ??????, ?????????? ?? ??? ?????? ?????? ??? ?????? ?????? ??????
??????, ?? ??????? ??? ?????????? ??? 1?? ??? 1992 ?? ??? ?????????? ??? 301,
?? 30?? ??????? 1992 (Lovtidende ? 1992, ?. 1149). ?????????, ?? ?????? ?????? ??????
?? 2 500 DKR ??? ??? ?????? ??? ?????? ?????? ?????? ??? ?? 1 800 DKR ??? ??
?????? ??? ??? ?????? ?????????????? ??????. ??? ??? ?????????? ??? ??????
????????, ?? ??????? ??? ?????? ?????, ??? ?????????? ??? ?????? ?????????? ??????????,
?? 600 DKR.

9 ??????? ????, ? ?????? Fantask ??? ?????? ?????? ?????? ?????? ?????? ??????
?????? ??? ?? Styrelsen ??? ??????? ?? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
???? ?? ??????? ??? 1983 ?? 1992. ?????? Fantask ?????? ?????? ???
?????? ??? ?????? ??? ?????? ?????? ??? ??????.

10 ?????? ?? ??????? ??? ?????? ?????? ?????????? ??? ?????????????? ?????? ???????????????, ??
?? ??? ?????? ?????? ??? ?????? ??? ?stre Landsret ?????????? ??? ??? ??????????
??????????. ?? ??? ?????? ???, ?? ?????????? ?????? ?????? ??????????, ??????
????, ?????????? ??? ?? ??? ??? ?????? ??? 20?? ?????? 1993, C-71/91 ?? C-
178/91, Ponente Carni ??? Cispadana Costruzioni (?????? 1993, ?. ?-1915, ??? ????: ??????:
Ponente Carni), ??? ?? ??????? ??? - ??? ?????? ?? ??? Fantask, ??? ?? ??????
???? - ??? ?????? ??? 10 ?? 12 ?? ??????.

11 ??? ?? ??????? ????, ?? ?stre Landsret ?????????? ?? ?????????? ??? ?????? ???
????????? ?? ??????? ??? ?????????? ?????? ??????????;

«1) ??????? ?? ??????? ??? ?????? ?? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
?????? ??? "????????????? ????" ??? ?????? 12, ?????????? 1, ??????? ??, ??
?????? 69/335/?? ? ?????? ??? ?????? ??? ?????? ?? ?????????? ?????? ?? ?????? ??
????????? ?? "????????? ??? ?????????? ??????";

2) ?????? ? ??? ?????????? ???, ??? ?????????? ??? ?????? ?????? ?????? ???' ???????
?? ?????? 12, ?????????? 1, ??????? ??, ?? ?????? 69/335/??, ??? ?? ??????????
????????? ?????? ?????? ?? ?????? ?????? ?????? ?? ?????? ?? ?????? ??
????????? ??, ?? ?????????? ??? ?????? ?????? ?? ?????? ?? ?????? ?? ?????? ??

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

- ??????? ??? ?????????? ? ?????????? ??? ?????? ?????? ??? ?????? ?? ?????? ??
????? ??? ?????? ??? ?????? ??? ??? ?????? ?? ?????????? ?????? ??? ?????? ??

- ??????? ??? ??? ???????? ?????? ?????????????? ??? ?????? ?????????????? ?? ?????? ??????? ?
?????? ??? ??? ??????????? ????? ??' ?????????? ??? ?????????? ?????????????? ??? ?????????? ??? ??????????
????? ?????? ???????????, ???? ? ?????????? ??? ??? ?????????? ?????????????? ?????????????? ?????????? ??? ?
?????? ??? ?????????? ?????? ??????????

- ?????????????? ?????? ??? ?????????? ?????? ??? ?????? ?????? ?????????????? ??? ? ?????????? ??? ???
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ? ?????????? ??? ? ?????????? ??? ?
?????? ??? ???????.

- ??????? ??????????? ?????????? ??? ??? ?????? ?????? ?? ??? ?????????????? ??????????
?????????????.

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

3) ?) ???? ?? ??? 12, ?????????? 1, ??????? ?, ?? ?????? 69/335/??? ??? ?????? ???
????? ???? ??? ?????? ?? ?????? ?????????? ?????????? ??? ?? ?????? ??? ?????? ??? ??????
????? ?????? ??????;

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

?) ?????? ??????? ??? ?? ??????? ??? ?????? ?? ?? ?? ??? ?????? ?????????????? ??????? ?? ??
????? ???? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????;

4) ?????? ?? ??? 12, ?????????? 1, ??????? ?, ?? ?????????? ?? ?? ?? 10, ??????????
1, ??? ?????? 69/335/??? ??? ?????? ??? ?? ??? ?????? ??? ?????????????? ?? ?? ?????????? ???
????????????? ???????, ???? ?. ?????????? ?????? ?????????? ?????????? ?????????? ?????????? ? ??????????
????????????? ??????? ?????? ?????????? ??? ?????????? ???, ?????? ?? ?????????????? ?????? ???
????????????? ??????? ??? ?????????? ??? ?????????? ?????? ?????????? - ?????????? - ? ??????
?? ?????????? ??? ??? ?????????? ?????? ?????????? ?????? ?????????? ?? ?????????? ??? ??????????
????? ?????? ?????? ??? ??? ?????? ?????? ?????? ?????? (4 \$) ??? ??? ?????????? ??????
?????????, ???? ?? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? ??? ?????? ??????
????? ? ?????? ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ??????
????????? ??? ?? ?????? ?????? ?????? ??????;

5) ?????? ?? ??? 12, ?????????? 1, ??????? ?, ?? ?????????? ?? ?? ?? 10, ??????????
1, ??? ?????? 69/335/??? ??? ?????? ??? ?? ??? ?????? ?????? ??????, ???? ??? ??????????
?? ?????? ??? ?????????? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?????? ??????
?? ?????? ?????? ??? ?????? ??? ?????? ?? ?????? ?????? ?????? ?? ?????? ??? ??????
????????? ?????? ?????????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ?????????? ?????? ??? ?????????? ?????? ?????? ?????? ?????? ??????
????????? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ? ?????? ??????
?????????;

6) ?? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??????, ??? ?????? ?????????? ?????? ?? ?????????? ?? ??????????
????? ???? ??????, ??? ?????? ?? ??? ? ?????? ?????? ?????? ?????? ?????????????? ????
????????? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???

????? ??????????????? ?? ????? ?????????? ??? ? ?? ????? ??????? ??? ??? ???????,
????????????? ???, ??? ? ??????, ?? ?????????? ?????? ??? ?????? ??? ??????????
?? ?????????????? ??? ?????????????? ?' ??? ????? ?????? ?????????? ??? ??? ?????????????? ???
????? ??? ??? ?????? 69/335/??K;

7) ?????????? ?? ?????????? ?????? ?????? ?????? ?????????? ??? ??? ?????? ?? ??????
?????? ?????? ?????????? ??????????, ?? ?????????? ??? ?????? ?????????? ??????????
????? ??? ?????????? ???' ?????????? ??? ?????? 69/335/???, ??? ? ??? ?? ?????
????? ?????? ?????????? ?????? ??? ?????? ?????? ??? ?? ????? ?????? ?????? ??????????
????? ??? ?????? ?????????? ?????? ??? ?????? ?????? 69/335/??;

8) ?????????? ?? ??? 10, ?????????? 1, ?? ?????????? ?? ?? ??? 12, ?????????? 1,
?????? ??, ??? ?????? 69/335/??, ??? ??? ?????? ??? ?????????? ???
????????????? ??? ??????, ??? ?????? ?????????? ?? ?????? ?? ?????? ??? ?????? ???
????? ?????? ?? ?????????? ?????? ??? ?????? ?????? ?????? ??????;»

12 ?????????? ?????? ?? ?????????? ?? ?????????? ?? ?????? ??? ?? ?????????? ??? ??????, ???
????????????? ??? ??? ?????? Ponente Carni.

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

14 ??? ??? ?????? ???, ? ?????? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ???
????????????? ?????? ???, ?????? ?? ??? ??? ?????? ??? ?????? ?????????? ???
??, ???, ?????, ?????????? ?? ??? ?????????? ??? ?????????? ??? ?????????? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???, ???
??? ??? ?? «????? ???» (????? ??? 27?? ?????? 1979, Conradsen, 161/78, ?????? ???
1979/??, ?. 2109, ??? 11). ? ?? ??? ?????? ??? ??? ?????? ?????? ?????? ??? ???
????????? ??? ?????? 2 ??? 9 ??? ??????.

15 ??? ??? 3 ?????????? ?? ?????????? ?????? ??? ?????? ??? ?????? ??????????
?? ?????? ??? ??????, ?????? ?? ??? ?????? ?????????? ???, ???, ?? ??????
????????? ??? ?? ?????? ?????????? ?????? ??? ?????? ??????.

16 ??? ??? 4, 8 ??? 9 ??????????, ??? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? 4, ?????? 1, ?????? ?? ??? ?, ? ?????? ?????????? ??? ?????? ??? ?
????? ??? ?????? ?????? ?? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ???
????? ??? ??????.

17 ? ??? ?????? ?????? ???, ?????? ?? ??? ?????? ?????? ?????????? ???, ???
????????? ??? ?????? ?????? ??? ?????? ??? ?????????? ?? ??? ?????? ?????????? ?? ??? ???
??? ??? ?????? ??? ?????? ?? ??? ?????? ?????? ??? ?????? ??? ?????? ???, ? ?????? ???
????? ?? ?????? ?? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ???.
?? ??? ?????? ???, ? ?????? ??? ?????? ?????? ?????? ???, ?????? ??? 10
??? 11 ??? ??????. ??? ????? 10 ?????? ??? :

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

(...)

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

18 ?? ?????????? ??? ?????? 12, ?????????? 1, ??? ?????? ?????????????? ??????????
????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?????????? ???
??? ?????????? ??? ?????? 10 ??? 11, ?????? ? ?????? ??? ?????????? ??? ?????????????? ??????
??' ?????? ??? ?????? ??? ?????????? ?? ?????????? ?????? ?????????? (??., ???????,
????? ??? 2?? ?????????? 1988, 36/86, *Dansk Sparinvest*, ?????? 1988, ?. 409, ????? 9).
?? ?????? 12, ?????????? 1, ?????? ??, ??? ?????? ?????????? ??? «????? ?? ??????
????? ?????????? ??????»..

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

19 ?? ?? ?????? ?????? ?????????? ???, ??? ?????? ?????? ?? ?????? ?????? ???????, ??
????? ?????????? ??? ?????? ?????????? ?? ?????????? ?? ???? 12, ?????????? 1,
????????? ??, ??? ?????? ?????? ?? ?????? ??? ?????????? ??? ?????? ???, ??? ?? ??????
????????????? ?????????, ?? ??? ??? ?????? ??? ?????????? ??' ?????????? ??? ??????
??? ?????????? ?????????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????????? ??? ?????? ?????? ?????? ?? ?????????????? ?? ??? ??????
?? ?????? ??? ?? ?????? ?????????? ? ?????? ?? ?????????? ?????? ??? ?????? ??? ??
????????? ?? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????????? ?? ??? ??????
????????? ??? ?????? ??? (????? 10, ?????????? ??) ? ??? ??
????????? ?? ?????? ?????????? ??? ?????? ?????? ?? ?????? ?????? ?????????? ??? ??
????????? ??? ?????? ?????? (????? 10, ?????????? ??). ? ?????????? ??? ?????? ??????????
????????????? ??? ?? ???, ?????????? ?? ?????? ?????? ??? ?????????? ??? ?????? ???'????? ??
????????? ?????????, ?????????????? ??? ?????? ??? ?????????? ??? ?????????? ?? ??
????? ?????? ??? ?????????, ?????? ?? ?????? ??? ?????? ?????????????? ??? ?? ??????????
?? ?????? ?????? ??? ?????????, ?????? ? ?????? ??? ?????? ?????? ??? ?????? ?? ?????? ??
????????? ?? ?????????????? ??? ??? ?????? ?????? (????? 11?? ?????? 1996, C-
2/94, *Denkavit International* ?.??., ?????? 1996, ?. ?-2827, ????? 23).

22 ??? ?????????? ??????????, ? ?????????? ??? ?????? ?? ?????? 10, ?????????? ??, ???
????? ?????? ??? ?????? ?? ?????? ??? ?????? ?? ?????? ??? ?????? ??? ?????? ??

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

23 ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ?????????? ??? ??? ??????
12 ??? ??????, ? ?????? ??? ? ?????????? ?????????? ?????????????? ??? ? ?????? ????
????????? ?????? ?? ??? ?????? ??? ?????? ?? ??? ?????????????? ??? ?????? ??? ??
????????????? ?????? ??? ?????? ?? ??? ?????? ??? ?????? ?? ??? ?????? ?????????? ?????? ???
?? ?? ?????? ??? ?????? ??? ?????????????? ?????????? ??? ?????????? , ?????????? , ??
??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ???.

24 ? ?????? ?????????? ?????????? ?????????? ??? ? ?????? ??? ?????? ?? ?????????? ???
????????? ??? ?????? ?????? ?????? ??? ?? ??? ?????????? ?????????? ??? ?????????? ??? ?????? 12,
????????? 1, ????????, ??, ??? ?????? ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???
????? ?????. ??????, ? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ?????? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
??? ?????? ? ?????????????? ?? ??? ?????????? ?????? ?????? ?? ?????? ??? ?????????? ???
????????? ?? ??? ?????? Ponente Carni, ??? ?????? ??????. ???, ?????? ??' ?, ??
????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? , ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ???, ??? ??? ?????????? ??? ?????? , ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?? ??
????????? ??? ?????? ??? ??????.

25 ??? ?? Fantask ??? ??? ?????? ?????????????? ?????????? ??? ?????? ??? ?????? ???
????????? ?????????? , ??? ??? ??? ?????? , ??? ??? ?????? Ponente Carni
????????? , ?????????? , ??? ? ?????? ??? ?????? ?????????? ?????????? ??? ?????? ??????????
????????? ??? ??? ?????? ?????? ?????? ?????????? ?? ?????????? ??? ?????????? ??? ?????? ???
????? ??? ?????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? . ???
????????? ???' ?????? ??? ?????????? ?????? ?????????? , ??? ?? ?????? ??? ?????? ???, ???
????? ???????, ??? ??? ??? ?? ???, ?? ?????? ??? ?????? ?????? ?????? ??? ?????????? ???
?? ?????? 12, ?????????? 1, ????????, ??, ??? ??????. ?????? ??? ?????? ??? ?????? ???
????????? ?? ?????????? ?? ??? ?????? , ?????? ?????? ?????????? ??? ?? ?????? ??? ?????? ??? ??'
????????? ?????? ??? ?????? ?????? ?????? ?????? ?????????? , ?? ??? ?? ?????? ??????????
????, ?????? ?? ?????? ?????? ?????????? , ??? ?????? ?????? ?????? , ??? ?????? ?????? ???
????? ?? ?????????? ??? ?????? ?????????? ?? ??? ?????????? ??? ?????? ??? ?????? ???.

26 ??????, ?????????? ? ?????????? ??? ?? ??? «????? ?? ?????? ?????? ?????? ?????????? ???
????????» ?????????? ?? ?????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????? ??? ??????
????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ????. ???????, ?? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?? ?????? ??? ??????
????? ?????? ?? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?? ?????? ??? ??????
????????? ???? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
??? 15?? ?????? 1982, 270/81, Felicitas, ?????? 1982, ?. 2771, ??? 14).

27 ??????, ?? ?????????? ?????? ???, ?? ??? ?????? Ponente Carni, ?????? 41 ??? 42,
?? ? ?????? ?????? ??? ?????? ?????????? ??? ?????????? ??? ?? ?????? 10 ??? ?????? ??????????

? ?????????????? ??? ??? ????? ?????????????? ?????????? ?????????????? ??? ?? ??????????????
????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
????? ??? ??? ?????? ?????????? ??? ?? ?????????? ?? ? ?????? ??? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
?? ?????????? ?? ?????????? ?????????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ???
????? ?? ?????? 10 ??? ??????.

28 ??? ?? ?????????????? ?????????? ??? ?????? ?????????????? ??? ?????? ??? ?????????? ???
????????? ?????????? ??? ?? ?????????? ?????????????? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ?????????????? ?????????? ??? ?????? ???
????? ??? ?????? 12, ?????????? 1, ?????????? ?, ??? ??????, ?? ?? ?????? ???
????????????? ??? ?????? ??? ?? ?????????? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ??????
????????????? ??? ?????? ?????? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ??????????
?? ?? ?????? ?????????? ??? ?????? ??? ?? ?????? ?????????? ?????????? ??? ?????? ??? ?????? ??
????????? ??? ?????????? ??? ?????????? . ??????, ??? ?????? ?????? ??? ?????????? ??? ?????????? ???
????????? ?????????? ??? ?????? 37 ??? 45 ??? ?????????? ???, ?????? ?? ?????? ??? ?????? ??? ??????
??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ?????????? ?????????? ??????????
??? ?????????? ?' ?????? ?? ?????? ?????????? ?????????? ?????????? ??? ?????? ?????????? ???
?????.

29 ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ?????????????? ??????????, ??
????????? ?????????? ??? ?????? Ponente Carni, ??? 33, ??? ?? ?????????? ?????????,
????? ? ?????????? ??? ?????????, ?????????? ?? ?????? ?????????? ?? ?????????? ?? ??????????
?????. ??? ?????????? ???, ? ?????????? ??? ?????? ?? ?????? ?? ?????? ?????' ?????????? ???
????? ?? ?????????????? ???' ?????? ?????? ??? ?????????? ?????? ?????? ?????? ???
????? ??? ??? ?????????? ??? ?????????? ?????????? , ??? ?????? ??? ?????? ??? ??????????
????? ??? ??? ?????????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????????? ???.

30 ??????, ?????????? ? ?????????? ???, ??? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ?????????, ??? ?????? ??? ?????? ?????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??
????? - ?????????? ??? ?????? ??? ?????? - ??? ?????????? ?????? ?? ??? ?????? ??? ?????? ???
????? ?????????? ??? ??? ?????? ?? ?????? ?????????? ??? ?????????? , ??? ??????,
??? ??? ?????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ?????? 43 ??? ??????????
??, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ?????? ???
????. ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ??????
????????? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ???
????? ?????????? ??? ??????.

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

32 ?????????, ??? ?????????? ??? ??? ?????? Ponente Carni, ??? 43, ?? ???? ???
????? ?????????? ?????? ??? ?????? ???' ?????? ?? ?????????? ?????????? ?? ??
????????? ??? ?????? ??? ?????? ?????????? ? ?????? ??? ?????? ???' ?????? ??? ??????.

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

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

34 ????????, ??? ??? ?????? ?????? ??????????? ??????? ?? ?????? ? ?????????? ??? ?? ??? ?? ???? 12,
?????????? 1, ?????????? ??, ??? ??????? ??????? ?? ?????????? ??? ?? ??????? ??? ?? ??????? ???, ??? ??
????? ?????????????? ???????????, ?? ??? ?? ?????? ??? ?????????? ?????????? ??? ?? ??????? ??? ?? ????
??? ??????? ?????????? ??? ?? ?????? ?????????? ?????????????? ??????? ??? ?? ?????? ??? ?? ????
????????? ??? ?????????? ?????? ?????? ?????? ?? ?????????????? ?? ??? ?????? ??? ?? ?????? ?? ?????? ??? ??
???? ???????????, ??????????????? ??? ?? ??? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?? ????
????? ??? ?????????? ??? ?????? ?????, ??? ?????? ?????? ?????????? ?? ?????????? ??? ?? ??????? ??? ??
????? ??? ?????????? ??? ?????? ?????? ?? ??? ?????? ?????????? ?????????? ?????????? ??? ?? ????
??? ?????????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ??
????????? ?? ??? ?????? ?????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??????.

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

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

36 ??? ?????? ??????????, ? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ??? ??
????????? ?? ?????????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?? ?????? ?????? ?????? ??? ??
????? 177 ??? ?????????? ??????????? ??? ??????????????, ?????? ?????????? ??????, ???
????? ??? ?? ??????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?? ?????? ??? ??
????? ??? ??????????? ??? ?? ?????? ?????? ?????? ??? ?? ?????? ??? ??.

37 ????????, ? ??????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?? ?????? ??? ?????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??, (?)
?????? ??? 27?? ?????? 1980, 61/79, Denkavit italiana, ?????? ?????? 1980/?., ?. 605, ???
16, ??? ?? 13?? ?????????? 1996, C-197/94 ??? C-252/94, Bautiaa ??? Soci?t? fran?aise
maritime, ?????? 1996, ?. ?-505, ????? 47).

38 ??? ?? ??? ?????? ??????????, ?? ?????????? ?????????? ?????? ??? ?????????? ?????? ??? ??
????? ??? ?????????? ??? ?????? ??? ?????????? ?????? ?????????? ?????? ??? ?? ?????? ??? ??
????????? ??? ?????? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?? ?????? ??? ??
????????? ??? ?????? ?????????? ??? ?? ?????????? (?????? ??? 9?? ?????????? 1983,

199/82, San Giorgio, ??????? 1983, ?. 3595, ????? 12). ????????, ?? ?????? ????
??????????, ???????, ?? ?????????? ??? ?????????? ?????????????? ?? ??????????????
???? ??????? ?? ?????????? ?????? (?????? ?? 14?? ?????????? 1997, C-192/95 ??
C-218/95, Comateb ?.??., ?????? 1997, ?. ?-165, ????? 20).

39 ?????, ?????????? ?????????? ?????????????? ????????????, ?????????? ? ??????????? ????? ??? ??????
?? ?????????? ??? ????? ?? ?????? ??? ?????????? ??? ??????????????, ?????? ??? ?????, ???
?????????? ?? ??????? ?????? ??????? ???????????, ??????????, ?? ?????????????? ?????? ???
?????? ?? ??? ?????? ??????? ??????? ??? ??????? ??? ?????? ?????????? ?????????? ???
????????? ??????? ?????? ??? ?? ?????????? ?????? ? ?????????? ?????? ? ?????????? ?????? ???
??? ??????????? ??? ??????? ? ?????????? ?????? ??? (??., ????, ??????? ?? 14??
?????????? 1995, C-312/93, Peterbroeck, ?????? 1995, ?. ?-4599, ????? 12).

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

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

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

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

43 ??? ?? ??????? ?? ?????????? ?? ?????????? ??, ???, ??? ?? ?????? ?? ??????????, ?? ???????
?????????? ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?? ? ?? ?????????? ?? ?????????? ?? ?? ?? ?
????????? ?? ?? ?????? ?? ?????? ?? ?????????? ?? ?? ?? ? ?? ?????????? ?? ?? ?? ? ?? ?????? ?? ?? ?? ?
????????? ?? ??????. ?? ?? ?? ?? ?? ??????????, ?? ?????? ?? ?? ?????????? ?? ?????????? ?? ??????????,
????? ?? ?? ?? ?????????? ?? ?????????? ?? ?? ?? ?? ?? ?? ?????????? ?? ?????????? ?? ?? ?? ?? ?? ?? ?? ?? ?

45 ?? ??????????????? ???????? ?? ? ?????????? ?????????????? ??? ?????????? ?? 25??
?????? 1991, C-208/90, Emmott (?????? 1991, ?. ?-4269), ??? ?? ?????????? ??? ??? ??????
????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????,
?????? ? ?????? ?? ?????? ?? ?????????? ?? ?????? ?????? ?????? ?????????? ?? ?????????? ??

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

46 ? ?????? ??? ? ?????? ??????????, ?????? ??? ? ?????????? ??? ?????????? ??????????,
?????? ??? ??? ?????? ?????? ?????????? ?? ?????????? ??? ?????????? ?????????? ??
????????? ??????, ??? ? ?????? ?????????, ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????????????????? ??? ?????? ??? ?????????? ??? ?????????? (??.,
?????????, ?????????????? ?????? San Giorgio ??? Peterbroeck). ??? ??
????????? ?????, ? ?????????????? ?????? Emmott ?????? ?? ?????????????? ???
????? ??? ?????? ?????? ?????????? ??? ?????????? ??? ???????, ?????? ??? ??
????????? ?????????? ?????? ??? ?? ?????????? ?????? ??? ?????????? ???.

47 ??? ?????? ?? ?????????? ?? ?????????? ??? ?????? 39 ??? ?????? ???????, ?????????? ???????
????????? ??????, ??? ?????? ???????, ??? ?????? ??????? ?????? ??? ?????? ??? ???????
????? ??????? ?? ??????? ??? ?????????? ?????????? ?????????? ?????? ??? ??????? ??
????? ??? ?????????? ?????????? ???????, ?????? ?? ?????????? ?????? ??? ??????? ??
????? ?????? ??????? ??? ??????? ??? ??????? ?????????? ?????? ??? ?????????? ???????
????? ??? ?????????? ??????? ???? ?????? ??? ??????? ?????????? ?????? ??? ?????????? ???????
????? ??? ? ?????????? ?????? ???.

48 ?? ?????????? ?????????? ?????? ??? ?????????? ?????? ?? ?????????? ?????? ?
????????? ?????? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ?????? ??? ??
????????? ??? ?????????? ?????? ??? ?????????? ?????? ?????????? ?????? ???????????????, ???
??? ?????????? ??? ?????? ??????. ??????????, ?????? ?????????? ??? ??????? ??
????????? ?????? ?? ?????????? ?????????? ?????? ??? ?????????? ?????? ??? ??????? ??
??? ?????????? ??? ?????? ?????????? ??? ??????? ??????, ??? ?? ??, ?? ???????, ? ??????? ??
????????? ?????? ?????? ?????????? ??? ???????, ?? ??? ?? ?? ?????, ??? ?????????? ???????
????????? [??., ??????????, ??? ?????????? ??? 16?? ?????????? 1976, 33/76, Rewe,
????? ?????? 1976, ?. 749, ????? 5-45/76, Comet, Recueil 1976, ?. 2043, ?????? 17 ?? 18
(????????? ??????? ??? ???????, ?????? ??? 1976, ?. 765), ??? ?? 10?? ??????
1997, C-261/95, Palmisani, ?? ?????????? ?????? ??? ???????, ?????? 28).

49 ??????, ? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ?????? ??
????????? ?????? (?????? ?? 17?? ?????? 1997, C-90/94, Haahr Petroleum, ??
????????? ??? ?????? ?????, ????? 49). ??????, ?????????? ??? ? ?????????? ???
????????? ?????? ?????? ?????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
?? ?' ?????? ??? ?????????? ??? ?????????? ??????.

50 ?????? ?????? ??, ?? ??? ?????????? ?????? ?????? Emmott, ????? 23, ?? ??????????
????? ??, ????? ?? ?????? ?????? ?? ?????? ?????????? ??? ???????, ?? ?????? ???
?? ???? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?? ?????? ??? ??????????
????? ?? ?????? ?????? ?? ?????? ??? ?????? ???' ?????? ?????? ?????????? ??? ??? ??????????
?? ?????????? ?? ?????? ?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????????? ?? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??
????? ??? ??????.

51 ??????, ??? ?????????? ?? ??? ?????? ??? 6?? ?????????? 1994, C-410/92,
Johnson (?????? 1994, ?. ?.5483, ??? 26), ??? ??? ?????? ??? 27?? ?????????? 1993, C-
338/91, Steenhorst-Neerings (?????? 1993, ?. ?.5475), ?????????? ??? ? ?????? ??
????? Emmott ??? ?????????? ??? ?????? ?????????? ??? ?????????? ??? ?????????? ??
????? ???, ??? ??? ?????? ? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??

?????? ??? ??????? ??? ?????? ??? ?? ??????????? ?? ?????????? ?? ?????????? ?? ?????????? ??
??? ?????????????? ??? ?????? ??? ?????????? ??? ?????? (??., ????, ????, Haahr
Petroleum, ??????????????, ??? 52, ??? ?? 17?? ?????? 1997, C-114/95 ?? C-115/95,
Texaco ?? Olieselskabet Danmark, ?? ??????????? ??? ?????? ?? ???????, ??? 48).

52 ????????, ??? ?????? ??????? ??????? ?? ?????? ? ??????? ???, ??? ?????? ??????
????????? ??, ?? ??????? ?????? ??? ?????????? ?? ??????? ??? ???????, ?? ?????? ??
????????? ??? ?????? ??? ?????????? ?? ?????? ??? ??????, ?? ?????????? ??? ??????????
????????? ??? ?? ?????? ?????????? ?????? ??? ?????? ??? ??????? ??? ?????? ??????????
????????? ??? ?????????? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ???
??? ?????? ?? ?????? ?????? ??????????, ?????? ??? ?????? ?????????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
? ?? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????
????????? ?????? ??? ??????

???

53 ?? ?? ?????? ??????? ??, ?? ?????? ?????????? ?? ?????? ?? ?????????????? ?? ?? ??????????
?? ?????? 10, ?? ??????? ?? ?? ?????????? ?? ?????? 12, ?????????? 1, ?????????? ?,
?? ?????? ?????????? ?????????? ?? ?????? ?? ?????? ?????????? ?? ?????? ?? ??????????
????????? ?? ?????? ??????????.

54 ??????? ?? ?????? ??????????, ?? ?????????? ?? ?????????? ?????? ??????? ???????
??????????, ?? ??? ?????? ?? ?????????????? ??, ?? ?????????????? ?? ?????? ?? ???????
??????, ?? ??????? ?????????????? ?? ??? ?????????????? ?? ?????? ?? ??????? ???????
?????? ???????????, ?? ??? ?????? ?????????????? ?? ??? ?????????????? ?? ?????? ?? ??????? ???????,
??? ??? ?????????? ??? ?????? ?????? (??., ??????????, ?????? ?? 23??
????????? 1994, C-236/92, Comitato di coordinamento per la difesa della cava ??., ??????
1994, ?. ?-483, ????? 8).

55 ??? ?????????? ???????, ?????? ?? ?????????? ?? ?? ?????????? ?? ?????? ?? ??????
10 ??? ??????, ??? ???? ?????????? ?? ?? ?????????? ?? ?? ?????????? ?? ?????? ?? ?????????? ?? ??????
12, ?????????? 1, ?????????? ?, ?????????? ?? ?????? ?????? ?????? ?? ??????
????????????? ??? ?????? ?????? ?? ?????? ?? ?????? ?????????? ?????????? ?? ?????? ?? ??????
????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ???.

56 ???????, ??? ?????? ??????? ?????? ?? ?????? ? ??????? ?? ?????? ?? ?????????? ?? ??????
10, ?? ?????????? ?? ?? ?????????? ?? ?????? 12, ?????????? 1, ?????????? ?, ?? ??????
????????? ?????????? ?? ?????? ?? ?????? ?????? ?? ?????? ?????????? ?????????? ?? ??????
????????? ??????????.

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

???

57 ?? ??? ?????? ?? ?????? ?????????? ?? ??????, ? ??????, ? ??????, ? ???????, ? ?????????? ??????????
?? ? ?????????? ?? ?????? ?????????, ?????? ??? ? ??????? ?? ??????????
?????????, ??? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?? ?????? ?????? ?? ??????
? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?? ?????? ?????? ?? ??????
????????????, ??? ?????? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????? ?? ??????

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

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

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

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

1) ??????? 12, ?????????? 1, ??????? ??, ??? ??????? 69/335/??? ??? ????????????, ???
17?? ??????? 1969, ??? ?? ?????? ?????? ??? ??????????????? ??? ?? ???????????????
??????????, ??? ??????????????? ?? ??? ??????? 85/303/??? ??? ???????????, ??? 10??
?????? 1985, ?????? ?? ??????????? ??? ?? ??????? ??, ??? ?? ????? ??????????????
??????????, ?? ??? ?? ??? ?????? ??? ??????????????? ??? ?? ??????? ?? ??????????? ???
?????? ??? ??????? ??????????????? ??? ?????? ??? ?? ??????? ??? ??????????? ???
????? ??????? ?? ??????????????? ?? ??? ?? ??????? ?? ??????? ?? ??????? ??? ???????????,
?????????????? ?? ?? ??? ?? ??? ??????? ??????? ?? ??????????? ??? ??????????? ??
?????????? ?? ??????? ??????????? ??????????? ?? ??????? ?? ??????????? ??? ??????. ??? ??
?????????? ?? ??????? ?????, ??? ??????? ?????? ??????????????? ?? ??????????? ??? ??
??? ??????? ?? ??????????? ?? ??? ?? ??????? ???????????????, ??????????????????? ??? ??
???????? ?? ??????? ??????? ?? ??? ?? ??????? ??????????? ??? ??????? ????. ???????, ?? ??????
????? ??? ??????? ??????? ?? ??? ?? ??????? ??????????? ??? ??????? ??? ??????? ?? ???????
????? ??? ??????? ??????? ?? ??? ?? ??????? ??????????? ??? ??????? ??? ??????? ?? ???????
???????? ?? ???, ?????? ???????????, ?? ??????? ???????????, ??? ?? ??????? ???????????

2) ?????????? ?????? ?????????? ??? ?????? ?????????? ?????????? ?????????? ?????? ?? ?????
????? ?????????? ??? ?????? ??? ?????? 69/335, ??? ????????????, ?????? ?
????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??????
????? ??? ?????? ??? ?? ??? ?????? ?????????????? ??? ?????? ?????? ?????? ?????? ??? ??
????? ?????? ??? ?? ?????????? ??? ?????? ?? ?????? ?????? ?????? ??? ?????? ??? ??
?????.

3) ?????????? ??????? ?????????? ???, ?? ?????????? ?????? ??? ?????????? ?? ?????? ??????,
?? ?????? ??? ??????? ?????? ??? ?????????? ?? ?????? ??? ?????? 69/335, ???
?????????????, ?? ?????????? ????? ?????????? ?????????? ?????? ?? ?????? ??????????????
???? ?????????? ?? ?????? ?????? ?????? ?????????? ?????????? ?????????? ?? ?????????? ? ??????
????????? ?? ?????? ??? ??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ??????????,
????? ??? ?????? ?????????? ??? ?????? ?????????? ?????? ??? ?????? ?????????? ?????????? ???
????????? ??? ?????????? ?????? ??' ?,?? ??? ??? ?????? ?????????? ?????????? ?? ??????????????
?? ?????????? ??? ??? ?????? ?????????? ?????? ??? ?????????? ?????????? ?????????? ???
????? ??? ?????????? ??? ?????? ?????????? ?????? ??? ?????????? ?????????? ???.

4) ?? ?????????? ?? 10, ?? ?????????? ?? ?? ?????????? ?? ?? ?????????? ?? 12, ?? ??????????
 1, ?? ?????? ??, ?? ?????? 69/335, ?? ??????????????, ?? ?????????? ?? ?????????? ??
 ?? ?????? ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?? ??????????.