PROPOSALS BY THE EUROPEAN COMMUNITIES

1. Group 2 - Valuation met from 20 to 23 April 1971 to seek appropriate solutions, on an ad referendum basis, to problems in the field of valuation for customs purposes which had been identified at earlier meetings.

2. The discussion led to the text reproduced in document Spec(70)31 of 27 April 1971, which is divided into two sections (draft principles and draft interpretative notes). The Community proposes the following amendments to that text:

A. I - Draft principles:

3. In principle No. 9, retain the word "importers".

B. II - Draft interpretative notes:

4. In this section, replace interpretative notes 2, 3, 4, 6 and 9 by those set forth in the annex hereto.
ANNEX

PROPOSED RE-WORDING OF CERTAIN INTERPRETATIVE NOTES

2. The price of "like merchandise" should be used as a basis for customs valuation only in cases where the "actual value" of the goods cannot be determined on the basis of the agreed price (invoice price) or of the price obtained by the vendor from other purchasers in the importing country for like merchandise.

Where a difference exists between the agreed price (invoice price) and the price of "like merchandise", the former price should not be disregarded except to the extent that the difference is not attributable to reasons such as technical developments in the importing country, the difference in distribution methods before the import stage, etc.

3. "Like merchandise" is understood to mean an identical product, i.e. similar in every respect (in particular the mark, quality, terms of sale, etc.) to the product imported or, in the absence of such a product, another product, which, although not similar in every respect, has characteristics closely resembling those of the imported product (in particular the condition, type, quality, terms of sale, etc.). In addition, the "like merchandise" to be taken into consideration must be available at the same moment on the importing market and:

- must be imported from the country of export of the goods to be valued, or
- failing such merchandise, must be imported from a country having a comparable level of prices and wages.

4. When the actual value is not ascertainable on the basis of the agreed price (invoice price) or the price of "like merchandise" as defined in paragraph 3 above, the imported goods should be valued on the basis of other elements available on the importing market in respect of the imported goods, i.e.:
- if the imported goods are resold, the price of sale to the independent purchaser situated nearest to the importer, such price being adjusted to take account of the various elements that should not be included in the customs value (usual trading margin, commercial mark-up, duties and charges, transport and insurance costs, etc.);

- failing any such price, any other element that can constitute a valid basis for determining the value for customs purposes within the meaning of Article VII:2 (for example, rental during the normal use of the goods, value declared to the tax authorities for depreciation).

6. The value of imported merchandise for customs purposes should in no case be based on arbitrary or fictitious values. Any values which are not based on the price obtained or obtainable under fully competitive conditions for the imported merchandise or like merchandise for the market of the importing country but, for example, on the value of the same or like merchandise in the domestic market of the country of export shall be deemed to be arbitrary or fictitious.

9. On the request of the importer or his authorized agent, the customs administration shall explain how the customs value has been calculated for his goods.