DRAFTING GROUP ON STANDARDS

Note on Meeting of March 1972

1. The Drafting Group met from 6-10 March under the Chairmanship of Mr. H.C. Douglas (Canada) in the absence of Mr. P.T. Eastham (Canada).

2. The Drafting Group noted the conclusions reached in the Committee on Trade in Industrial Products that work on standards should be actively pursued to the stage of submitting ad referendum solutions to governments, and the decision taken by Working Group 3 that work should be continued on the basis of the draft text in Spec(72)3. Some delegations reiterated that the Drafting Group might be expected to draw up a range of possible solutions for consideration and that they had agreed to work on the draft of a contractual code which was before the Group, both for reasons of convenience and because the draft could serve as a basis for other types of approach, such as a voluntary code, a set of principles, etc., if one of these solutions were preferred.

3. The Drafting Group had been instructed by Working Group 3 not to touch Chapters IV, V and VI of the text annexed to Spec(72)3. The Drafting Group also found it unprofitable at this stage to deal with Chapter I. The Drafting Group noted that the question of the relationship between rights and obligations under the proposed instrument and obligations under the GATT was being studied and that it was not called upon to examine points connected with this question.

4. The Drafting Group drew up the annexed text of Chapters II and III for consideration by Working Group 3. In doing so, it adopted the same approach as at its previous meeting - that of drawing up a text that contains no square brackets or alternative texts. This does not imply that members of the Drafting Group necessarily agree with the particular way in which it deals with the various substantive issues or the precise form of words it employs.

5. This note does not attempt to list all the points raised in the Drafting Group or in Working Group 3. The Drafting Group thought that the following points should be brought to the attention of Working Group 3:

(a) the obligations relating to the protective effect of standards and quality assurance systems in 1(a) of the operative provisions and elsewhere in the text;

¹The text of Chapters I, IV, V and VI as it appeared in Spec(72)3 has also been reproduced in the annex for the convenience of delegations.
(b) the provisions of 11(f), 11(g), 12(g)(iii) and 12(h) regarding the participation in quality assurance systems of individual adherents and of regional organizations;

(c) whether the commitment (particularly in respect of "interesting countries") in 12(e) can, or should be, included in its present form;

(d) the level of obligation in relation to national standards bodies and quality assurance bodies, which are central government bodies as defined in the Code;

(e) the level of obligation in 3(a) and 3(d);

(f) the limitation of the obligations in 1(c), 3(b) and 5(b) to significant producers and consumers;

(g) the level of obligation and the qualifications attached to the provisions of 1(d), 3(f) and 5(f);

(h) the timing of the entry into force of the various provisions of the instrument;

(i) the treatment of "quasi-mandatory standards" e.g. Section 6;

(j) whether and in what manner the instrument should apply to existing standards and quality assurance systems (e.g. Section 7, 11(j) and 25);

(k) whether the provisions of 1(h) and elsewhere should apply exclusively to actions by central government bodies in international standards bodies or whether they could also apply to actions in national committees; and

(l) whether the assistance referred to in 5(b) could include financial assistance and the implications of this.

6. In discussing 1(k) a question of a more general nature was raised. This question was whether, in the context of a contractual code, the Community, when acting in a field in which it has legal authority, should be treated as an individual adherent rather than a regional organization. Since this has implications for the whole instrument, the Drafting Group felt that it should be referred to the Working Group.

7. The coverage of the text is not restricted to industrial products. The Drafting Group recalled that the Agriculture Committee would wish to determine the applicability of the text to agricultural products.
Annex

PROPOSED GATT CODE OF CONDUCT FOR PREVENTING TECHNICAL BARRIERS TO TRADE

Chapter I. PREAMBLE
Not yet drafted. Points for incorporation, only, suggested.

Chapter II. DEFINITIONS

Chapter III. OPERATIVE PROVISIONS

Section 1. Preparation, adoption and use of mandatory standards by central government bodies.

Section 2. Preparation, adoption and use of mandatory standards by local government bodies.

Section 3. Preparation of voluntary standards by central government bodies.

Section 4. Preparation of voluntary standards by local government bodies.

Section 5. Preparation of standards by voluntary standards bodies.

Section 6. Preparation, adoption and use of standards by quasi-regulatory bodies.

Section 7. Modification of existing standards.

Section 8. Provision of information about standards and draft standards.

Section 9. Methods of determining conformity with mandatory standards of central government bodies.

Section 10. Assurance of conformity to mandatory standards by central government bodies.

Section 11. Quality assurance systems of central government bodies.

Section 12. International and regional quality assurance systems of which central government bodies are members.

Section 13. Methods of determining conformity with mandatory standards of local government bodies.
Section 14. Assurance of conformity to mandatory standards by local government bodies.

Section 15. Quality assurance systems of local government bodies.

Section 16. International and regional quality assurance systems of which local government bodies are members.

Section 17. Methods of determining conformity with standards of quasi-regulatory bodies.

Section 18. Assurance of conformity to standards of quasi-regulatory bodies.

Section 19. Quality assurance schemes of quasi-regulatory bodies.

Section 20. International and regional quality assurance systems of which quasi-regulatory bodies are members.

Section 21. Methods of determining conformity with standards of voluntary standards bodies.

Section 22. Assurance of conformity to standards of voluntary standards bodies.

Section 23. Quality assurance systems of non-governmental quality assurance bodies.

Section 24. International and regional quality assurance systems of which non-governmental quality assurance bodies are members.

Section 25. Modification of existing quality assurance systems.

Section 26. Provision of information about existing and proposed quality assurance systems.

Section 27. Assistance to other contracting parties.

Chapter IV. THE COMMITTEE FOR PREVENTING TECHNICAL BARRIERS TO TRADE

Chapter V. ENFORCEMENT

Chapter VI. FINAL PROVISIONS
I. PREAMBLE

Note: No attempt has been made to draft a Preamble at this stage. The following points might be included:

1. The purpose of the Code.

2. A statement emphasizing that the Code in no way interferes with the responsibility of governments for the safety, health and welfare of their people or for the protection of the environment in which they live. It merely seeks to minimize the effect of such actions on international trade. Refer to Articles XX and XXI of the General Agreement.

3. The adherents to the Code acknowledge the important contribution made by international standards-formulating bodies. They will therefore:
   
   (a) play a full part in the intergovernmental bodies;
   
   (b) assist the "voluntary" organizations in their territories to play a full part in the international "voluntary" bodies;
   
   (c) use international standards, wherever appropriate, to meet their requirements in the "mandatory" field;
   
   (d) encourage the adoption of international "voluntary" standards within their territories, so far as possible.

4. The applicability of the Code is not restricted to industrial products.
II. DEFINITIONS

The terms regarding standards and quality assurance are used in a variety of senses in different contexts and by different organizations. For the purposes of this document, the following terms have the meanings given below.

1. (a) "Standard"

The term "standard" means any specification which lays down levels of quality, purity, performance, dimensions, or other characteristics of a product. It includes, where applicable, testing, packaging, marking or labelling specifications and codes of practice, to the extent that they affect products rather than processes.

Wherever the term "standard" is used it shall be construed to include additions or amendments to existing standards.

(b) "Mandatory standard"

This is a standard with which it is obligatory to comply by virtue of an action by an authority endowed with the necessary legal power. The term includes, but is not limited to, "technical regulation".

(c) "Voluntary standard"

This is a standard with which there is no obligation to comply, either legal or de facto.

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1The Drafting Group did not have time fully to consider the definitions from 1(c) onwards.
(d) "Standard which has quasi-mandatory effect"

This is a standard with which there is no legal obligation to comply but which is mandatory in practice.

Note: For example, because compliance with such a standard is a condition for the issue of insurance policies; or because of market domination by sellers (either manufacturers or distributors) or buyers (e.g. public purchasing agencies); or because power supply organizations will not permit equipment which does not comply to be connected to their network.

(e) "International standard"

This is a standard prepared by an international standards organization (whether governmental or non-governmental) as defined in 3(a) below. The term includes documents described as "recommendations".

Note: A standard prepared by an intergovernmental organization is not by itself mandatory. It may, however, become mandatory or have quasi-mandatory effect depending on the action taken on them within each country.

An international voluntary standard may therefore be simultaneously a national voluntary standard in one country, a national standard with quasi-mandatory effect in a second country, and a national mandatory standard in a third country.
(f) "Regional standard"

These are standards prepared by a regional standards organization (whether governmental or non-governmental) as defined in 3(b) below. The term includes documents described as "recommendations", or "unification documents".

Note: The footnote to 1(e) above applies here, also.

2. National bodies which prepare or adopt standards
   (a) "Central government body"

   This term means government ministries or departments, or other bodies subject to the control of the central government in respect of the preparation or adoption of standards.

Note: Standards adopted by central government bodies may be mandatory, voluntary or with quasi-mandatory effect.

(b) "Local government body"

   This term means government bodies which are not subject to the control of the central government in respect of the preparation or adoption of standards, such as (i) the authorities of States, Provinces, Lander, Cantons etc. in the case of a federal or decentralized system and (ii) local government authorities.

Note: The footnote to 2(a) applies here, also.
(c) "Voluntary standards body"

This term means any non-governmental organization which prepares standards. Some of these are national standards bodies as defined in 2(d) below.

Note: Standards issued by voluntary standards bodies may be made mandatory by a government organization or may become quasi-mandatory in practice.

(d) "National standards bodies"

The nationally recognized standards bodies which are, or are eligible to become, members of non-governmental international standards organizations such as ISO and IEC.

3. International organizations which prepare standards

(a) "International standards organization"

This term means any international organization, whether governmental or non-governmental, which prepares standards, and the membership of which is open to the relevant bodies in all adherents to this Code.

Note by Drafting Group:

Examples are the Food and Agriculture Organization (FAO), the International Organization of Legal Metrology (OIML), the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the Universal Postal Union (UPU) and the International Gas Union (IGU).

(b) "Regional standards organization"

This term means any international organization, whether governmental or non-governmental, which prepares standards, and the membership of which is not open to the relevant bodies in all adherents to this Code.

Note by Drafting Group:

Examples are the European Committee for Co-ordination of Standards (CEN), the Pan-American Standards Commission (COPANNT) and the Organization for Economic Co-operation and Development (OECD)
4. **Regulatory bodies**

   (a) **"Regulatory body"**

      This term means any central or local government body or any other body which has legal power to enforce a mandatory standard. This may or may not be the same body which prepared the standard.

   (b) **"Quasi-regulatory body"**

      This term means any body which has no legal authority to enforce a standard, but which is able to make it mandatory in practice.

**Notes:** This may be done, for example, through the refusal of insurance cover unless certain requirements are met or through the exercise of monopoly power (e.g. gas or electricity supply undertakings which may refuse to connect consumers unless their installations or appliances conform to the standard) or through market domination by a producer or purchaser.

   A government department may, in some cases, act as a quasi-regulatory body.

5. **Determination of conformity with standards**

   (a) **"Conformity with a standard"** means the agreement between the actual quality or properties of a product and the quality or properties which are specified in the relevant standard.
(b) "Test methods"

This term means the technical procedures and actions which are required to determine whether or not a particular product conforms to the relevant standard.

Note: Test methods are usually an integral part of the standard to which they relate; and they may even constitute the most important part of the standard (for example, performance standards).

(c) "Administrative procedures"

This term means the overall administrative procedures required to ascertain whether or not products conform to a standard. It may include administrative arrangements for controlling the frequency and location of tests and for carrying out tests.

6. Harmonization

(a) To "harmonize standards" means to make the content of the standards of different countries or organizations technically the same although their layout and format may differ.

(b) To "harmonize test methods" means to make the tests specified by different countries or organizations technically equivalent although the testing equipment used and the instructions may not necessarily be identical.

7. Quality assurance

(a) "Quality assurance body"

An organization or person, independent of the producer, which has the necessary facilities, technical competence and reliability to provide an acceptable assurance that products conform with the relevant standard.
or to provide reliable information on which a decision as to conformity with the standard can be taken.

Note: Examples are Government Inspectorates; independent testing organizations and test houses; the inspection department of insurance companies; certain activities of standards bodies; consulting engineers.

(b) "Quality assurance system"

A formal arrangement having its own rules of procedure and management under which one or more quality assurance bodies provide an acceptable assurance that products approved or certified under the system conform to the requirements of the relevant standard.

(c) "International quality assurance system"

A formal arrangement, whether governmental or non-governmental, under which either:

(i) two or more regulatory or quasi-regulatory bodies in different countries accept assurances of conformity with standards provided by the quality assurance bodies in one or more of the countries concerned;

or

(ii) two or more quality assurance bodies in different countries provide a uniform assurance of conformity with standards; and the membership of which is open to the relevant bodies in all adherents to the Code.
(d) "Regional quality assurance system"

A formal arrangement, whether governmental or non-governmental, under which either:

(i) two or more regulatory or quasi-regulatory bodies in different countries accept assurances of conformity with standards provided by the quality assurance bodies in one or more of the countries concerned; or

(ii) two or more quality assurance bodies in different countries provide a uniform assurance of conformity with standards; and the membership of which is not open to the relevant bodies in all adherents to the Code.

III. OPERATIVE PROVISIONS

1. Preparation, adoption and use of mandatory standards by central government bodies

(a) Adherents shall ensure that mandatory standards are not prepared with a view to affording protection to domestic production and that neither the standards themselves, nor the way in which they are applied, constitute an unnecessary obstacle to international trade.

NOTE

The Drafting Group could not agree on the text of this paragraph and of the corresponding paragraphs elsewhere in the text. While the majority accepted the version now inserted, the view was expressed that this version contained unacceptable loopholes and that a direct prohibition of the preparation, adoption or implementation of standards and quality assurance systems with protective effect, on the lines of the text in Spec(72)3, should be retained.
(b) Where mandatory standards are required and appropriate international standards exist, or can be prepared without undue delay, adherents shall use them, or the relevant parts of them, as a basis for the mandatory standards.

(c) With a view to harmonizing their mandatory standards on as wide a basis as possible, adherents shall play a full part in the preparation by appropriate international standards organizations of standards for products of which they are significant producers or consumers and which are, or are likely to become, the subject of mandatory standards.

(d) Where practicable and appropriate, adherents shall specify mandatory standards in terms of performance rather than design.

(e) Where mandatory standards are not based upon international standards, adherents shall, except where there are urgent problems of safety, health or national security and except for actions of an insignificant nature,

(i) give notice by publishing the mandatory standards they propose to adopt;

(ii) allow reasonable time for comment; and

(iii) take full account of any reasonable comments they may receive from other adherents to the Code.
(f) Adherents shall publish all mandatory standards, which have been adopted by their central government bodies.

(g) Except where there are urgent problems of public safety, health or national security, adherents shall allow a reasonable interval to elapse before bringing new mandatory standards, or revisions of existing mandatory standards, into force, in order to allow time for producers in exporting countries to adapt their products or methods of production to the requirements of the importing country.

(h) The provisions of Section 1(b) shall not apply if, at the time when the relevant international standard was prepared, the central government body concerned either:

   (i) was not offered an opportunity to express an opinion for or against its acceptance; or

   (ii) having been offered such an opportunity, expressed an opinion against its acceptance.

(j) Adherents shall use their best efforts to ensure that where standards are prepared by regional standards organizations of which they are members,

   (i) the standards are not such as to impede progress toward the preparation of international standards, and

   (ii) the regional standards organizations comply, mutatis mutandis, with the provisions of paragraphs (a), (b), (d), (e), (f) and (g) inclusive of this section.

(k) Adherents which are members of regional standards organizations shall be subject to the provisions of paragraphs (a) to (h) inclusive of this section, except to the extent that those provisions are satisfied by the regional standards organizations.
2. Preparation, adoption and use of mandatory standards by local government bodies

Note: This section will be identical to Section 1 above, except that adherents will undertake to "use all reasonable means open to them" to ensure compliance with the Code.

3. Preparation of voluntary standards by central government bodies

(a) Adherents shall ensure that voluntary standards are not prepared with a view to affording protection to domestic production and that neither the standards themselves, nor the way in which they are applied by central government bodies, constitute an unnecessary obstacle to international trade.

(b) With a view to harmonizing their voluntary standards on as wide a basis as possible, adherents shall play a full part in the preparation by appropriate international standards organizations of standards for products of which they are significant producers or consumers.

(c) Adherents shall use their best efforts to ensure that where aspects of a product are, or are likely to be, subject to a mandatory standard, the voluntary standard, prepared by central government bodies, covering those aspects is suitable in form and content for adoption in whole or in part as that mandatory standard.

(d) Adherents shall use their best efforts to ensure that where an international standard is prepared for a product, the corresponding voluntary standard prepared by them for that product does not conflict with the international standard.
(e) Adherents shall use their best efforts to ensure that any voluntary standard, prepared by central government bodies, for a product which is, or is likely to be, the subject of substantial purchases by public bodies is such as to be suitable to serve as a basis for such purchases.

(f) Where practicable and appropriate, adherents shall use their best efforts to ensure that voluntary standards are specified in terms of performance rather than design.

(g) Where voluntary standards in preparation by central government bodies are not based upon international standards, adherents shall, except for actions of an insignificant nature:

(i) publish a notice at an appropriate stage that they are working on a particular standard;

(ii) provide copies of draft standards, on request, to interested parties in other adherents;

(iii) allow reasonable time for comment; and

(iv) take full account of any reasonable comments they may receive from other adherents to the Code.

(h) Adherents shall publish all voluntary standards prepared by their central government bodies.

(j) The provisions of Section 3(d) shall not apply if, at the time when the relevant international voluntary standard was prepared, the central government body concerned either:

(i) was not offered an opportunity to express an opinion for or against its acceptance; or

(ii) having been offered such an opportunity, expressed an opinion against its acceptance.
(k) Adherents shall use their best efforts to ensure that where voluntary standards are prepared by regional standards organizations of which they are members:

(i) the standards are not such as to impede progress toward the preparation of international standards; and

(ii) the regional standards organizations comply, mutatis mutandis, with the provisions of paragraphs (a) and (c) to (h) inclusive of this section.

(l) Adherents which are members of regional standards organizations shall be subject to the provisions of paragraphs (a) to (j) inclusive of this section, except to the extent that those provisions are satisfied by the regional standards organizations.

4. Preparation of voluntary standards by local government bodies

Note: This Section will be identical to Section 3 above, except that adherents will undertake to "use all reasonable means open to them" to ensure compliance with the Code.

5. Preparation of standards by voluntary standards bodies

(a) Adherents shall use their best efforts to ensure that standards prepared by voluntary standards bodies within their territories are not prepared with a view to affording protection to domestic production and that they do not constitute an unnecessary obstacle to international trade.
(b) With a view to harmonizing their voluntary standards on as wide a basis as possible, adherents shall assist their national standards bodies to play a full part within the appropriate international standards organizations in preparing standards for products of which they are significant producers or consumers.

(c) Where aspects of a product are, or are likely to be, subject to a mandatory standard, adherents should assist the voluntary standards bodies within their territories to ensure that any voluntary standard, whether national or international, which covers those aspects is suitable in form and content for adoption in whole or in part as that mandatory standard.

(d) Adherents should assist the voluntary standards bodies within their territories to ensure that any voluntary standard, whether national or international, for a product which is, or is likely to be, the subject of substantial purchases by public bodies is such as to be suitable to serve as a basis for such purchases.

(e) Adherents shall use their best efforts to ensure that where an international voluntary standard is prepared for a product, the national voluntary standard for that product does not conflict with the international standard.

(f) Adherents should encourage the voluntary standards bodies within their territories where practicable and appropriate to specify standards in terms of performance rather than design.
(g) Adherents shall use their best efforts to ensure that, except where a voluntary standard is based on an international standard, and except for actions of an insignificant nature, voluntary standards bodies within their territories:

(i) publish a notice at an appropriate stage that they are working on a particular standard;

(ii) provide copies of draft standards, on request, to interested parties in other adherents;

(iii) allow reasonable time for comment; and

(iv) take full account of any reasonable comments they may receive from interested parties in other adherents to the Code.

(h) Adherents shall use their best efforts to ensure that voluntary standards bodies within their territories publish all standards they have prepared.

(j) The provisions of Section 5(e) shall not apply if, at the time when the relevant international standard was prepared, the central government body concerned either:

(i) was not offered an opportunity to express an opinion for or against its acceptance; or

(ii) having been offered such an opportunity, expressed an opinion against its acceptance.

(k) Adherents shall use their best efforts to ensure that where standards are prepared by regional standards organizations of which voluntary standards bodies within their territories are members:

(i) the standards are not such as to impede progress toward the preparation of international standards; and
(ii) the regional standards organizations comply, *mutatis mutandis*, with the provisions of paragraphs (a) and (c) to (h) inclusive of this Section.

(1) Where voluntary standards bodies within the territories of the adherents are members of regional standards organizations, the provisions of (a) to (h) inclusive of this Section shall apply, except to the extent that those provisions are satisfied by the regional standards organizations.

6. **Preparation, adoption and use of standards by quasi-regulatory bodies**
   (a) Where standards are prepared by or for the use of quasi-regulatory bodies, or where existing voluntary standards are adopted by them, adherents shall use all reasonable means open to them to ensure that the obligations of Section 3 are complied with.

7. **Modification of existing standards**
   (a) To the extent that existing standards of central government bodies constitute an unnecessary obstacle to international trade, adherents shall bring them into conformity with Sections 1, 3, 5 of the Operative Provisions of this Code within a period of two years.
   (b) To the extent that existing standards of local government bodies constitute an unnecessary obstacle to international trade adherents shall use all reasonable means open to them to ensure that they are brought into conformity with Sections 2, 4 and 6 of the Operative Provisions of this Code within a period of two years.
(c) To the extent that existing standards prepared by voluntary standards bodies constitute an unnecessary obstacle to international trade adherents shall use their best efforts to ensure that they are brought into conformity with Sections 5 and 6 of the Operative Provisions of this Code within a period of two years.

(d) To the extent that existing standards of quasi-regulatory bodies constitute an unnecessary obstacle to international trade, adherents shall use all reasonable means open to them to ensure that they are brought into conformity with Sections 5 and 6 of the Operative Provisions of this Code within a period of two years.

8. Provision of information about standards and draft standards

(a) Each adherent shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from interested parties in other adherents regarding any mandatory or voluntary standards adopted or proposed by central or local government bodies or by regional standards organizations of which it is a member and regarding the associated test methods and administrative procedures or provide information as to where such details can be obtained.

(b) Adherents shall use their best efforts to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from interested parties in other adherents regarding the standards and test methods adopted or proposed by voluntary standards bodies and quasi-regulatory bodies within their territories or by regional standards organizations of which they are members.
(c) Nothing in this Code shall be construed as requiring publication other than through the recognized channels of the organizations concerned or other than in the language of the country concerned.

(d) Where copies of standards or draft standards are requested from central government bodies by interested parties in other adherents in accordance with the provisions of this Code, they shall be supplied at the same price (if any) as to the nationals of the adherent in which the standard or draft standard was prepared.

9. Methods of determining conformity with mandatory standards of central government bodies

(a) Adherents shall ensure that methods of determining conformity with mandatory standards of central government bodies are not formulated or operated with a view to affording protection and that neither the methods themselves, nor the way in which they are applied, constitute an unnecessary obstacle to international trade.

(b) Adherents shall harmonize their test methods on an international basis as far as practicable.

(c) Adherents shall ensure that, if a test method is to be used in determining whether or not a product complies with a particular mandatory standard, the test method is either:

(i) defined in the standard; or

(ii) defined in some other published document.
Where a test method is specially devised, the provisions of this Code will apply to the preparation and publication of the test method in the same way as to the standard itself.

(d) Adherents shall ensure that, if a special administrative procedure is to be used by a regulatory body in determining whether or not a product complies with a particular mandatory standard, the details of such administrative procedure are either defined in the standard or otherwise available in some public document.

(e) Adherents shall ensure that their test methods and administrative procedures are such as to permit so far as practicable the test to be carried out in the territories of other adherents.

(f) Except where there is an internationally harmonized test method, adherents should accept test methods used by other adherents even if they are not identical with their own, provided the importing adherent is satisfied that the exporting adherent's methods provide an equivalent assurance that the products tested conform to the relevant standard.

10. Assurance of conformity to mandatory standards by central government bodies

(a) Nothing in this Code shall oblige adherents to call for a positive assurance that products which are covered by a mandatory standard comply with the requirements of that standard. However, where a positive assurance of compliance with a mandatory standard is required, adherents shall comply with the provisions of paragraphs (b), (c), (d) or (e) of this Section or any combination thereof.
(b) Wherever possible, adherents should rely upon declarations by manufacturers or suppliers in other adherents that their products conform to the relevant mandatory standard.

(c) Wherever possible, adherents should accept assurances of conformity to the relevant standard provided by quality assurance bodies in other adherents.

(d) Wherever possible, adherents should arrange to carry out tests, or to have them carried out on their behalf, in the country of origin.

(e) To the extent that one or other of the methods provided for in paragraphs (b), (c) and (d) of this Section has not been implemented and tests are carried out in the importing country, the following provisions shall apply:

(i) imported products shall be accepted for testing under conditions no less favourable than those accorded to like products of national origin;

(ii) the test methods and administrative procedures for imported products shall be no more complex and no less expeditious than the corresponding methods and procedures for similar domestic products in a comparable situation;

(iii) any fees imposed for testing shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports for fiscal purposes;
(iv) the results of tests shall be made available forthwith to the exporter or importer or their agents, if requested, so that corrective action may be taken if necessary;

(v) the siting of testing facilities and the selection of samples for testing shall not be such as to cause unnecessary inconvenience for importers;

(vi) if so requested, the confidentiality of information about imported products arising from or supplied in connexion with such tests shall be respected except where serious problems of safety or health arise.

(f) Where conformity to mandatory standards, for domestic products, is assured by a quality assurance system of a central government body, the provisions of Section 11 shall apply.

(g) Nothing in this Section shall prevent the carrying out of reasonable spot checks.

11. Quality assurance systems of central government bodies

(a) Adherents shall ensure that quality assurance systems of their central government bodies are not formulated or operated with a view to affording protection to domestic production, and that neither the systems themselves, nor the way in which they are applied, constitute an unnecessary obstacle to international trade.

(b) Such systems shall be based on conformity to international standards wherever the latter are suitable.
(c) Where standards or test methods are specially prepared to serve as a basis for such systems, the provisions of Sections 1 and 9 shall apply.

(d) Such systems shall be formulated from the outset with a view to eventual participation by interested producers of similar products in other adherents to the Code.

(e) Adherents shall:

(i) give notice by publishing the proposed rules of such systems;

(ii) allow reasonable time for comment;

(iii) take full account of any reasonable comments they may receive from other adherents both regarding the formulation of such systems and, subsequently, regarding their implementation; and

(iv) publish all rules of such systems.

(f) As soon as such systems become operational, they shall be open to participation by producers of similar products in the territories of other adherents to the Code, who are able and willing to fulfil the relevant obligations.

(g) The provisions of paragraph (f) of this Section are subject to the qualification that if a system is of such a nature that world-wide participation from the outset might endanger its success (e.g. if it contains novel features which can only be tried out among a small number of producers) participation may be limited in the initial stages. In this event, participation shall not necessarily be limited to producers in the country which operates the system.

NOTE

Since there was still fundamental disagreement on the substance of paragraphs (f) and (g), the Drafting Group was unable to agree on a text. A text similar to paragraphs 12(g)(iii) and 12(h) has therefore been inserted.
(h) Such systems shall provide for producers in other adherents to participate on the same basis as domestic producers.

(j) The provisions of paragraphs (f) and (g) of this Section shall become effective two years after the Code comes into effect.

12. International and regional quality assurance systems of which central government bodies are members

(a) Adherents shall, wherever practicable, formulate and participate in international systems whereby the regulatory bodies of the countries concerned, having first satisfied themselves as to the competence and reliability of the appropriate quality assurance bodies in other participating countries, accept assurances from those bodies that products conform to the relevant mandatory standards.

(b) Such systems shall be formulated from the outset with a view to eventual participation by all adherents to the Code which are able and willing to fulfil the obligations of membership. With this in mind:

(i) the sole criterion for membership in such systems shall be that the participating regulatory body is able and willing to fulfil the obligations of membership;

(ii) the sole criterion for accepting assurances of conformity to standards under such systems shall be the technical competence and reliability of the quality assurance body. Such a quality assurance body may be situated in any member and may assure the quality of the products of any other member.
(c) Where such systems are based on conformity to harmonized standards, existing international standards shall be used wherever they are suitable;

(d) Where standards or test methods are specially prepared to serve as a basis for such systems, the provisions of Section 1 and 9 shall apply;

(e) Such systems shall not include provisions which prevent participants from accepting assurances of conformity to standards given by other participants in respect of the products of non-participating adherents.

**NOTE**¹

Since there was still fundamental disagreement on the substance of this paragraph the Drafting Group was unable to agree on a text. The text of paragraph 11(f) of Spec(72)3 has therefore been inserted.

(f) In formulating and implementing such systems:
   (i) notice shall be given by publishing the proposed rules;
   (ii) reasonable time shall be allowed for comment;
   (iii) full account shall be taken of any reasonable comments received from any adherent to the Code both regarding the formulation of such systems and, subsequently, regarding their implementation; and

¹See paragraph 3 of cover note.
(iv) all rules shall be published.

(g) Where such systems are formulated by regional quality assurance organizations of which central government bodies are members:

(i) the provisions of paragraphs (b) to (e) inclusive of this Section shall apply;

(ii) the systems shall not be formulated or operated with a view to affording protection to indigenous production and neither the systems themselves, nor the way in which they are applied, shall constitute an unnecessary obstacle to international trade;

(iii) as soon as the system becomes operational, it shall be open to participation by all adherents to the Code which are able and willing to fulfil the obligations of membership.

(h) The provisions of Section 12(g)(iii) are subject to the qualification that if a system is of such a nature that world-wide participation from the outset might endanger its success (e.g. if it contains novel features which can only be tried out among a small number of countries), participation may be limited in the initial stages. In this event, participation shall not necessarily be limited to those countries which formulated the rules.

**NOTE**

Since there was still fundamental disagreement on the substance of paragraphs (g)(iii) and (h) the Drafting Group was unable to agree on a text. A text similar to paragraphs 11(g)(iii) and (h) in Spec(72)3 has therefore been inserted.
13. **Methods of determining conformity with mandatory standards of local government bodies.**

14. **Assurance of conformity to mandatory standards by local government bodies.**

15. **Quality assurance systems of local government bodies.**

16. **International and regional quality assurance systems of which local government bodies are members.**

*Note to Sections 13, 14, 15 and 16*

These Sections would cover, in respect of "local government bodies", the same ground as Sections 9, 10, 11 and 12 in respect of "central government bodies". Adherents would "use all reasonable means open to them" to ensure that local government bodies comply with the provisions of these Sections of the Code.

17. **Methods of determining conformity with standards of quasi-regulatory bodies.**

18. **Assurance of conformity to standards of quasi-regulatory bodies.**

19. **Quality assurance schemes of quasi-regulatory bodies.**

20. **International and regional quality assurance systems of which quasi-regulatory bodies are members.**

*Note to Sections 17, 18, 19 and 20*

These Sections would cover, in respect of "quasi-regulatory bodies", the same ground as covered in Sections 9, 10, 11 and 12 in respect of "central government bodies", except that the formula "use all reasonable means open to them" would be used.
22. Assurance of conformity to standards of voluntary standards bodies.
23. Quality assurance system of non-governmental quality assurance bodies.
24. International and regional quality assurance systems of which non-governmental quality assurance bodies are members.

Note to Sections 21, 22, 23 and 24

These Sections would cover, in respect of "voluntary standards bodies", and "non-governmental quality assurance bodies", the same ground as covered in Sections 9, 10, 11 and 12 in respect of "central government bodies", except that the formula "use their best efforts" would be used.

25. Modification of existing quality assurance systems

(a) To the extent that existing quality assurance systems of central government bodies, or of which central government bodies are members, constitute an unnecessary obstacle to international trade, adherents shall bring them into conformity with Sections 9, 10, 11 and 12 of the Operative Provisions of this Code within a period of two years.
(b) To the extent that existing quality assurance systems of local government bodies, or of which local government bodies are members, constitute an unnecessary obstacle to international trade, adherents shall use all reasonable means open to them to ensure that they are brought into conformity with Sections 13, 14, 15 and 16 of the Operative Provisions of this Code within a period of two years.

(c) To the extent that existing quality assurance systems of quasi-regulatory bodies are members constitute an unnecessary obstacle to international trade, adherents shall use all reasonable means open to them to ensure that they are brought into conformity with Sections 17, 18, 19 and 20 of the Operative Provisions of this Code within a period of two years.

(d) To the extent that existing quality assurance systems of non-governmental quality assurance bodies, or of which non-governmental quality assurance bodies are members, constitute an unnecessary obstacle to international trade, adherents shall use their best efforts to ensure that they are brought into conformity with Sections 21, 22, 23 and 24 of the Operative Provisions of this Code within a period of two years.

Provision of information about existing and proposed quality assurance systems

(a) Each adherent shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from interested parties in other adherents regarding any quality assurance system, whether existing or proposed, which
is either operated by the central or local government bodies or of which they are members, or provide information as to where such details can be obtained.

(b) Adherents shall use their best efforts to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from interested parties in other adherents regarding the quality assurance systems operated by non-governmental quality assurance bodies within their territories or of which such non-governmental quality assurance bodies are members.

(c) Nothing in this Code shall be construed as requiring publication other than through the recognized channels of the organizations concerned or other than in the language of the country concerned.

(d) Where copies of the rules or draft rules of quality assurance systems are requested from central government bodies by interested parties in other adherents in accordance with the provisions of this Code, they shall be supplied at the same price (if any) as to the nationals of the adherent in which the rules or draft rules were prepared.

27. **Assistance to other contracting parties**

(a) Adherents should, if requested, advise other adherents on the preparation of mandatory standards.

(b) Adherents should, if requested, advise (and should encourage their voluntary standards bodies to advise) developing countries regarding the establishment of national voluntary standards bodies and participation in the international standards organizations.
(c) Adherents should, if requested, arrange for their regulatory bodies to advise other adherents regarding the establishment of arrangements for assuring conformity to the standards of the regulatory bodies concerned.

(d) Adherents which are members of systems for assuring conformity to mandatory standards should, if requested, advise other adherents to the Code regarding the establishment of the institutions and legal framework which would enable them to fulfill the obligations of membership in such systems.

(e) If so requested, adherents should encourage the quality assurance bodies within their territories, if they are members of systems for assuring conformity to voluntary standards, to advise other adherents regarding the establishment of the institutions which would enable the relevant bodies within their territories to fulfill the obligations of membership.

IV. THE COMMITTEE FOR PREVENTING TECHNICAL BARRIERS TO TRADE

1. The adherents to this Code shall request the CONTRACTING PARTIES to the General Agreement to form a Committee for Preventing Technical Barriers to Trade composed of representatives of the adherents to this Code for the purpose of consulting on matters relating to the implementation of this Code or on other related matters. The Committee shall normally meet once in each calendar year. Additional meetings may be called if the circumstances warrant it. All decisions of the Committee shall be taken by a majority of votes cast, except where otherwise prescribed in this Code.

V. ENFORCEMENT

1. If any adherent considers that any benefit accruing to it from the implementation of this Code is being nullified or impaired by any other adherent, or if any adherent wishes to raise any other matter affecting the implementation of this Code with any other adherent, other adherents shall accord sympathetic consideration to, and afford adequate opportunity for consultation regarding, such representations as may be made by that adherent.
2. If no mutually satisfactory solution is reached between the adherents concerned within a reasonable time, the matter may be referred to the Committee for Preventing Technical Barriers to Trade set up under Chapter IV.

3. The Committee for Preventing Technical Barriers to Trade shall promptly investigate any matter referred to it under Section 2 above and may, as part of the investigation, consult with any contracting party or with any standards organization. After the investigation is complete the Committee may:
   (a) make a statement concerning the facts of the matter, or
   (b) make recommendations to one or more adherents to this Code, or
   (c) authorize one or more adherents to this Code to suspend some or all of their obligations under this Code in respect of one or more adherents, or
   (d) if the matter is considered to be sufficiently serious, refer the matter to the CONTRACTING PARTIES for appropriate action, including recommendations for action under paragraph 2 of Article XXIII of the General Agreement. For the purposes of such an action under paragraph 2 of Article XXIII, adherents agree that obligations under the General Agreement could be withdrawn not only if benefits under the General Agreement are nullified or impaired but also if benefits under the Code are nullified or impaired.

4. Nothing in this Code shall be construed as detracting from the rights and obligations of adherents under the General Agreement.

VI. FINAL PROVISIONS

1. This Code shall be open for adherence, by signature or otherwise, to all contracting parties to the General Agreement and to the European Economic Community. It shall enter into force, for each party which has accepted it, on
the thirtieth day following the day on which it shall have been accepted by that contracting party or on the thirtieth day following the day on which it shall have been accepted by the governments listed in Annex A, whichever is the later.

2. The text of this Code shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade in both English and French. The English and French texts shall be of equal validity.

3. The Director-General will provide a certified copy of this Code to all contracting parties, and will also inform all contracting parties of all adherents to the Code.

4. Amendments to this Code may be proposed by any adherent to this Code and shall be considered by the Committee for Preventing Technical Barriers to Trade formed in accordance with Article IV of this Code. Amendments shall be accepted if at least two thirds of all adherents give a positive vote in favour. Each such amendment shall prescribe the date and procedures by which it shall enter into force.

5. Each adherent to this Code shall take all necessary steps, of a general or particular character, to ensure that its laws, regulations and administrative procedures conform to the requirements of this Code within two years of the date of entry into force of this Code, or within two years of the date of its adherence to this Code if this is later.

6. Any adherent may withdraw from this Code. The withdrawal shall take effect upon the expiration of six months from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade.

\[1\] This Annex will list countries and provide for a minimum number of adherents.