Subject: Uruguay Round Negotiating Group on MTN Agreements and Arrangements. Informal Meeting at the Level of Customs Experts

As agreed in the meeting of the Negotiating Group, a further informal meeting at the level of customs experts will be held in the Centre William Rappard on 15 and 16 October 1990 beginning on Monday, 15 October 1990 at 3 p.m. The purpose of the meeting will be to discuss the text circulated by Dr. C. Kim, Chairman of the Negotiating Group, on shifting of burden of proof, and the text circulated by the delegation of Kenya, on behalf of the PTA countries, for a possible statement by the Chairman of the Negotiating Group on (i) valuation of goods on the basis of officially established minimum values, and (ii) problems in the implementation of Article 1 of the Agreement on Customs Valuation insofar as it relates to importations into their countries by sole agents, sole distributors and sole concessionaires. The two texts are attached.

It should be noted that in order to facilitate attendance of customs experts, the timing for the meeting has been fixed immediately following the meeting of the Technical Committee on Customs Valuation of the Customs Cooperation Council to be held in Brussels from 8-12 October 1990.

Governments participating in the multilateral trade negotiations which wish to attend this informal meeting are invited to inform the secretariat of the names of their customs experts and other representatives as soon as possible.

Technical Barriers to Trade Division

Let/1709
Accepting the informal consultations at the level of customs experts on customs valuation which were held on 19 March, 31 May-1 June and on 18-19 July 1990, I submit a text in the form of a draft decision regarding cases where customs administrations have reasons to doubt the truth or accuracy of the declared value. In my view, there is broad support for this text.

Informal consultations are continuing on the revised proposal submitted by the PTA countries on (i) valuation of goods on the basis of officially established minimum values; and (ii) questions related to importations into some of the developing countries by sole agents, sole distributors or sole concessionaires.

\footnote{1} Preferential Trade Area for Eastern and Southern African States
Reaffirming that the transaction value is the primary basis of valuation under the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Agreement);

Recognizing that the Customs Administration may have to address cases where it has reason to doubt the truth or accuracy of the particulars or of documents produced by traders in support of a declared value;

Emphasizing that in so doing the Customs Administration should not prejudice the legitimate commercial interests of traders;

Taking into account Article 17 of the Agreement, paragraph 7 of the Protocol to the Agreement, and the relevant decisions of the Technical Committee on Customs Valuation;

The Committee on Customs Valuation decides as follows:

1. When a declaration has been presented and where the Customs Administration has reason to doubt the truth or accuracy of the particulars or of documents produced in support of this declaration, the Customs Administration may ask the importer to provide further explanation, including documents or other evidence, that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with the provisions of Article 8. If, after receiving further information, or in the absence of a response, Customs still has reasonable doubts about the truth or accuracy of the declared value, it may, bearing in mind the provisions of Article 11, be deemed that the customs value of the imported goods cannot be determined under the provisions of Article 1. Before taking a final decision, the Customs Administration shall communicate to the importer, in writing if requested, its grounds for doubting the truth or accuracy of the particulars or documents produced and the importer shall be given a reasonable opportunity to respond. When a final decision is made, the Customs Administration shall communicate to the importer in writing its decision and the grounds therefor.

2. It is entirely appropriate in applying the Agreement for one signatory to assist another signatory on mutually agreed terms.
Representatives of certain governments of developing countries had made proposals during the negotiations which reflected their concerns regarding two issues: (i) valuation of goods on the basis of officially established minimum values, and (ii) problems in the implementation of Article 1 of the Agreement on Customs Valuation insofar as it related to importations into their countries by sole agents, sole distributors and sole concessionaires.

The Negotiating Group on MTN Agreements and Arrangements agreed to refer these proposals to the GATT Committee on Customs Valuation with the following understanding regarding the provisions in paragraphs 3 and 6 respectively of the Protocol to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.

- The Committee shall give sympathetic consideration to requests from developing countries which make a reservation to retain officially established minimum values, shall allow a reasonably long transitional period and shall not prescribe terms and conditions which are unreasonable taking into account the development, financial and trade needs of the countries concerned.

- The Committee shall undertake a study, to be completed by the fall of 1992, regarding problems in the implementation of Article 1 of the Agreement insofar as it relates to importations into the developing countries by sole agents, sole distributors and sole concessionaires with a view to finding appropriate solutions. Pending completion of the study and action thereon, developing countries signatories to the Agreement may request for a transitional period in which they may apply the Agreement as if sole agents etc. ... are considered as related parties. Requests for transitional period would be considered sympathetically by the Committee.