

**II. QUESTIONS RAISED ON THE INTERPRETATION OF THE 6<sup>TH</sup> DIRECTIVE**

a) The system of deductions to be applied in banking and financial fields

**Most** delegations agreed that, for credit transactions, the total amount of interest received should be included in the denominator of the fraction in calculating the deductible proportion for banks.

Delegations **almost unanimously** agreed that as far as sales of shares where a bank acts as an agent are concerned, the gross margin (i.e. the difference between the sale price and the purchase price) arising from such transactions should be included in the denominator of the fraction.

The Committee went on to discuss other factors which might be used to calculate the deductible proportion but did not reach a final conclusion; discussion will therefore be resumed at the next meeting.

b) The place where auction services are supplied and the taxable amount to be taken into account

The Committee **almost unanimously** agreed that where the auctioneer is acting in the name and for the account of the vendor, the taxable amount is the total amount of commission received by the auctioneer but that if the vendor is a taxable person, the taxable amount is the total amount (not including VAT) paid by the purchaser including the total amount of commission received by the auctioneer.

c) Definition of the term “means of transport” used in Article 15(2)

The Committee was **unanimously** in favour of a broad interpretation of “means of transport for private use” (Article 15(2) of the 6<sup>th</sup> Directive) to include means of transport used for non-business purposes by persons other than natural persons such as associations and bodies governed by public law within the meaning of Article 4(5) of the 6<sup>th</sup> Directive.

d) Tax arrangements applicable to the hiring out of containers

The Committee considered **unanimously** that the hiring of containers constitutes an equipment hiring service unrelated to the supply of transport services and that consequently the tax arrangements to be applied should be based either on Article 9(1) if containers are deemed to be means of transport, or on Article 9(2) if they are not considered as such, With Article 15(13) or 16(1) making it possible in many cases to solve these problems in the form of exemption of the service in the case of exports.

- e) The authority competent to stamp invoices or other supporting evidence certifying the exportation of goods contained in the personal luggage of travellers bound for third countries

The **majority** of delegations took a negative view of the possibility of replacing the customs authority stamp with a stamp by the captain or purser of an international ferry, and considered that the responsibility for checking should remain with the custom's authorities.

- f) i) Derogation from the provisions of the Sixth Directive in respect of agreements between Member States and third countries

The Committee **unanimously** agreed that an agreement concerning international road transport of goods established by a Member State with a third country cannot contain any provision to exclude from the taxable amount for importation for import transactions other than those covered by Article 14(1) and 16(A) of the directive, those transport costs corresponding to the transport effected between the place of entry of the goods into the territory of that Member State and the first place of destination as defined by Article 11(B)(3)(b). Derogations should be allowed only pursuant to Article 30 of the 6<sup>th</sup> Directive.

- ii) Definition of the first place of destination within the meaning of Article 11(B)(3)(b) of the 6<sup>th</sup> Directive

The Committee was **unanimously** in favour of adopting the following definitions to establish the first place of destination within a country

- either the place shown on the road transport document made out abroad under cover of which the goods are brought into the country,
- or, where the place shown on the road transport document differs from the destination the destination itself,
- or in the absence of such details the first transfer of cargo in the country by a road vehicle.