

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

RESTRICTED

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Additional Questions and Replies

The following are the replies to the additional questions put by contracting parties.

I. GENERAL CONSIDERATIONS

Question 1

Should this Accession Treaty be construed as an interim agreement as described in Article XXIV of the General Agreement?

Reply to question 1

See reply to questions 1-4 of the first group of questions.

II. IMPORT DUTIES

Question 2

- (a) Could the EC provide a concordance table for the adjustment of the tariff classifications between the EC and new members, a list of newly assigned tariff items and other relevant trade information (including volume of bilateral trade of products affected by that adjustment)?
- (b) Concerning newly assigned tariff items mentioned above:
- Criteria to establish such new tariff items
 - Exact date of the application of these tariffs.

Reply to question 2 (a) and (b)

(a) The information has been or is being transmitted to the GATT secretariat for the information of the contracting parties.

(b) For certain products, Spain and Portugal are authorized to retain their existing tariff sub-divisions until the end of the transitional period and are therefore authorized to operate the approximation of duties in relation to their previous national rates for those sub-headings.

These tariff positions are not newly created.

Questions 3 and 4

3. It is stated in Article 37, paragraph 1(a) and Article 197, paragraph 1(a) respectively of the Accession Treaty that the Common Customs Tariff and the ECSC Unified Tariff shall be applied in the case of tariff headings in respect of which the basic duties do not differ by more than 15 per cent. Is this number of 15 per cent an absolute value or a relative one?

4. Could the EC provide a list of items which come under Article 37:1(a) and Article 197:1(a) of the Treaty respectively?

Replies to questions 3 and 4

It is a relative value expressed as a percentage of the rate of duty in the Common Customs Tariff (CCT).

Article 37:1(a) was applied for the first time on 1 March 1986 and Article 197:1(a) will be applied as from 1 January 1987. Subsequently, these provisions will be applicable whenever approximations are due under the said Articles.

Spain and Portugal may also bring their tariffs into line with the CCT more rapidly (Articles 40 and 201 of the Treaty).

The items concerned may be found by comparing, respectively, the basic Spanish and Portuguese tariffs (as at 1 January 1985) with their tariffs as at 1 March 1986.

Question 5

Could the EC provide a list of items on which variable levies are imposed and which are also under import restrictions by Spain and Portugal?

Reply to question 5

The items on which variable levies are imposed and which are also subject to import restrictions by the acceding countries can be broken down into two groups:

- A. Products subject to restrictions vis-à-vis third countries, and vis-à-vis other EEC Member States during a transitional period. This involves a few sub-divisions of the following tariff headings, concerning Spain only:

01.02
02.01
02.06
04.01
04.02
04.03
04.04
10.01

- B. Products subject to residual restrictions up to and no later than the end of the transitional period. This involves some sub-divisions of the following tariff headings:

SPAIN

PORTUGAL

01.03
02.01
02.05
02.06
11.01
11.02
11.08
11.09
15.01
16.01
16.02

01.03
01.05
02.01
04.04
04.05
11.08
15.01

III. QUANTITATIVE RESTRICTIONS

Question 6

Japan officially made it clear to the EC, Spain and Portugal in 1984 and 1985 that the discriminatory import restrictions maintained by EC members, Spain and Portugal cannot be justified by any GATT provisions. Has due consideration been paid to this basic position of Japan by the EC, Spain and Portugal in establishing the new import régime of Spain and Portugal?

Reply to question 6

As concerns Japan, the present status of the import régime applied in Spain and Portugal after accession is naturally based on the previously existing situation. The Community is aware that those régimes relied on previous bilateral arrangements with Japan. To its knowledge, Japan has not raised any questions before the GATT concerning those régimes. In the Community's view the changes due to enlargement constitute an improvement for third countries.

Question 7

While Spain and Portugal stated that Article XI of the General Agreement would be applied to them after their accession to the EC, they still maintain certain quantitative restrictions against third countries.

Concerning these quantitative restrictions:

- (a) GATT justification of these measures, in particular, of those quantitative restrictions without any definite timetable for their elimination.
- (b) Status of these measures after the expiration of the transitional period as defined in the Accession Treaty.
- (c) Reasons for the establishment of those different types of quantitative restrictions as mentioned above.

Reply to question 7 (a), (b) and (c)

See replies to questions 36 to 40 in L/5984.

Question 8

GATT justification of the discriminatory quantitative restrictions maintained by Spain and Portugal and, in particular, of the newly established discriminatory quantitative restrictions on such items as NC-lathe machine tools, typewriters and others which were not categorized in the discriminatory quantitative restrictions before the accession of both countries.

Reply to question 8

The allegedly new restrictions on the specific products in question are in fact covered by the GATT-notifications by Spain and Portugal made in 1985 before accession to the Community (L/5949 and L/5950 for Portugal, L/5640 and NTM/W/6/Rev.2 for Spain). It should be noted that typewriters are not subject to a QR in Portugal. The questions of the legal basis of these measures are not per se the subject of examination by the Working Party.

Question 9

Could the EC explain the operation of the Import Control System of Spain in concrete terms? A rejection of the confirmation of the advance notification of the imports under this System can be construed as a case of import restrictive measures. What is the view of the EC on this point?

Reply to question 9

The administration of the Spanish import system has been made more transparent. It comprises essentially two systems, i.e. free imports and restrictions (mainly by global quotas). Further, the surveillance system cannot be considered as restrictive, but is applied only for statistical purposes in conformity with Community legislation and GATT provisions. The system with discretionary import licences has been abolished. The Community considers this to be an improvement of the Spanish import régime.

Question 10

Concerning global import quotas maintained by Spain:

- (a) Criteria of the issue of import permits.
- (b) Criteria of the establishment of import quotas.
- (c) Further information on the operation of the import quotas, including publication of the quotas and allocation systems among third countries.
- (d) Will special attention be paid, in allocating quotas of imports of certain items among third countries, to the fact that there existed only negligible trade of the items which were once subject to the discriminatory import restrictions?
- (e) What is the view on the point that Spain is obliged after its accession to the EC, to respect provisions of the MTN Licensing Code in operating its import quotas in spite of the fact that Spain is not a member of the Code?

Reply to question 10 (a), (b), (c) and (e)

(a) The global quotas are distributed not by country but among economic operators depending on the needs of the market.

Consequently, account is taken of the financial and commercial background of operators, degree of utilization of allocations of previous years, and the development and prospects of (old and new) enterprises, particularly plans to expand their activities.

Access by new suppliers is always ensured.

(b) For establishing the initial quotas in the Accession Treaty, the method used was, in accordance with the GATT practice, that of the average imports of the last three years for which statistics are available.

(c) The quotas are published in the Official Journal during the final months of the year prior to their entry into force, except in the case of 1986, when, owing to the date of application and the extensive administrative work following accession, they were not published until March and April 1986.

(d) As stated above, the quotas are allocated not by country but by economic operators without any discrimination as to the origin of the products.

(e) As a general rule, Spain has applied "de facto" the provisions of the Licensing Code to imports of products covered by quotas, with the result that, in the future, application of the Code will not conflict with the practice followed.

Questions 11, 12 and 15

11. Spain and Portugal, having liberalized their import quotas for member countries, still maintain these quantitative restrictions against third countries. Could the EC provide GATT justification for these measures?

12. Could the EC provide GATT justification for the maintenance of import quotas, provided that this Accession Treaty should be understood as a substitution of a customs union as referred to in paragraph 8(a) of Article XXIV of the General Agreement?

15. According to Article 43 of the Treaty, Spain can maintain quantitative restrictions on such items as covered in Annexes 3 and 4. Are all third countries and EC members equally subject to these quantitative restrictions?

Replies to questions 11, 12 and 15

Those quantitative restrictions in Spain or Portugal vis-à-vis third countries which are maintained after enlargement have the same justifications as before in the context of the national régimes which were notified to the GATT. The Working Party examines only the incidence of such measures for third countries.

Considering that a transitional period has been fixed after the moment of accession to allow for adoption of different régimes, it is only natural that existing quotas between the Community of Ten and the new member countries be phased out gradually if not immediately abolished.

The Community has traditionally interpreted the provisions of Article XXIV, paragraph 8 as an obligation to eliminate to the extent possible restrictions amongst the members of the customs union.

Question 13

It is stated in the Treaty that quantitative restrictions will be abolished where imports of a product have for two consecutive years been less than 90 per cent of the quota. In which way will imports of that product be liberalized?

Reply to question 13

When it is found in the Community that imports into Spain or Portugal of a product covered by quantitative restrictions have been less than 90 per cent of the quota for two consecutive years, the product is liberalized as from the beginning of the following year, without prejudice to Article 177:1 and 2, and Article 364:1 and 2.

Question 14

Concerning the number of the discriminatory quantitative restrictions against Japan maintained by both countries, there is a difference between the data of the EC (according to Annex I of the common import regulations, Spain and Portugal maintain 41 items and 47 items respectively), and those of both countries (according to the publications in the Gazette of each Government, Spain and Portugal maintain 43 items and 44 items respectively). Is there any reason for these differences? Could the EC please provide the definite number of the discriminatory quantitative restrictions against Japan?

Reply to question 14

Council Regulation No. 571/86 establishes the global framework and coverage of the import régime in force. The number of quantitative restrictions existing can be calculated in different ways depending on whether the measures are set out by Nimese positions (as in the Council Regulation) or grouped together in the form of published quotas (as in the Accession Treaty). Thus minor differences in the number of "items" under restriction are not necessarily significant.

Council Regulation No. 571 indicates, for Spain, 41 restrictions at the four-digit level which apply to Japan, of which 37 apply only during the transitional period.

For Portugal, 47 restrictions at the four-digit level apply to Japan, of which 29 apply only during the transitional period.

Question 16

In addition to the quantitative restrictions based upon Article 43 of the Accession Treaty, Spain shall retain quantitative restrictions on imports for the products listed in Annex XVI which are not liberalized by the Community with regard to third countries under Article 177, paragraph 5.

Could the EC please explain the relationship between these two types of quantitative restrictions?

Reply to question 16

See replies to questions 36 and 40 in L/5984.

Question 17

Is there any reason or ground why the EC specified only the Japanese manufacture of the motor vehicles in Protocol 23, which is a specific arrangement for the import into Portugal of motor vehicles from third countries? Is it not a discriminatory measure against Japan? Will quantitative restrictions of the import into Portugal of the motor vehicles of third countries including Japan be liberalized after the two-year transitional period as specified in Protocol 23?

Reply to question 17

While it is true that Annex A to Protocol 23 mentions only Japanese makes, there is no discrimination whatever against Japan, since only Community and Japanese automobile manufacturers are authorized to import completely knocked-down motor vehicles. The system for importing into Portugal such vehicles from the European Community is governed by Protocol 18. Those from Japan are covered by Protocol 23.

The 1985 basic quota for all makes covered by Protocols 18 and 23 were notified to GATT by the Portuguese Government on 8 October 1985 (L/5558/Add.2).

Article 364:1 and 5 stipulates that restrictions will remain in force as long as the same restrictions continue with respect to the Community. In any case, the régime of Protocol 23 is applicable from 1 January 1986 to 31 December 1987.

Question 18

It is stated in the Accession Treaty that Spain and Portugal may retain a certain rate of national incorporation in the manufacture of motor vehicles (Articles 44 and 207). How can this measure be justified in GATT?

Reply to question 18

These provisions were already in force before enlargement and have not been made more restrictive.

Question 19

Further clarification of "corrective factor" as mentioned in paragraph 2 of Article 4 of Protocol 23, which might be a decisive element for Portugal to decide new quota of the import of motor vehicles.

Reply to question 19

The objective of paragraph 2 of Article 4 of Protocols 18 and 23 is to annually update the size of the quota so as to maintain trade flows.

The corrective factor mentioned is based on several factual elements:

- the origin of completely knocked-down vehicles of the preceding year,
- the exchange rate of the escudo vis-à-vis the currencies of the countries of origin of completely knocked-down vehicles imported during the preceding year,
- increase in prices of origin forecast for the current year.

For 1986, the application of the corrective factor results in a 16.2 per cent increase in the quota over 1985, in accordance with Protocols 18 and 23.

In addition, it is clearly indicated in Article 364, paragraph 5 of the Accession Treaty that Portugal maintains quantitative restrictions under the conditions specified in Protocol 23. Any change in those conditions is subordinated to full compliance with the procedures specified in Article 364, paragraph 5, second sub-paragraph.

Question 20

Could Spain and Portugal provide statistics from 1981 to 1985 for each item subject to discriminatory quantitative restrictions or global quantitative restrictions on the following points:

- (a) trend of domestic consumption and production, volume and value of production;
- (b) volume and value of imports;
- (c) volume and value of exports;
- (d) stocks;
- (e) share of Japanese products in imports.

Reply to question 20

Relevant information has already been made available to the contracting parties in the overall context of information transmitted by the EEC in relation to Article XXIV.

Question 21

Further detailed information including their differences on "system for the control of quantity" of Spain and "mechanism for control of quantities" of Portugal as defined in Articles 94 and 292, respectively, in connection with control of oils and fats, and also on "detailed rules" and "procedures" as mentioned in each Article.

Reply to question 21

I. The system of control referred to in Articles 94 and 292 concern the following products:

SPAIN		PORTUGAL	
Common Customs Tariff heading No.	Description	Common Customs Tariff heading No.	Description
ex 12.01 B	Oilseeds and oleaginous fruit, whole or broken, other than for sowing, excluding soya beans	12.01 B	Oilseeds and oleaginous fruit, whole or broken, other than for sowing
12.02	Flours or meals of oilseeds or oleaginous fruit, non-defatted, (excluding mustard flour)	12.02	Flours or meals of oilseeds or oleaginous fruit, non-defatted, (excluding mustard flour)
15.04	Fats and oils, of fish and marine mammals, whether or not refined	ex 15.07 B, C and D	Fixed vegetable oils, fluid or solid, crude, refined or purified (excluding olive oil intended for human consumption)
15.07 B, C and D	Fixed vegetable oils, fluid or solid, crude, refined or purified (excluding olive oil)	ex 15.12	Animal or vegetable oils and fats wholly or partly hydrogenated, or solidified or hardened by any other process, whether or not refined, but not further prepared
15.12	Animal or vegetable oils and fats wholly or partly hydrogenated, or solidified or hardened by any other process, whether or not refined, but not further prepared		Animal or vegetable oils and fats wholly or partly hydrogenated, or solidified or hardened by any other process, whether or not refined, but not further prepared, intended for human consumption

SPAIN		PORTUGAL	
Common Customs Tariff heading No.	Description	Common Customs Tariff heading No.	Description
ex 15.13	Margarine, imitation lard and other pre- pared edible fats		

II. The rules for applying this system are as follows:

	SPAIN	PORTUGAL
1. Fixing of maximum quantities that may be released for consumption on the two markets, depending on the reference period and the forecast trend of demand	Reference period: 1983 to 1984	Reference period: 1980 to 1983
2. Fixing of the the maximum annual quantities of controlled products that may be imported, on the basis of their oil content and of the supply balances. These balances are drawn up by groups of oils.	Groups of oils: A. Sunflower oil B. Other fluid oils (including soya oil) C. Other edible oils and fats D. Oils and fats intended for purposes other than human food	Groups of oils: A. Soya oil B. Other fluid oils C. Other edible oils and fats

III. Procedure referred to in Articles 94 and 292:

- For Portugal: Commission Regulation No. 1184/86 of 21 April 1986 - O.J. No. L 107
- For Spain: Commission Regulation No. 1183/86 of 21 April 1986 - O.J. No. L 107

Question 22

Import quotas of such items as typewriters, fork-lift trucks, motor cycles, which are discriminatory quantitative restrictions against Japan, are expressed on a tonnage basis. Can they be expressed in number?

Reply to question 22

The Community considers that stipulating quotas on a tonnage basis for the products in question allows the exporting country a greater degree of flexibility in utilizing the quota than the mere indication in numbers would do.

IV. COMMODITIES

The CAP

Question 23

With the accession of Spain and Portugal, there will be a greater EC interest in the products of its southern Member States. What assurance can the EC Commission give that these will not become subject to the open-ended régimes which, guaranteeing prices regardless of production, have applied and continue to operate in respect of a number of predominantly northern State agricultural sectors?

Reply to question 23

The question has nothing to do with Article XXIV of the General Agreement.

Fisheries

Question 24

The EEC has a GATT-bound duty-free quota of 25,000 tons of salted cod. Before the enlargement of the Community in 1973 this yearly quota was 34,000 tons, but in view of the fact that one of the new Member States was a net exporter of this product, a reduction in the size of the quota was negotiated in GATT. The two new EC members are big importers of salted cod and the question, therefore, arises: How much increase in the bound duty-free quota is the EC going to offer after this enlargement?

Reply to question 24

The Community reserves its position entirely and does not intend to prejudge the possible changes it might make in this concession depending on the results of negotiations under Article XXIV:6.

Question 25

When will Spain bring its import régime for fish and fish products into line with that of the Community?

Reply to question 25

Spain applies the Community import régime from 1 March 1986. For a limited number of products under quantitative restrictions the Community import régime may be progressively applied during a transitional period.

Cereals

Question 26

What is the justification in GATT terms of the 15.5 per cent of Portugal's grain imports reserved for EC suppliers in the transitional period? While not a major supplier of grain, New Zealand's exports of barley represented 42 per cent (5.2 million FOB) of New Zealand's total trade to Portugal in 1983/84. What allowance has been made for continuation or compensation for this trade?

Reply to question 26

The contracting parties should refer to the reply already provided to question 88 in L/5984.

The specific question concerning New Zealand's exports to Portugal clearly exceeds the scope of Article XXIV:5 and it is rather a matter to be considered in the context of XXIV:6 procedures, if applicable.

Fruit and vegetables

Question 27

To which sectors of horticulture will Spain and Portugal apply direct CAP structural funds available to them once inside the EC? What are the estimated production/trade changes which may result in the main non-citrus fruits?

Reply to question 27

The question does not come within the framework of Article XXIV.

Questions 28 and 29

28. What is the estimated impact on production/trade of the application of EC reference prices for apples and pears in Spain and Portugal?

29. At the end of the transitional period through which Spain and Portugal will maintain quotas for apple imports, is it confirmed that no restriction other than tariff will apply to third countries?

Replies to questions 28 and 29

Under the mechanisms of the common market-organization for fruit and vegetables, which represents an opening of the frontiers as compared with the situation existing prior to accession, the application of Community reference prices for apples and pears in Spain and Portugal should normally have no impact on the production of and/or trade in these products in the two countries concerned.

At the end of the transitional period, Spain and Portugal will apply, in its entirety, the Common Agricultural Policy in the fruit and vegetables sector, which, as regards apple imports, is characterized by free import subject to payment of customs duty, observance of quality standards and application of reference prices.

Question 30

In addition to the introduction of quotas on imports of third-country fruit and vegetables to Spain and Portugal, the Community has imposed restrictions on these imports during certain periods of the year (the dates vary with each product). What is the justification, under the terms of the Accession Treaty, for allowing seasonal constraints to be imposed? For how long will such measures apply - i.e. is it confirmed that these seasonal constraints are contingent on the transitional periods only?

Reply to question 30

Prior to accession, Spain and Portugal applied a very restrictive import régime.

The Accession Treaty created an obligation to open frontiers, and allows certain import quotas only for a limited number of products. Under some of these quotas, the import restrictions specified for certain periods of the year with respect to the overall quota are intended to limit the impact of such imports during periods considered to be particularly sensitive for the production of these new Member States. These seasonal restrictions, like the quotas, will be applicable up to and not later than 31 December 1989 for Spain, and 31 December 1995 for Portugal. It should be noted, on the one hand, that the same provisions are applicable to imports coming from the Community of Ten and, on the other, that for other products, imports into Spain and Portugal have been liberalized.

Sheepmeat

Questions 31, 32 and 33

31. Are there no additional restrictions on sheepmeat imports into Spain and Portugal from third countries, over and above those voluntarily agreed between exporters and the EC?
32. From what time do Spain and Portugal expect to apply 10 per cent tariff on sheepmeat imports?
33. Are individual Spanish and Portuguese traders, as well as State-trading organizations, entirely free to import sheepmeat products under Tariff items 02.01A IV(A) and 02.01A IV(B)?

Replies to questions 31, 32 and 33

From 1 March 1986, sheepmeat imports into Spain and Portugal are subject to the conditions which apply in the Voluntary Restraint Agreements between the Community and various third countries, or to the import system applicable to third countries which have not as yet signed voluntary restraint agreements. There are no additional restrictions.

Question 34

It would be of interest to have confirmation that Accession Compensatory Amounts (ACM) will not apply to the sheepmeat sector.

Reply to question 34

There are no Accession Compensatory Amounts applicable to either Spain or Portugal in the sheepmeat sector.

Question 35

The 3CVD permits Member States to decide whether they will allow imports of cuts of meat smaller than quarters down to 1,000 grams from third countries. Have Spain and Portugal considered allowing the import of meat cuts down to 100 grams in size in line with the practice adopted by most other Member States in harmonizing their legislation and if so, with what result?

Reply to question 35

The contracting parties should refer to the reply already provided to question 110 in L/5984.

Question 36

To what extent is the application of the CAP régimes operating in the sheepmeat and beef sectors expected to affect Spanish and Portuguese production?

Reply to question 36

Both Spain and Portugal are essentially self-sufficient in sheepmeat. While, like the remainder of the Community, Spain and Portugal will be the recipients of sheep and sheepmeat from outside the Community, it is too early as yet to estimate the long-term effect on production in these countries resulting from the EEC sheepmeat régime. Similarly in beef, while the deregulation of State control on imports is likely to lead to an increase in trade, it is still too early to estimate the effect of the EEC beef régime in both Spain and Portugal, which are essentially self-sufficient in the product.

Hormones

Question 37

What views do Spain and Portugal hold and what action will they take over the use of hormonal growth promotants given the EC's directive banning the use of these for livestock fattening purposes in the Community after 1 January 1988?

Reply to question 37

Like the other Member States, Spain and Portugal are required to apply the Community directives concerning hormonal substances, under the conditions prescribed by those directives.

Dairy products

Questions 38 and 39

38. How will Spain and Portugal's imports of cheese, milk powder and milk fats from countries other than EC Members be affected by the phasing in of levies on third-country imports? Has a timeframe been established for the phasing in of these levies? Has consideration been given to increasing the amount of cheese and milk powder allowed into the the EC, as the levies take effect, to account for Spain's and Portugal's imports of these products?

39. How and when will the NZ/EC GATT bilateral cheese arrangement be applied to new Member States? We understand that Portugal is authorized to postpone, until the second stage of transition, the progressive application of preferences granted by the EC to third countries, with full preferential rates only applying from 1996. What effect will this have on cheese imports from third countries?

Replies to questions 38 and 39

The application in Spain and Portugal of import levies on the products in question should not have negative repercussions on traditional trade flows from third countries, which, be it noted, operated within the framework of a previous situation characterized by a very restrictive régime.

The system of Community levies on third-country imports, including the reduced levies resulting from bilateral and multilateral agreements concluded by the EEC in the dairy sector, is applicable in the new Member States as from 1 March 1986 (Article 368 of the Treaty of Accession) except where, in the case of Portugal, such agreements are subject to Article 282.

The latter Article authorizes the Portuguese Republic to postpone, until the beginning of the second stage, the progressive application to imports of the preferences granted by the Community, independently or by agreement, to certain third countries.

Consequently, the beneficial effects for third countries resulting from the conclusion of the agreements in question will be produced immediately as regards Spain, and in the particular cases referred to above not later than at the end of the first stage (1991) as regards Portugal, it being understood that a limited number of quantitative restrictions on imports of certain dairy products from third countries is provided for by the Treaty of Accession. These restrictions may be applied by Spain and Portugal until 31 December 1995 (Articles 77 and 280 of the Treaty and Regulations (EEC) No. 3797/85 and 491/86).

Question 40

To what extent is the application of CAP régimes expected to affect the Spanish and Portuguese dairy sectors in the medium term after accession?

Reply to question 40

It is difficult to judge the medium-term trend of the dairy sector in Spain and Portugal owing to the many parameters and factors involved. The contracting parties may usefully refer to the information given in reply to Questions 111 and 112 on the precise conditions of application of the Accession Treaty to the dairy sector in these two Member States.

Forestry

Question 41

While the Community makes no distinction by species for timber imports, (although phytosanitary requirements apply), we understand that the use of radiata pine (Pinus Radiata) is restricted through the lack of EC technical specifications and approvals for use of this timber in the construction and building industry. We note reports that from the date of accession, Spanish specifications in this field will become accepted throughout the Community. Is this correct, and if so, how will it be achieved at the practical level? Will these transferred standards apply to all Pinus Radiata regardless of country of origin?

Reply to question 41

There are no Community technical specifications or approvals on the ground of safety aspects which regulate the use of radiata pine (Pinus Radiata) in the construction or building industry.

V. OTHER MEASURES

Question 42

- (a) Concerning the safeguard clause provided in Article 379 of the Treaty, ambiguity remains in its application. An example of this ambiguity is the following expression in Article 379:
"difficulties arise which are serious and liable to persist in any sector of the economy, serious economic difficulties, causes or threatens to cause serious disturbances on the market".

Could the EC provide further clarification on this clause?

- (b) Is this clause fully in conformity with the provision of the General Agreement?

Reply to question 42

Article 379 of the Accession Treaty covers the modalities for applying safeguard measures in case of serious difficulties arising between the Community of Ten and the new members. As such it is not meant to deal with relations with third countries.

Question 43

Article 380 of the Treaty envisages the application of AD duties to the enlarged territory.

Could the EC provide further information on the procedures used in the enlarged territory for dumping margin, injury test and application of AD duties, as well as justification for the automatic levying of the existing anti-dumping duties and its relationship with the AD Code?

Reply to question 43

The procedures applicable to the EC of Ten have been extended to the enlarged Community. There are therefore no new factors to be taken into account. Considering that there are no transitional provisions in the Act of Accession on dumping from third countries, anti-dumping measures adopted by Community institutions prior to 1 January 1986 are applicable to imports into Portugal and Spain.