II. QUESTIONS WHICH CONCERN THE APPLICATION OF COMMUNITY VAT PROVISIONS

1. 5.1
Article 16(1)(B)(e)
Goods to which warehousing arrangements other than customs warehousing apply
(Doc. XXI/2024/95 – Working Paper No 185)
(1st part of the document approved at the 47th meeting – Doc. XX1/1279/96)

EXCLUSION OF THE GOODS INTENDED TO BE SUPPLIED AT THE RETAIL STAGE

The Committee considers **almost unanimously** that, in order to preserve the general VAT principle of taxation at each stage of production/marketing, recourse to warehousing arrangements other than customs warehousing should not be automatic.

In this respect, the condition provided under paragraph 1(e) according to which goods may not have been "intended to be supplied at the retail stage" should be interpreted not only with regard to the nature of the goods but also taking account of the possible different destinations of the goods such as whether they are intended for export or use in a production process as opposed to being destined for distribution for retail sale. The result is that the nature of the goods alone is not sufficient as the criterion to determine tax warehouse treatment but under no circumstances is it permissible for retail stock to be kept in a tax warehouse.

2. 5.2
Article 28a(5) and 28b(F)
Consolidated document on transactions, other than bilateral, involving work on movable tangible property (cases No 1 to 4.2)
(Doc. XXI/2118/95 Rev.2 – Working Paper No 188)

The Committee **unanimously** takes note of the up-dating work on the simplification of a number of contract work transactions already agreed by the Working Party No 1 at its meeting on 25 and 26 May 1993. The changes are made necessary (i) by the removal of the term "contract work" (deletion of Article 5(5)(a)) and the amendment of Article 28a(5), and (ii) by the insertion of a new section F in Article 28b in connection with the adoption of Council Directive 95/7/EC of 10 April 1995.

The delegations agreed **unanimously** that:

1. All the simplification cases have the following elements in common:

   – the agreed simplification for applying tax consists in treating, in an identical manner, transactions which are similar from a tax and economic viewpoint;

   – the conditions governing the application of Section F of Article 28b are met as the goods, that have to undergo the work, are dispatched or transported outside the Member State where the services were physically carried out;

   – if the goods to be worked on are making temporary stops or are strictly speaking not subject of an expedition or re-expedition towards the principal, the finished products have, from the outset, a well known final destination: they are solely destined to the client/principal.

2. All simplifications are based on the **same interpretation**: the requirement that the finished products be returned to the Member State of initial departure, as foreseen in Article 28a paragraph 5 (b) 5th indent, is deemed to have been satisfied even where temporary stops occur. This presupposes that the **individual places in which the work is carried out are not regarded as places of arrival of the goods to be worked on.**

The simplification examples described constituted typical cases for which precise conditions have been laid down to enable simplifications to be made. Provided that other Community tax legislation was not affected and subject to the conditions laid down being observed, each of the simplifications envisaged could in practice be combined with any of the other simplifications.

The Committee **unanimously** considers that the document XXI/2118/95 Rev.2 could be published in order to make this information available to operators and to strengthen the coherence of the implementation of these simplifications within the Union.

3. 5.10
Article 15(2)
Method of calculation of the 175 ECU threshold
(Doc. XXI/2117/95 – Working Paper No 187)
This guideline was adopted at the 51st meeting

The delegations are **unanimously** of the opinion that, for the application of the exemption according to Article 15(2), the threshold of ECU 175 (or the lower value specified by the Member State in which the supply is deemed to be located) can be ascertained by invoice: implying that the exemption can concern the delivery of several goods shown on a single invoice, issued by the same taxable person for the same customer. The threshold mentioned cannot refer to various invoices issued by one or by different taxable persons regarding deliveries carried out for one or more customers.