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Accession of Andorra**

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ACCESSION OF THE PRINCIPALITY OF ANDORRA

Additional Questions and Replies concerning the Memorandum on the Foreign Trade Regime¹

The Permanent Mission of the Principality of Andorra has communicated its replies to the questions raised by Members. The questions and replies are reproduced below.

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¹ WT/ACC/AND/3.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic policies

(a) Main directions of economic policies

Pricing

Question 1.

We would like to see the information on price controls in the response to question 2 in WT/ACC/AND/5 included in the draft WP report.

Reply:

A copy of the decrees establishing the latest prices of the products controlled will be forwarded to the Secretariat.

Question 2.

In addition, we seek a standard commitment for the WP report that all other prices in Andorra are determined by the market, and that in the application of these or other State price or profit controls or price guidance, now or in the future, Andorra will apply such measures in a WTO-consistent fashion, and take account of the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994.

Reply:

All the prices of other goods and services not covered by the reply to question 2 of document WT/ACC/AND/5 are determined by the market. With respect to the goods and services whose prices are or will be controlled, Andorra undertakes to fulfil the requirements of Article III:9 of the GATT 1994.

Question 3.

We would appreciate inclusion in the commitment of a statement that Andorra will publish the current list of goods and services subject to State controls and any that are introduced or re-introduced in the future in its Official Journal, as well as any changes in the list provided of current requirements in place.

Reply:

Andorra undertakes to publish a list of the goods and services currently subject to State control and those that may be introduced or reintroduced later in the Official Journal of the Principality of Andorra (OJPA), together with any modification of the list submitted with respect to the conditions currently in force.

(See the explanation of controlled prices in WT/ACC/AND/5, p.2)

- (d) Foreign and domestic investment policies

Question 4.

Are foreign companies allowed to own companies in Andorra? Under what conditions?

Reply:

The Government of Andorra is studying the possibilities of opening up the various economic sectors. This process will be reflected in the service market access schedule.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE

1. Powers of the executive, legislative and judicial branches of government

Question 5.

Please describe in the WP report how Andorra will ratify the accession package approved by the General Council Parliament at the conclusion of negotiations.

Reply:

Under Article 45.1 (h) of the Constitution of the Principality of Andorra and Article 14 of the Basic Law Regulating the State's Activity Relating to Treaties, dated 19 December 1996, the *Consell General* (Parliament) must approve by an absolute majority the conclusion of the WTO accession negotiations. The ratification procedure begins on the same day as the texts are approved by Parliament. The *Sindic* (the President of Parliament) transmits the texts simultaneously to the two Co-Princes, so that, within two weeks of this communication, they may express the consent of the State to be bound by the texts adopted, order their publication in the OJPA and deliver and sign the corresponding instrument.

Question 6.

Please indicate in the WP report whether, upon ratification, the provisions of the WTO Agreement, as an international agreement, automatically supersede domestic law or if laws in place conflicting with the WTO Agreement will have to be repealed or amended.

Reply:

The Constitution of the Principality of Andorra (Article 3, paragraphs 2, 3 and 4) and the Administrative Code (Articles 1, 6 and 7) recognize the principle of the hierarchy of norms, as a result of which any national law or regulation that might conflict with an international agreement is automatically void.

Consequently, any domestic norm that conflicts with the WTO Agreements will be brought into conformity or abrogated.

3. Division of authority between central and sub-central forms of government

Question 7.

The response to question 12 of WT/ACC/AND/5 states that the Andorran legislature adopts taxes and the *comuns* have no competence in the field of foreign trade and only administer transferred taxes.

We seek a clear description in the WP report of the extent of local authority with regard to taxes, subsidies and other measures affecting traded goods and a commitment confirming that sub-central administrative authorities, e.g., local administrative bodies, have no jurisdiction or authority to establish regulations or taxes on goods and services in Andorra independent of the central authorities and that application of these measures is exclusively the responsibility of the executive and legislative branches of the central government.

We seek confirmation of the commitment that the central authorities will eliminate or nullify measures taken by sub-central authorities in Andorra that are inconsistent with WTO provisions from the date of accession.

Question 8.

Please specify whether, in administering taxes, the sub-central authorities will be obliged to comply with WTO rules, in particular the principle of non-discrimination.

Replies 7 and 8:

All regulations adopted by the local authorities (*comúns*) form part of the legislation of the Principality of Andorra and therefore will have to be consistent with the WTO Agreement.

4. Any legislative programmes or plans to change the regulatory regime

Question 9.

Please report on the status of legislative implementation of WTO provisions in Andorra, with particular emphasis on the establishment of WTO-consistent regimes in the following areas:

- (a) application of standards and certification requirements for imports
- (b) application of sanitary and phytosanitary measures to imports
- (c) protection of intellectual property
- (d) application of indirect domestic taxes to imports in a manner no less favourable than to similar domestic products
- (e) application of indirect domestic taxes to imports from all sources on an MFN basis
- (f) elimination of WTO-inconsistent import bans and prohibitions.

Reply:(a) Plan of action for the alignment of Andorra on the TBT Agreement:

Towards the end of the 70s, in view of the lack of decrees, orders or other provisions capable of regularizing industrial activities, the Andorran Government, with the aim of protecting primarily human but also animal life and health, preserving plant life and protecting the environment, adopted the first technical regulations on industrial safety and quality. These provisions, modelled on the European standards and, more particularly, those of our nearest neighbours, France and Spain, are currently in force. Subsequently, further such provisions were adopted in accordance with existing international standards and the recommendations of European Community directives, for example, the regulations concerning electrical, LPG and fire safety installations, pressure apparatus, lifts, cable transport, the highway code, road transport, etc.

Recently, to meet the need for a general legal framework in the field of industrial safety and quality, a draft law on safety and industrial quality was drawn up at ministerial level and is now before Parliament. The law on safety and industrial quality will provide the legal framework necessary to deploy new technical regulations and standards, again in accordance with the principles of progressive harmonization with the EN standards, and to adapt the existing ones, under the same conditions.

The act will also enable the government to delegate powers of inspection to the private sector under the various provisions concerning product standardization, approval and certification. Since products are so varied and complex, in all the industrialized countries these functions are performed by bodies that collaborate with the government and by private laboratories duly approved by the latter.

Moreover, within the context of the globalization of the economy, this bill specially addresses the concept of quality, of services and processes as well as of products, in order to establish the necessary legal basis for the introduction of quality standards, such as ISO 9000 and others, which have proved to be indispensable for business purposes.

Finally, the law on safety and industrial quality will also permit the incorporation of the legislative, regulatory and administrative provisions that are binding on our neighbours and the member States of the European Union with which Andorra maintains agreements. These provisions, though already in force, will thus gain the benefit of the necessary legal cover which the legal framework should confer. Moreover, there is practically no industrial production in Andorra. Almost all goods are imported from various WTO Member countries which, in compliance with the technical regulations and existing international standards, all receive the same treatment.

As regards the certification system, at present imports of products originating in member States of the European Union must meet the regulatory requirements specific to each country. For imports from outside the Community, the products must satisfy the conditions and regulatory requirements established by the EEC. Only product certificates issued by laboratories approved by the competent EU accreditation committees are accepted. There are various private inspection and quality control enterprises in Andorra, most of them subsidiaries of French or Spanish inspection and origin control agencies such as APAVE and ECA, which are approved by the government and perform the control functions delegated to them under the legislation applicable in each case.

(b) Application of sanitary and phytosanitary measures to imports:

As far as possible, Andorra bases its domestic legislation on international standards and directives and, in particular, on the WTO principles laid down in the SPS Agreement. In this connection, Andorra is in the process of reducing border controls on imports and replacing them by

the measures stipulated in the Agreement, while providing the necessary guarantees for human, animal and plant health.

As the legislation of the European Union is largely consistent with the SPS Agreement, the current progressive alignment of the Andorran legislation on that of the EU guarantees that Andorra will comply with that Agreement.

The Government publishes all the sanitary and phytosanitary regulations that it adopts in the OJPA.

(c) Plan of action for the alignment of Andorra on the TRIPS Agreement:

Measures already taken:

The Principality of Andorra has already taken the following intellectual property measures:

- Law on trademarks, entered into force in 1996
- Law on patents, entered into force in 1998
- Law on copyright, entered into force in 1998
- Modernization of information systems and establishment of the Trademark Office of the Principality of Andorra
- Exchange of information and consultations with WIPO

Work in progress:

Preparation of missing bills which, as agreed during the Working Party, will be completed by December 2002 at the latest:

- Industrial designs
- Geographical indications
- Law on plant varieties
- Lay-out designs of integrated circuits
- Law on unfair competition concerning, in particular, the protection of undisclosed information

Creation of the future Intellectual Property Office of the Principality of Andorra

A technical committee on intellectual property has been set up to examine the intellectual property legislation and carry out the necessary preparatory work and to draw up plans for the implementation of the TRIPS Agreement. This committee has already noted the provisions of the legislation that are consistent with the provisions of the TRIPS Agreement and we can affirm that all the intellectual property legislation in force is WTO-compatible.

- (d) Application of indirect internal taxes to imports in a manner no less favourable than that in which they are applied to like domestic products

Andorra is in the process of developing its tax system to extend the indirect tax to all the productive sectors of the economy. The tax concerned is the General Indirect Tax consisting of the IMI, which includes the indirect tax on production, and the ISI (Indirect Tax on Services). The laws that will make it possible to collect ISI are before Parliament and will be voted on in March.

- (e) Application of indirect internal taxes to imports from all sources on a MFN basis

We confirm that the IMI is applicable to all imports whatever their provenance or origin.

- (f) Elimination of import prohibitions that are not WTO-consistent

In principle, there are no import prohibitions. With regard to the few exceptions, such as cranes and second-hand cars, the Government of Andorra undertakes to amend, before accession, those parts of the domestic legislation that are not WTO-consistent.

6. Description of tribunals

Question 10.

The description of Andorra's court system in WT/ACC/AND/3 does not make clear how importers and exporters that wish to challenge administrative rulings on issues covered by the GATT 1994 and other WTO Agreements would be addressed.

Please describe for the WP report the administrative and judicial appeals that could be undertaken by traders, e.g. in the areas of customs valuation, licensing, customs classification, application of standards and sanitary regulations, in conformity with the provisions of the WTO, e.g., Article X of the GATT, and the WTO Agreements on Customs Valuation, TRIPS and Import Licensing Procedures.

Reply:

The legislation in force in the Principality of Andorra, in particular the provisions of the Administrative Code, the Law on administrative and fiscal jurisdiction, and the Andorran Customs Code, establishes that any importer or exporter may challenge an administrative ruling, in particular in the areas mentioned in the question, before the administrative division of the *Batllia* of Andorra, after first having exhausted the administrative dispute settlement procedure:

Procedure for challenging administrative rulings:

1. The operator submits a request to the Ministry responsible for the adoption of the ruling challenged, in which he sets out his complaints.
2. The competent Ministry must give its reply within two months in the form of a decision. Failure to reply is deemed to constitute rejection of the request.
3. If the Ministry in question rejects the request, the operator has 13 working days in which to appeal to the Government.
4. The Government must give its reply within two months in the form of a DECREE. Failure to reply is deemed to constitute rejection of the request.

5. Within 13 days of notification of rejection, the operator may bring a suit before the administrative division of the *Batllia*; the judgement may be appealed to the High Court of Justice.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import regulation

(a) Registration requirements for engaging in importing

Question 11.

The sentence “Goods imported into the Principality of Andorra are not subject to any form of regulation” is not in the right place and is incorrect. The true reply can be found in the chapter on import licensing procedures (page 14, WT/ACC/AND/5).

Reply:

This sentence should have been qualified to read:

“Under the implementing provisions of the Decree of 10 October 1981, goods imported into Andorra are not subject to any form of regulation.”

In fact, under the provisions of this Decree, once the registration conditions have been fulfilled, with respect to these specific regulations there is no restriction on goods imported.

Question 12.

What are the criteria for obtaining the approval of the local authorities (*comúns*)?

Reply:

See III-3 "Division of authority between central and sub-central forms of government" (question 7).

Question 13.

Andorra states that, under the provisions of the Decree of 10 October 1981, natural or legal persons wishing to conduct commercial or industrial activity on the territory of Andorra must request authorization from the Government and be listed on the Register of Commerce. Andorra states that importing, exporting, representation, agencies and distribution are forms of commercial activity that must be registered and that actual import operations carried out must correspond to activities declared in the Register of Commerce or be complementary to them. In WT/ACC/AND/3, Andorra states that "Customs procedures on entry may consequently also be directed towards enforcement of this obligation. The nature of the goods imported by a natural or legal person must therefore correspond to the activities authorized with reference to the commercial register".

Please provide a copy of the Decree of 10 October 1981 for WP review.

Reply:

See document WT/ACC/AND/8/Add.1.

Question 14.

Please outline the steps required to register with the national Register of Commerce or to amend a previous registration.

Are the criteria for registration to import activity different from or more onerous than those for other forms of commercial activity? What criteria does Andorra apply, in general, to evaluate requests for registration that include the right to import and export?

Given the reference to how imported goods must "correspond to the activities authorized with reference to the commercial register", would a firm not previously registered to import be denied the right to do so if it wanted to? If so, how long does it take to amend Commercial Registration terms? Is a firm limited by its Commercial Registration in the types of goods that it may import? Are there any other limitations on the types of goods that a firm may import?

Is approval of an amended Commercial Registration, to allow for the right to import or export, discretionary or automatic? How would this requirement be imposed upon a domestic firm that wanted to expand its scope of business?

Are such requirements extended to domestic producers or distributors, or are they unique to importers and exporters and distributors of imported goods in Andorra?

Have any requests for the right to import been rejected? If so, please describe the circumstances.

Reply:

With regard to the right to import, no application has been refused.

Question 15.

Are there any requirements or restrictions applied to any individuals or enterprises engaging in importation that are not also applied to individuals or enterprises engaging in domestic manufacturing or services?

Concerning the limitations outlined in the response to question 15 on the right of foreign individuals to be registered, e.g. the need to have resided at least 20 years in Andorra:

Do these include the right to import goods?

Does this apply to foreign-owned enterprises as well? Can firms import for their own use and for distribution without regard to nationality?

Reply:

(a) Right to engage in trade in Andorra

All commercial activities without distinction are subject to the Decree of 10 October 1981 and to the Law on Trading Companies of 19 May 1983.

The following may be registered in the RCI (Register of Commerce and Industry):

- Andorran adult natural persons;

- legal persons governed by Andorran law;
- foreign natural persons, whatever their nationality, who have resided in Andorra for at least 20 years.

(b) Registration in the RCI

The person concerned, whether natural or legal, must apply for administrative authorization to the local authority (*común*) within whose jurisdiction the commercial establishment will be situated.

Before giving its approval, the local authority must verify that the activity applied for is compatible with the existing general legislation; thus there will be no prohibition on engaging in the requested activity if it poses no threat to public order, safety, morality or health.

Once this authorization has been obtained, the person concerned must lodge an application with the government (Ministry of the Economy). Depending on the activity applied for, the premises may have to undergo technical or health inspections, in particular so as to ensure safety and hygiene, in accordance with the regulations published in the OJPA.

Once the premises have met the technical requirements and the administration has carried out the usual administrative checks (for example, by verifying that the person concerned is in fact entitled to engage in trade in Andorra and that the business name is not already being used by another establishment), the person concerned will be authorized to open and operate his establishment.

He will then be automatically registered in the RCI for the activity or activities authorized. The government will issue a certificate of registration in the RCI (*Tarja de Registre de Comerç i Indústria*) showing the registration number, the date of registration, the name of the holder, his business name, his address and the activity or activities authorized. It generally takes not more than two months to obtain a registration certificate.

The same procedure must be followed in order to make an amending entry in the RCI.

We note that, in December 1999, a new classification of economic activities that follows Community recommendations was introduced.

(c) Treatment of import and export activities

The procedure to be followed and the criteria for registering an import or export activity are the same as for any other activity. Obviously, the technical and health criteria vary with the nature of the goods imported: for example, a foodstuff importing and retailing business must satisfy hygiene criteria that will not be demanded of another business engaged in, say, importing and selling electronic goods.

As for the costs of registration and amending entries in the RCI, it should be pointed out that, every year, the Government publishes the prices of administrative services in the OJPA.

In 1999, registration in the RCI, whatever the activity or activities, cost 25,000 PTA (or 150.25 EURO) and an amending entry, which may comprise one or several amendments in a single administrative process, cost 10,000 PTA (or 60.10 EURO).

(d) Administrative checks carried out by the customs services

When goods are declared for import or export, the customs verifies that the consignee or consignor is registered in the RCI (that is to say, is authorized to engage in the commercial activity) and that the goods imported or exported correspond to the activities declared.

There is no general limitation on the kind of goods that a business may import or export. Some products are subject to specific regulations in accordance with the existing legislation published in the OJPA (administrative import permits for certain medicinal products, explosives or other sensitive substances).

(e) Right to import and right to export

The right to import and the right to export are acquired as soon as the natural or legal person is registered in the RCI.

Question 16.

We seek confirmation from Andorra of the following:

- **That no restrictions exist on the right of foreign and domestic individuals and enterprises to import and export goods and services in Andorra's customs territory, except as provided for in WTO Agreements; and**
- **that individuals and firms are not restricted in their ability to import or export based on their registered scope of business and the criteria for registration are generally applicable and published in the Official Journal.**

Reply:

Any foreign natural or legal person may import or export goods and services on Andorran customs territory as soon as he is registered in the RCI. The registration criteria mentioned in reply to the previous question apply to all natural and legal persons without distinction and are published in the OJPA.

Question 17.

If Andorra cannot confirm this, we need a clear description in the WP report of the limitations applied to the right to trade or any registration requirements that restrict it, with particular emphasis on how these differ from requirements applied to trade in domestic goods.

Reply:

Not applicable.

Question 18.

We seek a commitment that from the date of accession Andorra will ensure that its laws and regulations relating to the right to import and export goods and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1, and III:2 and 4 of the GATT 1994 and that it would also implement such laws and regulations in a full conformity with these obligations.

Reply:

From the date of accession, Andorra will ensure that the internal provisions are consistent with its WTO obligations, in particular with Articles VIII, XI and III of the GATT 1994.

Question 19.

To the extent that Andorra cannot make such a commitment due to current measures in place, we seek the elimination or amendment of those measures to meet the requirements outlined above.

Reply:

Not applicable.

(b) Characteristics of national tariff

Question 20.

(Q.16-19 WT/ACC/AND/5) We have some concerns regarding Andorra's replies relating to the EC-Andorra Customs Union. While we agree that this customs union is being examined in the regional committee, it is also a valid issue for the Accession Working Party. At a minimum we will expect a commitment from Andorra that its regional trade agreements will be fully consistent with GATT Article XXIV and GATS Article V.

We note it totally excludes agriculture, and therefore in our view does not eliminate barriers on substantially all trade.

Reply:

If this argument is not accepted, there can be no justification for the preference provided for EC tobacco, which is inconsistent with Article I of the GATT, and not justified by Article XXIV.

See reply to Question 41.

We would merely point out that the trade regime has been extensively liberalized and that the inclusion of the agricultural sector in the customs union would injure third countries exporting to Andorra.

Question 21.

Please clarify the response to questions 16 and 17 (WT/ACC/AND/5):

Please confirm in the WP report that Andorra applies MFN tariff rates to imports from the EU in Chapters 1-24 of the Andorran tariff schedule with the exception of certain products, which shall be listed by HS number.

Reply:

The only exception to the MFN rule concerns manufactured products of HS headings 24.02 and 24.03, or more precisely subheadings 24.02.10, 24.02.20, 24.02.90, 24.03.10, 24.03.91 and 24.03.99.

This reduction is applicable to all tobaccos of HS headings 24.02 and 24.03 manufactured in the EU from raw tobacco previously released into free circulation (Article 12.2 of the EEC-Andorra Agreement).

Question 22.

Please confirm in the WP report whether the 60 per cent tariff reduction on tobacco import duties is for France and Spain only or from all EU sources.

Reply:

The tariff reduction is 40 per cent and is applicable to tobacco products from all the countries of the EU under the conditions described in the reply to the previous question.

Question 23.

Please indicate if Andorra justifies tariff preferences on tobacco products as part of its customs union arrangement.

Reply:

This preference is attributable to the existence of acquired rights in favour Seita (France) and Tabacalera (Spain) at the time the EEC-Andorra Agreement was signed. The preference has been extended to all EEC countries.

Question 24.

Please discuss in the WP report any amendments planned to the current preferential system with the EU that would alter the current, largely MFN, trade regime in agriculture.

Reply:

At the moment, there is no intention of making any changes in the existing system of preferences.

Question 25.

Please confirm in the WP report whether Andorra grants any other tariff preferences to imports. Andorra states:

“Consequently, the tariff preferences granted by the European Community in the context of preferential relations in respect of origin have also been adopted by the Principality of Andorra. These apply to imports from the following:

- **Countries associated with the EC in the European Economic Area, Switzerland;**
- **Eastern and Central European countries (Hungary, Poland, Czech Republic, Slovakia, Bulgaria and Romania);**
- **developing countries in Africa, the Caribbean and the Pacific (signatories to the Lomé cooperation conventions) and associated overseas countries and territories;**
- **Maghreb countries (Algeria, Morocco, Tunisia);**

- **Mashreq countries (Egypt, Jordan, Lebanon, Syria);**
- **Baltic States (Estonia, Latvia and Lithuania);**
- **Faeroe Islands, Cyprus, Malta, Turkey, Israel, Territories on the West Bank of the Jordan and the Gaza strip, Republics of the former Yugoslav Federation: Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, and Slovenia;**
- **developing countries to which generalized tariff preferences are applied.”**

Does this mean that Andorra grants tariff preferences to the trade of countries that have preferential agreements with the EU, for example, those listed above?

Reply:

Yes, the Customs Union Agreement provides that for the products covered by the Customs Union (25-97) Andorra shall apply all the measures of common commercial policy *mutatis mutandis*. In particular, for the products of HS Chapters 25 to 97 Andorra applies the tariff preferences granted at importation by the EC.

- (d) Other duties and charges

Question 26.

Andorra has stated that it does not apply any charges to imports other than tariffs and domestic taxes, e.g., the IMI.

We would appreciate a statement to that effect in the WP report and a commitment from Andorra that it will not list any other charges in its Goods Market Accession Schedule under Article II:1(b) of the GATT 1994, thus binding such charges at zero.

Reply:

Andorra confirms that it does not apply any import charge other than customs duties and domestic taxes.

Andorra undertakes not to introduce any other charge in its market access schedule.

- (e) Quantitative import restrictions, including prohibitions, quotas and licensing systems

Question 27.

(Q.23 and Q.26, WT/ACC/AND/5) We note that Andorra recognizes that its ban on the import of second-hand vehicles is not consistent with Article XI of the GATT. We await the proposal that Andorra undertook to provide which will presumably rectify this.

Reply:

Andorra undertakes to apply a less restrictive regime to imports of second-hand vehicles. It envisages a more liberal regime permitting the importation and registration of vehicles up to five years old.

Question 28.

For each of the five products identified in response to question 24, where imports are restricted or prohibited, please list by HS number, the type of restriction, the reason for the restriction, what information importers would have to supply to import the good, and the steps an importer must take to be allowed to import.

Reply:

Narcotic substances:

The Pharmacy Service has an import monopoly.

Under Article 8 of the Regulation on medicinal products of 4 October 1977, the cultivation, extraction, production, processing, preparation, possession, offering, distribution, buying brokerage, purchase, import for sale, exportation or transfer of plants, parts of plants and substances listed in Table B is prohibited in the Principality of Andorra for any non-medical or non-pharmaceutical use.

The importation of these substances is controlled for health and public order reasons.

For this reason only the Pharmacy Service of the Ministry of Health may import these substances on behalf of pharmacies and hospitals. The Pharmacy Service receives import applications from pharmacies and hospitals and delivers the imported substances to them. These establishments must maintain a register of all their purchases and sales under government supervision. The pharmacies and hospitals issue these substances only against medical prescriptions.

Article 1 of the same Regulation specifies that Table B shall consist of the substances listed in the international schedule of the Vienna Convention on Psychotropic Substances, namely:

| Name | HS subheading |
|-----------------------------|---------------|
| Acetorphine | 2939.10 |
| Acetylmethadol | 2922.19 |
| Acetyl-alpha-methylfentanyl | 2933.39 |
| Alfentanyl | 2933.39 |
| Allylprodine | 2933.39 |
| Alpha-acetylmethadol | 2922.19 |
| Alpha-meprodine | 2933.39 |
| Alpha-methadol | 2922.19 |
| Alpha-prodine | 2933.39 |
| Anileridine | 2933.39 |
| Benzethidine | 2933.39 |
| Benzylmorphine | 2939.10 |
| Beta-acetylmethadol | 2922.19 |
| Beta-meprodine | 2933.39 |
| Beta-methadol | 2922.19 |
| Beta-prodine | 2933.39 |
| Bezitramide | 2933.39 |
| Cannabis | 1211.90 |
| Cannabis resin | 1301.90 |
| Clonitazene | 2933.90 |

| Name | HS subheading |
|---|---------------|
| Coca (leaf) | 1211.90 |
| All preparations based on coca leaf with a coca content of more than 0.1% will be treated as coca leaf preparations | |
| Coca (paste) | 1302.19 |
| Cocaine | 2939.90 |
| Codoxime | 2939.10 |
| Concentrate of poppy straw | 1302.11 |
| Desomorphine | 2939.10 |
| Dextromoramide | 2934.90 |
| Dextropropoxyphene | 2922.19 |
| Diampromide | 2924.29 |
| Diethylthiambutene | 2934.90 |
| Difenoxin | 2933.39 |
| Dihydrocodeine | 2939.10 |
| Dimenoxadol | 2922.19 |
| Dimepheptanol | 2922.19 |
| Dimethylthiambutene | 2934.90 |
| Dioxaphetyl butyrate | 2934.90 |
| Diphenoxylate | 2933.39 |
| Dipipanone | 2933.39 |
| Drotebanol | 2933.40 |
| Ecgonine benzoylethyl ester | 2939.90 |
| Ecgonine benzoylpropyl ester | 2939.90 |
| Ecgonine cinnamoylmethyl ester | 2939.90 |
| Ecgonine 2,6-dimethyl-benzoyl methyl ester | 2939.90 |
| Ecgonine methyl ester | 2939.90 |
| Ecgonine methyl ester hydrochloride | 2939.90 |
| Ecgonine phenylacetyl-methyl ester | 2939.90 |
| Ethylmethylthiambutene | 2934.90 |
| Ethylmorphine | 2939.10 |
| Etonitazene | 2933.90 |
| Etorphine | 2939.10 |
| Etoperidine | 2933.39 |
| Fentanyl | 2933.39 |
| p-Fluorofentanyl | 2933.39 |
| Furethidine | 2934.90 |
| Heroin | 2939.10 |
| Hydrocodone | 2939.10 |
| Hydromorphenol | 2939.10 |
| Hydromorphone | 2939.10 |
| Beta-hydroxyfentanyl | 2933.39 |
| Beta-hydroxy-3-methylfentanyl | 2933.39 |
| Hydroxypethidine | 2933.39 |
| Isomethadone | 2922.30 |
| Ketobemidone | 2933.39 |
| Levomethorphan | 2933.40 |
| Levomoramide | 2934.90 |

| Name | HS subheading |
|---------------------------|---------------|
| Levophenacymorphan | 2933.40 |
| Levorphanol | 2933.40 |
| Metazocine | 2933.39 |
| Methadone | 2922.30 |
| Methyldesorphine | 2939.10 |
| Methyldihydromorphine | 2939.10 |
| Methyl-3-fentanyl | 2933.39 |
| Alpha-methylfentanyl | 2933.39 |
| Alpha-methylthiofentanyl | 2934.90 |
| Methyl-3-thiofentanyl | 2934.90 |
| Metopon | 2939.10 |
| Moramide, intermediate | 2934.90 |
| Morphine, and derivatives | 2939.10 |
| MPPP | 2933.39 |
| Myrophine | 2939.10 |
| Nicodine | 2939.10 |
| Nicodicodine | 2939.10 |
| Nicomorphine | 2939.10 |
| Noracymethadol | 2922.19 |
| Norcodeine | 2939.10 |
| Norlevorphanol | 2933.40 |
| Normethadone | 2922.30 |
| Normorphine | 2939.10 |
| Norpipanone | 2933.39 |
| Opium | 1302.11 |
| Oxycodone | 2939.10 |
| Oxymorphone | 2939.10 |
| PEPAP | 2933.39 |
| Pethidine | 2933.39 |
| Pethidine, intermediate A | 2933.39 |
| Pethidine, intermediate B | 2933.39 |
| Pethidine, intermediate C | 2933.39 |
| Phenadoxone | 2934.90 |
| Phenampromide | 2933.39 |
| Phenazocine | 2933.39 |
| Phenomorphane | 2933.40 |
| Phenoperidine | 2933.39 |
| Pholcodine | 2939.10 |
| Piminodine | 2933.39 |
| Piritramide | 2933.39 |
| Proheptazine | 2933.90 |
| Properidine | 2933.39 |
| Propiram | 2933.39 |
| Racemethorphan | 2933.40 |
| Racemoramide | 2934.90 |
| Racemorphan | 2933.40 |
| Sufentanil | 2934.90 |
| Thebacon | 2939.10 |
| Thebaine | 2939.10 |

| Name | HS subheading |
|--|---------------|
| Thiofentanyl | 2934.90 |
| Tilidine | 2922.49 |
| Trimeperidine | 2933.39 |
| Amphetamine | 2921.49 |
| Brolamphetamine | 2922.29 |
| Cathinone | 2939.90 |
| DET | 2939.90 |
| Dexamphetamine | 2921.49 |
| DMA | 2922.29 |
| DMHP | 2932.99 |
| DMT | 2939.90 |
| DOET | 2922.29 |
| N-ethyl MDA | 2932.99 |
| Eticyclidine (PCE) | 2921.49 |
| Fenetylline | 2939.50 |
| N-hydroxy MDA | 2932.99 |
| Levamphetamine | 2921.49 |
| Levomethamphetamine | 2939.90 |
| Lysergide, LSD, LSD-25 | 2939.69 |
| MDMA | 2932.99 |
| Mecloqualone | 2933.59 |
| Mescaline | 2939.90 |
| Methamphetamine | 2939.90 |
| Methamphetamine racemate | 2939.90 |
| Methaqualone | 2933.59 |
| Methylaminorex | 2934.90 |
| Methylphenidate | 2933.39 |
| MMDA | 2932.99 |
| Parahexyl | 2932.99 |
| Pentazocine | 2933.39 |
| Phencyclidine (PCP) | 2933.39 |
| Phenmetrazine | 2934.90 |
| PMA | 2922.29 |
| Psilocine, psilocin | 2939.90 |
| Psilocybine | 2939.90 |
| Rolicyclidine (PHP, PCPY) | 2933.90 |
| Secobarbital | 2933.51 |
| STP, DOM | 2922.29 |
| Tenamphetamine | 2932.99 |
| Tenocyclidine | 2934.90 |
| Tetrahydrocannabinols, all the isomers | 2932.99 |
| d-9-Tetrahydrocannabinol and all its stereochemical variants | 2932.99 |
| TMA | 2922.29 |
| Zipeprol | 2933.59 |

N.B.: Unless explicitly excluded, the isomers are also included in this schedule. The same applies to the esters and ethers of the drugs listed in this schedule whose existence can be determined. The salts of the substances listed in the schedule are also subject to these regulations whenever the existence of such salts is possible.

Parts of HS 95.04

Only concerns machines for leisure activities that involve direct or indirect pecuniary reward.

Reason: public order and safety: at the moment, money games are prohibited in Andorra.

Nature of the restriction: absolute import ban (Government Decree of 12 April 1990).

Parts of HS 36.04

Only concerns anti-hail rockets, "globus" and other similar devices containing explosives - HS subheading 36.04.90.

Reason: public order and safety (prevention of fire hazards and protection of the public).

Nature of the restriction: absolute import ban (Governmental Decree of 14 August 1996).

Headings or parts of headings HS 36.03, 87.10, 90.13, 93.01 to 93.07 and 95.06 (firearms and the like)

Reason: public safety, public order and to combat the illegal trade in arms and explosives.

Nature of the restriction: either an absolute import ban or importation subject to authorization.

The following are subject to an absolute import ban (Article 2 of the Decree of 3 July 1989):

- Military weapons;

The following are deemed to be military weapons: arms, vehicles, equipment and *matériel* of all types and their basic components, together with their ammunition, designed or intended for making war or exclusively for military use. Arms capable of firing in bursts will always be deemed to be military weapons. Rifles and their ammunition will also be deemed to be military weapons when the neighbouring countries consider their characteristics or their calibre to identify them as such.

- arms exclusively for police use;

The following are deemed to be arms exclusively for police use: arms, vehicles, equipment and *matériel* of all types and their basic components, together with their ammunition, designed or intended specifically for police tasks, the maintenance of law and order or the protection of persons and property.

- sawn-off shotguns, manipulated firearms and firearms combined with *armes blanches*;
- firearms resulting from a substantial modification of the original or manufacturing characteristics;
- firearms of categories 1a, 2a, 3a and 4a above without their mark and serial number engraved on the barrel or the frame;
- fake arms, detonators and warning pistols that do not satisfy the conditions that must be met for them to be treated as arms of category 6a;

- cross-bows and slings improved to make them especially dangerous;
- knuckle-dusters, metal stars and any other device which in view of its characteristics is of a kind such as to pose a threat to persons or public safety;
- silencers adaptable to firearms;
- night vision equipment, laser beams or beams with similar characteristics;
- hard-core armour-piercing ammunition, explosive, incendiary and expanding ammunition, “dum-dum” bullets, bullets containing shot, and projectiles for this type of ammunition.

The following are subject to prior import authorization (Article 12 of the Decree of 3 July 1989):

- “Short” defensive firearms and their ammunition - category 1;
- (Pistols and revolvers are deemed to be “short” firearms. Guns with a barrel less than 45 cm long or with a total length of less than 80 cm with the butt folded, if possible, or without the butt, if not fixed, are treated in the same way as “short” firearms. Ammunition for “short” firearms, except for those of 22 - 5.5 mm - calibre with rim percussion).
- “short” firearms intended for sporting use - category 2;
- (Arms of category 1 will be deemed to be for sporting use when their calibre and characteristics comply with the competition rules of the International Shooting Sport Federation, except for those of 22 - 5.5 mm - calibre with rim percussion. The ammunition for these arms will also be deemed to be subject to the system when its calibre and characteristics comply with the competition rules of the International Shooting Sport Federation, except for that of 22 - 5.5 mm - calibre with rim percussion).

Procedures for issuing prior import authorizations (Articles 12 to 16)

In principle, import authorizations will only be granted to gunsmiths declared as such and established in the Principality of Andorra.

Import applications must be lodged with the police by the importer.

There are different import applications for outright and temporary importation.

Applications for outright importation must specify the arms to be imported and in each case indicate the mark, model, calibre and intended use, together with that of the ammunition.

Applications for temporary importation must specify the arms to be temporarily imported and in each case indicate the mark, model, calibre and identification number, together with the ammunition necessary for training and competition (quantity and calibre). They will also indicate the place where the arms will be presented and/or used, together with the place where they will be stored with their ammunition during, before and after presentation, training and competitions. In the case of arms presentations, a copy of the authorization for the manufacture and/or sale of the arm(s) in the country of residence of the applicant must also be produced, together with an authentic document certified by an executive of the importing company confirming the temporary use in the Principality

of Andorra. In connection with sporting events, it will be necessary to produce a document from the *Fédération andorrane de Tir* or the company or association organizing the competition confirming that the applicant is registered as a participant, together with a copy of the gun licence issued by the country of residence of the applicant.

Note: The corresponding basic components, such as barrels, frames, magazines, drums, bolts and their parts, are treated like firearms and are subject to the same regulations. Firing caps and pistons are treated in the same way as ammunition for firearms and are subject to the same regulations.

Headings or parts of headings HS 36.01 and 36.02 (explosives)

Reason: public safety and public order.

Nature of the restriction: imports subject to prior authorization (Regulation on explosives approved by Parliament 4 May 1976 and most recently amended by the Government Decree of 5 October 1995).

The following, in particular, are subject to prior import authorization:

- All nitroglycerine or nitroglycol-based explosives (classification in category 1a);
- plasticized perchlorate explosives (category 2a);
- black powder based on sodium or potassium nitrate (category 3a);
- chlorate or perchlorate explosives (category 4a);
- black powder compressed into cartridges of less than 250 g and of a density of less than 1.5 (category 5a);
- nitrate explosives - ammonium nitrate (category 6a);
- nitrate-fuel explosives (category 7a);
- penthrite and RDX detonating fuses (category 8a);
- lead-bound TNT detonating fuses (category 9a);
- electric detonators (category 10a);
- fuse detonators (category 11a);
- safety fuses (category 12a);
- CCR, LSB or the like (category 13a).

Procedure for issuing prior import authorizations

Only enterprises holding an administrative use and storage permit may import the above-mentioned products.

To obtain a permit the importer must:

- Submit to the Department of Industry of the Ministry of the Economy a certificate drawn up by the services of the local authorities where the works requiring the use of explosives are to be carried out, indicating the nature of the substances to be used;
- submit to the same administrative services the official register for recording the inward and outward movements of explosives, in connection with the above-mentioned storage permit, whose modalities are defined in Article 29 of the Regulation, together with details of the explosives to be imported.

The practical procedures for the importation of explosives must also satisfy precise packaging, transport and registration requirements.

Question 29.

Could Andorra provide us with an update on the prospects for establishing a less restrictive regime for second-hand vehicles?

Reply:

Andorra undertakes to apply a less restrictive second-hand vehicle import regime at the time of accession. It envisages a more liberal regime permitting the importation and registration of vehicles up to five years old.

Question 30.

If tower cranes are to be subjected to an autonomous (non-EU) import authorization, it will have to be done in a manner consistent with the WTO Agreement on Import Licensing Procedures.

Reply:

Andorra promises that, at the time of accession, it will remove the ban on the importation of demountable cranes in service for more than three years once the "Law on Industrial Safety" has been approved by Parliament. A copy of the law will be forwarded to the WTO Secretariat.

(f) Export licensing procedures

Question 31.

Andorra states in WT/ACC/AND/3 and in the reply to question 28 of WT/ACC/AND/5 that it does not have a licensing system.

As Andorra has addressed how importers could import restricted goods, we believe that a form of licensing is at work, and seek completion of the Import Licensing Questionnaire in WT/ACC/1 for these products.

Reply:

See document WT/ACC/AND/9.

Question 32.

Does Andorra operate its restrictions on imports for health, safety and sanitary purposes according to the requirements of the WTO Agreement on Import Licensing? If so, please outline these provisions in a response corresponding to the Annex on Licensing Procedures contained in WT/ACC/1.

Reply:

Yes, but always in compliance with the MFN and national treatment clauses.

Question 33.

If not, why not? (Note: the Agreement on Import Licensing Procedures covers administrative procedures requiring the submission of an application or other documentation other than normal customs documents as a prior condition of importation. End note).

Reply:

Not applicable.

(h) Customs valuation

Question 34.

The laws and regulations requested in question 33 of WT/ACC/AND/5 do not exactly correspond to the titles of legislation provided by Andorra as listed in WT/ACC/AND/6.

We would appreciate clarification as to whether the laws and regulations listed in question 33 have been provided for WP review.

Reply:

In August 1999, the Government of Andorra sent the WTO all the legislation mentioned in question 33. The Andorran Customs Code is being translated into English and will be communicated to the WP as soon as possible.

(k) Application of internal taxes on imports

Question 35.

We welcome the undertaking that the law on the IMI will soon be applied in conformity with Article III of the GATT. Please provide a list of the goods to which it is currently being applied in a discriminatory manner.

Reply:

All imported products are subject to IMI; there is discrimination against them only in the rare cases in which like or competitive Andorran products also exist.

Question 36.

WT/ACC/AND/3 and 5 state that, at present, Andorra does not apply the IMI tax to domestic goods. This is a violation of Article III of the GATT.

Reply:

Andorra is in the process of developing its tax system in order to extend the indirect tax to all the productive sectors of the economy. The tax concerned is the General Indirect Tax consisting of the IMI, which includes the indirect tax on production, and the ISI (Indirect Tax on Services). The laws that will make it possible to collect ISI are before Parliament and will be voted on in March.

Question 37.

Please confirm that it is applied on an MFN basis to all imports from all sources, e.g., including to preferential trade from the EU.

Reply:

The IMI applies to all imports whatever their provenance or origin. See the table below.

| HS Chapter | Description of Product | Customs duty | | Tax | |
|-------------|---|--------------|---------|----------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 01.01 | Live horses, asses, mules and hinnies. | 550 Pta/unit | | 1% | |
| 01.02 | Live bovine animals. | 550 Pta/unit | | 1% | |
| 01.03.10.00 | Live swine, pure-bred breeding animals. | 165 Pta/unit | | 1% | |
| 01.03.91.10 | Live swine, weighing less than 50 kg. Domestic species | 55 Pta/unit | | 1% | |
| 01.03.91.90 | Other | 55 Pta/unit | | 1% | |
| 01.03.92.11 | Sows having farrowed at least once, of a weight of not less than 160 kg. | 165 Pta/unit | | 1% | |
| 01.03.92.19 | Other | 165 Pta/unit | | 1% | |
| 01.03.92.90 | Other | 165 Pta/unit | | 1% | |
| 01.04 | Live sheep and goats. | 110 Pta/unit | | 1% | |
| 01.05 | Live poultry, that is to say, fowls of the species Gallus domesticus, ducks, geese, turkeys and guinea fowls. | 2% | | 1% | |
| 01.06 | Other live animals. | 2% | | 1% | |
| 02 | Meat and edible meat offal. | 1% | | 1% | |
| 03 | Fish and crustaceans, molluscs and other aquatic invertebrates. | 1% | | 1% | |
| 04 | Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included. | 2% | | 1% | |
| 05 | Products of animal origin, not elsewhere specified or included. | 1% | | 1% | |
| 06 | Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage. | 1% | | 1% | |
| 07 | Edible vegetables and certain roots and tubers. | 1% | | 1% | |
| 08 | Edible fruit and nuts; peel of citrus fruits or melons. | 1% | | 1% | |
| 09 | Coffee, tea, maté and spices. | 2% | | 1% | |
| 09.01.11.00 | Coffee, not roasted: not decaffeinated. | 0 | | 0 | |
| 09.01.12.00 | Coffee, not roasted: decaffeinated. | 0 | | 0 | |
| 10 | Cereals. | 1% | | 1% | |
| 11 | Products of the milling industry; malt; starches; inulin; wheat gluten. | 1% | | 1% | |
| 12 | Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder. | 1% | | 1% | |
| 13 | Lac; gums, resins and other vegetable saps and extracts. | 1% | | 1% | |
| 14 | Vegetable plaiting materials; vegetable products not elsewhere specified or included. | 1% | | 1% | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|---------------|--|--------------|---------|----------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 15 | Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes. | 2% | | 1% | |
| 16 | Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates. | 2% | | 1% | |
| 17 | Sugars and sugar confectionery. | 2% | | 1% | |
| 18 | Cocoa and cocoa preparations. | 2% | | 1% | |
| 19 | Preparations of cereals, flour, starch or milk; pastrycooks' products. | 2% | | | |
| 20 | Preparations of vegetables, fruit, nuts or other parts of plants. | 2% | | 1% | |
| 21 | Miscellaneous edible preparations. | 2% | | 1% | |
| 22 | Beverages, spirits and vinegar. | | | | |
| 22.01 | Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow. | 3% | | 1% | |
| 22.02 | Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 2009. | 3% | | 1% | |
| 22.03 | Beer made from malt. | 5% | | 1% | |
| 22.04 | Wine of fresh grapes, including fortified wines; grape must other than that of heading No. 2009. | 5% | | | |
| 22.05 | Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances. | 15% | | 1% | |
| 22.06 | Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included. | 5% | | 1% | |
| 22.07.10.00 | Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher. | 38 Pta/litre | | 1% | |
| 22.07.20.00 | Ethyl alcohol and other spirits, denatured, of any strength. | 1 Pta/litre | | 1% | |
| 22.08 | Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages. | 19% | | 1% | |
| 22.09 | Vinegar and substitutes for vinegar obtained from acetic acid. | 3% | | 1% | |
| 23 | Residues and waste from the food industries; prepared animal fodder. | 2% | | 1% | |
| 24.01.10.10.1 | Tobacco, not stemmed/stripped, light. | 497 Pta/kg | | 1% | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|---------------|---|----------------------|------------|--------------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 24.01.10.10.2 | Tobacco, not stemmed/stripped, dark. | 96 Pta/kg | | 1% | |
| 24.01.20.10.1 | Tobacco, partly or wholly stemmed/stripped, light. | 1700 Pta/kg | | 1% | |
| 24.01.20.10.2 | Tobacco, partly or wholly stemmed/stripped, dark. | 124 Pta/kg | | 1% | |
| 24.01.20.10.3 | Trunk. | 220 Pta/kg | | 1% | |
| 24.01.30.00 | Tobacco refuse. | 385 Pta/kg | | 1% | |
| 24.02.10.00.1 | Cigars, cheroots and cigarillos, containing tobacco, Community. | 18% | 563 Pta/kg | 1% | |
| 24.02.10.00.2 | Cigars, cheroots and cigarillos, containing tobacco, non-Community. | 30% | 938 Pta/kg | 1% | |
| 24.02.20.00.1 | Cigarettes, containing tobacco, Community, light; packets of 20 cigarettes. | 114 Pta/packet of 20 | | 1% | |
| 24.02.20.00.2 | Cigarettes, containing tobacco, Community, dark; packets of 20 cigarettes. | 12 Pta/packet of 20 | | 1% | |
| 24.02.20.00.3 | Cigarettes, containing tobacco, non-Community, light; packets of 20 cigarettes. | 190 Pta/packet of 20 | | 1% | |
| 24.02.20.00.4 | Cigarettes, containing tobacco, non-Community, dark; packets of 20 cigarettes. | 20 Pta/packet of 20 | | 1% | |
| 24.03.10.10.1 | Smoking tobacco, in immediate packings of a net content not exceeding 500 g; Community tobacco. | 36% | 270 Pta/kg | 1% | |
| 24.03.10.10.2 | Smoking tobacco, in immediate packings of a net content not exceeding 500 g; non-Community tobacco. | 60% | 450 Pta/kg | 1% | |
| 24.03.10.90.1 | Smoking tobacco, other; Community. | 36% | 270 Pta/kg | 1% | |
| 24.03.10.90.2 | Smoking tobacco, other; non-Community. | 60% | 450 Pta/kg | 1% | |
| 24.03.91.00.1 | "Homogenized" tobacco; Community. | 3% | | 1% | |
| 24.03.91.00.2 | "Homogenized" tobacco; non-Community. | 5% | | 1% | |
| 24.03.99.10.1 | Chewing tobacco and snuff; Community. | 3% | | 1% | |
| 24.03.99.10.2 | Chewing tobacco and snuff; non-Community. | 5% | | 1% | |
| 24.03.99.90.1 | Other tobacco; Community. | 3% | | 1% | |
| 24.03.99.90.2 | Other tobacco; non-Community. | 5% | | 1% | |
| 25 | Salt; sulphur; earths and stone; plastering materials, lime and cement. | | | 4% | |
| 26 | Ores, slag and ash | | | 4% | |
| 27 | Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes. | | | 4% | |
| 27.10.00.27 | Unleaded spirit with an octane number of less than 95. | | | 37 Pta/litre | |
| 27.10.00.29 | Unleaded spirit with an octane number of 95 or more but less than 98. | | | 37 Pta/litre | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|---------------|--|--|---------|----------------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 27.10.00.32 | Unleaded spirit with an octane number of 98 or more. | Application of customs duties and the EU external commercial policy. These measures are not applicable to Community goods and goods released into free circulation (Andorra/EU Customs Union Agreement of 28 June 1990). | | 37 Pta/litre | |
| 27.10.00.34 | Super with an octane number of less than 98. | | | 37 Pta/litre | |
| 27.10.00.36 | Super with an octane number of 98 or more. | | | 37 Pta/litre | |
| 27.10.00.37 | Spirit type jet fuel. | | | 20 Pta/litre | |
| 27.10.00.66.1 | Gas oil for vehicles. | | | 10 Pta/litre | |
| 27.10.00.66.2 | Gas oil for heating. | | | 4.20 Pta/litre | |
| 28 | Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes. | | | 4% | |
| 29 | Organic chemicals. | | | 4% | |
| 30 | Pharmaceutical products. | | | 4% | |
| 31 | Fertilisers. | | | 4% | |
| 32 | Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks. | | | 4% | |
| 33 | Essential oils and resinoids; perfumery, cosmetic or toilet preparations. | | | 7% | |
| 34 | Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, 'dental waxes' and dental preparations with a basis of plaster. | | | 4% | |
| 35 | Albuminoidal substances; modified starches; glues; enzymes. | | | 4% | |
| 36 | Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations. | | | 4% | |
| 37 | Photographic or cinematographic goods. | | | 4% | |
| 38 | Miscellaneous chemical products. | | | 4% | |
| 39 | Plastics and articles thereof. | | | 4% | |
| 40 | Rubber and articles thereof. | | | 4% | |
| 41 | Raw hides and skins (other than furskins) and leather. | | | 4% | |
| 42 | Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut). | | | 4% | |
| 43 | Furskins and artificial fur; manufactures thereof. | | | 4% | |
| 44 | Wood and articles of wood; wood charcoal. | | | 4% | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|------------|--|--|---------|----------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 45 | Cork and articles of cork. | | | 4% | |
| 46 | Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork. | | | 4% | |
| 47 | Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard. | | | 4% | |
| 48 | Paper and paperboard; articles of paper pulp, of paper or of paperboard. | | | 4% | |
| 49 | Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans. | | | 4% | |
| 49.01 | Printed books, brochures, leaflets and similar printed matter. | | | 0% | |
| 49.02 | Newspapers, journals and periodicals. | | | 0% | |
| 50 | Silk. | | | 4% | |
| 51 | Wool, fine or coarse animal hair; horsehair yarn and woven fabric. | | | 4% | |
| 52 | Cotton. | | | 4% | |
| 53 | Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn. | Application of customs duties and the EU external commercial policy. These measures are not applicable to Community goods and goods released into free circulation (Andorra/EU Customs Union Agreement of 28 June 1990). | | 4% | |
| 54 | Man-made filaments. | | | 4% | |
| 55 | Man-made staple fibres. | | | 4% | |
| 56 | Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof. | | | 4% | |
| 57 | Carpets and other textile floor coverings. | | | 4% | |
| 58 | Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery. | | | 4% | |
| 59 | Impregnated, coated, covered or laminated textile fabrics; textile articles of a kind suitable for industrial use. | | | 4% | |
| 60 | Knitted or crocheted fabrics. | | | 4% | |
| 61 | Articles of apparel and clothing accessories, knitted or crocheted. | | | 4% | |
| 62 | Articles of apparel and clothing accessories, not knitted or crocheted. | | | 4% | |
| 63 | Other made-up textile articles; sets; worn clothing and worn textile articles; rags. | | | 4% | |
| 64 | Footwear, gaiters and the like; parts of such articles. | | | 4% | |
| 65 | Headgear and parts thereof. | | | 4% | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|-------------|---|--------------|---------|----------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 66 | Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding crops and parts thereof. | | | 4% | |
| 67 | Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair. | | | 4% | |
| 68 | Articles of stone, plaster, cement, asbestos, mica or similar materials. | | | 4% | |
| 69 | Ceramic products. | | | 4% | |
| 70 | Glass and glassware. | | | 4% | |
| 71 | Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coins. | | | 7% | |
| 71.06.10.00 | Silver powder. | | | | |
| 71.06.91.10 | Silver, unwrought, of a fineness of not less than 999 parts per 1,000. | | | 4% | |
| 71.06.91.90 | Silver, unwrought, of a fineness of less than 999 parts per 1,000. | | | 4% | |
| 71.08.11.00 | Gold powder. | | | 4% | |
| 71.13.19.00 | Jewellery, goldsmiths' and silversmiths' wares and other articles, in precious metals. | | | 0% | |
| 72 | Iron and steel. | | | 12% | |
| 73 | Articles of iron or steel. | | | 4% | |
| 74 | Copper and articles thereof. | | | 4% | |
| 75 | Nickel and articles thereof. | | | 4% | |
| 76 | Aluminium and articles thereof. | | | 4% | |
| 78 | Lead and articles thereof. | | | 4% | |
| 79 | Zinc and articles thereof. | | | 4% | |
| 80 | Tin and articles thereof. | | | 4% | |
| 81 | Other base metals; cermets; articles thereof. | | | 4% | |
| 82 | Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal. | | | 4% | |
| 83 | Miscellaneous articles of base metal. | | | 4% | |
| 84 | Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof. | | | 4% | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|-------------|--|--|---------|----------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 85 | Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles. | | | 4% | |
| 86 | Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electromechanical) traffic signalling equipment of all kinds. | | | 4% | |
| 87 | Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof. | | | 4% | |
| 87.03 | Motor cars and other motor vehicles principally designed for the transport of persons. | | | 7% | |
| 87.11 | Motor-cycles and cycles fitted with an auxiliary motor. | | | 7% | |
| 87.13.10.00 | Invalid carriages, not mechanically propelled. | | | 0% | |
| 87.13.90.00 | Other invalid carriages. | | | 0% | |
| 87.14.20.00 | Parts and accessories of invalid carriages. | | | 0% | |
| 88 | Aircraft, spacecraft and parts thereof. | | | 4% | |
| 89 | Ships, boats and floating structures. | | | 7% | |
| 90 | Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof. | Application of customs duties and the EU external commercial policy. These measures are not applicable to Community goods and goods released into free circulation (Andorra/EU Customs Union Agreement of 28 June 1990). | | | |
| 90.01 | Optical fibres and optical fibre bundles. | | | | |
| 90.03 | Frames and mountings for spectacles, goggles or the like. | | | 7% | |
| 90.04 | Spectacles, goggles and the like, corrective, protective or other. | | | 7% | |
| 91 | Clocks and watches and parts thereof. | | | 7% | |
| 92 | Musical instruments; parts and accessories of such articles. | | | 4% | |
| 93 | Arms and ammunition; parts and accessories thereof. | | | 7% | |
| 94 | Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings. | | | 4% | |
| 94.99.99.99 | Removals (personal effects). | | | 0% | |
| 95 | Toys, games and sports requisites; parts and accessories thereof. | | | 4% | |
| 95.04.30 | Other games, coin- or disc-operated: games with screen, flippers, parts and accessories. | | | 12% | |

| HS Chapter | Description of Product | Customs duty | | Tax | |
|-------------|---|--------------|---------|----------|---------|
| | | Duty rate | Minimum | Tax rate | Minimum |
| 95.04.40.00 | Playing cards. | | | 7% | |
| 96 | Miscellaneous manufactured articles. | | | 4% | |
| 96.01 | Worked ivory, bone, tortoise-shell, horn, antlers, coral... | | | 7% | |
| 97 | Works of art, collectors' pieces and antiques. | | | 7% | |
| 97.01 | Paintings, drawings and pastels, executed entirely by hand. | | | 0% | |
| 97.02 | Original engravings, prints and lithographs. | | | 0% | |
| 97.03 | Original sculptures and statuary. | | | 0% | |

Question 38.

What is Andorra's timetable for addressing this problem, i.e., please confirm when the IMI tax rates will be abolished or extended to similar internal goods on a basis that brings the application of this tax into conformity with Article III of the GATT.

Reply:

IMI, which is collected at importation, corresponds to a value added tax. Andorra does not intend to abolish this tax; in fact, the Government proposes to extend it to all the productive sectors of the Andorran economy. This will take effect from the year 2000 with the approval in March 2000 of the law on the ISI (see previous question). The tax on domestic production will be introduced in 2001 or at the latest before Andorra enters the WTO.

Question 39.

Please indicate at what point of sale the IMI will be applied when it is extended to both imports and domestic products, for example, will the point of application be at the retail level or at some other point?

Reply:

Initially, for domestic products IMI on production will be collected at the production stage, it being understood that a system of deductibility up to the end consumption stage will subsequently be introduced.

Where imports are concerned, IMI is collected at importation.

Question 40.

We seek a commitment from Andorra, in addition to information as to precisely when these taxes will be made WTO-consistent, that from the date of accession Andorra will apply its domestic taxes, including the IMI, in strict compliance with Article III of the GATT 1994, in a non-discriminatory manner to imports, regardless of country of origin, and to domestically produced goods.

Reply:

Andorra confirms that, at the time of accession, it will apply domestic taxes, including IMI, in a manner strictly consistent with Articles I and III of the GATT 1994.

- (i) Rules of origin

Question 41.

The EC-Andorra Customs Union currently excludes trade in agriculture products. Japan is concerned that such exclusion might be contrary to the requirements of Article XXIV:8(a) of the GATT 1994, which stipulates that duties and other restrictive regulations of commerce should be eliminated with respect to substantially all trade between the parties concerned. We would thus like to draw the attention of Members to paragraph 4 of the Preamble to the Understanding on the Interpretation of Article XXIV of the GATT 1994, whereby Member countries recognize that the contribution to the expansion of world trade is diminished if any major sector of trade is excluded.

Please provide a detailed explanation as to why the above Customs Union excluded trade in agriculture products. Please also explain the alleged consistency of excluding trade in agriculture with Article XXIV:8(a) of the GATT 1994. (Q.35, WT/ACC/AND/5).

Reply:

The fourth paragraph of the Preamble to the Understanding on the Interpretation of Article XXIV of the GATT 1994 rightly states that the contribution to the expansion of world trade that can be made by eliminating tariff and non-tariff barriers between constituent territories will be increased if it extends to all trade. According to Article XXIV:8(a) of the GATT 1994, a customs union is lawful if duties and other restrictive regulations of commerce are eliminated “with respect to substantially all the trade between the constituent territories”.

The EC-Andorra Customs Union covers 80 per cent of EC-Andorra trade. As far as agricultural products are concerned, products originating in Andorra can enter the EC free of CCT duties. If reciprocity had been provided for, i.e. exemption of products originating in the EC from Andorran import duties, the agreement would cover all of EC-Andorra trade. Note that for products of HS Chapters 1 to 24, with the exception of tobacco and beverages, Andorran import duties are very low.

It is not correct to say that the EC-Andorra Agreement excludes trade in agricultural products: it actually establishes asymmetrical preferential access to the EC in favour of agricultural products of Andorran origin. The explanation for the differential treatment of agricultural and industrial products is as follows: most Andorran outlets consist of purchases by tourists (commercial tourism). These tourists are for the most part Community residents: it is hard to imagine their being able freely to purchase third-country industrial products in Andorra free of CCT duties, whereas almost all the agricultural products they buy are of Community origin. It is therefore only normal that the EC-Andorra Agreement should subject imports of third-country industrial products into Andorra to the CCT, whereas the same requirement would not make sense where agricultural products are concerned.

Thus, the customs union only covers industrial products. As for agricultural products, the 1867 exchanges of letters between France and Spain, on the one hand, and Andorra, on the other, established two genuine free-trade areas. The preferential access of products of Andorran origin to France and Spain was therefore extended to all the countries of the Community, whereas the low level of Andorran import duties on agricultural products (except for tobacco and beverages) made a preferential access clause in favour of agricultural products originating in the EC unnecessary.

It should be added that, although excluded from the customs union, the agricultural sector has been extensively liberalized. Agricultural products of Andorran origin exported to the EU are free of duty and agricultural imports receive MFN treatment. If Andorra had included the agricultural sector in the Customs Union, the resulting regime would have been much more restrictive than the present one, since it would have to apply the Common External Tariff to imports of agricultural products, thus penalizing the third countries that trade with Andorra. Evoking Article XXIV to penalize agricultural trade does not seem fair.

Question 42.

What rules of origin are used by Andorra to identify preferential trade from non-EU countries to whom Andorra grants duty-free tariff treatment, e.g., as described in the response to question 35 (WT/ACC/AND/5)?

Reply:

As described in the reply to question 35, the rules of preferential origin used by Andorra are the same as those applied by the member States of the EU.

Question 43.

Please cite the specific legislation that provides for the implementation of Article 2(h) and paragraph 3(d) of Annex II of the WTO Agreement on Rules of Origin. If these provisions are not explicitly included in Andorran law or regulation, we seek enactment of such provisions prior to accession.

Reply:

Specific legislation providing for the application of Article 2(h) and paragraph 3(d) of Annex II of the WTO Agreement on Rules of Origin will be promulgated prior to accession.

- (m) Anti-dumping regime (AD)
- (n) Countervailing duty regime
- (o) Safeguards regime

Question 44.

Does Andorra have any intention to introduce domestic laws and regulations regarding anti-dumping? Is Andorra currently imposing any anti-dumping measures? If so, have the authorities in Andorra initiated and/or conducted investigations to determine the existence of any injury to the domestic industry?

In Japan's view, the automatic imposition of anti-dumping measures by any new party of an existing customs union without prior investigation is inconsistent with Article XXIV:5 of the GATT 1994, whereby duties and other regulations of commerce shall not on the whole be higher or more restrictive than those prior to the formation of such union. As we are concerned by such practice, we request Andorra to introduce as soon as possible its own domestic laws and regulations on anti-dumping measures. (Q.36, WT/ACC/AND/5).

Reply:

Being in a customs union with the EC for industrial products, Andorra applies the Community's anti-dumping regulations to those products. These regulations are consistent with the rules of the GATT 1994. Andorra does not have any independent anti-dumping regulations and therefore applies, solely for industrial products, the Community's anti-dumping measures. So far, Andorra has never envisaged asking the Joint Committee to impose anti-dumping measures on the grounds of injury caused to Andorran industry which, it should be recalled, is very embryonic. Andorra does not contemplate providing itself with national anti-dumping regulations for agricultural products.

Question 45.

Please clarify the meaning of the responses to questions 36-38 of WT/ACC/AND/5.

Is it to be understood that Andorra (a) does not have its own AD/CVD or safeguard laws, and (b) does not conduct its own AD/CVD or safeguard investigations?

Reply:

As a party to the Customs Union, Andorra applies the anti-dumping and countervailing duties and the safeguard clauses established by the EC. It is true to say that, because of the EC-Andorra Agreement, Andorra does not have its own laws.

Question 46.

Could Andorran firms petition the EC Commission to conduct the investigation and apply the measures for industrial goods covered by the Customs Union, i.e. Chapters 25-97 of the tariff schedule?

Reply:

In the context of the EC-Andorra Customs Union, the Community institutions have exclusive responsibility for the adoption of anti-dumping measures; conceivably, Andorra could make such a request to the Joint Committee set up under the EC-Andorra Agreement.

During nearly ten years of existence of the EC-Andorra Agreement, this clause has never been applied.

Question 47.

Regarding the safeguard provisions in Article 10 of the Customs Union Agreement, what is the relationship of these measures to the provisions of the WTO Agreement on Safeguards?

Reply:

The presence of a safeguard clause in Article 10 of the Agreement was made necessary by the possibility that implementation of the common commercial policy might seriously damage Andorra's economic interests. Under the terms of this article, exceptionally, Andorra could be authorized by the Joint Committee to adopt surveillance or protection measures with respect to both member States of the Community and third countries.

Question 48.

Does Andorra have WTO-consistent regulations and institutions to apply AD/CVD measures on its own, for example, for agricultural imports not covered by the Customs Union?

Reply:

Andorra has no regulations and hence no institutions for applying anti-dumping measures or countervailing duties for agricultural imports. If in the future it were to adopt any regulations it would do so in accordance with WTO provisions.

Question 49.

We would appreciate receiving a detailed explanation from Andorra as to why its safeguard measures are relevant only for trade in industrial products in HS Chapters 25-97.

Reply:

The safeguard clause, which applies only to EC-Andorra trade, in Article 10 of the EC-Andorra Agreement relates exclusively to industrial products because only these products are covered by the Customs Union. Consequently, only these products fall within the Custom Union's common commercial policy, which in certain circumstances might threaten to "deflect trade" or cause "economic difficulties". In such circumstances, the Joint Committee could authorize derogations from the common commercial policy, justified by these deflections or difficulties, in favour of the contracting party affected.

2. Export regulation

- (h) Import duty drawback schemes

Question 50.

Please confirm that the rebate of customs duties is not related to the use of imported inputs in the manufacture of exported goods.

Reply:

At present, there is no possibility of obtaining the rebate of customs duties in connection with manufacturing or production operations.

3. Internal policies affecting foreign trade in goods

- (a) Industrial policy, including subsidy policies

Question 51.

Please describe precisely how Articles 99-157 of the National Customs Code are designed to facilitate the development of regulations essential to the effective promotion of the industrial sector.

Reply:

The regulatory development of the provisions of Articles 99 to 157 of the Customs Code is intended to facilitate the expansion of the industrial sector by allowing operators to engage in production or processing activities with relief from the payment of customs duties if the products of these activities are re-exported. These articles of the Code are intended to encourage the development of not just one but all industrial sectors.

- (b) Technical regulations and standards, including measures taken at the border with respect to imports
- (c) Sanitary and phytosanitary measures, including measures taken with respect to imports

Question 52.

(Q.41, WT/ACC/AND/5) Andorra has not responded to the question concerning conformity with the requirements of the TBT Agreement. We seek further advice on Andorra's intentions. Andorra will need to give a commitment to conformity and provide details of the step by step process, including a timetable for implementation.

Reply:

See reply to question 9, p.4

Mixing regulations

Question 53.

We previously submitted a question on mixing regulations which does not appear in WT/ACC/AND/5. Does Andorra have in place any measures which require enterprises to use domestic products rather than imported products, or to use certain proportions of domestic products as a condition of receiving some form of benefit?

Reply:

There is no measure of this type in Andorra.

Question 54.

We are concerned that Andorra's documentation to date does not discuss how Andorra's current domestic procedures for standards and sanitary/phytosanitary requirements applied to imports are compatible with WTO provisions, nor does it discuss how Andorra intends to meet its obligations.

Finally, Andorra is somewhat vague about its ability to provide the institutional framework for transparency and due process required by the WTO's TBT and SPS Agreements, for example, there is no response at all concerning the TBT Agreement and that it "will try its best" to implement the SPS Agreement.

We request that prior to the next WP, Andorra provide the information sought in Annex 5 of WT/ACC/1 and the checklists on TBT and SPS provided by the WTO Secretariat.

We urge Andorra to reflect on how it intends to meet its responsibilities under these agreements, and to report in detail, prior to the next WP, on how that will be accomplished prior to accession.

Reply:

Andorra undertakes to adopt internal regulations consistent with the TBT and SPS Agreements before accession.

Question 55.

In its Memorandum on the Foreign Trade Regime and in response to question 24 of WT/ACC/AND/5, Andorra states that it applies quantitative measures to protect domestic health and safety. Andorra has not, however, described how these restrictions are administered or how they are consistent with WTO provisions.

Does Andorra recognize international sanitary and phytosanitary standards? Is it a member of the Codex Alimentarius Commission (CODEX) or the International Plant Protection Convention (IPPC)?

Reply:

Andorra is a member of the WHO but not of the FAO. Andorra does not participate in the Codex Alimentarius Commission but accepts its rules as international standards of reference, together with the recommendations made by the WHO.

Andorra is not a member of the IPPC. It is a member of the International Office of Epizootics.

(d) Trade-related investment measures

Question 56.

Andorra should confirm in the WP report that it does not maintain measures that are not in conformity with the Agreement on Trade-Related Investment Measures.

Reply:

Andorra does not maintain trade-related investment measures that are not in conformity with the TRIMS Agreement.

Question 57.

Government procurement procedures, including the general legal regime and tendering and contract award procedures.

We urge Andorra to become an observer in the Committee on Government Procurement immediately, and commit in its accession protocol to initiate negotiations for membership upon accession with the submission of an entity list, with a reasonable time frame for completion of the negotiations.

Reply:

Andorra is in favour of acceding to the Plurilateral Agreement on Government Procurement. Andorra will take a decision once the detailed assessment of the implications of accession to that Agreement has been completed.

Question 58.

For accession. Has Andorra completed its assessment of the impact on the domestic market?

Reply:

Andorra takes a positive view of accession to the Agreement on Government Procurement. As the application threshold established in the Agreement is high, especially for a small country, only large infrastructure projects (tunnels, roads, hospitals, etc.) would be affected.

4. Policies affecting foreign trade in agricultural products

Background

Question 59.

We would appreciate as soon as possible receiving a copy of the draft Law on Agriculture.

Question 60.

(Q.50, WT/ACC/AND/5) We are interested in examining the Law on Agriculture. Is a copy available?

Replies 59 and 60:

See document WT/ACC/AND/8/Add.1.

(a) Imports

Question 61.

Question 46 regarding restriction of meat from animals treated with growth hormones: we would note that Andorra did not completely answer this question with respect to specific HS codes and WTO rationale for restricting imports of meat treated with hormones. In its response, Andorra implies that beef treated with hormones imported from the United States would be banned since Andorra would prescribe to the same health standards as the EC.

The EU ban on imports of beef treated with hormones has been declared inconsistent with WTO provisions.

We would encourage Andorra to ensure that any import restrictions or bans are consistent with WTO rules.

How does Andorra plan to ensure that the ban is not implemented on imports of meat into Andorra?

Reply:

Andorra undertakes to enter into conformity with WTO regulations at the time of accession.

Question 62.

Andorra's draft schedules on domestic support and export subsidies (WT/ACC/SPEC/AND/2) indicate that it maintains only green box domestic support measures, that it will undertake not to exceed the *de minimis* support level for amber box measures, and that it maintained a small level of export subsidies for cattle in the base period but this will be eliminated in September 2000. While these prospective commitments appear good, we have serious reservations about whether a number of the domestic support measures classified by Andorra as green box do, in fact, meet Annex 2 criteria.

We are particularly concerned about the inclusion of a subsidy for nursing stock under environmental programmes. This appears to be an attempt to include a payment for a "multifunctional" purpose in the green box which does not meet the fundamental requirement that green box measures should have no, or at most, minimal trade-distorting effects or effects on production. Nor does it meet the policy specific criteria for environmental programmes set out in Annex 2.

Reply:

The agricultural law abolishes certain measures previously adopted and introduces new ones. The domestic support measures contained in the law are as follows:

Support for training:

"Direct payments to producers": Aid to improve the level of training of human operatives. This constitutes a total or partial subsidization of the training programmes and courses.

Support for research and development

"Direct payments to producers": Aid intended to support research and development projects that represent an improvement for Andorran agriculture.

Support for the production of controlled-quality products

"Amber box": Aid to compensate for the increased costs resulting from the quality requirements to which agricultural products are subject.

Support for traditional mountain breeding practices

"Amber box": Payment per head of cattle as a function of the country's fodder consumption. As Andorra has no land register that would enable payment to be made on an area basis, the method of subsidization is based on the area of grass consumed. However, there is a limit on the number of head of cattle.

Support for meadow mowing

"Payments under environmental programmes": This type of support establishes a number of hectares to be mown as a function of the recorded number and type of cattle on the farm. The amount of aid will depend on the altitude and the difficulty of mowing the field.

Support for maintenance grazing of underbrush and fallow land

"Payments under environmental programmes": Aid to encourage underbrush grazing.

Support for agreements to lease small areas of adjacent agricultural land

"Direct payments to producers"

Support for improvement programmes

"Structural adjustment assistance provided through investment aids": Support granted with a view to encourage investments intended to improve economic efficiency, product quality and sanitary conditions on farms.

Support for specific agricultural practices suitable for maintaining the environment

"Payments under environmental programmes": Support intended to encourage the return to use of wild meadows and agricultural activities, with a view to maintaining the environment and the countryside.

Description of the Andorran agricultural sector:

The Principality of Andorra is a European country in the Pyrenees, between France and Spain, countries with which it shares a 121 km long border. Of its total area of 464 km², only 4 per cent is suitable for cultivation. Some 350 hectares are used for growing tobacco and the rest consists of natural and man-made meadows.

Andorra has a stable bovine herd, an increasing number of sheep and a declining bull herd. The stock farming system is extensive and based on grazing and fodder production. The sector generates employment equivalent to 0.6 per cent of the total wage-earning population.

| | 1995/96 | 1996/97 | 1997/98 | 1998/99 |
|-----------------|---------|---------|---------|---------|
| Bulls | 68 | 55 | 47 | |
| Cows | 1,122 | 1,183 | 1,152 | |
| Working animals | 31 | 27 | 29 | |
| Stallions | 158 | 139 | 154 | |
| Mares | 620 | 727 | 813 | |
| Pigs | 63 | 81 | 63 | |
| Sheep | 2,124 | 2,021 | 2,452 | |
| He-goats | 26 | 26 | 31 | |
| She-goats | 578 | 536 | 737 | |
| Total | 4,790 | 4,795 | 5,478 | |

Question 63.

Specific comments on Andorra's draft schedules

- 1. Andorra will need to provide data on the value of domestic support and export subsidies provided in each year of the base period - not just an average figure for the three years.**
- 2. Andorra has stated that it will undertake not to exceed the *de minimis* domestic support level. We presume that this is the developed country *de minimis* level of 5 per cent.**

3. Andorra will need to provide further details of its agricultural support programmes if it is to justify its claim that all measures are green box. From the information available, a number of the listed programmes do not appear to meet Annex 2 criteria. For example:

- The provision of free veterinary services to farmers appears to go well beyond the scope of government services normally provided for pest and disease control purposes (paragraph 2(b) of Annex 2). We are concerned that the payments are being used to reduce the cost of inputs and are not minimally distorting to production as required under Annex 2;
- the agricultural machinery subsidy listed under direct payments to producers appears to be an amber box input subsidy;
- the payment of insurance premiums on behalf of producers does not meet the criteria of government financial participation in income insurance and income safety-net programmes (paragraph 7). Permitted programmes under this category involve government payments to compensate for actual income losses not payment of insurance premiums;
- subsidies for nursing stock do not meet criteria for payments under environmental programmes nor the fundamental requirement for Annex 2 measures that they involve no or minimal distortions to production and trade. Permitted payments under paragraph 12 are to compensate producers for the extra costs of complying with a clearly-defined government environment or conservation programme (e.g. soil conservation). They are not intended for the purpose of maintaining a level of stock breeding because this form of agricultural activity is perceived as important for maintaining a pleasant environment for the benefit of tourists (as implied by Andorra's explanation of this policy in its memorandum (WT/ACC/AND/3)). This measure involves a support programme coupled to production and will need to be included in the calculation of Andorra's AMS.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

Question 64.

We welcome the undertaking to do it on accession (reply to question 57, p. 38). Please submit a detailed action plan.

Question 65.

(Q.53-57, WT/ACC/AND/5) Andorra's replies to questions on TRIPS are not clear in terms of the specific course of action Andorra will take to introduce WTO-consistent legislation.

Replies 64 and 65:

See replies 66-71.

Question 66.

We understand that the Government of Andorra is preparing draft legislation on geographical indications, industrial designs and unfair competition.

Please indicate when each of these drafts is expected to be presented to Parliament for passage and the expected date for enactment. We would also be interested to know the status of your efforts to promulgate and enact legislation on plant varieties, layout designs of integrated circuits, trade secrets and test data.

Reply:

An action plan for TRIPS legislation will be submitted to the Working Party, together with a synoptic table of the laws already in force provided by the United States Department of Commerce (USTR).

Question 67.

Please provide a calendar of legislation implementation indicating the status and timetable for enactment and implementation of the legislative instruments necessary to implement the TRIPS Agreement.

Reply:

As we informed the members of the Working Party, a TRIPS calendar has been approved by the Government and provides for the implementation of the TRIPS Agreement by summer 2001. Andorra already has a trademark law and the corresponding regulations, a law on copyright and a patent law.

It remains to implement:

- The copyright regulations;
- the patent regulations;
- the law on geographical indications and appellations of origin;
- the law on industrial designs;
- the law on the protection of plant varieties;
- the law on layout designs of integrated circuits;
- the law on the protection of data and industrial secrets.

Question 68.

Can Andorra confirm that it will have all necessary legislation in place to implement the WTO Agreement on TRIPS prior to its WTO accession?

Reply:

Andorra undertakes to have all the legislation required by the TRIPS Agreement in place at the time of accession to the WTO.

The primary enforcement features of a TRIPS-consistent regime include civil, criminal and administrative procedures and remedies against any act of infringement of intellectual property rights. According to WT/ACC/AND/3, enforcement remedies against infringements other than trademark are not addressed in Andorran law or regulation, and it is unclear whether provisional relief is provided.

Question 69.

Please describe in detail whether the above enforcement features are applicable to other types of infringements covered by the TRIPS Agreement.

Reply:

The Trademark Law, the Law on Copyright and the Patent Law are consistent with the TRIPS Agreement as regards civil, criminal and administrative procedures and remedies against any act of infringement. The new laws will be consistent with the provisions of the TRIPS Agreement.

Question 70.

Description of judicial, arbitral or administrative tribunals or procedures

Reply:

See reply to question 10, p.6.

Question 71.

Please clarify whether the Government of Andorra provides injunctive relief to ensure that infringing activity is stopped immediately, and whether *ex parte* search orders are provided so that relevant evidence is preserved for rightholders to pursue civil remedies.

Reply:

With respect to trademark rights, copyright and patents, the present legislation provides for an injunction to ensure the immediate cessation of an infringing activity within the context of the TRIPS requirements.

VI. TRADE-RELATED SERVICES REGIME

Question 72.

(Q.62, WT/ACC/AND/5). Please provide further clarifications on those exceptional cases where foreign equity capital can rise to 100 per cent. Please also explain in detail what kinds of services could be categorized under those declared of public or social interest. What are the criteria for providing concessions for a case where more than 33 per cent of foreign participation is permitted?

Reply:

The Government of Andorra is studying the possibilities of opening up the various economic sectors. This process will be reflected in the service market access schedule.

Question 73.

(Q.63, WT/ACC/AND/5). Is our understanding correct that commercial and non-governmental companies managing State monopoly companies are allowed to provide wire-based services?

Reply:

The telecommunications sector has not yet been liberalized. Access to the infrastructure is closed. A telecommunications law is being prepared.

Question 74.

(Q.67, WT/ACC/AND/5). What are the exact functions of a lawyer (*avocat*)? Are the requirements to become a solicitor (*notaire*) or lawyer (*avocat*) exactly the same? If not, please also indicate the requirements necessary for becoming a solicitor (*notaire*).

Reply:

As in Andorra's two neighbouring countries, France and Spain, the organization of the legal profession in Andorra differs from the Anglo-Saxon system. Thus, a distinction is made between lawyers (*avocats*) and notaries (*notaires*).

Functions of a lawyer

The main functions of a lawyer are:

- To advise his clients on the legal procedures to be followed in the event of a dispute;
- represent his clients in their dealings with third parties;
- plead before the Andorran courts.

Requirements to become a lawyer

To become a lawyer it is necessary to satisfy the following conditions:

- obtain government authorization to practise a liberal profession. Authorization will be granted to Andorran natural persons and to foreign natural persons with at least 20 years residence in Andorra who, in the case of lawyers, are holders of a law degree;
- be enrolled in the *Collège Officiel d'Avocats d'Andorra*.

Functions of a notary (*notaire*)

A notary is a law professional with civil service status empowered to confer authenticity on legal instruments, keep them in his official archives and forward copies to interested parties.

The notary is a public official who, for legal purposes, guarantees the authenticity and evidential value of public instruments.

The functions of a notary are:

- To authenticate documents and contracts which he authorizes in the form of a public instrument;
- to advise on the appropriate legal means of achieving the ends in view;
- to draw up legal instruments in accordance with the wishes of the parties and inform them of their content and meaning;
- to collect the taxes legally payable on the documents and contracts he authorizes.

Requirements to become a notary

To become a notary it is necessary to satisfy the following conditions:

- Possess Andorran nationality;
- be at least 25 years of age;
- have no criminal record for wilful wrongs;
- have a law degree;
- have passed the examinations.

The profession of notary is incompatible with any other public office and any business or professional (as a lawyer) activity.

Notaries are recruited on the basis of public competitive examinations from among those who satisfy the specified conditions.

The Government appoints notaries who must take an oath before the head of government. The list of notaries appointed is published in the OJPA.

Question 75.

(Q.74, WT/ACC/AND/5). With regard to this question, we would like to request further clarifications to the first paragraph, page 34, of document WT/ACC/AND/3. Indeed, we would like to know whether the word "branch", indicated in the second sentence, refers to a branch of a foreign bank or an insurance company. Please could Andorra explain this sentence in further detail.

Reply:

Foreign banks cannot have a presence in Andorra through a branch. This possibility cannot be envisaged as long as there is no reciprocity in favour of Andorran banks.

Banks in Andorra must take the form of a public limited company governed by Andorran law. Therefore a foreign bank (foreign legal person) cannot have a presence in Andorra through a branch.

Only companies governed by Andorran law that have satisfied the approval criteria defined by law are authorized to engage in banking activities. The company governed by Andorran law may be a subsidiary of a foreign banking institution, provided the 51 per cent limit on equity capital participation is respected.

With regard to insurance the situation is different. Foreign insurance companies can be authorized to carry on insurance activities in Andorra through an agency (*délégué*). The *délégué* must be a legal person governed by Andorran law or a natural person of Andorran nationality or a natural person of foreign nationality with more than 20 years of residence in Andorra.
