

EXPLANATORY MEMORANDUM TO
THE RECOVERY OF IMPORT DUTIES AND EXPORT DUTIES
(ANDORRA) REGULATIONS 2010

2010 No. 795

1. This document has been prepared by HM Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

- 2. Purpose of the Instrument**

These Regulations provide for mutual assistance between Andorra and the UK for the recovery of import and export duties due. Such provision was formerly under the Recovery of Duties and Taxes etc. Due in Other Member States (Corresponding UK Claims, Procedure and Supplementary) Regulations 2004 (S.I. 2004/674, henceforth the “MARD Regulations”). However, because of amendments and repeals being made to those MARD Regulations, there is now a need to have separate Regulations applying to mutual assistance between Andorra and the UK.

- 3. Matters of special interest to the Select Committee on Statutory Instruments**

None.

- 4. Legislative background**

4.1 In 2003, the European Commission promulgated a Decision to improve the procedures governing the operation of the customs union between the European Union and Andorra (Decision of the EC-Andorra Joint Committee of 3 September 2003, henceforth “the Andorra Decision”). The measure aims to improve cross-border assistance in the recovery of import and export duties.

4.2 Council Directive 2008/55/EC (henceforth “MARD”), requires member states of the European Union to make provision for granting mutual assistance to each other in the recovery of duties and tax debts, including import and export duties due. The UK made such provision under the “MARD Regulations”. The MARD Regulations apply also for the purpose of giving effect to the Andorra Decision.

4.3 The MARD Regulations are shortly to be amended (and to a great extent revoked) to reflect the fact that they are, largely, duplicated in the (directly applicable) provisions of Commission Regulation No. 1179/2008, which came into force on 1 January 2009 (see the Schedule 39 to the Finance Act 2002 and Recovery of Taxes etc. Due in Other Member States (Amendment) Regulations 2009 and associated Explanatory Memorandum). Those amendments make it necessary to make separate provision to ensure that the Andorra Decision continues to be given proper effect in UK law. Section 322(4) of the Finance Act 2004 extends the powers conferred on the Treasury by section 134(6) of the Finance Act 2002 and on the Commissioners by

paragraph 3 of Schedule 39 to the same Act, to allow such provision to be made.

5. Extent

All of the United Kingdom.

6. European Convention on Human Rights

Since the instrument is subject to the negative resolution procedure and does not amend primary legislation, no ECHR statement is needed.

7. Policy background

The purpose of the instrument is to preserve the mutual assistance arrangements between the United Kingdom and Andorra, given that, following their amendment, the MARD Regulations will no longer be adequate for that purpose.

8. Consultation outcome

No consultation was necessary since the purpose of these regulations is to maintain, rather than alter, the existing arrangements.

9. Guidance

Existing processes are unchanged and therefore no additional guidance is needed.

10. Impact

No Impact Assessment has been prepared because (for the reasons given above) there is no impact on business, charities, voluntary bodies or the public sector.

11. Regulating small business

The legislation may apply to small business but no Small Firms Impact Test has been undertaken because, as stated above, the legislation does not alter existing procedures.

12. Monitoring & Review

Not appropriate.

13. Contact

Robert Horwill at HM Revenue & Customs Tel: 020 7147 2447 or e-mail: Robert.horwill@hmrc.gsi.gov.uk can answer any queries regarding the instrument.