At the meeting of the Sub-Group in May (MTN/NTM/17, paragraph 6) the Sub-Group requested Mr. K. Bergholm (Finland):

(a) to prepare a paper setting out the differences between Hypothesis B definitions and the ECE/ISO definitions and the reasons for these,

(b) to verify if any definitions could be deleted from the text of the draft Code without affecting its quality, and

(c) to ensure informally that there was effective liaison with ECE and ISO on questions relating to the definitions.

The following paper has been received from Mr. Bergholm.

Liaison

1. The Fourth Meeting of the Government Officials Responsible for Standardization Policies within ECE was convened in 12-15 July 1976. For this meeting I had prepared a report (ECE/STAND/R.14/Add.1) outlining the recent developments within GATT, ISO and ECE on questions concerning definitions. Copies of the report can be obtained from the GATT secretariat. The hope was expressed that I would agree to continue to serve as the co-ordinator between GATT, ISO and ECE.

Terms to be defined

2. When considering which terms need to be defined the following criteria could be taken as the basis:

(a) the term is essential in defining the coverage of the Code or the obligations of the adherents and
(b) the meaning of the term is not unambiguous, e.g. there exist differing definitions for the same term or the meaning to be used for the purposes of the Code differs from the ordinary meaning of the term.

3. In this context it is useful to note the pertinent provisions of the Vienna Convention on the interpretation of treaties. Article 31 of the Convention gives the general rule of interpretation as follows:

"A Treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose ..."

"There shall be taken into account, together with the context:

"(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;

"(b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation ..."

4. In order to get a clearer picture about the significance of the different terms for the Code, I have prepared a list (annex 1) giving all the paragraphs of the Code in which each of the terms occurs.

5. Taking into account the criteria set out in paragraph 3, the provisions of the Vienna Convention and how the terms actually are used in the Code, I have come to the conclusion that only the following terms really need definitions for the purposes of the Code:

1. Regulation
2. Technical specification
3. Standard
4. Technical regulation
5. International body or system
6. Regional body or system
7. Central government body
8. Local government body
9. Certification body
10. Membership in a certification system
11. Participation in a certification system

6. The following terms could then be deleted from the list of the definitions:

1. Standardizing body
2. International standardizing body
3. Regional standardizing body
4. International standard
5. Conformity with standards or technical specifications
6. Administrative procedures for determining conformity
7. Certificate of conformity
8. Mark of conformity
9. Conformity certification
10. Certification system
11. International certification system
12. Regional certification system
13. Regulatory body

For the purposes of the Code these terms should then be interpreted according to the Vienna Convention. Evidently "the ordinary meaning to be given to the terms" is in most cases the same as defined by the ECE/ISO.

**Differences between Hypothesis B definitions and the ECE/ISO definitions**

7. The differences between Hypothesis B definitions and the ECE/ISO definitions and the reasons for these are presented in Annex 2 to this paper.
## Annex 1

### Paragraphs of the Draft Standards Code in which the Defined Terms are Used

In the following list only those paragraphs are mentioned, where the terms are used as such. In some cases terms are used indirectly, e.g., "such systems" for "regional certification systems". The term "Conformity with technical specifications" does not occur in the Draft Code because in the Code the terms "Conformity with technical regulations" and "Conformity with standards" are used.

| Regulation | - |
| Technical specification | - |
| **Standard** | preamble, 4a, b, c, d, e, f, g, h, 8ii, 10, 12, 15, 16ai, bi, 17d, 18, 20a, c |
| **Technical regulation** | preamble, 2a, b, c, d, e, i, g, h, 3, 4b, 5a, b, bi, bii, e, 6ai, ii, 7i, ii, 8ii, 9a, b, 10, 11, 12, 13a, dii, e, 14, 15, 16ai, 17a, ci, cii, 18, 20a, b, c |
| **Standardizing body** | 4b, 16bi, d, 17b |
| **International standardizing body** | 2c, 4b, 16d, 17b |
| **Regional standardizing body** | 2j, k, 4j, k |
| **International standard** | preamble, 2b, c, d, e, 4b, c, f |
| **Conformity with standards** | preamble, 8, 10, 12, 15 |
| **Conformity with technical regulations** | preamble, 5a, b, c, e, 6ai, 7i, 9a, 11, 13a, dii, 14 |
| **Administrative procedures for determining conformity** | 5a, c, 7i, 8i |
| **Certificate of conformity** | 6aii, 7ii, 8ii, 13a, dii, 17d, 17ci |
| **Mark of conformity** | 6aii, 7ii, 8ii, 13a, dii, 17a, ci, d |
Conformity certification
Certification system
International certification system
Regional certification system
Certification body
Central government body
Local government body
Regulatory body
Membership in a certification system
Participation in a certification system

14, 15
9a, b, d, i, 10, 17e, 16a, b, ii, 17e, 18, 20a, b, c, d
preamble, 13b, c, d, e, f, g, k, l, 14, 15, 17f, gi, 20d
13g, h, k, l, 14, 15, 17f, g, 20d
6a, 8, 12, 13dii, 15, 16diii, 17ci, d, g, 18g
2g, 3, 4b, d, 5a, b, c, 6, 7, 9a, 10, 11, 12, 13c, h, 14, 16ai, 11, 20b
3, 4b, 7, 11, 14, 16ai, 11
3, 4b, 7, 11, 14, 16a, 17ci
13a, b, di, d, f, h, k, 1, 14, 15, 16a, b, ii, 17f, g, 20d
13a, b, di, d, f, h, ii, k, l, 14, 15, 16a, b, ii, 17e, f, g
Differences between Hypothesis B Definitions and the ECE/ISO Definitions

The two main reasons for the differences between the Hypothesis B definitions and the ECE/ISO definitions are listed below:

1. Coverage. The ECE/ISO definitions are made for general application, the Hypothesis B definitions to meet the specific needs of the Code concerning its coverage.

2. Normativeness. The ECE/ISO definitions include in some cases normative elements. For the purposes of the Code it is preferable that such elements are left to the operative provisions of the Code.

In the following list all differences between the Hypothesis B definitions and the ECE/ISO definitions are noted with the reason for these.

<table>
<thead>
<tr>
<th>Regulation</th>
<th>The words &quot;and published&quot; are deleted. Reason: Coverage; the Code shall cover also eventual unpublished regulations.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical specification</td>
<td>The words &quot;or service&quot; and the sentence &quot;A technical specification may also take the form of a code of practice&quot; are deleted. Reason: Coverage; the Code is not intended to cover services or codes of practice.</td>
</tr>
<tr>
<td>Standard</td>
<td>The Hypothesis B definition is basically different from the ECE/ISO definition. Reason: Coverage and normativeness.</td>
</tr>
<tr>
<td>Technical regulation</td>
<td>The words &quot;or those parts of a regulation&quot; and &quot;other&quot; are added. Reason: To make the definition unambiguous as to the coverage of the term.</td>
</tr>
<tr>
<td>International standardizing body and International certification system</td>
<td>The words &quot;all countries of the world&quot; are replaced by &quot;the relevant bodies of all adherents&quot;. Reason: Relevant bodies, not countries, are members. For the Code only adherents are relevant.</td>
</tr>
</tbody>
</table>
Regional standardizing body and Regional certification system

The words "usually limited to certain countries from a given region of the world" are replaced by "open to the relevant bodies of only some of the adherents".
Reason: The same as for the preceding terms. Also the word "usually" gives ambiguity to the ECE/ISO definition.

International standard

The words "adopted by an international standards organization or in certain cases a" are replaced by "or other".
Reason: To avoid ambiguity.

Conformity with standards or technical specifications, Administrative procedures for determining conformity, Certificate of conformity, Mark of conformity, Conformity certification

The words "or service" are deleted and the word "other" is added.
Reason: Coverage and unambiguity.

Certification body

The wording of the Hypothesis B definition is completely different from the ECE/ISO definition.
Reason: Normativeness.