

b) non-taxation of the transaction;

and what bearing does the principle of fiscal neutrality have on this question?

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<sup>(1)</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax  
OJ L 347, p. 1

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**Reference for a preliminary ruling from First-tier Tribunal (Tax Chamber) (United Kingdom) made on  
28 October 2016 — Kubota (UK) Limited, EP Barrus Limited v Commissioners for Her Majesty's  
Revenue & Customs**

**(Case C-545/16)**

(2017/C 014/33)

*Language of the case: English*

**Referring court**

First-tier Tribunal (Tax Chamber)

**Parties to the main proceedings**

*Applicants:* Kubota (UK) Limited, EP Barrus Limited

*Defendant:* Commissioners for Her Majesty's Revenue & Customs

**Questions referred**

1. Is Commission Implementing Regulation (EU) 2015/221 <sup>(1)</sup> concerning the classification of certain goods in the Combined Nomenclature invalid in so far as it classifies the vehicles specified in the Regulation under CN Code 8704 21 91, rather than CN Code 8704 10?
2. In particular, is Commission Implementing Regulation (EU) 2015/221 concerning the classification of certain goods in the Combined Nomenclature invalid in so far as it: unduly restricts the scope of subheading 8704-10; takes into account impermissible factors; is internally inconsistent; does not take proper account of the Explanatory Notes, CN headings and GIRs; and/or fails to take account of the relevant requirements identified by case law of the Court of Justice of the European Union in relation to CN heading 8704 10?

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<sup>(1)</sup> Commission Implementing Regulation (EU) 2015/221 of 10 February 2015 concerning the classification of certain goods in the Combined Nomenclature  
OJ L 37, p. 1

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**Appeal brought on 16 November 2016 by European Commission against the judgment of the General  
Court (Sixth Chamber) delivered on 15 September 2016 in Case T-386/14: Fih Holding and Fih  
Erhvervsbank v Commission**

**(Case C-579/16 P)**

(2017/C 014/34)

*Language of the case: English*

**Parties**

*Appellant:* European Commission (represented by: L. Flynn, K. Blanck-Putz, A. Bouchagiar, Agents)

*Other parties to the proceedings:* FIH Holding A/S, FIH Erhvervsbank A/S