

6. CASE LAW – ISSUES ARISING FROM RECENT JUDGMENTS OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

- 6.1 Origin: Denmark**
References: Articles 14(1) and (2)(c), 24(1) and 148(a)
Subject: CJEU Case C-526/13 *Fast Bunkering Klaipėda* – follow-up (Document taxud.c.1(2017) 6158402 – Working paper No 934)

The VAT Committee **almost unanimously** confirms that:

- a) the VAT exemption laid down in Article 148(a) of the VAT Directive shall as a rule be applicable only to the supplies made directly to the operator of a vessel meeting the conditions laid down in the provision, who uses the goods for the fuelling and provisioning of the vessel;
- b) supplies made to intermediaries acting in their own name shall therefore be excluded from the exemption;
- c) where it is proven that the transfer of the ownership of the goods under the applicable national law by a taxable person to the intermediary takes place no earlier than the time at which the operator of the vessel becomes entitled to dispose of those goods as owner, the supply by that taxable person shall be regarded as having been made directly to the operator of the vessel.

The VAT Committee **almost unanimously** confirms that in the particular situation referred to under point c) the intermediary, for VAT purposes, neither acquires nor supplies goods for the fuelling and provisioning of the vessel but he must instead be regarded as having supplied services in accordance with Article 24(1) of the VAT Directive.