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Working Party on the Accession of Andorra

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## ACCESSION OF THE PRINCIPALITY OF ANDORRA

### Additional Questions and Replies to the Memorandum on the Foreign Trade Regime (WT/ACC/AND/3)

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

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## II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

### 2. Economic policies

- (a) Main direction of existing economic policies and their tactical and strategic objectives

#### Question 1

**Please provide information on the draft agriculture law, including the provisional timetable for its introduction.**

#### Reply

The main aims of the agricultural law are as follows:

- To develop high-quality production in agriculture and livestock farming in Andorra;
- to improve agricultural structures so as to increase profitability;
- to conserve the countryside;
- to control erosion and pollution;
- to minimize natural hazards;
- biodiversity.

The main features are:

- Establishment of a new regulatory framework in the agricultural sector:
  - Register of farms;
  - register of animals (*Padral*);
  - manual of farming customs and practices, which will restrict some activities so as to ensure the conservation of the environment;
  - *arrestos* or *tabes* of the communes, which set out the customs on the use of communal pastures.
- Establishment of forms of support:
  - For livestock farming  
Livestock registered in the *Padral* will receive this kind of support, which will depend on the amount of local grass consumed. The purpose of this support is to make more rational use of pastures and fields and also to conserve the countryside.
  - On initial establishment  
This support, in the form of a single payment, is dependent on a certain professional capacity, the creation of employment and the viability of the farm improvement plan. It seeks to encourage the entry of young farmers into the sector.
  - Improvement plans  
Subsidies are provided for investment upon presentation of a viable project. Such aid seeks to improve the structures of existing farms, as well as product marketing and processing.
  - Environmental protection

- Quality
- Improvement of agricultural structures

In the final analysis, the main concern is to encourage synergies between agriculture and the tourism sector through the conservation of the countryside, occupation of the land, respect for the environment and the attempt to achieve limited, but high-quality agricultural production. It is certainly not the aim to encourage intensive farming in competition with neighbouring countries, but rather to attain a reasonable balance between profitability, respect for the environment and the occupation of the land. For Andorra, these are objectives of strategic importance if it is to maintain its identity.

With regard to subsidies, the most important of them - assistance for livestock farming - is directly linked to the amount of grass consumed and thereby meets the objective of contributing to the maintenance and proper use of pastureland.

As far as the other forms of assistance are concerned, the aim is to maintain the tradition of farming in Andorra through a number of persons devoted entirely to stock-raising and agriculture. The total amount envisaged for such assistance is relatively low (Ptas 300-350 million or €1.80 to 2.10 million) and would not in any event involve any distortion of the market.

The agricultural law is due to come into force in June 2000.

## **Question 2**

**Please describe the pricing policies that are applied to bread and fuel. Please describe any differences in pricing policies as between imported and domestically-produced goods.**

## **Reply**

Prices of the following products are fixed by the Government by Decree:

- Bread;
- electricity;
- fuel and oil;
- taxis;
- public transport;
- telephone.

Generally speaking, the public enterprise or professional association concerned submits a proposal for an increase to the Government. Any change is then decided on the basis of this proposal and other information such as the report drawn up by the research department of the Ministry of Finance regarding the impact of an increase in controlled prices on the retail price index.

Maximum prices for fuel are based on the benchmark prices and are then automatically updated. There is nothing to prevent petrol distributors from competing amongst themselves by offering discounts on the retail price.

With regard to bread, price fixing is justified by the fact that it is a staple commodity. The prices of only three products are controlled: loaves of 1.7 kg, 0.75 kg and 0.35 kg. These products must be available for sale and bakers must request the Government to approve a price increase on the basis of the production costs for bread. The increase accepted by the Government is published in the Official Journal of the Principality of Andorra.

Electricity and telephone services are supplied by State enterprises and price controls take into account the investment that they must make. Productivity, import costs (which are very important in the case of electricity, most of which is imported) and the impact on economic policies, notably inflation, also play a role.

Fares for domestic public transport must be approved by the Government.

Regarding price policy, there is no difference between imported and locally manufactured products.

(b) Monetary and fiscal policies

### **Question 3**

**Please explain Andorra's intention to introduce measures to generalize indirect taxation on production, processing activities and services, and the dates when they are due to come into force.**

#### **Reply**

The Constitution of the Principality of Andorra lays down the basic principles of Andorra's taxation system, and the General Fiscal Law of 1996 establishes the fiscal structure.

As was stated in the Memorandum, 80 per cent of Andorra's budget is financed from indirect taxes on goods and the tax on consumption.

In order to pursue the development of this fiscal system and extend taxation to the other productive sectors, in the autumn of 1999 the Government will be introducing a reform that will include the extension of indirect taxation to the production of goods, as laid down in the Law on Indirect Taxation of Goods, and will extend indirect taxation to the financial sector.

In 2000, the Government will extend indirect taxation to the remaining sectors, namely, tourist and professional services.

(c) Foreign exchange and payments system

### **Question 4**

**Please update the Working Party on Andorra's plans to join the IMF, and outline a timetable for securing IMF membership**

#### **Reply**

Considering that Andorra does not have any national currency, before being able to proceed further on membership, it has first to solve the framework of euro application.

(d) Foreign and domestic investment policies

### **Question 5**

**Please clarify the term "public interest" and its application in the case of limits on foreign equity participation being granted in the case of "banking institutions and companies deemed to be of public interest".**

Reply

Article 3 of the Law on Business Firms limits foreign participation to 33 per cent of the total equity of companies registered under Andorran law. However, under this same Article 3, foreign equity may rise to 100 per cent in the case of companies holding concessions and companies declared to be of public or social interest.

The former are companies that have been granted a concession by the authorities to run a public service in accordance with the Administrative Code and the Government Procurement Law of 30 December 1985. This Law stipulates that such concessions may not last longer than five years.

The designation of public or social interest is made in a special law in response to the proposed benefits that it may bring the country. Up till now, no company has taken advantage of this Article allowing foreign equity to rise above 33 per cent.

As from 30 September 1999, banking institutions may set the limit of foreign equity at 51 per cent of the total. This is not in application of Article 3 of the Law on Business Firms nor a declaration of public interest. It is allowed under special legislation on the banking sector of 30 June 1998, which has led to liberalization of this sector. In order to make the sector competitive, it has been opened up to foreign equity in parallel with liberalization. Nevertheless, the laws on opening up this sector may not be considered application of Article 3 of the Law on Business Firms but as special opening up of this sector.

**Question 6**

**Please report to the Working Party on Andorra's intentions to liberalize its investment regime.**

Reply

With regard to Andorra's intentions to liberalize its investment regime, they will be submitted in the market access schedules.

**Question 7**

**Please provide details to the Working Party on Andorra's policy to promote foreign investment in R&D, new technologies, communications, and in the financial system. Will there be any restrictions to foreign investment in these areas ?**

Reply

The Government of Andorra is considering the possibility of abolishing the limit on foreign capital in all sectors of the economy. The liberalization of these sectors, however, involves a degree of regularization. This has already been done for the banking sector and has liberalized the equity limit at 51 per cent of capital. Liberalization in the other sectors will come into effect once the necessary controls have been established.

**Question 8**

**Please provide details on the restriction of foreign investment and ownership in the telecommunications sector. Are there any further restrictions in the communications sector?**



Reply

The telecommunications sector is of strategic importance and all investment in this sector is public. In the audiovisual sector, administrative concessions may be granted when the law regulating them has been approved.

**Question 9**

**Please inform the working group regarding the intention of the Principality of Andorra to abolish the limit on ownership.**

The Government of Andorra is considering the possibility of liberalizing the limit on ownership of immovable property in accordance with the directives adopted by industrialized countries. Nevertheless, Andorra will adopt a prudent and controlled approach in order to prevent any unlawful activity through this channel.

(e) Competition policies

**Question 10**

**What are Andorra's intentions regarding the introduction of legislation on competition policy? Please clarify the role of the Administrative Code with regard to competition policy.**

Reply

Andorra has no current plans to introduce a competition policy.

The Administrative Code establishes the main principles on which the Administration must base all its actions; transparency, competition and publicity. Within this context, competition applies to all the procedures for Government procurement so as to enable all legal and natural persons having the requisite capacity to compete.

The Administrative Code does not establish any competition policy in the Andorran market and does not affect the private sector.

**3. Foreign trade in goods and services**

Volume and value of trade

**Question 11**

**Please explain why there was a sharp drop in imports of tobacco from 1997 to 1998, with 1998 volumes equal to only one third of 1997 values.**

Reply

In 1997, there was a large increase in imports of manufactured tobacco and an expansion of illegal trade.

Strict legislative provisions have been adopted in order to prevent illegal exports and consequently imports of manufactured tobacco fell sharply in 1998.

### **III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE**

#### **3. Division of authority between the central Government and local authorities**

##### **Question 12**

**Please clarify the legislative functions of the local authorities (*comuns*) and, in particular, their powers in the field of foreign trade and taxation.**

##### **Reply**

Executive power in Andorra is divided between the Government and the local authorities (*comuns*). However, legislative power lies solely in the hands of the Andorran Parliament.

Taxes must be approved by legislation and, consequently, may only be established by Parliament.

However, local authorities have the power to administer the traditional taxes and other specific taxes, which has been granted to them by the Law on the transfer of powers to the local authorities. They have no competence in the field of foreign trade and only administer transferred taxes.

#### **4. Any legislative programmes**

Foreign trade controls

##### **Question 13**

**Please identify all products from third countries, including HS numbers, that are subject to control measures, pursuant to the EC-Andorra Agreement. For each such product, please describe the measure that is being applied.**

##### **Reply**

Further details concerning the measures mentioned in Section III.IV (c), "Foreign trade controls", in document WT/ACC/AND/3 are given in sections IV.1(e)(ii) and IV.2(c)(ii) of the same document.

The Principality of Andorra has taken measures in application of Decision 2/96, amended by Decision 1/98 of the EC-Andorra Joint Committee. Products subject to prior controls are all treated in the same way irrespective of their tariff number or their origin.

The following are the control measures:

- Presentation of an import document systematically countersigned by the Andorran customs authorities;
- monthly communication of the volume and value of imports to the European Commission;
- imports of products under Chapters 50 - 63 of the Combined Nomenclature (CN) are broken down by textile category and country of origin according to the descriptions found in Annex IA to Council Regulation (EEC) No. 3030/93 of 12 October 1993, Official Journal L 275 of 8 November 1993, p.1.

Products listed in the following are subject to control:

- Annex 5 to Council Regulation (EEC) No. 3030/93 of 12 October 1993, on common rules for imports of certain textile products from third countries, amended by Commission Regulation (EC) No 1053/98 (Official Journal L 151 of 21 May 1998, p. 10);
- Annexes IIIB, IV and V to Council Regulation (EC) No. 517/94 of 7 March 1994 (Official Journal L 67 of 10 March 1994, p. 1), on common rules for imports of textile products from certain third countries not covered by bilateral agreements, protocols or other arrangements, or by other specific Community import rules (amended by Regulation (EC) No. 1457/97, (Official Journal L 199 of 26 July 1997, p. 6));
- Annex II to Council Regulation (EC) No. 3060/95 of 22 December 1995 (Official Journal L 326 of 30 December 1995, p. 25) on the arrangements for imports of certain textile products originating in Taiwan;
- Annex II to Council Regulation (EC) No. 519/94 of 7 March 1994 (Official Journal L 67 of 10 March 1994, p. 89), on common rules for certain imports originating in the People's Republic of China (amended by Regulation (EEC) No. 1138/98, (Official Journal L 159 of 3 June 1998, p. 1).

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **1. Import Regulation**

- (a) Registration requirements for engaging in importing

##### **Question 14**

**Please list the goods that are subject to import regulation.**

**Please explain how the Decree on the control of commercial imports examines and evaluates the "mutual compatibility of each of the commercial activities requested under the same authorization, on the one hand, and the actual activities carried out, on the other". How may customs procedures on entry "consequently [also] be directed towards enforcement of this obligation"?**

**Please specify the registration requirements for engaging in exporting and importing.**

##### **Reply**

Goods imported into the Principality of Andorra are not subject to any form of regulation.

The provisions of the Decree of 10 October 1981 stipulate that:

- In order to carry on any commercial or industrial activity on the territory of Andorra, authorization must be requested from the Government (Article 1) and thus only natural or legal persons listed on the Register as credited business persons or industrialists can engage in a commercial or industrial activity (Article 2);
- activities subject to inclusion on the Register are understood to mean: importing, exporting, representation, agencies, the despatch or delivery of goods to a private residence, itinerant trading, commission agents or bailees of goods, wholesale selling, etc. (Article 3).

The provisions of the Decree of 15 October 1981 do not in any way seek to subject imported goods to any form of regulation, but only to specify, within the meaning of the above obligations, that any consignee of commercial imports must be properly listed in the national Register of Commerce.

Checks carried out by the customs services should be seen as part of the normal work of processing customs declarations. In any particular case, by directing attention towards the existence and status of the actual consignee, it is possible not only to check the truth of the information declared but also to combat any possible attempt to carry on commercial activities illegally on the territory of the Principality of Andorra.

Similarly, the actual import operations carried out must correspond to the nature of the activity or activities declared in the Register of Commerce or be complementary to them. If these rules are observed, import-export activities may be undertaken without additional conditions or obligations.

### **Question 15**

**According to information provided in the Memorandum, only natural or legal persons previously registered in the commercial register of the Principality of Andorra are entitled to engage in the importation of goods on a commercial basis.**

**Please describe in detail the procedures that must be followed to register in the commercial register of Andorra and all conditions that must be satisfied for registration.**

### **Reply**

Before engaging in any commercial activities, a person must be listed in the Register of Commerce and Industry, which is administered by the Ministry of the Economy. The person concerned must submit to the Government an application to open and exploit commercial premises for commercial activities related to both goods and services.

The application must specify *inter alia* the activity or activities to be carried on. Where the application relates to several activities, the Government authorizes the same commercial establishment to carry on activities that are compatible or complementary to the main activity.

The following are the requirements to be met in order to obtain an authorization:

- Possess the right to engage in business in the Principality of Andorra. This right is granted to Andorran adults (natural or legal persons) and foreigners who have resided continuously and uninterruptedly in the Principality for at least 20 years. The latter may only obtain one authorization per household.
- Prior approval by the local authorities (Comú) in the area where the business is located.

Some businesses are subject to health and/or industrial checks on their facilities according to the regulations applicable to the activity to be carried on. These are intended to ensure the safety of the facilities.

After the Government has granted the authorization, registration is automatic.

**(b) Characteristics of national tariff**

**Question 16**

**At least four weeks prior to the first meeting of the Working Party, please provide an initial market access offer for goods and a schedule of currently applied tariff rates.**

**The framework of Title II of the EC-Andorra Agreement and Article 12.2, in particular, provides that the Principality of Andorra grants a preferential rate corresponding to 60 per cent of the normal customs duty applicable to tobacco products under headings 24.02 and 24.03 of the HS tariff system.**

**What is the GATT rationale for this better-than-MFN treatment to tobacco imports from the EC?**

**Reply**

The Principality of Andorra was not a member of the WTO at the time it signed the EC-Andorra Agreement (1990). Manufactured products from France and Spain had been given certain rights before the 1990 trade agreement was signed; these acquired rights were maintained. A solution is being scheduled by the WTO's Regional Committee.

**Question 17**

**Please identify any other items in HS Chapters 1-24, including HS numbers, that receive preferential treatment.**

**Reply**

No other products in Chapters 1-24 of the HS receive preferential treatment.

**Question 18**

**We note that the Customs Union Agreement covers only industrial products under Chapters 25-97 of the HS.**

**Why have only two agricultural (tobacco) products been singled out for preferential treatment?**

**Reply**

Prior to signature of the EC-Andorra Agreement, there was an Agreement between SEITA SA and TABACALERA SA, under which preferential tariffs were applied to cigarettes and tobacco manufactured by these two companies. Under the "acquired rights" theory, the provisions of Article 12.2 of the EC-Andorra Agreement maintained the preferences previously applied.

**Question 19**

**In accordance with Article XXIV.9 of the GATT, please outline Andorra's plan of implementation to bring "substantially all trade" under the Agreement.**

**Reply**

This issue is being discussed in the Committee on Regional Trade Agreements.

**Question 20**

**Andorra has introduced the Common Customs tariff (CCT) of the European Communities as its current applied rate. Does Andorra intend to submit its offer based on the same level as that of the EC, or will Andorra submit its original offer?**

Reply

Under the customs union established with the EU in 1991, Andorra has the same CCT for industrial products as the EU, therefore, for its accession to the WTO, the industrial goods offer submitted will be the one of the EU with its current CCT.

- (c) Tariff exemptions

**Question 21**

**Please provide a detailed list of all tariff exemptions, including the exemptions relating to certain persons or operations, based on the national legislation on the consumption tax.**

Reply

The national legislation on the consumption tax was approved by the General Council on 30 December 1985. Since the provisions of the EC-Andorra Customs Union Agreement came into force, that law has been applied exclusively to agricultural products covered by Chapters 1-24 of the HS (amendment to the initial law introduced by the exemption clauses of the Law on the indirect taxation of goods (IMI), approved by the General Council on 26 June 1991).

The following tax exemptions are envisaged by this law:

- Two products under heading HS 09.01 are subject to a tax rate of 0 per cent (amendment to the rate of the consumption tax, adopted by Parliament on 4 June 1998). This situation, which has the same effect as a tariff exemption, concerns "coffee, not roasted, not decaffeinated" of the Combined Nomenclature 09.01.11.00 and "coffee, not roasted, decaffeinated" of CN 09.01.12.00.
- With regard to exemptions from customs duties for certain persons or operations, Article 2 of the Law on the consumption tax states that the General Council, acting on a proposal by the Government, shall determine the exemptions and exonerations from that tax. These are set forth in provisional measures that supplement the terms of the law (provisions amended by the Law of 30 December 1985 of the General Council).

The following are legally exempt from this tax:

- Bread flour;
- merchandise and goods intended for the personal use of travellers, as well as provisions for their journey;
- the used property and goods of persons coming to settle in the Principality of Andorra or leaving the Principality of Andorra to settle abroad;
- animals coming from abroad to pasture in Andorran valleys;
- imported newspapers and periodicals;

- non-commercial imports of a value less than Ptas 100,000 by private individuals;
- merchandise and goods imported by the services of the *Coprínceps* (Co-princes) and intended for their use or for the use of their families while resident in the Principality of Andorra;
- books, archives, documents, furniture of all kinds and, in general, merchandise and goods of all sorts intended for the service of the *Coprínceps*;
- in the case of diplomatic and consular agents, objects intended for the official use of the mission and for their personal use or for the use of family members forming part of their household. The same applies to articles imported when they first set up home. The members of the administrative and technical staff of the mission and the members of their immediate family enjoy the same exemptions for the objects imported when they first settle in the Principality of Andorra.

It should be noted that the above tariff exemptions apply without distinction to products covered by HS Chapters 1-97. However, as stated in the Memorandum submitted with a view to the accession of the Principality of Andorra to the WTO (paragraph IV.1(c)(2) "Tariff exemptions"), they are shortly to be amended and brought into line with the relevant provisions laid down by the European Community.

However, in addition to these customs exemptions, there are others contained in specific texts, such as the international agreements or undertakings entered into by the Principality of Andorra, some of which affect the tariff treatment of products coming under HS Chapters 1-24. They include:

- Travellers' exemptions, applicable to the goods contained in the personal luggage of travellers, provided that such goods are not imported for commercial purposes (Article 13 of the EC-Andorra Agreement);
- goods imported for the purpose of carrying out market surveys. They may include samples of goods of minimal value, printed matter and objects used for purposes of publicity, and also products for use at an exhibition or similar event (ATA and Istanbul Conventions);
- goods imported for examination, analysis or tests (ATA and Istanbul Conventions).

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

### **Question 22**

**Please describe the requirements relating to the enforcement of administrative regulations, as in the case of tobacco under Chapter 24.01 of the HS.**

### **Reply**

The procedure on compulsory presentation of an administrative document for products under Chapter 24.01 of the HS was recently abolished in its entirety.

### **Question 23**

**Please explain the ban on the import of second-hand vehicles. Would it be possible to establish a less restrictive regime for the import, export and sale of second-hand vehicles?**

Reply

The ban on the import and registration in the Vehicle Register of all motor vehicles manufactured more than three years prior to the date of their import into the Principality of Andorra dates from 1967. The purpose of this measure is to extend the life of automobiles as far as possible in order to limit the volume of scrap metal transported to neighbouring States for recycling. It is also intended to reduce as much as possible atmospheric pollution caused by emissions from vehicles.

As regards the possibility of establishing a less restrictive regime for second-hand vehicles, this will be presented to the Working Party in the market access lists.

**Question 24**

**According to the Memorandum, a number of prohibitions or other restrictions for reasons of health, safety, public order or public morality are applied in respect of certain products or operations of a general or specific nature.**

**Please identify each product subject to such restriction, including HS number, describe the nature of the restriction and the GATT rationale for the restriction.**

Reply

The relevant provisions under the EC-Andorra Agreement are explained in the reply to question III.4 above (provisions under Decision 2/96, amended by Decision 1/98 of the Joint Committee).

At the national level, the following products are subject to prohibitions or other import restrictions:

- Under Article 161 et seq. of the Criminal Code, narcotic substances may not be imported, exported, manufactured, traded or sold (BOPA (Official Journal) No. 21, year 2, of 21 July 1990);
- the Decree of 12 April 1990 bans the import of machines for leisure activities that involve direct or indirect pecuniary reward ("slot machines") (BOPA, No. 11, year 2, of 20 April 1990);
- under the Decree of 14 August 1996, rockets containing explosives under CN No. 36.04.90.00 may not be imported (BOPA, No. 60, year 8, of 28 August 1996);
- Article 2 of the Decree of 3 July 1989 bans the import of weapons in HS heading 93.01, as well as arms exclusively for police use, sawn-off shotguns, substantially modified weapons, non-listed weapons, infra-red viewfinders, and armour-piercing ammunition (BOPA, No. 17, of 10 August 1989). Under the same Decree, the import of firearms and ammunition listed in categories 1a and 2a of Article 1 is subject to a special authorization issued by the police upon request;
- products subject to authorization: the import of firearms and ammunition in categories 1a and 2a of Article 1 of the Decree of 3 July 1989 (BOPA, No. 17 of 10 August 1989) is subject to authorization by the Ministry of the Interior.

An authorization is also required for narcotic substances in Table B of the international list established under the Vienna Convention on psychotropic substances. These products may only be imported by the Government, which then distributes them to pharmacies.



**Question 25**

**Please identify all special vehicles, including HS numbers, that require prior authorization from the Ministry of Industry for temporary importation. Is the "stock" of such vehicles limited solely to the inventory of the Ministry of Industry, or does it also include such vehicles owned privately?**

**Reply**

The special vehicles listed in Chapters 84.26 to 84.30 of the HS require an authorization from the Ministry of Industry and the stock of these vehicles is limited solely to the inventory of the Ministry.

**Question 26**

**Please identify all motor vehicles, trailers and semi-trailers, including HS numbers, for which the importation and registration is banned, if manufactured more than three years prior to their date of import. How does this regulation apply to such vehicles that were originally imported new, but have been in service for more than three years within Andorra? What is the rationale for this import prohibition, if the vehicles are capable of satisfying safety requirements other than the three-year limitation? Please describe any special rules that apply to agricultural vehicles.**

**Reply**

Motor vehicles manufactured more than three years prior to the date of their import into the Principality of Andorra, Chapter 87 of the HS, may not be imported. This restriction dates from 1967 and its purpose is to extend the life of automobiles as far as possible in order to limit the volume of scrap metal transported to neighbouring States for recycling. It is also intended to reduce as much as possible atmospheric pollution caused by emissions from vehicles.

There are two exemptions to this ban:

- The import of vintage cars more than 25 years old is authorized;
- the age limit on the vehicle is extended to five years in the case of foreigners who come to settle in Andorra, provided that the vehicle has been registered in their name for at least six months prior to being imported.

**Question 27**

**We note there is a ban on the importation of "demountable tower cranes" that have been in service more than three years from the date of their manufacture.**

**Are domestically-produced tower cranes (if any) subject to this regulation? How does this regulation apply to demountable tower cranes that were originally imported new, but have been in service for more than three years within Andorra? What is the rationale for this import prohibition, if the demountable tower cranes are capable of satisfying safety requirements other than the three-year limitation?**

**Reply**

The ban on the import of demountable tower cranes in service for over three years from the date of their manufacture will shortly be replaced by an import authorization subject to strict safety checks similar to those applied to cranes in service for over three years in Andorra.

- (f) Import licensing procedures

**Question 28**

**Please provide the information requested in Annex 3 of WT/ACC/1, Information on the Implementation of the WTO Agreement on Import Licensing Procedures.**

Reply

As indicated in section IV.1(f) of document WT/ACC/AND/3, there are no other import licensing procedures or similar administrative import formalities.

- (h) Customs valuation

**Question 29**

**According to footnote 8 of the Memorandum, Andorra maintains regulations applicable to certain goods, insofar as these are not at variance with the provisions of the EC-Andorra Agreement.**

**Please identify the product, including HS numbers, of these goods, and describe the nature and rationale for the variance from the EC customs practice.**

Reply

According to Article 8.2 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, when framing its legislation, each Member shall provide for the inclusion in or the exclusion from the customs value of certain elements up "to the port or place of importation" (these elements include the cost of transport of the imported goods, loading, unloading and handling charges associated with the imported goods, insurance costs).

The information given in section 6 of Annex 3 to document WT/ACC/AND/3 is intended to show that, for the purpose of applying the foregoing provisions, the place of importation for the Principality of Andorra is:

- Either the place where the goods enter the customs territory of the Principality of Andorra, for agricultural products in Chapters 1-24 of the HS, to which Andorran national customs tariffs apply;
- or the place of entry of the goods into the EC-Andorra customs union, for industrial products in Chapters 25-97 of the HS, to which the customs tariffs of the European Community apply.

The indications in footnote 8, at the bottom of page 22 of document of WT/ACC/AND/3, simply refer to the following:

- On the one hand, to the same indications as those set out above; and
- on the other, to the period allowed to repay customs duty in accordance with Articles 22 et seq. of the Customs Code law (repayment may be allowed before the expiry of three years from the date of communication of the duties to the payee according to Article 221.2. The period may be shortened to six months for all the agricultural products in Chapters 1-24 of the HS, taking into account the provisions in Article 19.4 of the Law on the consumption tax.

**Question 30**

**In Annex 3, point 6, of WT/ACC/AND/3, concerning the elective additions to the price actually paid or payable, Andorra notes that, with regard to the remarks in paragraph IV.1(h) of the Memorandum, reservations and amendments need to be made to certain definitions in order to cover the situation of the Principality of Andorra (European Community ("EC") - Andorra Agreement), and to be more precise the two distinct definitions of the expression "country of importation" in Article 15.1(b) of the Agreement need to be taken into account.**

**We require a more detailed explanation of how this affects Andorra's implementation of the elective additions to the price actually paid or payable in Article 8.2 of the World Trade Organization ("WTO") Valuation Agreement.**

Reply

See the reply to the preceding question.

**Question 31**

**In Annex 3, point 11, of WT/ACC/AND/3, Andorra mentions that "additional explanations have been given on the treatment of declarations indicating a provisional value".**

**Are these additional explanations contained in Andorra's Customs Code or Regulations? If they are found elsewhere, please provide a detailed narration of the explanations. What appraisal information must be presented in the declaration?**

Reply

Generally speaking, the purpose of Article 74 of the Customs Code is to facilitate as far as possible completion of formalities and procedures, while at the same time respecting the regulations (first sentence of point 1).

The substance of Article 74.1.a is that the customs authorities allow the customs declaration mentioned in Article 60 to omit some of the details listed in paragraph 1 of this Article. These indications are those needed to apply the provisions governing the relevant customs regime.

Customs valuation is one of these indications. The fact of postponing communication of the definitive customs value under certain circumstances does not therefore prevent the customs authorities from accepting the customs declaration and consequently allowing the goods in question to be released (Articles 71, 72 and 179 et seq. of the Customs Code Law complete the legislative obligations laid down in Article 13 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994).

Article 59 of the fourth part of the implementing regulations for the Customs Code Law simply sets out the practical procedures for dealing with declarations showing a provisional valuation, in relation to various Articles of the Customs Code Law (for a declaration showing a provisional value, the amount of the duties calculated on the basis of this indication is directly taken into account in accordance with paragraph 2, first indent. Likewise, the deposit of a sufficient guarantee may be required to cover any difference in comparison with the duty finally payable, in accordance with Article 59.2).

Pursuant to the provisions of Article 60.2 of the Customs Code Law, an importer must attach to his declaration all documents required to allow application of the provisions governing the customs regime under which the goods are declared. The same applies to the cases mentioned above.

**Question 32**

**In Annex 3, point 11(b) of WT/ACC/AND/3, Andorra states that it will require a deposit of a sufficient guarantee to cover the difference between the provisional value amount and the amount that might finally be payable on the imported goods.**

**Please provide an explanation on how Andorra determines the amount that might finally be payable on the imported goods.**

**Is this calculation based on reference pricing or minimum values?**

**Reply**

The customs authority applies the legislative provisions contained in the Customs Code. In particular, it applies Articles 26-34 regarding customs valuation and 179 et seq. concerning a guarantee for the amount owed to the customs, where applicable.

The procedures followed by the customs authority depend on the reasons for which the importer requests acceptance of a provisional value, including the following cases:

- Use of transaction value when all the elements of the transaction are not known; or
- in the absence of a transaction value, when sufficient elements to determine the value to be declared do not exist at the time of customs clearance.

The deposit of a guarantee is not an obligation but a possibility. When the customs authority considers that payment of the amount owed as customs duty or likely to be owed is not guaranteed within the time-limit, a guarantee will be required. In addition, where it is not required, the customs authority may request the importer to make a commitment covering the obligations to which he is legally subject (Article 180.1 of the Customs Code).

Where it is decided to require deposit of a guarantee, the customs authority fixes the amount at the highest level of the customs duty payable or likely to be paid if the amount cannot be fixed precisely. In fixing the amount of the guarantee, Articles 28-34 may be applied.

**Question 33**

**We thank Andorra for the detailed answers to the valuation questionnaire which are found in Annex 3 of WT/ACC/AND/3. To confirm our assessment that Andorra has substantially implemented the WTO Agreement on Customs Valuation, we need to review the Customs Code and Regulations as set out in Annex 2, §1 of WT/ACC/AND/3. Please provide copies of the following:**

- **Customs Code adopted on 20 June 1996 (BOPA, supplement five, year 3, 14 June 1991);**
- **implementing regulations of the Law on the Customs Code under the Agreement between the Principality of Andorra and the EC (BOPA No. 13, year 9, 5 February 1998);**
- **internal regulations of the Andorran customs service, adopted on 7 August 1991 (BOPA No. 33, year 3, 14 August 1991);**

- Law on customs fraud, adopted on 11 April 1996, (BOPA No. 32, year 8, 8 May 1996), as amended by the Law of 11 March 1998 (BOPA No. 16, year 10, 3 April 1998); and
- regulations on contentious proceedings in customs matters (BOPA No. 54, year 10, 28 October 1998).

(k) Application of internal taxes on imports

#### **Question 34**

According to the Memorandum, the Principality plans eventually to apply all the provisions contained in the indirect tax on goods (IMI) Law, in order to establish identical tax rates, within the meaning of the Law, for imported goods and like products produced or prepared on the national territory

**Please identify all products, including HS numbers, for which there are different tax rates being applied to imported goods and like products produced or prepared on the national territory. Please provide a schedule for the harmonization of these tax rates.**

#### **Reply**

The national provisions relating to the application of internal taxes on imports are set out in section IV.1 (k) of document WT/ACC/AND/3.

The indirect tax imposed under the national law of 26 June 1991 is the Indirect Tax on Goods (IMI).

Agricultural products in Chapters 1-24 of the HS are subject to an *ad valorem* IMI of 1 per cent.

Industrial products are subject to the IMI at *ad valorem* rates of 0 per cent, 4 per cent, 7 per cent or 12 per cent according to the product, with special rates applicable to mineral oils in Chapter 27 of the HS. Details of the tax according to the category of goods are attached.

The IMI law came into effect recently in July 1991. As yet, it is only partly applied and at present only products imported into Andorra are taxed.

The law will soon be applied generally and both imported goods and similar domestic goods will be subject to the same tax (combined provisions of Articles 13.2 and 7.a of the IMI law, in conformity with the basic provisions of Article III of the GATT.

(l) Rules of origin

#### **Question 35**

According to Article 25 of the Customs Code Law, the rules of preferential origin are based on the implementation of the Community Customs Code for industrial products.

**Does the Principality of Andorra grant originating status to imports from any countries other than those who are members of the European Community? If yes, please identify such countries and the rationale for such treatment.**

Reply

The preferential origin provisions applicable to industrial products in Chapters 25-97 of the HS covered by the EC-Andorra customs union are set out in section IV.1(b)(ii) of document WT/ACC/AND/3.

The import formality requirements applied by the EC to third countries are also applied by the Principality of Andorra under the terms of Article 7.1 of the EC-Andorra Agreement. The same also applies to separate agreements or conventions signed by the EC such as tariff concessions granted unilaterally.

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 in 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.

(m) Anti-dumping regime

**Question 36**

**Within the framework of the EC-Andorra Agreement, the Principality of Andorra is required to adopt the Community provisions on imports of industrial goods *vis-à-vis* third countries, as well as the trade policy measures applied by the EC to third countries.**

**Does Andorra have its own law or regulations for the imposition of anti-dumping measures? If yes, please describe in detail.**

Reply

Pursuant to the provisions of Article 7.1 of the EC-Andorra Agreement, the Principality of Andorra applies any anti-dumping rules applied by Community institutions on the terms defined by them to industrial products in Chapters 25-97 of the HS from third countries.

The Principality of Andorra has not drawn up any special anti-dumping legislation or regulations.

(n) Countervailing duty regime

**Question 37**

**As in the case of anti-dumping rules, the Principality of Andorra is required by the EC-Andorra Agreement to take into account the trade protection instruments adopted by the EC pursuant to the Community's "anti-subsidy" regulation.**

**Does Andorra have its own law or regulations for the imposition of countervailing measures? If yes, please describe in detail.**

Reply

With regard to the countervailing duty regime, as indicated in the comparative table of Andorran and Community legislation, Andorra applies the Community import formalities to third countries (Article 7 of the EC-Andorra Agreement complemented by Article 77 of the Customs Code), including any countervailing duties.

(o) Safeguard regime

**Question 38**

**Does the Principality of Andorra have a safeguard law or regulation?**

**According to the Memorandum, Article 10 of the EC-Andorra Agreement provides for the possibility of safeguard clauses in the application of trade policy provisions *vis-à-vis* third countries, where deflections of trade occur or economic difficulties arise on the territory of one of the contracting parties.**

**Does the EC-Andorra Agreement proscribe safeguard measures from being applied between the Principality of Andorra and the EC or its individual member States?**

**Please explain what is meant by "deflections of trade occur or economic difficulties arise on the territory of one of the contracting parties?" Does this mean that the Principality of Andorra may apply, in certain circumstances, safeguard measures to imports from third countries without complying with the procedures and rules of the WTO Agreement on Safeguards? Please explain. Does this provision apply to both agricultural and industrial goods?**

Reply

Any safeguard measures imposed on imports from third countries into the EC-Andorra customs union can only be taken by the European Community. If such measures are adopted, they are immediately applied by the Principality of Andorra pursuant to the provisions of Article 7 of the EC-Andorra Agreement.

With regard to trade between the contracting parties to the EC-Andorra customs union, if one contracting party considers that customs duties, quantitative restrictions, or any measure having an equivalent effect on imports from third countries, or any trade policy measure imposed by the other contracting party, threaten to distort trade or cause economic difficulties on its territory, it may bring the matter before the Joint Committee set up under Article 17 of the Agreement. The Joint Committee will then recommend ways of preventing any damage that might ensue.

Article 10 only applies to the customs union and is therefore only relevant for trade in industrial products in Chapters 25-97 of the HS.

**2. Export regulation**

- (a) Registration requirements for engaging in exporting

**Question 39**

**According to information provided in the Memorandum, only natural or legal persons previously registered in the commercial register of the Principality of Andorra are entitled to engage in the exportation of goods.**

**Please describe in detail the procedures that must be followed to register in the commercial register of Andorra and all conditions that must be satisfied for registration.**

Reply

The procedure and the conditions to be met are set out in section IV.1 above.

**3. Internal policies affecting trade in goods**

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

**Question 40**

**Please provide further details on Article 6 of the Regulations on Low-Voltage Electrical Installations of 2 November 1994, as amended on 16 November 1994.**

Reply

Article 6 of the Regulations on low-voltage electrical installations prohibits the manufacture, importation, sale and installation of equipment and devices that have not received approval or certification in accordance with the measures in force in the European Union.

With a view to the standardization of electrical equipment and in accordance with this Article, electrical equipment and devices bearing the certificate "EC" are authorized. Any device or equipment bearing this symbol is in principle authorized (except, for example, in the case of equipment or goods that are suspected of being imitations).

Equipment and devices that conform to the national standards in force in the EU countries (UNE for Spain or NF for France) are also authorized.

With regard to devices and equipment from the United Kingdom, technical adaptations are required on account of the different voltages in use (250V for the United Kingdom, 220V for Andorra and other EU countries).

- (c) Sanitary and phytosanitary measures, including measures taken with respect to imports

**Question 41**

**Please complete the Secretariat matrix, to describe Andorra's conformity with the requirements of the WTO Agreement on Technical Barriers to Trade, in advance of the first meeting of the Working Party.**



**Please complete the Secretariat matrix, to describe Andorra's conformity with the requirements of the WTO Agreement on Sanitary and Phytosanitary Measures, in advance of the first meeting of the WTO Working Party.**

**Please ensure that the information sought in Annex 5 of WT/ACC/1 on implementation of the Agreement on Technical Barriers to Trade and on Sanitary and Phytosanitary Measures, including information on current institutional implementation of their provisions, is covered in the responses.**

**Please specify the plans for Andorra's creation of inquiry points under the SPS Agreement.**

Reply

Andorra will try its best to implement the SPS Agreement and therefore create inquiry points during its accession process; all the information concerning the sanitary and phytosanitary regime will be provided.

(e) State trading practices

**Question 42**

**According to the Memorandum, the Principality of Andorra has no State monopoly in the field of foreign trade. However, the working definition of state trading enterprises provided in the Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994 is considerably broader than "State monopoly in the field of foreign trade".**

**Does the Principality of Andorra have any governmental or non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports?**

**Are there any enterprises in Andorra, either private or State-owned or invested, that produce or make purchases or sales on behalf of the Andorran Government? If so, please describe their economic activities.**

Reply

Andorra's 1989 Administrative Code reaffirms the principle of subsidiarity for public activities in comparison with private initiative. The only State monopoly existing therefore is for electricity and telephone services. Electrical power is the only reserved import. On 14 January 1988, the General Council declared that the production and import of electrical power were essential public services and could only be carried out by a State company given exclusive rights. This company, FEDA (*Forces Electriques d'Andorre*) will shortly become a public limited company with private capital.

For the other sectors, no public or private enterprise may carry on production or buying/selling on behalf of the Andorran Government.

- (1) Government procurement practices

**Question 43**

**Does the law on Government procurement in Andorra (Llei de contractació Pública) cover purchases by all Government bodies? Are there exceptions to the application of this law? If so, what situations are excepted?**

**Please provide information on the means used in Andorra to publish information on Government procurement.**

**Does Andorra intend to accede to the Agreement on Government Procurement?**

Reply

The Government Procurement Law applies to the Government, public law entities and local authorities. It does not apply to public companies, which come under private law.

The Law applies to all the contracts specified therein, but not in cases of extreme urgency, that is to say, in disasters or situations that may represent a grave danger for the public interest.

Information on Government procurement is published in the Official Journal of the Principality of Andorra and includes information on invitations to tender and the award of contracts to the beneficiaries.

With regard to Andorra's intention to accede to the Agreement on Government Procurement, the impact on the domestic market will need to be assessed, but it would seem that the domestic rules are compatible with the Agreement.

**Question 44**

**Does the Principality of Andorra intend to become a member of the WTO Agreement on Government Procurement? If not, why not?**

Reply

Andorra will decide whether or not to accede to the Multilateral Agreement on Government Procurement after having assessed its impact on the domestic market. At first view, it would appear that Andorra's internal regulations are consistent with the Agreement.

**4. Policies affecting trade in agricultural products**

**Question 45**

**Please provide the information requested in WT/ACC/4 on domestic support to agriculture and export subsidies at least four weeks prior to the first meeting of the Working Party.**

- (a) Imports – i.e. comprehensive description of the types of border protection maintained.

**Question 46**

**Does the Principality of Andorra have any trade restrictions with respect to the importation of meat from animals treated with growth hormones? If yes, please identify the products, including HS numbers, the applicable trade restriction, and the GATT rationale for such trade restriction.**

Reply

Concerning imports of meat from animals treated with hormones, the veterinary protocol signed between Andorra and the European Community prescribes that Andorra should apply the same health regulations as the Community. Consequently, if imports from third countries are banned for health reasons in the Community, they are also banned in the Principality of Andorra.

**Question 47**

**Please describe any trade policy measures that are being applied with respect to the importation of bananas.**

Reply

The import regime for bananas has been liberalized as agricultural products are not included in the Agreement on the customs union and Andorra does not apply any special restrictions.

- (b) Exports - i.e. description of the budgetary expenditure and any revenue foregone involved in each of the export subsidy measures in place

**Question 48**

**According to the information provided in the Memorandum, the Principality of Andorra subsidizes the export of live cattle and equine animals. Export subsidies are highly trade-distorting.**

**Will Andorra confirm that it will eliminate this export subsidy as of the date of accession to the World Trade Organization?**

Reply

Andorra undertakes to eliminate all export subsidies in September 2000, the expected date of approval of the Agriculture Law by the Andorran Parliament.

- (d) Export credits, export credit guarantees or insurance programmes

**Question 49**

**Please describe the insurance programmes for tobacco and stock breeding, that guarantee income security for farmers.**

Reply

For tobacco, the private contract between growers and manufacturers fixes a price for the crop. Sixty-six per cent of the insurance premium taken out by tobacco growers against natural disasters such as hail or frost is paid by the Ministry of Agriculture.

Current legislation provides for special aid by the government for livestock. The Ministry of Agriculture pays 66 per cent of the insurance premium. It is expected that this aid will be eliminated when the new agricultural law is adopted in autumn 2000.

**Question 50**

**Please provide a draft copy of the future law on Agriculture to the Secretariat, for review by the Working Party.**

Reply

The draft of the law is being translated and will be submitted to the Secretariat in the near future. See explanations given under part II (2) for a summary of its content.

- (e) Internal policies - i.e. description of, and the budgetary expenditure and any revenue foregone involved in each of the domestic support measures

**Question 51**

**According to the information provided, Andorra provides domestic support measures for: breeding stock, agricultural machinery, preferential treatment for social security contributions, contributions to the payment of insurance premiums, and grants for marketing and export of cattle.**

Reply

All this aid will be abolished when the new agricultural law is adopted in autumn 2000.

**Question 52**

**Please provide a table showing annual expenditures for each of these measures.**

Reply

See WT/ACC/AND/4, domestic support in the agricultural sector.

**V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

**1. General**

**Question 53**

**We note that the Government of Andorra enacted a Trademark Law in 1996 and has prepared a draft Law on Copyright and Related Rights and a Draft Patent Law. Andorra is also preparing a draft law on the protection of geographical indications, industrial designs and unfair competition. Andorra should be complimented on its efforts to update its regime for the protection of intellectual property.**

**What is the current legislative status of the copyright and patent legislation? Please provide copies of these draft laws, prior to the first meeting of the Working Party, to the Secretariat for review by Working Party members.**

Reply

The copyright and patent legislation have been presented and approved by Parliament, their publication in the Official Journal of Andorra (BOPA) is under way. A copy of the laws will be submitted to the Secretariat in the near future.

**Question 54**

**What is the current legislative status of the draft geographical indications, industrial designs and unfair competition legislation?**

Reply

Andorra does not have any draft legislation on geographical indications, industrial designs and unfair competition.

**Question 55**

**Please provide copies of the draft geographical indications, industrial designs and unfair competition legislation, when available, to the Secretariat for review by Working Party members.**

Reply

Andorra is not ready to provide to the Secretariat draft legislation on geographical indications, industrial designs and unfair competition. It will be provided, however, before joining the WTO.

**Question 56**

**Does Andorra expect to prepare draft legislation on plant variety protection?**

Reply

Andorra intends to prepare draft legislation on plant variety protection before its accession to the WTO.

**Question 57**

**Does Andorra expect to be able to fully implement the Agreement on Trade-Related Intellectual Property Rights prior to WTO accession?**

Reply

Andorra intends to have TRIPS legislation implemented before its accession to the WTO.

**Question 58**

**Currently, the only legislation in force in Andorra is the Trademark Law, and the only legislation being discussed is that concerning "other categories of industrial property rights". Please outline Andorra's intention to extend legislation in intellectual property in these or any other areas, and establish the dates when these laws may be approved.**

Reply

Currently Andorra has the following legislation in force:

- Trademark Law of May 1995:  
Once Andorra becomes a member of the Paris Convention, it will be able to request accession to both the Madrid Arrangement and the Madrid Protocol. There is no date set for such a request.
- Patents Law, June 1999:  
The new Patent Law has been approved by the *Consell General*. Upon its entry into force, Andorra will request accession to the Paris Convention and the PCT. Andorra will also request the treatment of territorial extension with the EPC.
- Copyright and Related Rights, June 1999:  
The new copyright and neighbouring rights law was approved by the *Consell General* (Parliament) in June 1999.
- Andorra is a member of the Universal Copyright Convention.

### **Question 59**

**Please report the intentions of Andorra to join the Paris Convention, and to accede to other international agreements on intellectual property, specifically the Madrid Protocol, the Patent Co-operation Treaty and the European Patent Convention.**

#### Reply

Upon entry into force of the two new laws, Andorra will request accession to the Berne Convention, Rome Convention, and both 1996 WIPO treaties, the WCT and the WPPT.

### **Question 60**

**Please report on the state of draft legislation on geographical indications/appellations.**

#### Reply

The draft legislation on geographical indications/appellations is at its very initial stages.

## **VI. TRADE-RELATED SERVICES REGIME**

### **1. General and description of the global structure of the market**

### **Question 61**

**Please provide the information requested in WT/ACC/5, description of the services sector, and submit Andorra's initial services market access offer at least four weeks in advance of the first meeting of the Working Party.**

**We note that the Decree of 10 October 1981 on Business Permits and the regulations of 19 May 1983 on Business Firms, provide for several horizontal restrictions on foreign market access to the services markets in Andorra. These laws would appear to undercut the value of any market access commitments to be made by Andorra to other Members of the World Trade Organization.**

**Please provide, in advance of the first meeting of the Working Party, copies of the Decree of 10 October 1981 on Business Permits and the regulations of 19 May 1983 on Business Firms, to the Secretariat, for review by the Working Party.**

**Please provide, in advance of the first meeting of the Working Party, a copy of the three 1998 texts on the banking sector, to the Secretariat, for review by the Working Party.**

**Foreign capital is restricted to 33 per cent of total capital in general; in banks foreign capital is allowed up to 51 per cent. Why is foreign ownership only possible for banks? Are there plans to increase the limitations regarding foreign capital?**

Reply

Foreign majority ownership is currently only possible for banks. The rationale is to be found in the particular structure of the Andorran economy. Andorra has experienced important economic growth since 1960 and the Government did not at that time have effective prudential measures to avoid the uncontrolled development of the country. It therefore opted for a limitation on foreign capital ownership. Nowadays, Andorra can be proud of its banking system, which has been operating through the years and proved to be efficient and reliable. The Law on the Organization of the Financial System (LOSF) of 27 November 1993 served as the basic framework for the liberalization of the sector. It allowed for the creation and empowerment of specialist bodies dependent on the "INAF" (Andorran Institute of Finance), complementing the statutory self-regulation function of financial institutions established in Andorra. These bodies were set up with an advisory role to control compliance with regulations preventing the laundering of funds. As transparency and prudential measures to control investment in the banking system performed well, the Government has allowed controlled and gradual opening by extending the limit for foreign capital ownership to 51 per cent and the establishment of new banking institutions. (See WT/ACC/AND/3 p.51).

There are no plans from the Andorran Government to increase the limitations regarding foreign capital.

Question 62

**The law on Business Firms sets down restrictions for setting up a business in Andorra, i.e. in the form of a public limited company, a private limited company or a partnership.**

**What kind of services is each company allowed to provide in Andorra?**

**In regard to the limitation of 33 per cent foreign capital in a company, for which services does the exception regarding "companies declared to be of public interest and companies that have a State concession" currently apply? In such cases, what percentage of foreign capital is permitted?**

**Does a law exist providing detailed provisions on the services sector and the limitations thereto regarding the exception applying to foreign capital?**

Reply

Commercial activities may be carried on in Andorra either through a business opened by an individual (natural person) or through the establishment of a company (legal person). Services may be supplied in any legal form and a legal obligation only exists for the financial system and insurance companies, which are more strictly regulated, i.e. higher equity capital with the only authorized form being a public limited company under Andorran law. These particular arrangements are defined in the special regulations that govern these services. Article 3 of the Law on Business Firms limits foreign participation to 33 per cent of the total capital of companies registered under Andorran law. However, under the same Article, foreign equity capital may rise up to 100 per cent in the case of companies holding concessions and companies declared to be of public or social interest.

The former are companies that have been granted a concession by the Administration to run a public service in accordance with the Administrative Code and the Government Procurement Law of 30 December 1985.

On the other hand, a declaration of public or social interest is made by Government decree and so far no exemption has been granted. No text regulates this Article of the Law on Business Firms with a view to identifying projects declared of public or social interest.

The services sector is governed by the same terms of the Law on Business Firms. Under the Law of 30 June 1998, only banking services are allowed up to 51 per cent of foreign capital, but only a maximum of three new banking institutions will be authorized to establish themselves in Andorra before 2002, as stated in the Memorandum. This increased foreign capital for banking institutions is not governed by Article 3 of the Law on Business Firms but by special legislation on banking.

## **2. Policies affecting trade in services**

### **(a) Regulatory structure of the most prominent services sectors**

Telecommunications services

#### **Question 63**

**Can you describe the telecommunication market in a more detailed manner? What exactly is covered by the State monopoly? Do there exist any plans to liberalize the telecommunications sector?**

#### **Reply**

All the telecommunications services are currently covered by the State monopoly. However, the national telecom company can hire its wire-based services. The distribution of cell phones and direct access to the internet is liberalized.

Plans to liberalize telecommunications services will be submitted in the market access offer on services (WT/ACC/SPEC/AND/3).

Banking and other financial services

#### **Question 64**

**Is it correct that banks are not allowed to establish in the form of a branch or a representative office in Andorra? What is the rationale for restricting establishment of banks to the form of public limited companies?**

#### **Reply**

Foreign banks cannot be represented in Andorra through a branch. Such a situation cannot be envisaged while there are no reciprocal arrangements for the benefit of Andorran banks. Andorra is studying the possibility of cooperation agreements among the supervisory bodies of the Andorran financial system and those of the countries where the parent companies are located in order to allow the establishment of branches of foreign banks in Andorra.

However, the regulations governing the banking system allow banking institutions, provided they have obtained governmental authorization, to become established in Andorra in the form of companies under Andorran law. A company under Andorran law, which may be a branch of a foreign banking establishment, must observe the limitation on foreign capital participation of 51 per cent.



The regulations governing the banking sector require Andorran banks to be established in the form of public limited companies under Andorran law in view of the fact that the minimum capital required for their establishment is set at a higher level (for the establishment of a limited liability company, the minimum capital required is Ptas 2,000,000 or €12,020).

The obligation to become a public limited company is required of all establishments forming part of the financial sector: both banking and non-banking financial institutions.

#### **Question 65**

**Does the reservation applying to the exercise of professions by "persons resident in Andorra for over 20 years possessing the necessary qualifications "include foreign nationals?" In addition, the description of "necessary qualifications" should be clarified.**

#### **Reply**

"Necessary qualifications" should be understood to mean diplomas providing evidence of studies undertaken in relation to the profession that the person concerned wishes to exercise.

In addition, it should be noted that, for purposes of authorization, the Administration recognizes French and Spanish diplomas and accepts diplomas obtained in a country other than Andorra, France and Spain, on the basis of a list of diplomas accepted by France and Spain.

#### **Question 66**

**Regarding the deposit of a sum of money, we wish to have further explanations as to why foreign persons are required to do so. Does this apply to Andorran nationals?**

#### **Reply**

The General Council established the requirement to provide a deposit in order to ensure that the establishment of such persons in Andorra is on a long-term basis. This rule does not apply to Andorran nationals. These deposits are held and administered by the INAF, earn interest annually at the market rate minus one point, and when the application to exercise a profession is cancelled, they are returned.

Sectoral regulation of professions

#### **Question 67**

**Does the Andorran current regime permit foreign solicitors or equivalent possessing solicitor's qualifications or equivalent issued in a foreign country to provide legal services in Andorra?**

**If so, what are the requirements and procedures for such foreign nationals? What is the coverage of the permitted services and the limitation on the activities of foreign solicitors?**

**In addition, comprehensive details of the requirements and procedures necessary to be qualified as a solicitor should be provided.**

**Can a foreign national become a barrister?**

Reply

Exercise of the profession of solicitor (*notaire*).

A solicitor (*notaire*) is a public official who is empowered to authenticate contracts and other extrajudicial documents, file them in his official archives and provide copies.

To become a solicitor, the following conditions must be met:

- Possess Andorran nationality (foreigners, even those residing in Andorra, cannot exercise this profession);
- be at least 25 years of age;
- have no criminal record;
- have a law degree;
- have passed the examinations.

The profession of solicitor is incompatible with any other public office and any business activity, in particular the exercise of the profession of lawyer.

Solicitors are recruited on the basis of public competitive examinations.

Exercise of the profession of lawyer (*avocat*)

The conditions required to exercise the profession of lawyer in Andorra are the same as those for all the professions.

As for all professions, an exception is made in the case of foreigners married to Andorran nationals and whose permanent residence is in Andorra. In such circumstances, the professional may obtain authorization from the Government if he fulfils all the conditions required other than the requirement to have been resident for 20 years.

**Question 68**

**Detailed information on the relevant qualifications for being a translator or interpreter and for being a private detective need to be provided.**

Reply

Translators and interpreters

The law of 20 June 1996 governs the exercise of this profession for officially-recognized ("sworn") translators and/or interpreters from Catalan to other foreign languages and vice versa. Being "sworn" means that they can be called in to translate, interpret or make a declaration that official documents or deeds are a faithful copy of the original.

Those wishing to become "sworn" translators or interpreters must first of all obtain authorization from the Government, as is the case for all the professions, and pass competitive examinations.

The candidates who pass the examinations and who swear an oath to the Andorran Government are automatically listed in the Register of translators and interpreters and are awarded a

certificate authorizing them to act as translator and/or interpreter, as the case may be, from the languages indicated to Catalan and vice versa.

#### Private detectives

In order to exercise the profession of private detective, authorization must be obtained from the Government. This is valid for a period of three years.

The conditions are:

- To have reached the age of majority;
- to possess Andorran nationality or in the case of foreigners to have been resident for over 20 years;
- have no criminal record;
- be of good repute and morality;
- not have been dismissed from the Administration;
- not be subject to any incompatibility;
- to have completed secondary education; and
- to have passed the corresponding examinations: Catalan, Andorran history and institutions, elementary principles of law, particularly criminal law, psychological and physical fitness.

The profession of detective is incompatible with a post in the civil service. Detectives are bound by professional secrecy, but that does not apply *vis-à-vis* the police or the judicial authorities.

At the present time, two persons are listed in the Register of Commerce under this activity.

Transport, passenger transportation and taxi services

#### **Question 69**

**What are the standards used in the public bidding process for allocating or not a taxi licence? The explanation by Andorra with the reference to the Government only allocating one transport permit per licence is unclear. Please clarify.**

#### Reply

The standards used for granting a licence are based on professional requirements (possession of a driving licence and professional capacity). If there is considerable demand, a competitive examination may be held.

On the basis of the experience acquired since the first licences were granted and in view of the fact that when the licence is issued the person concerned is only obliged to pay an amount that covers the administrative cost (about Ptas 25,000 or €150), the Government currently grants a licence on the condition that it is used directly and personally by the holder himself.

A transport permit corresponds to a single vehicle and ensures that it meets the safety standards for public transport.

Each vehicle may be driven by three persons: the holder of the licence and two other drivers (employees), who must be listed in the General Register of Transporters.

- (b) Judicial, arbitral or administrative tribunals or procedures providing for the review of administrative decisions affecting trade in services

**Question 70**

**Is it possible for private individuals to appeal to arbitration bodies to settle commercial or industrial disputes?**

Reply

At present, there are no arbitration bodies in Andorra where commercial or industrial disputes can be settled. All disputes, including those in the commercial or industrial fields, go through the normal legal channels.

The Chamber of Commerce, Industry and Services (CCIS) was established in order to represent, promote and defend the general interests of business, industry and services. Its functions include disseminating information, administering a register of business and industrial activities and services, promoting market transparency, ensuring and promoting fair competition, and establishing, organizing and administering arbitration bodies and services.

The Law establishing the Chamber of Commerce, Industry and Services of September 1993 gives the CCIS the authority to establish, organize and administer such arbitration bodies, but in fact no such body has yet been established.

- (c) Provisions concerning qualification requirements and procedures, technical standards and licensing

**Question 71**

**Please compare the procedures listed in WT/ACC/AND/3 with the existing requirements of Article VI. Is Andorra able to meet the requirements of Article VI?**

Reply

Concerning anti-dumping duties Andorra, applies the same regime as the European Union because of the application of the CET. Anti-dumping duties applied by Andorra are determined and controlled by the EU.

- (f) Provisions relating to international transfers and payments for current transactions of services

**Question 72**

**Does the information provided mean that Andorra places no restrictions on international transfers and on capital transactions?**

Reply

This is the case. There are no restrictions on international transfers nor capital transactions. It should be recalled, nevertheless, that banking institutions are subject to the Law of 11 May 1995 on money laundering (Law on the protection of banking secrecy and the prevention of the laundering of

money or securities derived from crime). Banks and other financial entities must inform judges of any suspicious transaction or request for a transaction and it may be halted by the judicial authorities.

- (h) Provisions governing the procurement by governmental agencies of services

**Question 73**

**We don't understand the distinction regarding services supplied to the Government. Wouldn't these be public contracts?**

Reply

According to the Government Procurement Law of 30 December 1985, Government contracts may be public or private. Public or administrative contracts are signed for the purpose of carrying out public works, the management of public services or the supply of goods and the acquisition of related goods or rights.

Services contracts are not covered by the Government Procurement Law of 30 December 1985, but they will be dealt with in a new law to be submitted to Parliament in autumn 1999.

**3. Market access and national treatment**

- (a) Limitations on the number of services suppliers

Banking institutions

**Question 74**

**Is our understanding correct that authorization for establishment of new banks is not only based on prudential criteria but limited based on quota? Do there exist plans to lift this numerical restriction in the banking sector? In particular, can you explain the meaning of "the creation of new banking institutions will be gradual"?**

**Can you elaborate on possibilities of the foreign banks participating in the first and second stages of liberalization in the banking sector?**

Reply

The establishment of new banking institutions will be authorized by the Government, in accordance with the law, on the basis of the capacity of Andorra's economy to assimilate new entries.

The criteria applied in establishing the process for opening up the banking sector are essentially prudential. The limit on the number of authorizations reflects the need to achieve a gradual and controlled opening up so as to protect the Andorran economy from the harmful effects that might result from a total opening up.

The main aims of opening up the banking sector are to stimulate competition, improve the quality of banking services, broaden the range of institutions and also strengthen their international image, without however weakening the existing system.

The Government will await the results of the first phase of the opening up before deciding on the next phase. Given the uncertainty and lack of clear pointers for predicting the impact of the opening up on the Andorran economy, it is the Government's intention to define the second stage

before the end of 2001, as laid down in the second transitional provision, paragraph (c), of the Law regulating the establishment of new banking institutions under Andorran law of 30 June 1998.

The sentence referred to (on page 51 of document WT/ACC/AND/3) – "the creation of new banking institutions will be gradual" – may give rise to confusion. The speed at which the banking sector is opened up depends on the number of authorizations available. In any event, there will be no greater restrictions on the activities of the new institutions than those laid down in the general provisions regulating the banking sector (cf. document WT/ACC/AND/3, page 43, first paragraph).

During the first phase, which will itself be divided into two sub-stages, three authorizations will be available for new institutions: two during the first sub-stage (which finishes on 31 December 1999) and one for the second sub-stage (which finishes on 31 December 2000). If the authorizations for the first sub-stage are not allocated, they may be carried over to the second sub-stage

After completion of the first phase, the Government will decide on the continuation of the opening up. On the basis of the experience gained during this first phase, the Government will decide on the future process of opening up.

To obtain an authorization, foreign banks must fulfil the conditions laid down in the Law of 30 June 1998, which governs the establishment of new banking institutions in Andorra, together with all the other relevant provisions (equity capital, administrative regime, etc.). This applies to both phases.

#### Procedure for obtaining official approval for new banking establishments

Before submitting an application to the Ministry of Finance, a banking institution must first set up a promotion group whose sole aim will be to set up the banking institution; the name of this group must include the company name of the future banking institution. Before the submission of the dossier, the promoters must lodge with the INAF a non-interest bearing deposit of Ptas 500,000,000 (approximately €3,005,060). The Government has five months, beginning from the date of the submission of the application, to give a provisional ruling. Within the following five months, this preliminary authorization must be superseded by a definitive authorization or a refusal. In the case of refusal, the deposit will be refunded to the promoters within a period of 20 days following the decision. If the application is accepted, the deposit will be refunded within a period of 20 days following the commencement of banking activities.

The application must be accompanied by the following documents:

1. Regarding the particular activities of the institution to be established:

- The draft statutes of the banking institution to be established;
- The basic programme of activities, including specific reference to the type of operations envisaged;

The commercial banking activities that it is planned to carry out must be indicated, together with all the relevant information showing the relative importance of the commercial banking activities within the totality of the banking activities envisaged. It must also be stated whether it is planned to carry out management activities involving UCITS;

- Specific information on any future plans for activities relating to economic development at the national level;

- Specific information on any future plans involving sponsorship and support for educational and cultural activities, assistance for research, the conservation and dissemination of the cultural and natural heritage, cultural action and sponsorship of sporting activities;

2. Relating to the shareholders of the banking institution to be established:

- A provisional list of the shareholders making up the company, indicating their nationality and their equity participation;
- in the case of legal persons, the composition of their boards of directors should be indicated and financial statements provided, including the annual reports and the audits for the last three financial years;
- if the legal persons are part of a group of companies, the composition of the group should be indicated and the information referred to in the previous paragraph for the main elements and the overall value of the group should be provided;
- sworn statement that the funds invested by the shareholders in the company meet the requirements laid down by the legislation on the prevention of the laundering of money or securities resulting from drug trafficking and other criminal activities;
- information on the background, professional activities and assets of shareholders whose holdings in the company to be established are 5 per cent or more. In the case of legal persons, such information applies to the members of their boards of directors;
- information on the measures planned to complete the shareholding of the company and the procedure to be followed if the promoters have not already raised all the equity capital for the institution to be established;
- in particular, it should be stated whether the promoters intend to offer shares for public subscription so as to encourage a broader shareholding base;
- a provisional list of the persons who will form the initial board of directors, with information on their background and professional activities;

3. Relating to structural, technical and economic plans:

- A description of the technical and human resources available to the institution to carry on its activities, together with a detailed description of the activities and services to be offered in Andorra;
- A general description of the measures planned to ensure proper internal supervision of procedures and maximum security for its activities;
- A brief description of the general measures intended to meet the requirements of the legislation on the protection of banking secrecy and the prevention of the laundering of money or securities resulting from crime;
- Any links envisaged with other credit institutions providing banking and technological knowledge or management skills, or undertaking to provide economic support in the event of possible financial difficulties;
- The planned location of the head office;

- The number of branches that it is planned to open during the first three financial years;
- Recruitment plans for the first three financial years, indicating the level of qualifications required;
- Provisional balance sheets and accounts for the first three financial years, together with any relevant comments, for the purposes of providing a quantitative assessment of objectives, specifying in particular the volumes of activity and the anticipated income and expenditure for the commercial banking activities and other activities;
- Policy for sharing any profits or losses that may ensue;

4. Relating to the fulfilment of the prior conditions:

- Proof that the deposit required has in fact been lodged with the INAF;

Promotion groups that obtain preliminary authorization must submit the following additional documents:

- The definitive statutes of the company;
- Information on the measures taken to set up the head office and the branches that it is planned to open in the short term;
- Updating - or confirmation if no changes have been made - of the provisional information attached to applications pursuant to paragraphs (c), (d), (e), (f), (g), (h) and (i) above, so as to obtain definitive answers;
- A list of the persons who are to fill the senior management posts, with information on their background and professional activities;
- An explicit declaration by the person chosen to become the chairman of the company stating that he is aware of the obligations set forth in the existing legislation on the financial system and, in particular, the provisions of the legislation relating to the protection of banking secrecy and the prevention of the laundering of money or securities resulting from crime;

In addition to these documents, the promoters must provide any other additional information requested by the INAF, the CSF (Higher Finance Commission) or the Government.

The applications are assessed on the basis of the following criteria:

General criteria

Applications will be judged on the basis of the soundness of the plans to set up the company and on the basis of its likely contribution to the Andorran economy in general and the financial system in particular.

Specific criteria

1. Technical guarantees

- The coherence of the plan to establish the enterprise;



- the knowledge and experience of the promoters and the shareholders and their potential capacity to attain the objectives of developing the banking institution to be established;
- the links with one or more credit institutions providing the future institution with banking and technological skills;
- the commitments undertaken by the credit institutions with regard to the management of the future institution.

## 2. Economic guarantees

- Transparency regarding the origin of the funds and the identity of those persons who will form the nucleus of the shareholders of the future institution;
- the financial solvency of those applying to hold over 5 per cent of the share capital of the institution to be established;
- the possible participation of one or more credit institutions in the capital of the institution to be established;
- the ranking, rating and solvency of the credit institutions linked to the project;
- the commitments made by the credit institutions linked to the project to provide economic support to the institution to be established in the event of financial difficulties.

## 3. The likely corporative impact on the financial system

- Participation in strengthening and enhancing a positive image of the sector;
- potential for innovation in the provision of financial services;
- contribution to stimulating internal competition and raising the technical levels in the sector for the benefit of customers;
- contribution to improving the productivity of the financial system;
- possible diversification of the particular characteristics or business policies of companies making up the Andorran banking system.

## 4. The likely economic and social impact for the country

- The broadening of share ownership through the participation of Andorrans and of foreigners legally resident for more than 20 years;
- entry of Andorrans or of foreigners legally resident for more than 20 years on to the boards of directors and management of the establishment
- the creation of new jobs and skills;
- the expected occupation of jobs by Andorrans or foreigners holding a residence permit for at least five years;

- policies designed to develop the national economy, in particular those involving the development of new activities and the encouragement of productive investment ;
- the growth rate for the banking sector in line with the overall growth of the Andorran economy;
- policies to support educational, cultural and sporting activities and to promote research and the conservation and dissemination of the cultural and natural heritage.

#### 5. Institutional effects

- Contribution to the strengthening of a positive international image.

Once approval to set up a banking institution has been granted, the promotion group is obliged to establish the banking institution planned, which must commence its activities within a maximum period of 12 months, beginning from the date of notification of the authorization to the promotion group. If the institution does not initiate its activities during the period indicated, the Government, on the basis of the prior report from the INAF and the prior opinion of the CSF, will cancel the authorization, and the INAF will cancel the deposit and pay it into the Government's account as a penalty for the non-fulfilment of obligations.

In addition, all banking institutions must respect the provisions of the various texts that govern the banking sector; solvency and liquidity criteria, compulsory investment coefficients, administrative structure, auditing, etc., (cf. document annexed to the Memorandum, available in the Accessions Division – office 1126).

These provisions include the following:

- Banking institutions must take the form of a public limited company under Andorran law;
  - the minimum equity capital is Ptas 5 billion;
  - foreign participation in the equity capital of banking institutions is limited to 51 per cent;
  - the board of directors of a banking institution must have at least five members: a minimum of two and at least one third of these members must be of Andorran nationality or resident in Andorra for more than 20 years;
  - the board of management must consist of at least two persons: a minimum of one of these persons and at least half the total number of members must be of Andorran nationality or residents with full economic rights;
  - new banking institutions must open at least one branch in a parish (internal geographical unit) other than the one where the central office is located;
  - at least half the staff recruited must be Andorran or resident for at least five years.
- (e) Restrictions on, or requirements of, specific types of legal entity through which a service may be supplied

**Question 75**

**Foreign insurance companies are allowed to establish in the form of a branch in Andorra under certain conditions. Can you explain the second condition, i.e. branches must be legal in their countries of origin?**

**Reply**

The Law regulating insurance companies establishes that the foreign companies must be incorporated in conformity with the stipulations prevailing in the country of origin. The lines of business or activities that they want to develop in Andorra must be legally admitted in the country of origin, therefore, they have to operate in the same fields in which they are active in their country of origin.

**VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES**

**1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services**

**Question 76**

**Does the Principality of Andorra intend to become a Member of the Plurilateral Agreement on Civil Aircraft?**

**Reply**

As indicated in the Memorandum, a national civil aviation law is being prepared in parallel with consideration of Andorra's possible membership of the International Civil Aviation Organization (ICAO).

Regarding whether or not Andorra intends to accede to the Plurilateral Agreement on Civil Aircraft (Agreement on Trade in Civil Aircraft), more time is needed to study all its provisions, but at first view, nothing of substance appears to prevent accession.

**2. Economic integration, customs union and free-trade area agreements**

**Question 77**

**Does Andorra's agreement with the EC include trade in services (commercial presence; cross-border services; movement of natural persons)?**

**Reply**

The services sector is not included in the 1990 trade agreement between Andorra and the European Union.

**Question 78**

**Please describe the preferential agreement with the European Community covering Chapters 1-24 of the HS system. What percentage of imports in these Chapters from the European Community in 1997 and 1998 were subject to zero duties?**

Reply

Chapters 1-24 HS products of Andorran origin are subject to zero duty when imported into the Community.

Chapters 1-24 HS products of EC origin are subject to MFN rates when imported into Andorra, except for a preferential rate for manufactured tobacco (24.02; 24.03), according to Article 12.2 of the 1950 EC-Andorra Agreement.

Percentage of imports of Community products subject to a zero rate in comparison with imports from third countries:

Coffee, not roasted (0901.11 and 0901.12)

Year 1997 (Value)

EU imports	Ptas 25,817,000 – 31.5%
Third country imports	Ptas 61,962,000 – 68.5%

Year 1997 (kg.)

EU imports	46,946 kg – 26.3%
Third country imports	132,017 kg – 73.7%

Year 1998 (Value)

EU imports	Ptas 38,775,000 – 42%
Third country imports	Ptas 53,683,000 – 58%

Year 1998 (Kg.)

EU imports	95,367 kg – 41.8%
Third country imports	132,815 kg – 58.2%

The only agricultural goods imported into Andorra at zero rate are products 09.01.11 and 12 of the HS. This rate is not preferential but MFN.

**Question 79**

**In order to assess the value of Andorra's initial market access offer for goods, please identify all products, including HS numbers, for which imports from the EC are exempt from duty or subject to preferential rates. For those items subject to preferential duty rates, please provide the rates applied to EC imports.**

Reply

See table on market access in goods provided to the Secretariat (WT/ACC/SPEC/AND/1).

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