
STATUTORY INSTRUMENTS

2010 No. 795

**The Recovery of Import Duties and
Export Duties (Andorra) Regulations 2010**

PART 2

Requests for Assistance

Requests for Information – making the request

3.—(1) A request for information shall—

- (a) be made in writing, in accordance with the specimen set out in the Regulation;
- (b) contain all the particulars required by that specimen; and
- (c) bear the official stamp of the applicant authority and be signed by an authorised official.

(2) A request for information shall relate to—

- (a) the debtor;
- (b) a person liable for settlement of a claim under the law in force in the Principality of Andorra; or
- (c) a third party holding assets belonging to a person mentioned in sub-paragraph (a) or (b).

Requests for Information – procedure following receipt of the request

4.—(1) The Commissioners shall—

- (a) acknowledge receipt of a request for information in writing as soon as possible and in any event within seven days of receipt;
- (b) transmit to the applicant authority each item of requested information as and when it is obtained;
- (c) where all or some of the requested information cannot be obtained within a reasonable time, so inform the applicant authority, indicating the reasons; and
- (d) no later than six months from the date of acknowledgement of the request, report to the applicant authority the outcome of the investigations which they have conducted in order to obtain the information requested.

(2) The applicant authority may, upon receipt of the report referred to in sub-paragraph (1)(d), ask the Commissioners to continue their investigations.

(3) The request referred to in paragraph (2) shall be made in writing within two months of receipt of the report and shall be dealt with by the Commissioners in accordance with the provisions applying to the original request.

(4) The Commissioners shall, as soon as possible, give notice to the applicant authority of such additional particulars as may be necessary to execute the request.

(5) The Commissioners shall be under no obligation to execute a request for information until the applicant authority has complied, so far as it is able, with any request made of it under paragraph (4).

Refusal of Requests for Information

5. The Commissioners shall not be obliged to supply information where—
- (a) the request was not made in accordance with these Regulations;
 - (b) the Commissioners would not be obliged to obtain the information in question for the purpose of recovering a corresponding UK claim;
 - (c) the supply of the requested information would disclose any commercial, industrial or professional secret; or
 - (d) disclosure of the information would be liable to prejudice the security or public order of the United Kingdom.

Requests for Notification – making the request

- 6.—(1) A request for notification shall—
- (a) be made in writing, in duplicate, in accordance with the specimen set out in the Regulation;
 - (b) contain all the particulars required by and attach all the attachments stipulated in that specimen;
 - (c) bear the official stamp of the applicant authority and be signed by an authorised official; and
 - (d) refer to the procedure for contesting the claim or its recovery in accordance with the law in force in the Principality of Andorra, in so far as it is not indicated in the instrument or decision of which notification is requested.
- (2) A request for notification shall relate to a natural or legal person who, in accordance with the laws in force in the Principality of Andorra, is entitled to be informed of any instrument or decision which concerns that person.

Requests for Notification – procedure following receipt of the request

- 7.—(1) The Commissioners shall—
- (a) acknowledge receipt of a request for information in writing not later than seven days after the date of such receipt;
 - (b) take the necessary measures to effect notification, as soon as possible, in accordance with the law applicable to notification of similar instruments in that part of the United Kingdom in which notification is given;
 - (c) promptly inform the applicant authority of the action taken on its request for notification and, in particular, confirm to the applicant authority, as soon as reasonably practicable, the date on which the instrument was notified to the person concerned by returning a copy of the request form with the relevant certificate completed;
 - (d) not question the validity of the instrument.
- (2) The Commissioners may request additional information from the applicant authority for the purposes of effecting notification but shall not thereby jeopardise any final date for notification indicated in the request for notification.
- (3) For the purposes of this regulation, “instrument” means any document or decision, including those of a judicial nature, which emanates from the Principality of Andorra and which relates to a claim which forms the subject of a request for recovery.

Requests for recovery or for the taking of precautionary measures – making the request

8.—(1) A request for recovery or a request for the taking of precautionary measures shall—

- (a) be made in writing in accordance with the specimen set out in the Regulation;
- (b) contain all the particulars required by and attach all the attachments stipulated in that specimen;
- (c) bear the official stamp of the applicant authority; and
- (d) be signed by an authorised official.

(2) A request for recovery or for the taking of precautionary measures shall relate to a person specified in regulation 3(2).

(3) The amount of the claim that forms the subject of the request shall be stated in UK sterling and in the currency of the Principality of Andorra.

(4) A request for recovery shall specify, in addition to the particulars specified in paragraph (1)—

- (a) the nature and amount of the claim, including the principal sum and costs due, stated in accordance with paragraph (3);
- (b) the date of notification of the instrument to the addressee by the applicant authority or the Commissioners or both; and
- (c) the date from which and the period during which enforcement is possible under the laws in force in the Principality of Andorra.

(5) For the purposes of these Regulations, where the instrument permitting enforcement concerns more than one claim against a person, the claims in question shall be treated as a single claim.

Requests for recovery or for the taking of precautionary measures – initial procedure following receipt of the request

9.—(1) The Commissioners shall, not later than seven days after the date of receipt of a request for recovery or for the taking of precautionary measures—

- (a) acknowledge receipt of the request in writing to the applicant authority;
- (b) make a request in writing to the applicant authority to complete the request if it does not contain all the information required under article 10(3) of the Decision.

(2) The Commissioners shall be under no obligation to execute a request for recovery or a request for the taking of precautionary measures until the applicant authority has complied, so far as it is able, with any request made of it under sub-paragraph (1)(b).

(3) As soon as any relevant information relating to the matter which gave rise to the request comes to the knowledge of the applicant authority, it shall forward it to the Commissioners.

(4) Subject to the following provisions of this regulation (and regulation 10), upon receipt of a completed request made in accordance with regulation 8, the Commissioners shall proceed to take the precautionary measures or, as the case may be, recovery action, so requested, in accordance with the laws, regulations and administrative provisions applying to corresponding UK claims.

(5) For the purposes of paragraph (4), the claim in respect of which a request has been made shall be treated as a corresponding UK claim.

(6) The Commissioners shall inform the applicant authority immediately of the action that they have taken on any request for recovery or for the taking of precautionary measures.

Requests for recovery or for the taking of precautionary measures – subsequent procedure following receipt of the request

10.—(1) Where the Commissioners do not, within three months of the date of receipt of a request made in accordance with regulation 8, take the recovery action or precautionary measures requested, they shall, not later than seven days from the end of that period, inform the applicant authority in writing of the reasons for their failure to comply with the time-limit.

(2) No later than the end of each six-month period following the date of acknowledgement of receipt of a request made in accordance with regulation 8, the Commissioners shall inform the applicant authority in writing of the status or outcome of any recovery action or precautionary measures.

(3) Where, within a reasonable time, having regard to the particular case, all or part of the claim cannot be recovered, or precautionary measures cannot be taken, the Commissioners shall so inform the applicant authority, in writing, setting out the reasons why the appropriate action cannot be taken.

(4) The applicant authority may request the Commissioners to resume the recovery action or precautionary measures requested under regulation 8.

(5) But paragraph (4) shall not apply where the Commissioners have received notification that the claim or the instrument permitting its recovery (or both) is contested by an interested party before the competent body of the Principality of Andorra.

(6) A request under paragraph (4)—

- (a) must be in writing;
- (b) must be made within two months of the date of any notification given in accordance with paragraphs (1) to (3); and
- (c) is subject to the provisions of these Regulations which applied to the initial request.

Refusal of Requests for recovery or for the taking of precautionary measures

11. The Commissioners shall not be obliged to comply with a request for recovery or for the taking of precautionary measures if to do so would, because of the situation of the debtor, create serious economic or social difficulties in the United Kingdom, except insofar as the laws, regulations or administrative practices in force in the United Kingdom allow such action for corresponding UK claims.

Time to pay and payment by instalments

12. The Commissioners may, after consultation with the applicant authority—

- (a) allow the debtor time to pay, or
- (b) authorise payment by instalments.

Transfer of sums recovered

13.—(1) Claims shall be recovered in UK sterling.

(2) Subject to paragraph (4), the Commissioners shall transfer in UK sterling to the applicant authority any sum recovered in respect of the request for assistance not later than one month from the date upon which recovery was effected.

(3) For the purposes of this regulation, ‘sum’ shall include any interest, including interest charged in the United Kingdom.

(4) The Commissioners and the applicant authority may agree different arrangements for the transfer of an amount where that amount is 1500 Euros or less or the UK sterling equivalent at the time of the request.

(5) For the purposes of assessing what proportion of a claim has been recovered—

- (a) any amounts collected by the Commissioners in accordance with article 12(2) of the Decision shall be disregarded; and
- (b) any sums recovered shall be converted into UK sterling at the rate prescribed in regulation 18(2).

Contested recovery

14.—(1) Any action contesting the claim or the instrument permitting its enforcement, which is issued in the Principality of Andorra, shall be notified to the Commissioners in writing by the applicant authority immediately after it has been informed of such action.

(2) As soon as the Commissioners have received the notification referred to in paragraph (1), they shall, pending the decision of the body competent in the matter, suspend any recovery action.

(3) Notwithstanding paragraph (2), the applicant authority may require the Commissioners to recover a contested claim, insofar as the laws of the United Kingdom allow.

(4) If the laws of the United Kingdom do not permit the action requested under paragraph (3), the Commissioners shall so notify the applicant authority, promptly and in any event within one month of the receipt of the notification referred to in paragraph (1).

(5) Any proceedings instituted against the Commissioners in consequence of such recovery action, for reimbursement of the sums recovered or for compensation, shall be notified to the applicant authority in writing by the Commissioners immediately after they have been informed of such action.

(6) The Commissioners shall, as far as possible, involve the applicant authority in the procedures for settling the amount to be reimbursed and the compensation due.

(7) The period of limitation or prescription applicable to any issue arising on the recovery of any claim shall be that applicable under the laws in force in the Principality of Andorra.

(8) For the purposes of paragraphs (5) to (7), any step or action taken by the Commissioners in recovery of a claim in pursuance of a request for assistance shall be deemed to have been taken in the Principality of Andorra, where that step or action would, if it had been taken by the applicant authority, have had the effect of suspending or interrupting the period of limitation or prescription in accordance with the laws in force in the Principality of Andorra.

Costs of Recovery

15.—(1) The Commissioners shall be entitled to recover from the person against whom they recover a claim, and retain, any costs linked to recovery which they incur, in accordance with the law of the United Kingdom applying to corresponding UK claims.

(2) Where the applicant authority and the Commissioners agree that recovery—

- (a) poses a specific problem,
- (b) involves a substantial amount in costs, or
- (c) relates to the fight against organised crime,

the applicant authority and the Commissioners may agree reimbursement arrangements specific to the case in question.

(3) The Principality of Andorra shall remain liable to the United Kingdom for any costs and losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument issued by the applicant authority are concerned.

Notice of cancellation or payment of a claim

16.—(1) The applicant authority shall immediately notify the Commissioners in writing if payment is made in satisfaction of a claim or if a request is cancelled for any reason.

(2) Upon receipt of such notification, the Commissioners shall cease any recovery action or precautionary measures in relation to that claim.

Adjustment of a claim

17.—(1) Where the amount of a claim which is the subject of a request for recovery or for precautionary measures is amended for any reason, the applicant authority shall immediately so inform the Commissioners, and, if necessary, issue a new instrument.

(2) Where the amendment leads to a reduction in the amount of the claim, the Commissioners shall continue the action which they have undertaken with a view to recovery or to the taking of precautionary measures, but that action shall be limited to the amount still outstanding.

(3) If, at the time the Commissioners are informed of the amendment of the amount of the claim, an amount exceeding the amount still outstanding has already been recovered by them, but the transfer procedure referred to in article 18 of Annex I to the Decision has not yet been initiated, they shall repay the amount overpaid to the person entitled thereto.

(4) Where the amendment leads to an increase in the amount of the claim—

- (a) The Commissioners shall not be required to take any steps in relation to the amount of the increase unless the applicant authority makes it the subject of an additional request for recovery or for the taking of precautionary measures;
- (b) the additional request shall, as far as possible, be dealt with by the Commissioners at the same time as the original request; and
- (c) where, in view of the state of progress of the existing recovery procedure, consolidation of the additional request with the original request is not possible, the Commissioners shall be required to comply with the additional request only if it concerns an amount not less than 1500 Euros or the UK sterling equivalent at the time of request.

(5) In order to convert the amended amount of the claim into UK sterling, the applicant authority shall use the exchange rate used in its original request.

Minimum amount on requests for assistance

18.—(1) A request for assistance shall not be entertained if the claim is 1500 Euros or less or the UK sterling equivalent at the time of request.

(2) For the purposes of these Regulations, the rate of exchange shall be the latest selling rate recorded on the most representative exchange market or markets of the Principality of Andorra, on the date on which the request for assistance is signed.

Limitation on requests for assistance

19.—(1) The Commissioners shall not be obliged to grant a request for assistance of any kind if the initial request for information, recovery or precautionary measures concerns claims more than five years old.

(2) For the purposes of paragraph (1), the period of five years beings—

- (a) where the claim and instrument are not contested, on the date the instrument permitting the enforcement was established in accordance with the laws, regulations or administrative practices in force in the Principality of Andorra;
- (b) where the claim or the instrument is contested, on the date upon which it is established that the claim or the instrument may no longer be contested.

Communication of documents and information

20.—(1) Documents and information sent to the Commissioners pursuant to the Decision shall only be communicated by them to—

- (a) the person mentioned in the request for assistance;
- (b) those persons and authorities responsible for the recovery of the claims, and solely for that purpose; or
- (c) the judicial authorities dealing with matters concerning the recovery of the claims.

(2) Any information obtained pursuant to a request for assistance may only be used for the purposes of mutual assistance in the recovery of the claim to which the request relates.

(3) The Commissioners shall not provide information of a personal nature unless the applicant authority undertakes to provide equivalent safeguards to those that would be applicable to that information in the United Kingdom.

Language requirements

21.—(1) Save where the Commissioners agree otherwise, requests for assistance, the instrument permitting enforcement, and any other relevant documents shall be accompanied by a translation into English.

(2) All information and particulars communicated to an applicant authority by the Commissioners in accordance with the Decision shall be conveyed in English or in such other language as is agreed between the Commissioners and the applicant authority.

Notice of refusal of requests for assistance

22.—(1) Where the Commissioners refuse a request for assistance, they shall give written notification to the applicant authority of the reasons for their refusal, as soon as the decision is taken and in any event within three months from the date of the acknowledgement of the receipt of the request.

(2) In the case of a refusal of a request for information, the notification shall specify the relevant provisions of article 7 of the Decision.

(3) Such notification shall also be given to the Commission of the European Communities.

Withdrawal of requests

23. An applicant authority may in writing at any time withdraw a request made under these Regulations.