Committee on Trade in Industrial Products

Working Group 3

NOTE BY THE SECRETARIAT ON THE MEETING OF
WORKING GROUP 3 - STANDARDS, 15-22 MARCH 1973

1. The Working Group met from 15-22 March 1973 under the Chairmanship of Mr. P.T. Eastham (Canada). The present note, which has been prepared by the secretariat, summarizes the main points raised at the meeting.

2. The Working Group resumed the examination of the note on the last meeting of its Drafting Group (Spec(72)103) which it had begun at its meeting of December 1972. It had at its disposal an interim note by the secretariat on its December meeting (IMT(73)3).

3. The Working Group was not able to complete this task and, in particular, did not have time to agree on the presentation of Section 12 of the Operative Provisions of the text on which it was working. Some delegations therefore proposed that a further meeting should be held to deal with this matter. Some other delegations said that since the Working Group had, unfortunately, not been able to finish its work at the meeting as had been foreseen, any matter would be open for discussion at the next meeting. The date of the next meeting was tentatively set for 4-8 June, the precise date to be fixed by the Chairman in consultation with interested delegations. The Working Group suggested that delegations which wished to make suggestions for substantial changes in the text might circulate these in advance of the next meeting.

4. There are two annexes to the present note:

Annex I - Points raised during the meeting for inclusion in the cover note which would accompany the text when this is forwarded to the Committee on Trade in Industrial Products.

Annex II - The annotated text of the instrument on which the Group has been working, revised to take account of discussions at the meeting.
ANNEX I

POINTS WHICH COULD BE INCLUDED IN THE COVER NOTE

The following points are among those raised during the meeting for inclusion in the cover note which would accompany the text when this is forwarded to the Committee on Trade in Industrial Products:

1. In drawing up the text of the instrument, the Group has adopted a number of working hypotheses. The first is that the solution could take the form of a contractual code. Some members stated that it was not within the province of the Working Group to determine the precise character of the obligations envisaged in the text and they had agreed to work on the draft of a contractual code, both for reasons of convenience and because the draft could also 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.

2. The text annexed takes the form of a separate instrument, a number of provisions of which are inevitably related to the General Agreement. It was the opinion of one member, however, that the Code should be an integral part of the General Agreement or that it should be deemed by the adherents to bear a relationship to the General Agreement similar to that of the Anti-Dumping Code. Given this relationship to the General Agreement, this delegation did not see any need to make provisions in the Code for the Code to be amended or for adherents to withdraw from the Code. It noted that there
were no provisions for amendment or withdrawal in the Anti-Dumping Code. Accordingly, this delegation would have preferred the deletion of Sections 2 and 3 of Chapter VI, Other Provisions, in their entirety.

3. The Group has also worked on the hypothesis that benefits under the Code would accrue as of right solely to other adherents, without these benefits having to be extended to contracting parties which did not adhere to the Code.

4. Some members stated that the text took the form of a draft of a binding code which could, if the case arose, impose different levels of obligations for the preparation and application of mandatory standards, voluntary standards and quality assurance systems; they noted that, in particular, this resulted in substantial inequality as between countries with a federal structure and countries with a unitary structure, because of the fact that in the former many of these regulatory provisions are within the competence of the constituent States, while in the latter most of them are within the exclusive competence of the central Government. These delegations said that these disparities of situation were likely to have important consequences.

5. One member pointed out that the problem of balance was especially acute for his government since all standards were mandatory in his country and expressed a general reservation on the level of obligation in the voluntary area.
6. Other members pointed out that the balance of obligations as between different adherents depended on a number of factors, including the number of standards affected, whether they are mandatory or voluntary, and the size of the adherent's market. They said that assessments of balance could not be made until the text of a code was completed. In this connexion one member called attention to a resolution passed by the Pacific Area Standards Congress strongly urging the GATT to complete its work so that the proposed code can be referred to governments for consideration as soon as possible.

7. The members of the Working Group could not decide definitively on the institutional provisions contained in Chapters III and V of the attached text. For instance some members said the Group could not usefully deal with the question of the powers of the Committee provided for in Chapter III since this was a problem of a much wider scope. The Working Group noted furthermore that the relationship between the Committee and the General Agreement was one matter that remained to be decided. In this regard some members suggested that the CONTRACTING PARTIES be requested to establish the Committee. Some members said that, if this option were chosen it could imply that disagreements which persisted in the Committee would be referred to the CONTRACTING PARTIES. Some members said that, as Chapter III was worded in the attached text, either the Committee would not be empowered to take
decisions, or any decisions by the Committee would be taken unanimously. Other members said that their interpretation of the present text was that decisions would be taken by consensus rather than unanimity.

8. Some members said that a decision regarding Section 3(c) and 4 of Chapter V dealing with sanctions went beyond the competence of the Working Group. Other members considered that such provisions should be included in the text. One member said that the question of sanctions under the Code and under the GATT was directly related to the problem of devising equitable procedures for administering such sanctions. This member suggested that the establishment of a board of arbitration with the power of taking decisions was one possible solution, rather than the procedures set out in Sections 3(c) and 4 of Chapter V. This member thought that, if no satisfactory procedure could be agreed, it might be preferable to have no sanctions. Another member suggested that provision be made for a panel with the power of making recommendations and an alternative text to this effect is set out under Section 3 of Chapter V.

9. Some members said that drafting retroactive provisions such as contained in Chapter IV would, inter alia, go further than the Protocol of Provisional Application went with regard to the General Agreement itself. Furthermore, the problem of retroactivity stretched considerably beyond the standards field itself. In addition, retroactivity would have different consequences depending upon whether changes in laws or changes in executive provisions were involved.
10. The Group agreed that if and when widely accepted definitions were arrived at, their applicability for the purpose of the Code should be examined.

11. The Group noted that the coverage of the text was not restricted to industrial products and recalled that the Agriculture Committee would wish to determine the applicability of the text to agricultural products.
ANNEX II

PROPOSED GATT CODE OF CONDUCT FOR PREVENTING TECHNICAL BARRIERS TO TRADE

PREAMBLE

The adherents to this Code,

Desiring to further the objective of the General Agreement on Tariffs and Trade;

Recognizing that nothing in this Code shall be construed to prevent the adoption or enforcement by any adherent, in accordance with the provisions of the General Agreement, of measures necessary for the protection of the health and safety of its population, its environment, or its national security.

Desiring none the less to ensure that, in implementing those responsibilities, the adherents do not create barriers to nor introduce discriminatory treatment in international trade;

Recognizing the important contribution to efficiency in production and distribution that is made by standards;

Desiring to ensure that standards do not act as barriers to international trade;

Desiring to encourage the development of international standards particularly in the fields of safety, health, nutrition and environmental protection;

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1 Some delegations said that it was premature to draft a precise preamble since this should reflect the final content of the juridical instrument.
Recognizing that lack of technical and other resources prevents the developing countries from participating effectively in the formulation of international standards and quality assurance systems;  

Desiring therefore to assist them to play a fuller part in these activities;  

Recognizing the important contribution to international trade that is made by systems for providing assurance that products conform to the relevant standards;  

Desiring to ensure that such quality assurance systems do not act as barriers to trade;  

Desiring therefore to encourage the development of quality assurance systems of such a nature that they provide an equal opportunity to suppliers in all countries;

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1 Some delegations suggested that the following text be inserted after this paragraph.

"Recognizing the contribution which international standardization can make to the transfer of technology from developed to developing countries."

2 One delegation proposed that the following text be inserted after this paragraph.

"Recognizing further that because of their special situation, the developing countries, adherents to this Code, would only be able to accept the obligations under the Code taking into consideration their development, financial and trade needs, and past trade developments."
Desiring to assist producing countries (especially the developing countries) to provide acceptable assurances that products conform to the standards, which apply in consuming countries;

Hereby agree as follows:

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1 Some delegations suggested that the preamble be considerably shortened. Another text for the preamble was suggested but there was no time to discuss this. This reads as follows:

"The Governments adhering to this Code,

Recognizing that international standards and quality assurance systems make an important contribution to efficiency in production and distribution of goods in international trade and thereby further the objectives of the General Agreement on Tariffs and Trade,

Desiring therefore to encourage the development of international standards and mutually advantageous quality assurance systems particularly in the field of health, safety and environmental protection,

Recognizing that nothing in this Code shall be construed to prevent the adoption and enforcement of national standards which do not have the effect of creating an unjustifiable obstacle to international trade,

Recognizing the desirability of developing countries participating in the implementation of the Code and desiring to assist them in their endeavours to this end,

Hereby agree as follows":
I. DEFINITIONS AND EXPLANATORY NOTES

1. The terms defined in Annex 1 shall, for the purposes of this Code, have the meanings ascribed to them there.


II. OPERATIVE PROVISIONS

A. STANDARDS

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

   (a) Adherents shall ensure that mandatory standards are not prepared, adopted or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither mandatory standards themselves nor their application have the effect of creating an unjustifiable obstacle to international trade.

   (b) Where mandatory standards are required and relevant international standards exist or their completion is imminent, adherents shall use them, or the relevant parts of them, as a basis for the mandatory standards, except where such international standards or relevant parts are inappropriate for the adherents concerned.

   (c) With a view to harmonizing their mandatory standards on as wide a basis as possible, adherents shall play a full part within the limits of their resources in the preparation by appropriate international standards bodies of international
standards for products for which they either have adopted, or expect to adopt, mandatory standards.

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

(e) Except where the technical content of the proposed mandatory standard is substantially the same as the technical content of an international standard, adherents shall:

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

(ii) notify the GATT secretariat of the products to be covered, including a brief indication of the purpose of the proposed mandatory standard;

(iii) provide particulars or copies of draft mandatory standards, on request, to other adherents;

(iv) allow reasonable time for comment;

(v) take account of comments they may receive from other adherents.

(f) However, where urgent problems of safety, health, environmental protection or national security exist, adherents may omit such of the steps in paragraph 1(e) as they find necessary. In that event, they shall take account of comments they may subsequently receive from other adherents in considering whether to initiate amendments.

(g) Adherents shall publish all mandatory standards which have been adopted by their central government bodies.
(h) Except where there are urgent problems of public safety, health, environmental protection or national security, adherents shall allow a reasonable interval between the publication of the mandatory standard and its entry 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.

(j) Adherents shall use all reasonable means within their power to ensure that regional standards bodies in which they are members or participants comply with the provisions of paragraphs (a) to (h) inclusive of this section so far as they are applicable.

(k) Adherents which are members or participants of regional standards bodies shall remain subject to the provisions of paragraphs (a) to (h) inclusive of this section, except to the extent that the regional standards bodies comply with those provisions.¹

2. Preparation, adoption and use of mandatory standards by local government bodies and regulatory bodies other than central government bodies

Adherents shall use all reasonable means within their power to ensure that local government bodies and regulatory bodies other than central government bodies within their territories comply with the provisions of Section 1 with the exception of 1(e)(ii).

¹Some delegations proposed that the last part of 1(k) read as follows: "Only in so far as these provisions, or some of them, have not been applied by the body concerned."
3. Preparation, adoption and use of voluntary standards

(a) Adherents shall use all reasonable means within their power to ensure that voluntary standards are not prepared, adopted or applied with a view to creating obstacles to international trade. They shall likewise use all reasonable means within their power to ensure that neither the voluntary standards themselves, nor their application have the effect of creating an unjustifiable obstacle to international trade.

(b) With a view to harmonizing voluntary standards on as wide a basis as possible, adherents shall co-operate, within the limits of their resources, in the preparation by appropriate international standards bodies of international standards, and shall encourage the local government bodies, regulatory bodies other than central government bodies, and voluntary standards bodies within their territories to do likewise.

(c) Where voluntary standards are required and relevant international standards exist or their completion is imminent, adherents shall use all reasonable means within their power to ensure that, these international standards, or the relevant parts of them, are used as a basis for the voluntary standards, except where such international standards or relevant parts are inappropriate for the adherents concerned.
(d) Adherents shall use all reasonable means within their power to ensure that where aspects of a product are, or are likely to be, subject to a mandatory standard by a central government body, any voluntary standard which is to cover those aspects is suitable in form and content for use in whole or in part for the purpose of that mandatory standard.

(e) Adherents shall use all reasonable means within their power to ensure that, where appropriate, voluntary standards are specified in terms of performance rather than detailed design requirements.

(f) Adherents shall use all reasonable means within their power to ensure that, except where the technical content of the proposed voluntary standard is substantially the same as the technical content of an international standard, the bodies preparing voluntary standards within their territories:

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

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

(iii) allow reasonable time for comment; and

(iv) take account of comments they may receive from interested parties in other adherents.

(g) However, where a voluntary standard is prepared for the purpose of meeting an urgent problem of safety, health or environmental protection any of the steps in paragraph 3(f) may be omitted, if necessary. In that event, adherents shall use all reasonable means within their power to ensure that the body preparing the voluntary standard takes account of comments it may subsequently receive from interested parties in other adherents.
(h) Adherents shall use all reasonable means within their power to ensure that all voluntary standards adopted by bodies within their territories are published.

(j) Adherents shall use all reasonable means within their power to ensure that regional standards bodies of which either they or bodies within their territories are members or participants comply with the provisions of (a) to (h) inclusive of this section so far as they are applicable.

(k) Adherents, or bodies within their territories which are members of regional standards bodies, shall remain subject to the provisions of paragraphs (a) to (h) inclusive of this section only insofar as these provisions, or some of them, have not been applied by the body concerned.

B. CONFORMITY WITH STANDARDS

4. Test methods and administrative procedures for determining conformity with mandatory standards of central government bodies

(a) Adherents shall ensure that test methods and administrative procedures for determining conformity with mandatory standards of central government bodies are not prepared, adopted or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither the test methods and administrative procedures themselves nor their application have the effect of creating an unjustifiable obstacle to international trade.

(b) Adherents shall ensure that, where test methods are to be used by a central government body for the purpose of determining conformity with mandatory standards, the test methods are either:
(i) defined in the mandatory standards; or

(ii) defined in some other published document which is indicated in the relevant standard.

The provisions of Section 1 shall apply to test methods in the same way as to the mandatory standards themselves.

(c) Adherents shall ensure that the administrative procedures to be used by a central government body for determining conformity with mandatory standards are published.

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

(e) In determining conformity with mandatory standards, adherents should permit the use of test methods which differ from their own, provided the importing adherent is satisfied that the exporting adherent's methods provide an equivalent means of determining whether the products tested conform to the relevant mandatory standard.

5. Assurance of conformity with mandatory standards of central government bodies

(a) In cases where a positive assurance is required that imported products conform with a mandatory standard, adherents shall, whenever possible,

(i) rely upon declarations by suppliers in the territories of other adherents that their products conform to the relevant mandatory standard, or

(ii) accept assurances of conformity with the relevant mandatory standard provided by quality assurance bodies in the territories of other adherents, or
(iii) allow tests to be carried out in the territories of other adherents, or
(iv) use any combination of the above.

(b) To the extent that one or other of the methods provided for in
paragraph (a) of this Section has not been implemented and tests are carried out
in the territory of the importing adherent, adherents shall apply the following
provisions:

(i) imported products shall be accepted for testing under conditions no less
favourable than those accorded to similar domestic products;

(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 products of other adherents shall be equitable
in relation to any fees chargeable for testing similar domestic products;

(iv) the results of tests shall be made available 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 unjustifiable inconvenience for importers;

(vi) the confidentiality of information about imported products arising from or
supplied in connexion with such tests shall be respected in the same way as for
domestic products.¹

¹Some delegations proposed the following text for (b)(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 problems of safety
or health arise".
(c) Nothing in this Section shall prevent adherents from carrying out of reasonable spot checks within their territories.

6. Conformity with mandatory standards of local government bodies and regulatory bodies other than central government bodies

Adherents shall use all reasonable means within their power to ensure that local government bodies, and regulatory bodies other than central government bodies, within their territories comply with the provisions of Section 4 and 5 as regards:

(i) their test methods and administrative procedures for determining conformity with their mandatory standards, and

(ii) the provision of assurances of conformity with their mandatory standards.

7. Conformity with voluntary standards

Adherents shall use all reasonable means within their power to ensure that quality assurance bodies within their territories, whether governmental or non-governmental, comply with the provisions of Sections 4 and 5 as regards:

(i) their test methods and administrative procedures for determining conformity with voluntary standards, and

(ii) the provision of assurances of conformity with voluntary standards, substituting the word "voluntary" for "mandatory" throughout and substituting "Section 3" for "Section 1" in paragraph 4(b).
C. QUALITY ASSURANCE SYSTEMS

6. Quality assurance systems for assuring conformity with mandatory standards of central government bodies

(a) Adherents shall ensure that quality assurance systems operated by their central government bodies, or quality assurance systems on which they rely for assuring conformity with their mandatory standards, are not prepared, adopted or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither such quality assurance systems themselves nor their application have the effect of creating an unjustifiable obstacle to international trade.

(b) The relevant provisions of Sections 1, 4 and 5 shall apply to such quality assurance systems.

(c) Adherents shall ensure that such systems are formulated with a view to their application not only to domestic products but also to similar products produced in the territories of other adherents.

(d) Adherents shall:

(i) publish a notice at an appropriate stage that they propose to introduce a quality assurance system;

(ii) notify the GATT secretariat of the products to be covered, including a brief indication of the purpose of the proposed system;

(iii) provide particulars or copies of the proposed rules of the system, on request, to other adherents;
(iv) allow reasonable time for comment;

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

(vi) publish all rules of such systems.

(e) \[\text{Adherents shall ensure that such systems are open to suppliers of similar products produced in the territories of other adherents at the same time as they are opened to domestic suppliers, and under conditions no less favourable than those accorded to domestic suppliers.}\]

\[\text{Adherents shall ensure that, as soon as such systems are operational they are open to suppliers of similar products produced in the territories of other adherents on the same basis as to domestic suppliers when it has been established that such suppliers are able and willing to fulfil the corresponding obligations.}\]

(f) The provisions of paragraph (e) of this Section are subject to the qualifications that:

(1) if for particular reasons it is considered inadvisable or impractical to open such a system to suppliers in the territories of all other adherents from the outset, its application may be limited in the initial stages\(^1\);

\(^1\)Some delegations proposed the deletion of Section 8(f)(i).
(ii) If an adherent is taking part in an international quality assurance system for a product, the said adherent shall be under no obligation to include in its national system the products of other adherents which are able to take part in the international system.¹

9. Quality assurance systems of central government bodies for assuring conformity with voluntary standards

Adherents shall ensure that quality assurance systems of their central government bodies for assuring conformity to voluntary standards, comply with the provisions of Section 8 substituting "voluntary" for "mandatory" throughout and "Sections 3 and 7" for "1, 4 and 5" in 8(b).²

10. Quality assurance systems for assuring conformity with mandatory standards of local government bodies and regulatory bodies other than central government bodies

Adherents shall use all reasonable means within their power to ensure that any quality assurance systems operated by local government bodies, or by regulatory bodies other than central government quality assurance bodies within their territories, comply with the provisions of Section 8 above, substituting "Sections 2 and 6" for "Sections 1, 4 and 5" in paragraph 8(b).

¹Two views were expressed. Some delegations proposed the deletion of Section 8(f)(ii). Other delegations could have accepted this on condition that Section 12(d) was also deleted.

²One delegation proposed that Section 9 be merged with Section 11 and that the level of obligation used in Section 11 apply. Some other delegations could accept this or the existing text.
11. **Systems operated by quality assurance bodies other than central government bodies for assuring conformity with voluntary standards**

Adherents shall use all reasonable means within their power to ensure that systems operated by governmental or non-governmental quality assurance bodies other than central government bodies within their territories, for assuring conformity with voluntary standards, comply with the provisions of Section 8 above, substituting "voluntary standards" for "mandatory standards" throughout and "Sections 3 and 7" for "Sections 1, 4 and 5" in paragraph 8(b).

12. **International and regional quality assurance systems and arrangements for assuring conformity with mandatory standards of which central government bodies are members or participants**

(a) Where positive assurances, other than by the supplier, of conformity to mandatory standards are required, adherents shall wherever practicable formulate and participate in international quality assurance systems or arrangements.

(b) Such systems or arrangements shall be formulated from the outset with a view to affording an equal opportunity for membership or participation to all adherents.¹

With this in mind:

(i) the sole criterion for membership in such systems or arrangements shall be that the appropriate regulatory body of the adherent concerned is able and willing to fulfil the obligations of membership or participation;

¹Some delegations proposed that the opening words "Such systems or arrangements shall be ..." be replaced by "Adherents shall participate in or become members of international quality assurance systems or arrangements only when they are ...".

Other delegations proposed that the opening words should be "Adherents shall take such reasonable measures as may be available to them to ensure that such international systems or arrangements are ...".

This also applies to Sections 12(d), (e) and (f)(ii).
(ii) the sole criterion for accepting assurances of conformity with mandatory standards under such systems or arrangements shall be the technical competence and reliability of the quality assurance body. Such a quality assurance body may be situated in the territory of any member or participant and may assure the quality of the products of any other adherent.

(c) The relevant provisions of Sections 1, 4, 5 and the provisions of Section 8(a) shall apply to international quality assurance systems and arrangements.

(d) Such systems or arrangements shall be open to suppliers of similar products produced in the territories of other adherents which are not members of, or participants in, the system or arrangements provided such suppliers are able and willing to fulfill the relevant obligations, on the same basis as to suppliers in the territories of members of the system or arrangement.¹

(e) In formulating and implementing such systems or arrangements²:

(i) a notice shall be published at an early stage of the intention to formulate a system or arrangement;

(ii) the GATT secretariat shall be notified of the products to be covered, including a brief indication of the nature of the proposed system or arrangement;

¹Some delegations proposed that Section 12(d) be deleted. See comments on Section 12(b).

²See comments on Section 12(b).
(iii) an equal opportunity shall be given to all adherents to take part in the formulation of such a system or arrangement;

(iv) particulars or copies of the proposed rules of the system or arrangement shall be provided on request to other adherents;

(v) reasonable time shall be allowed for comment;

(vi) account shall be taken of comments received from any adherents, both regarding the formulation of the system or arrangement and, subsequently, regarding its implementation; and

(vii) all rules shall be published.

(f) Where regional quality assurance systems or arrangements are formulated by organizations of which central government bodies are members:

(i) the provisions of paragraphs (b) to (e) inclusive of this Section, with the exception of paragraph 12(e)(iii), shall apply;

(ii) the systems or arrangements shall not be prepared, adopted or applied with a view to creating obstacles to international trade; and neither the systems or arrangements themselves nor their application shall have the effect of creating an unjustifiable obstacle to international trade.¹

¹See comments on Section 12(b)
(iii) as soon as the system or arrangements 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.¹

(g) A regional quality assurance system or arrangement can be transformed into an international quality assurance system or arrangement if the procedures set forth in paragraph (e) of this Section are followed.

(h) The provisions of paragraph (f)(iii) of this Section are subject to the qualification that if for particular reasons it is considered inadvisable or impracticable to open such a system or arrangement to participation by all adherents from the outset, participation may be limited in the initial stages.²

¹Some delegations proposed that the text of 12(f)(iii) be replaced by: "the systems shall be open to participation by all adherents at the same time as, and under conditions no less favourable than those accorded to members of the system."
Other delegations proposed that the text should read: "the systems shall be open to participation by all adherents as soon as the system becomes operational, on the same basis as to members of the system when it has been established that such adherents are able and willing to fulfil the corresponding obligations."

²Some delegations proposed the deletion of Section 12(h).
13. **International and regional quality assurance systems or arrangements, of which local government bodies and regulatory bodies other than central government bodies are members or participants, for assuring conformity with mandatory standards**

Adherents shall use all reasonable means within their power to ensure that international or regional quality assurance systems or arrangements for assuring conformity with mandatory standards, and of which their local government bodies or regulatory bodies other than central government bodies are members or participants, conform to the provisions of Section 12, substituting "Sections 2 and 6" for "Sections 1, 4 and 5" in paragraph 12(c).

14. **International and regional quality assurance systems or arrangements for assuring conformity with voluntary standards**

Adherents shall use all reasonable means within their power to ensure that international or regional quality assurance systems or arrangements for assuring conformity with voluntary standards, and of which governmental or non-governmental quality assurance bodies within their territories are members or participants, conform to the provisions of Section 12, substituting "voluntary standards" for "mandatory standards" throughout and "Sections 3 and 7" for "Sections 1, 4 and 5" in paragraph 12(c).
D. INFORMATION AND ASSISTANCE

15. Information about mandatory and voluntary standards and quality assurance system or arrangements

(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

(i) any mandatory or voluntary standards adopted or proposed by central or local government bodies within its territory or by regional organizations of which such bodies are members, or participants, together with the associated test methods and administrative procedures,

(ii) any quality assurance system, or proposed quality assurance system, which is operated by central or local government bodies or by regulatory bodies other than central government bodies within its territory or of which such bodies are members or participants,

(iii) the location of notices published pursuant to this Code, or to provide information as to where such details can be obtained, and

(iv) the location of the enquiry points mentioned in Section 15(b).

(b) Each adherent shall use all reasonable means within its power to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from interested parties in other adherents regarding:

(i) the standards and test methods adopted or proposed by voluntary standards bodies within its territory or by regional organizations of which such bodies are members or participants, and
(ii) any quality assurance systems operated by non-governmental quality assurance bodies within its territory or of which such bodies are members or participants,

(c) Adherents shall use all reasonable means within their power to ensure that where copies of documents are requested by other adherents, or by interested parties in other adherents, in accordance with the provisions of this Code, they are supplied at the same price (if any) as to the nationals of the adherent concerned.

(d) The GATT secretariat will, when it receives notifications in accordance with the provisions of this Code, circulate a list of the products and countries concerned to all adherents and interested international standards bodies and draw the attention of developing adherents to any notifications relating to products of particular interest to them.

(e) Nothing in this Code shall be construed as requiring:

(i) the publication of texts other than through the recognized channels of the organizations concerned or other than in the language of the country of origin,

(ii) the provision of particulars or copies of drafts other than in the language of the country of origin, or

(iii) adherents to furnish any information the disclosure of which they consider contrary to their essential security interests,
(f) Notifications to the GATT secretariat shall be in English or French.

16. Technical assistance to other adherents

(a) Adherents shall, if requested, advise other adherents, especially the developing countries, on the preparation of mandatory standards.

(b) Adherents shall, if requested, advise other adherents, especially the developing countries, and should consider requests for technical assistance from them regarding the establishment of national standards bodies and participation in the international standards bodies, and shall encourage their national standards bodies to do likewise.

(c) Adherents shall, if requested, use all reasonable means within their power to arrange for the regulatory bodies within their territories to advise other adherents especially the developing countries and should consider requests for technical assistance from them regarding:

(i) the establishment of regulatory bodies, quality assurance bodies or other arrangements for providing an assurance of conformity with mandatory standards, and

(ii) the methods by which their mandatory standards can best be met.

(d) Adherents shall, if requested, use all reasonable means within their power to arrange for advice to be given to other adherents, especially the developing countries, and should consider requests for technical assistance from them regarding the establishment of quality assurance bodies or other arrangements for providing an assurance of conformity with voluntary standards adopted within the territories of the requesting adherent.
(e) Adherents shall, if requested, advise other adherents, especially the developing countries, and should consider requests for technical assistance from them regarding the steps that should be taken by their producers, if they wish to take part in quality assurance systems operated by governmental or non-governmental bodies within the territories of the adherent receiving the request.

(f) Adherents which are members or participants of international or regional quality assurance systems or arrangements shall, if requested, advise other adherents, especially the developing countries, and should consider requests for technical assistance from them regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems or arrangements.

(g) Adherents shall, if so requested encourage quality assurance bodies within their territories, if such bodies are members or participants of international or regional quality assurance systems or arrangements to advise other adherents, especially the developing countries, and should consider requests for technical assistance from them regarding the establishment of the institutions which would enable the relevant bodies within their territories to fulfil the obligations of membership of participation.

E. AMENDMENTS TO MANDATORY OR VOLUNTARY STANDARDS AND QUALITY ASSURANCE SYSTEMS OR ARRANGEMENTS

17. Amendments to mandatory or voluntary standards and quality assurance systems or arrangements

All references in this Code to mandatory or voluntary standards, test methods and quality assurance systems or arrangements shall be construed to include any amendments thereto including any additions to the rules of, or products covered by, such systems or arrangements - other than amendments of an insignificant nature.
III. THE COMMITTEE FOR PREVENTING TECHNICAL BARRIERS TO TRADE

1. The adherents to this Code shall establish a Committee for Preventing Technical Barriers to Trade composed of representatives of the adherents to this Code. The Committee shall normally meet once each year for the purpose of affording adherents to this Code the opportunity of consulting on matters relating to the implementation of the Code.

IV. APPLICATION

1. This Code shall apply to all mandatory standards, voluntary standards and quality assurance systems prepared or adopted by any governmental or non-governmental body within the territories of each adherent after the date upon which the Code becomes effective for the adherent concerned.

2. To the extent that existing mandatory standards or quality assurance systems of central government bodies create an unjustifiable obstacle to international trade, adherents shall bring them into conformity with the operative Provisions of this Code as soon as possible after the date upon which the Code becomes effective for the adherent concerned.

3. To the extent that any existing mandatory and voluntary standards or quality assurance systems (other than those already provided for in Section 2 of this Chapter) create an unjustifiable obstacle to international trade, adherents shall use all reasonable means within their power to ensure that they are brought into conformity with the Operative Provisions of this Code as soon as possible after the date upon which the Code becomes effective for the adherent concerned.
4. If adherents, or bodies within their territories, operate or are members of existing national or regional quality assurance systems (other than those already provided for in Section 2 of this Chapter), they shall use all reasonable means within their power to ensure that such systems are opened to other adherents, or to bodies or suppliers within the territories of other adherents, in accordance with the Operative Provisions of this Code as soon as possible after the Code becomes effective for the adherent concerned.

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 III.
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 competent body. 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 obligations under this Code in respect of one or more adherents.¹

4. For the purposes of action under paragraph 2 of Article XXIII, adherents agree that adherents may invoke obligations under this Code.²

¹One delegation proposed that the whole of Section 3 be replaced by the following text:

"The Chairman of the Committee for Preventing Technical Barriers to Trade shall appoint in consultations with the adherents concerned a Panel which shall promptly investigate any matter referred to the Committee under Section 2 above and may, as part of the investigation, consult with any contracting party or with any competent body. After the investigation is complete, the Panel may:

(a) make a statement concerning the facts of the matter, or
(b) make recommendations to the adherents concerned.

The Panel shall report the results of its action to the Committee for Preventing Technical Barriers to Trade."

Some delegations said that it was premature to include 3(c) in the text.

²Some delegations proposed that Section 4 be deleted.
VI. FINAL PROVISIONS

1. (a) This Code shall be open for adherence to all contracting parties to the General Agreement, and to the European Economic Community. It shall enter into force on the thirtieth day following the day on which \( \frac{1}{2} \) of the above-mentioned parties, including those listed in Annex 3, shall have adhered to it.

   (b) Contracting parties may adhere in respect of those territories for which they have international responsibility in accordance with the provisions of Article XXVI:5(a) and (b) of GATT, provided that GATT is being applied in respect of such territories.¹

2. This Code shall become effective for each adherent on the day it enters into force in accordance with Section 1 of this Chapter, or on the thirtieth day after the adherent concerned has adhered to it, whichever is the later.

3. The text of this Code shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade, who will promptly furnish a certified copy thereof to all contracting parties and adherents, and will also inform all contracting parties of the date when the Code enters into force, and of the names of all adherents. The English and French texts of the Code shall be of equal validity.

4. Amendments to this Code and Annexes thereto may be proposed by any adherent to this Code. Amendments shall become effective in respect of adherents accepting them upon acceptance by at least two thirds of all adherents and thereafter for other adherents upon acceptance.

¹Some delegations reserved their position on the proviso in 1(b).
5. 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

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

¹The Working Group did not examine the consequences of a withdrawal for the rights of remaining adherents.
Annex 1

DEFINITIONS

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

1. "Standard"

The term "standard" means any specification which lays down some or all of the properties of a product in terms of quality, purity, nutritional value, performance, dimensions, or other characteristics. It includes, where applicable, test methods, and specifications concerning testing, packaging, marking or labelling to the extent that they affect products rather than processes. It excludes standards which are prepared for use by a single enterprise, whether governmental, semi-governmental or non-governmental, either for its own production or purchasing purposes.¹

2. "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 the associated administrative provisions.²

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¹The term "standard" as used in this Code has a wider meaning than in customary usage.

²The term "mandatory standard" is used to embrace what would normally be described as technical regulation.
3. "Voluntary standard"
   This is a standard with which there is no legal obligation to comply.

4. "International standard"
   This is a standard adopted by an international standards body as defined below. The term is not limited to documents described as "standards".

5. "Central government body"
   This term means the central government, its ministries and departments or any body subject to the control of the central government in respect of the activity in question. In the case of the European Economic Community the provisions governing central government bodies would apply.

6. "Local government body"
   This term means a government body which is not subject to the control of the central government in respect of the activity in question, 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.

7. "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 or adopted the standard.
8. "Voluntary standards body"

This term means any non-governmental organization which prepares voluntary standards for public use. Some of these are national standards bodies as defined below.

9. "National standards body"

This term means a nationally recognized standards body which is, or is eligible to become, a member of non-governmental international standards bodies.

10. "International standards body"

This term means any international organization of recognized standing, whether governmental or non-governmental, which prepares standards, and which admits the relevant bodies in all adherents to participate in the preparation of such standards.

11. "Regional standards body"

This term means any international organization, whether governmental or non-governmental, which prepares standards, and which does not admit the relevant bodies in all adherents to participate in the preparation of such standards.

12. "Determination of 'conformity with standards'"

"Conformity with a standard" means that the actual performance or properties of a product satisfy the performance or properties which are specified in the relevant standard.
13. "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, for carrying out tests and for supervising the control of quality by producers.

14. "Harmonized standards"

This term means standards of different countries or organizations the technical content of which is substantially the same.

15. "Quality assurance body"

An organization or person, governmental or non-governmental, independent of the producer or supplier, which provides assurances that products conform to the standard in question or information on which a decision as to conformity with the standard can be taken.

16. "Quality assurance system"

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

17. "International quality assurance system"

A quality assurance system, whether governmental or non-governmental, under which two or more quality assurance bodies in different countries provide an assurance of conformity with harmonised standards and the membership of which is open to the relevant bodies in all adherents.
18.  "International quality assurance arrangement"

This term has the same meaning as "international quality assurance system" except that an arrangement is not based on harmonized standards.

19.  "Regional quality assurance system"

A quality assurance system, whether governmental or non-governmental, under which two or more quality assurance bodies in different countries provide an assurance of conformity with harmonized standards and the membership of which is not open to the relevant bodies in all adherents.

20.  "Regional quality assurance arrangement"

This term has the same meaning as "regional quality assurance system" except that an arrangement is not based on harmonized standards.

21.  "Membership in a quality assurance system or arrangement"

This term means that an adherent or a regulatory body or a quality assurance body in the territory of an adherent has the same rights and obligations as any of the other adherents, regulatory bodies or quality assurance bodies under the rules of the system or arrangement, including the rights of participation in, and management of the system or arrangement, and of formulating or amending its rules.

22.  "Participation in a quality assurance system or arrangement"

This term means that an adherent or a regulatory body or quality assurance body in the territory of an adherent has:

(i) the same rights to furnish evidence of conformity of products with particular mandatory or voluntary standards and have it accepted, as members of the system or arrangement and

(ii) the same obligations to accept such evidence itself, as members of the system or arrangement.
Open International or Regional Quality Assurance System or Arrangement in the sense of paragraph 12(d) of the operative provisions.

An international or regional quality assurance system or arrangement is said to be open to suppliers when it permits participation by any adherent or a regulatory body or a quality assurance body in the territory of an adherent which is able and willing to fulfil the relevant obligations, with the exception of any obligations to accept evidence of conformity of products with standards furnished by other participants in the system or arrangement.¹

¹Some delegations proposed that this note be deleted.
Annex 3

LIST OF CONTRACTING PARTIES REFERRED TO IN SECTION 1
OF CHAPTER VI

[To be added]