DELEGATION OF ZAIRE

Draft Agreement on Government-Mandated Pre-Shipment Inspection Programmes

RECOGNIZING that pre-shipment inspection programmes which provide for verification of quality, quantity, price, custom classification and value, particularly on behalf of developing countries, do not constitute a non-tariff barrier and can facilitate international trade by deterring over-invoicing and under-invoicing and thereby minimizing opportunities for capital flight, fraud, discriminatory pricing and tax and customs duty evasion;

MINDFUL that such programmes must be carried out without giving rise to unnecessary delays, unequal treatment, or procedures implemented in a non-transparent manner;

CONSIDERING therefore that pre-shipment inspection programmes should be facilitated, provided that such programmes remain in conformity with GATT rules, that there is no discrimination between suppliers and that the confidential information of exporters is protected;

RECOGNIZING that contracting parties using such programmes must ensure that their pre-shipment inspection requirements are made public and that the activities of pre-shipment inspection are conducted in an orderly and transparent manner which is no more intrusive than is necessary;

RECOGNIZING also that governments of the exporting countries might be required to provide technical assistance as requested by countries using pre-shipment inspection programmes and that they should refrain from impairing the effectiveness of pre-shipment inspection;

It is now AGREED that all contracting parties shall endeavour to support pre-shipment inspection under the following conditions:

The user countries undertake that all applicable laws, regulations, and directives relating to pre-shipment inspection, shall be published or otherwise made available to the public.

The user countries shall ensure that the pre-shipment inspection companies, acting through their trade association, establish a Code of
Practice for pre-shipment inspection which will incorporate the following principles:

(i) pre-shipment inspection activities will be carried out in a non-discriminatory manner;

(ii) pre-shipment inspection companies will act without undue delay and ensure that any measures to verify prices are taken as early as possible in the inspection process;

(iii) pre-shipment inspection companies will furnish guidelines to enable suppliers to comply with the pre-shipment inspection regulations of the importing countries;

(iv) pre-shipment inspection companies will not require exporters to provide information related to patented, licensed or undisclosed processes, nor will they divulge confidential information imparted to them by an exporter to any third party, other than the government which mandated them.

The countries using pre-shipment programmes shall also ensure that there is established through the trade association of the pre-shipment inspection companies, in consultation with exporters' representatives, an appropriate independent review body whose function it will be to review the decisions of pre-shipment inspection companies in case of complaint by exporters. The findings of such a body shall not limit or abridge the sovereign rights of the countries using pre-shipment inspection programmes.

The exporting countries undertake:

(i) to offer technical assistance, as requested, to countries using pre-shipment inspection programmes and to provide such facilities as are required for the operation in their territory of the programmes of the inspection companies;

(ii) to ensure that any relevant domestic laws and regulations with respect to pre-shipment inspection or pre-shipment inspection companies will facilitate pre-shipment inspection programmes and will not in any way change, limit or inhibit the operation of these programmes as adopted by the user countries.

If any contracting party should consider that the pre-shipment inspection programme or the domestic laws and regulations of another contracting party do not conform to the principles of the GATT or of this Agreement, it may invoke Articles XXII and XXIII of the General Agreement.