At its meeting of November 1976, the Sub-Group decided that the secretariat should issue the text of the Draft Code of Conduct for Preventing Technical Barriers to Trade (often referred to as the Draft Standards Code) on which the Sub-Group's work is based (MTN/NTM/25, paragraph 5).

2. Appendix A of this document sets out the text of the Draft Code of Conduct for Preventing Technical Barriers to Trade. It is based on the text in MTN/NTM/W/49 incorporating amendments agreed at the meeting of the Sub-Group in November 1976.

3. Proposals relating to the text which are before the Sub-Group are set out in MTN/NTM/W/72.

4. Appendix B of this document contains the report of Group 3 on Standards, which drew up the original text of the Draft Code. Much of this report is still relevant.
## APPENDIX A

**Proposed GATT Code of Conduct for Preventing Technical Barriers to Trade**

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The adherents to this Code,

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

Recognizing the important contribution that international standards and certification systems and arrangements can make in this regard by improving efficiency of production and facilitating the conduct of international trade;

Desiring therefore to encourage the development of such international standards and certification systems;

Desiring however to ensure that technical regulations and standards and methods for certifying conformity with technical regulations and standards do not create obstacles to international trade;

Recognizing that no country should be prevented from taking measures necessary for the protection of human, animal or plant life or health; environment and national security, or for the prevention of deceptive practices;

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

Recognizing that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and methods for certifying conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard;

This text is of an indicative nature only since the preamble in its definitive form would need to reflect the final juridical status and content of the instrument.
Hereby agree as follows:

I. TERMS

1. For the purposes of this Code the terms used in Annex 1 apply.

II. OPERATIVE PROVISIONS

A. TECHNICAL REGULATIONS AND STANDARDS

2. Preparation, adoption and use of technical regulations by central government bodies

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

   (b) Where technical regulations 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 technical regulations, except where such international standards or relevant parts are inappropriate for the adherents concerned.

   (c) With a view to achieve harmonization of their technical regulations 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 standardizing bodies of international standards for products for which they either have adopted, or expect to adopt, technical regulations.

   (d) Where appropriate, adherents shall specify technical regulations in terms of performance rather than design.
(e) Except where the technical content of a proposed technical regulation is substantially the same as the technical content of an international standard, adherents shall:

(i) publish a notice at an early appropriate stage that they are preparing the particular technical regulation;

(ii) notify other adherents through the GATT secretariat of the products to be covered, including a brief indication of the objective and rationale of the proposed technical regulation;

(iii) provide particulars or copies of the proposed technical regulations, on request, to other adherents, and identify the relevant parts which differ from the international standard whenever possible;

(iv) allow reasonable time for other adherents to make comments in writing, discuss these comments upon request and take them into account.

(f) However, where urgent problems of safety, health, environmental protection or national security exist, adherents may omit such of the steps in paragraph (e) of this section 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 technical regulations which have been adopted by their central government bodies.

(h) Except in those circumstances referred to in paragraph (f) above, adherents shall allow a reasonable interval between the publication of the technical regulation and its entry into force in order to allow time for producers in exporting countries, and particularly in developing 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 standardizing bodies in which they are members comply with the provisions of paragraphs (a) to (h) inclusive of this section so far as they are applicable.

(k) Adherents which are members of regional standardizing bodies shall fulfil the obligations of paragraphs (a) to (h) inclusive of this section, except to the extent that the regional standardizing bodies have fulfilled these obligations.

3. Preparation, adoption and use of technical regulations 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 2 with the exception of 2(e)(ii).

4. Preparation, adoption and use of standards

(a) Adherents shall use all reasonable means within their power to ensure that bodies within their territory, whether governmental or non-governmental, do not prepare, adopt or apply standards, with a view to creating obstacles to international trade. They shall likewise use all reasonable means within their power to ensure that neither the standards themselves, nor their application have the effect of creating an unjustifiable obstacle to international trade.

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

(c) Where 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 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 appropriate, standards are specified in terms of performance rather than design requirements.

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

(i) publish a notice at an appropriate stage that they are preparing the particular standard;
(ii) provide particulars or copies of the proposed standards, on request, to interested parties in other adherents;

(iii) allow reasonable time for other adherents to make comments in writing;

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

(f) However, where a standard is prepared for the purpose of meeting an urgent problem of safety, health or environmental protection any of the steps in paragraph (e) of this section may be omitted, if necessary. In that event, adherents shall use all reasonable means within their power to ensure that the body preparing the standard takes account of comments it may subsequently receive from interested parties in other adherents.

(g) Adherents shall use all reasonable means within their power to ensure that all standards adopted by bodies within their territories are published.

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

(i) Adherents, or bodies within their territories which are members of regional standardizing bodies, shall fulfil the provisions of paragraphs (a) to (g) inclusive of this section, except to the extent that the regional standardizing bodies have fulfilled these obligations.
B. CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

5. Test methods and administrative procedures for determining conformity with technical regulations of central government bodies

(a) Adherents shall ensure that test methods and administrative procedures for determining conformity with technical regulations 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 technical regulations, the test methods are either:

(i) defined in the technical regulations; or

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

The provisions of Section 2 shall apply to test methods in the same way as to the technical regulations themselves.

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

(d) Adherents shall ensure that test methods and administrative procedures to be used by a central government body are such as to permit as far as practicable the tests to be carried out in the territories of other adherents.
(e) In determining conformity with technical regulations, 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 technical regulation.

6. Assurance of conformity with technical regulations of central government bodies

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

(i) rely upon declarations by suppliers in the territories of other adherents that their products conform to the relevant technical regulation, or
(ii) accept certificates of conformity or mark of conformity with the relevant technical regulation provided by certification 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, exporters or their agents;

(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.

(c) Nothing in this section shall prevent adherents from carrying out reasonable spot checks within their territories.

7. Conformity with technical regulations 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 Sections 5 and 6 as regards:
(i) their test methods and administrative procedures for determining conformity with their technical regulations, and

(ii) the provision of certificates of conformity and marks of conformity with their technical regulations.

8. Conformity with standards

Adherents shall use all reasonable means within their power to ensure that certification bodies within their territories, whether governmental or non-governmental, comply with the provisions of Sections 5 and 6 as regards:

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

(ii) the provision of certificates of conformity or marks of conformity with standards, substituting the word "standard" for "technical regulation" throughout and substituting "Section 4" for "Section 2" in Section 5(b).

C. CERTIFICATION SYSTEMS

9. Certification systems for certifying conformity with technical regulations of central government bodies

(a) Adherents shall ensure that certification systems operated by their central government bodies, or certification systems on which they rely for certifying conformity with their technical regulations, are not formulated or applied with a view to creating obstacles to international trade. They shall likewise ensure that neither such certification systems themselves nor their application have the effect of creating an unjustifiable obstacle to international trade.
(b) Technical regulations and test methods employed in connexion with any certification system shall be prepared and adopted in accordance with the relevant provisions of Sections 2 and 5. The system shall conform to the requirements of Section 6.

(c) Adherents shall ensure that such systems are formulated from the outset 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 certification system;

(ii) notify the GATT secretariat of the products to be covered, including a brief indication of the objective 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 the system and, subsequently, regarding its application; and

(vi) publish all rules of such system.

(e) 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.
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.\footnote{Some delegations proposed the deletion of Section 9(f).}

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

10. Certification systems of central government bodies for certifying conformity with standards

Adherents shall ensure that certification systems of their central government bodies or those on which they rely for certifying conformity to standards comply with the provisions of Section 9 substituting "standards" for "technical regulations" throughout and "Sections 4 and 8" for "Sections 2 and 5" and "Section 3" for "Section 6" in Section \((b)\).²

11. Certification systems for certifying conformity with technical regulations 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 certification systems operated by local government bodies, or by regulatory bodies other than central government certification bodies within their territories, for certifying conformity with technical regulations;

¹One delegation proposed that Section 10 be merged with Section 12 and that the level of obligation used in Section 12 apply. Some other delegations could accept this or the existing text.
comply with the provisions of Section 9 above, substituting "Sections 3 and 7" for "Sections 2 and 5" and "Section 7" for "Section 6" in Section 9(b).

12. **Systems operated by certification bodies other than central government bodies for certifying conformity with standards**

Adherents shall use all reasonable means within their power to ensure that systems operated by governmental or non-governmental certification bodies other than central government bodies within their territories, for certifying conformity with standards, comply with the provisions of Section 9 above, substituting "standards" for "technical regulation" throughout and "Sections 4 and 8" for "Sections 2 and 5" and "Section 8" for "Section 6" in Section 9(b).

13. **International and regional certification systems for certifying conformity with technical regulations of which central government bodies are members or participants**

(a) Where positive certificates, or marks, other than by the supplier, of conformity with technical regulation are required, adherents shall wherever practicable, formulate and become members of, or participate in international certification systems.

(b) Adherents shall use all reasonable means within their power to ensure that international certification systems in which their central government bodies are members or participants comply with the requirements of paragraphs (c) to (g) inclusive of this section.
(c) International certification systems shall not be formulated or applied with a view to creating obstacles to international trade; and neither the systems themselves nor their application shall have the effect of creating unjustifiable obstacles to international trade.

(d) International certification systems shall be formulated from the outset with a view to affording an equal opportunity for membership or participation to all adherents. With this in mind:

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

(ii) the sole criterion for the acceptability of certificates or marks from members or participants of conformity with technical regulations under such systems shall be the technical competence and reliability of the certification body, which may be situated in the territory of any member or participant and may certify the conformity of the products of any other adherent.

(e) Technical regulations and test methods employed in connexion with international certification systems shall be prepared and adopted in accordance with the relevant provisions of Sections 2 and 5. The systems shall conform with the requirements of Section 6.
(f) International certification systems shall be open to suppliers of similar products produced in the territories of other adherents which are not members of, or participants in, the systems at the same time as they are opened to suppliers in the territories of members of the systems and under conditions no less favourable than those accorded to suppliers in the territories of members of the systems.¹

(g) In formulating and implementing international certification systems or in transforming a regional certification system into an international certification system:

(i) a notice shall be published at an appropriate stage of the intention to introduce a system;

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

(iii) an equal opportunity shall be given to all adherents to take part in the formulation of the proposed system;

(iv) particulars or copies of the proposed rules of the system 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 and, subsequently, regarding its application; and

¹Some delegations proposed that this paragraph and paragraph (1) of this section be deleted.
(vii) all rules of the system shall be published.

(h) Adherents shall use all reasonable means within their power to ensure that regional certification systems of which their central government bodies are members,

(i) comply with the provisions of paragraphs (c) to (g) inclusive of this section, with the exception of paragraph (g)(iii); and

(ii) are 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,

are open to participation by all adherents as soon as the systems become operational, on the same basis as to members of the systems when it has been established that such adherents are able and willing to fulfil the corresponding obligations. This is subject to the qualification that if for particular reasons it is considered inadvisable or impracticable to open such systems to participation by all adherents from the outset, participation may be limited in the initial stages.

(k) An adherent which is a member or participant in an international or regional certification system shall take the actions prescribed in paragraphs (g) (i), (ii), (iv) and (vii) of this section to the extent that these have not been taken in the context of the system.
(1) An adherent which is a member or participant in an international or regional certification system which does not comply with paragraph (f) of this section, shall ensure that products produced in the territories of other adherents receive treatment no less favourable than that accorded to the products of domestic suppliers.¹

14. International and regional certification systems of which local government bodies and regulatory bodies other than central government bodies are members or participants, for certifying conformity with technical regulations

Adherents shall use all reasonable means within their power to ensure that international or regional certification systems for certifying conformity with technical regulations, 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 13, substituting "Sections 3 and 7" for "Sections 2 and 5" and "Section 7" for "Section 6" in Section 13(e).

15. International and regional certification systems for certifying conformity with standards

Adherents shall use all reasonable means within their power to ensure that international or regional certification systems for certifying conformity with standards, and of which governmental or non-governmental certification bodies within their territories are members or participants,

¹Some delegations proposed that this paragraph and paragraph (f) of this section be deleted.
conform to the provisions of Section 13, substituting "standards" for "technical regulations" throughout and "Sections 4 and 8" for "Sections 2 and 5" and "Section 8" for "Section 6" in Section 13(e).

D. INFORMATION AND ASSISTANCE

16. Information about technical regulations and standards and certification system

(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 technical regulation or 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 certification system, or proposed certification 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 16(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 standardizing bodies within its territory or by regional organizations of which such bodies are members or participants; and

(ii) any certification systems operated by non-governmental certification 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 adherents 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 standardizing 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, French or Spanish.

17. Technical assistance to other adherents

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

(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 standardizing bodies and participation in the international standardizing bodies, and shall encourage their national standardizing 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, certification bodies for providing a certificate of conformity or mark of conformity with technical regulations; and

(ii) the methods by which their technical regulations 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 certification bodies for providing a certificate of conformity or mark of conformity with 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 certification 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 certification systems 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.

(g) Adherents shall, if so requested, encourage certification bodies within their territories, if such bodies are members or participants of international or regional certification systems 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 or participation.
E. AMENDMENTS TO TECHNICAL REGULATIONS OR STANDARDS AND CERTIFICATION SYSTEMS OR ARRANGEMENTS

18. Amendments to technical regulations or standards and certification systems

All references in this Code to technical regulations or standards, test methods and certification systems shall be construed to include any amendments thereto including any additions to the rules of, or products covered by, such systems - other than amendments of an insignificant nature.

III. OTHER PROVISIONS

19. The Committee for Preventing Technical Barriers to Trade

(a) 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.

20. Application

(a) This Code shall apply to all technical regulations, standards and certification 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.

(b) To the extent that existing technical regulations or certification 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.

(c) To the extent that any existing technical regulations and standards or certification systems (other than those already provided for in paragraph (b) of this Section) 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.

(d) If adherents, or bodies within their territories, operate or are members of existing international or regional certification systems (other than those already provided for in paragraph (b) of this Section), 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.

21. Enforcement

(a) 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.
(b) 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 Section 19.

(c) The Committee for Preventing Technical Barriers to Trade shall promptly investigate any matter referred to it under paragraph (b) of this Section 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:

(i) make a statement concerning the facts of the matter; or

(ii) make recommendations to one or more adherents to this Code; or

(iii) authorize one or more adherents to this Code to suspend obligations under this Code in respect of one or more adherents.¹

(d) 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 21(c) 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 21(b) 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:

(i) make a statement concerning the facts of the matter; or

(ii) 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 Section 21(c)(iii) in the text.

²Some delegations proposed that Section 21(d) be deleted.
22. **Final provisions**

(a) (i) This Code shall be open for adherence to all countries and to the European Economic Community. It shall enter into force on the thirtieth day following the day on which \( \lceil x \rceil \) of the above-mentioned countries, including those listed in Annex 2, shall have adhered to it.

(ii) 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

(b) This Code shall become effective for each adherent on the day it enters into force in accordance with Section 22(a), or on the thirtieth day after the adherent concerned has adhered to it, whichever is the later.

(c) 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, French and Spanish texts of the Code shall be of equal validity.

¹Some delegations reserved their position on the proviso in Section 22(a)(ii).
(d) **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.

(e) 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

(f) 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

Terms

Regulation

Hypothesis A

A document which contains binding legislative, regulatory or administrative rules and which is adopted by an authority legally vested with the necessary power and published.

Additional note:

For the purposes of this Code the words "and published" shall be deleted.

Technical specification

Hypothesis A

A document which lays down characteristics of a product or a service such as levels of quality, performance,

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Hypothesis B

A document which contains binding legislative, regulatory or administrative rules and which is adopted by an authority legally vested with the necessary power.

Hypothesis A is that the ECE/ISO definitions would be used without any modifications as such and that any qualification of these definitions which was required for the purpose of the Code should be achieved through separate notes to this effect.

Hypothesis B is that where any qualification of the definitions was required for the purpose of the Code, this should be achieved by modifying the definitions themselves.
safety, dimensions. It may include or deal exclusively with terminology, symbols, testing and test methods, packaging, marking or labelling requirements. A technical specification may also take the form of a code of practice.

Additional note:

For the purposes of this Code such technical specifications are excluded which deal with services.

**Standard**

**Hypothesis A**

A technical specification or other document available to the public, drawn up with the co-operation and consensus or general approval of all interests affected by it, based on the consolidated results of science, technology and experience, aimed at the promotion of optimum community benefits and approved by a body recognized on the national, regional or international level.

**Hypothesis B**

Any technical specification approved by a recognized body for continued application and with which there is no legal obligation to comply.
ECE notes

(1) A technical specification which does satisfy all the conditions given in the definition may sometimes be called by other names, for example: "recommendation".

(2) In some languages the word "standard" is often used with another meaning than in this definition, and in such cases it may refer to a technical specification which does not satisfy all the conditions given in the definition, for example: "company standard".

Additional note:

(1) For the purposes of this Code the standard covers any technical specification approved by a recognized body for continued application.

(2) For the purposes of this Code the words "or other document" shall be deleted.

Technical regulation

Hypothesis A

A regulation containing or referring to a standard or a technical specification.

ECE note:

A technical regulation may be

Hypothesis B

A regulation or those parts of a regulation containing or referring to a standard or other technical specification.
supplemented by technical guidance which outlines some way(s) to fulfil the regulation.

Additional note:

For the purposes of this Code a technical regulation is a regulation or those parts of a regulation containing or referring to a standard or other technical specifications.

Standardizing body

A body, governmental or non-governmental, one of whose recognized activities is in the field of standardization.

International standardizing body

Hypothesis A

A standardizing body whose membership is open to all countries of the world.

Additional note:

For the purposes of this Code it is sufficient that membership is open to the relevant bodies of all adherents.

Regional standardizing body

Hypothesis A

A standardizing body whose membership is usually limited to certain countries from a given region of the world.

Hypothesis B

A standardizing body whose membership is not open to the relevant bodies of only some of the adherents.
Additional note:

For the purposes of this Code it is sufficient that the regional standardizing body is not open to the relevant bodies of only some of the adherents.

**International standard**

**Hypothesis A**

A standard adopted by an international standards organization or in certain cases a technical specification adopted by an international standardizing body.

**Hypothesis B**

A standard or other technical specification adopted by an international standardizing body.

Additional note:

For the purposes of this Code an international standard is a standard or other technical specification adopted by an international standardizing body.

**Conformity with standards or technical specifications**

**Hypothesis A**

The conformity of a product or a service with all the requirements of specific standards or technical specifications.

**Hypothesis B**

The conformity of a product with all the requirements of specific standards or other technical specifications.
Additional notes:

(1) For the purposes of this Code services are excluded.

(2) For the purposes of this Code "or technical specifications" should read "or other technical specifications".

Administrative procedures for determining conformity

**Hypothesis A**

The administrative measures needed to determine whether or not a product or service is in conformity with specific standards or technical specifications. It may include administrative arrangements for controlling the frequency and location of testing for carrying out tests and for supervising the control of quality by producers.

Additional notes:

(1) For the purposes of this Code services are excluded.

(2) For the purposes of this Code "or technical specifications" should read "or other technical specifications".

**Hypothesis B**

The administrative measures needed to determine whether or not a product is in conformity with specific standards or other technical specifications. It may include administrative arrangements for controlling the frequency and location of testing for carrying out tests and for supervising the control of quality by producers.
Certificate of conformity

Hypothesis A

A document attesting that a product or a service is in conformity with specific standards or technical specifications.

Additional notes:
(1) For the purposes of this Code services are excluded.
(2) For the purposes of this Code "or technical specifications" should read "or other technical specifications".

Mark of conformity

Hypothesis A

A mark attesting that a product or a service is in conformity with specific standards or technical specifications.

Additional notes:
(1) For the purposes of this Code services are excluded.
(2) For the purposes of this Code "or technical specifications" should read "or other technical specifications".

Hypothesis B

A document attesting that a product is in conformity with specific standards or other technical specifications.

Hypothesis B

A mark attesting that a product is in conformity with specific standards or other technical specifications.
Conformity certification

Hypothesis A

The action of certifying by means of a certificate of conformity or mark of conformity that a product or service is in conformity with specific standards or technical specifications.

Additional notes:
(1) For the purposes of this Code services are excluded.
(2) For the purposes of this Code "or technical specifications" should read "or other technical specifications".

Certification system

A system having its own rules of procedure and management, for carrying out conformity certification.

International certification system

Hypothesis A

Certification system organized and managed by a governmental or non-governmental international organization whose membership is open to all countries of the world.

Hypothesis B

Certification system organized and managed by a governmental or non-governmental international body whose membership is open to relevant bodies of all adherents.
Additional note:

For the purposes of this Code it is sufficient that the membership is open to relevant bodies of all adherents.

**Regional certification system**

**Hypothesis A**

Certification system organized and managed by a governmental or non-governmental regional organization whose membership is usually limited to certain countries from a given region of the world.

Additional note:

For the purposes of this Code it is sufficient that the regional certification system is not open to the relevant bodies of only some of the other adherents.

**Hypothesis B**

Certification system organized and managed by a governmental or non-governmental international body whose membership is open to the relevant bodies of only some of the adherents.
Certification body

A governmental or non-governmental body, independent of the producer or supplier, which operates a certification system.

Central government body

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. Note: If the EEC were to sign the Code, the word "would" and the square brackets would disappear.

Local government body

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.

Regulatory body

Central or local government body or any other body which has legal power to enforce a technical regulation. This may or may not be the same body which prepared or adopted the technical regulation.

Membership in a certification system

An adherent or a regulatory body or a certification body in the territory of an adherent has the same rights and obligations as any of the other adherents, or regulatory bodies or certification bodies under the rules of the system, including
the rights of participation in, and management of the system, and of formulating or amending its rules.

**Participation in a certification system**

An adherent or a regulatory body or certification body in the territory of an adherent has:

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

(ii) the same obligations to accept such evidence itself as members of the system.
ANNEX 2

List of Contracting Parties Referred to in Section 22(a)

[To be added]
Appendix B

REPORT OF GROUP 3 ON STANDARDS

1. The Working Group was instructed to elaborate, on an ad referendum basis, concrete solutions to problems within the area of product standards and quality assurance systems.

2. The Working Group accordingly held an extensive series of meetings under the chairmanship of Mr. P.T. Eastham (Canada) during which it drew up the text annexed to this report.

3. The Working Group reached a large measure of agreement on the text but differences of view still existed in some areas, Sections 9 and 13 having proved to be the most difficult in the operative provisions. The Working Group could have continued to refine the text but it regretfully came to the conclusion that it had taken its work as far as it usefully could at the present stage. Where differences of view remained it limited itself to setting out as clearly as possible what the alternatives were.

4. The Working Group recommended that administrations should examine (a) the outstanding issues with a view to finding mutually acceptable solutions to them at the appropriate time, and (b) the implications arising from the acceptance of the instrument.

5. Some delegations from developing countries stated that their main objective was to draw up a clear, non-discriminatory code for preventing technical barriers to trade and underlined the interest of developing countries in the code both as exporters and as importers.

6. 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 delegations 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.

7. 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 delegation that the need for provisions respecting amendments and withdrawals and texts of such provisions if required could not be determined until

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the relationship between the Code and the General Agreement had been established. Accordingly, this delegation reserves its position with respect to Section 22(d) and (e).

8. 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.

9. Some delegations 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.

10. One delegation stated that the present text of the Code imposed different levels of obligations for the preparation and application of mandatory standards, voluntary standards and quality assurance systems, which might have important consequences in the future. This imbalance in obligations was especially acute for this country where all standards were mandatory. This delegation considered that the levels of obligations for adherents should be the same in mandatory and voluntary standard areas and therefore found it necessary to maintain its general reservation in this respect.

11. Other delegations 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 finally agreed. However, it appeared to them that, unlike some other non-tariff areas, product standards might be one where there was a possibility for sufficient balance to enable implementation of a code prior to the conclusion of the broader trade negotiations.

12. The Working Group could not agree on the institutional provisions contained in Sections 19 and 21 of the attached text. For instance some delegations said the Group could not usefully deal with the question of the powers of the Committee provided for in Section 19 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 delegations suggested that the CONTRACTING PARTIES be requested to establish the Committee, if only to provide for the expenses of the Committee to be financed by the GATT. Some delegations said that, if the CONTRACTING PARTIES established the Committee, this could imply that disagreements
which persisted in the Committee would be referred to the CONTRACTING PARTIES. Some delegations said that, as Section 19 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.

13. Some delegations said that a decision regarding Sections 21(c)(iii) and (d) dealing with sanctions went beyond the competence of the Working Group. Other delegations considered that such provisions should be included in the text. One delegation said that the question of sanctions was directly related to the problem of devising equitable procedures for administering such sanctions. This delegation 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 21(c)(iii) and (d). This delegation thought that, if no equitable procedure could be agreed, there should be no sanctions. Another delegation 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 21. Some delegations underlined the importance of devising procedures for the settlement of disputes; they envisaged that such procedures would not necessarily have to involve sanctions.

14. Some delegations said that drafting retroactive provisions such as contained in Section 20 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.

15. The Group agreed that if and when widely accepted definitions were arrived at, their applicability for the purpose of the Code should be examined.

16. The Group noted that the coverage of the text was not restricted to industrial products and that the Agriculture Committee had expressed the wish to review the applicability of the text to agricultural products.