MEETING OF NEGOTIATING GROUP OF 25 AND 29 NOVEMBER 1991

Chairman: Ambassador Lars E.R. Anell (Sweden)

Note by the Secretariat

1. The Group met on the morning of 25 November and the afternoon of 29 November.

2. On both occasions, the Chairman reported to the Group on informal consultations he had held aimed at exploring the possibility of resolving outstanding issues. He said that the consultations had been useful and reasonably encouraging. Nevertheless, it had been clear that delegations were still not ready to settle certain key issues. Consequently, he was not yet in a position to prepare a revision of the TRIPS texts as a whole. It was his intention to resume his consultations after the Session of the CONTRACTING PARTIES of 3-5 December 1991 and to hold a further meeting of this Group in the week of 9 December 1991.

3. A participant said that, although document MTN.TNC/W/35/Rev.1 contained two draft texts on TRIPS, no discussion had been held on the draft Agreement on Trade in Counterfeit and Pirated goods. This draft, which in his delegation's view related to the only GATTable matter in these negotiations, still needed to be discussed in detail.

4. A participant referred to the areas of particular concern to his delegation and asked the Chairman to see to it that these concerns would be taken into account in the final stage of the negotiating process.

5. Some participants were concerned that in some areas of the negotiations developments had been into the direction of a widening of differences. They reserved their delegations' positions on any redrafts of provisions contained in MTN.TNC/W/35/Rev.1 developed in informal consultations until they had been studied by their authorities. One of them referred to points raised by his delegation in regard to Articles 34, 40 and 73 of the draft Agreement on TRIPS.

6. A participant emphasised two difficulties implementation of the Agreement would have for his country. One difficulty was of a procedural nature and concerned the reconciliation of the specific provisions...
in the draft texts on TRIPS on treatment to be given to least-developed countries with a provision of a general nature with regard to these countries in the draft Final Act. The relationship with a possible MTO and the present GATT formed an extra difficulty in this respect, particularly since the present treatment of least-developed countries had a basis in Part IV of the General Agreement. The other difficulty was substantive and related to the issues to be dealt with at the national level in areas like TRIPS. The draft TRIPS agreement presupposed a high level of economic development and of administrative capacity in member countries. This did not match with the actual situation in all countries, in particular in least-developed countries, where the required experience and knowledge was lacking to a large extent.

7. A participant from a least-developed country referred to the resource difficulties facing his delegation in following the negotiations, in particular since at various points new drafts had been made available informally. He also referred to his delegation's proposal contained in document MTN.GNG/NG11/W/50 and stressed three points. First, no agreement or arrangement resulting from the negotiations in this Group should prevent least-developed countries from adopting measures and policies in these areas which would assist most effectively their economic development. Second, any such agreement or arrangement should provide for access to and effective transfer of technology. Third, least-developed countries should not be required to undertake any commitment or obligation or make concessions or contributions which were inconsistent with their least-development status and their trade, development and financial needs. He expressed hope that the Chairman would see to it that this concern be reflected in the final TRIPS text.

8. The Group took note of these statements and of the Chairman's remarks recorded in paragraph 2 above.