DRAFT TEXT FOR A DECISION BY CONTRACTING PARTIES
ON SANITARY AND PHYTOSANITARY MEASURES

The following documents, which were indicated as attachments in the final paragraph of the introductory note to WGSP/W/26/Rev.1, were inadvertently left off.

Chairman's Text on Dispute Settlement,
CGT/607-14 (NG/13) of 19 October 1990;

Draft Decision on Article XXIV of
18 October 1990 (p.m.); and

Agreement on Technical Barriers to Trade,

*English only
Dear Mr. Dunkel,

In accordance with the schedule agreed at the informal TNC meeting of 9 October 1990, I enclose a Chairman's Text on Dispute Settlement. I would note that this is a Chairman's draft text and it should not be viewed as an agreed text from the Negotiating Group on Dispute Settlement. I have kept bracketed options to a minimum.

I would call your attention to the three notes on page 1 of the Chairman's Text which are pertinent to our future work.

Yours sincerely,

Julio Lacarte-Muro
Chairman, Negotiating Group on Dispute Settlement

Mr. Arthur Dunkel
Chairman
Trade Negotiations Committee
Geneva
CHAIRMAN'S TEXT ON DISPUTE SETTLEMENT
19 October 1990

The Chairman, on his own responsibility, has prepared the following
draft text on dispute settlement. Alternatives (in brackets) have been
kept to a minimum.

It should be noted that existing dispute settlement procedures,
including provisions about full consensus, have not been recorded where
bracketed alternatives appear, even though certain delegations have
expressed a preference for the maintenance of these procedures in some
instances.

The Mid-Term text (Decision of 12 April 1989, L/6489) appears
underlined with changes as marked.

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IMPROVEMENTS TO THE GATT DISPUTE SETTLEMENT RULES AND PROCEDURES

Decision

Following the meeting of the Trade Negotiations Committee at
Ministerial level in December 1990, the CONTRACTING PARTIES to the General
Agreement on Tariffs and Trade

Approve the improvements to the GATT dispute settlement rules and
procedures set out in this Decision.

General Provisions

1. A full review of GATT dispute settlement rules and procedures shall be
completed within four years after entry into force of this Decision, and a
decision shall be taken on the occasion of the 1994 meeting at Ministerial

1Before adoption by the CONTRACTING PARTIES, presently applicable
texts on GATT dispute settlement rules and procedures, including the
Mid-Term text (Decision of 12 April 1989, L/6489), shall be integrated into
this Decision, and procedures shall be provided for its entry into force.
All prior texts on this subject shall be repealed.

2One of the items still requiring consideration in the Group is the
overall question of time limits for the dispute settlement process.

3At the earliest possible moment, the results in this Group should be
communicated to the other Negotiating Groups for their consideration and
any appropriate action that they might wish to take or to recommend to this
Group.
level whether to continue, modify or terminate such dispute settlement rules and procedures.

2. Where these GATT rules and procedures provide for the Council to take a decision, it shall do so by the traditional practice of consensus. The procedures foreseen in GATT dispute settlement are without prejudice to the application of the provisions of Article XXV of the General Agreement.

A. General Provisions

1. Contracting parties recognize that the dispute settlement system of GATT serves to preserve the rights and obligations of contracting parties under the General Agreement and to clarify the existing provisions of the General Agreement. It is a central element in providing security and predictability to the multilateral trading system.

2. Contracting parties agree that all solutions to matters formally raised under the GATT dispute settlement system under Articles XXII, XXIII and arbitration awards shall be consistent with the General Agreement and shall not nullify or impair benefits accruing to any contracting party under the General Agreement, nor impede the attainment of any objective of the General Agreement.

3. All the points set out in this Decision shall be applied without prejudice to any provision on special and differential treatment for developing contracting parties in the existing instruments on dispute settlement including the CONTRACTING PARTIES' Decision of 5 April 1966 (BISD 14S/18).

B. Notification

Mutually agreed solutions to matters formally raised under GATT Articles XXII and XXIII, as well as arbitration awards within GATT
must be notified to the Council where any contracting party may raise any point relating thereto.

C. Consultations

1. If a request is made under Article XXII:1 or XXIII:1, the contracting party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten days after its receipt and shall enter into consultations in good faith within a period of no more than thirty days from the date of the request, with a view to reaching a mutually satisfactory solution. If the contracting party does not respond within ten days, or does not enter into consultations within a period of no more than thirty days, or a period otherwise mutually agreed, from the date of the request, then the contracting party that requested the holding of consultations may proceed directly to request the establishment of a panel.

2. If the consultations under Article XXII:1 or XXIII:1 fail to settle a dispute within sixty days after the request for consultations, the complaining party may request the establishment of a panel under Article XXIII:2. The complaining party may request a panel during the sixty-day period if the parties jointly consider that consultations have failed to settle the dispute.

3. Requests for consultations under Article XXII:1 or XXIII:1 shall be notified to the Council by the party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

4. In cases of urgency, including those which concern perishable goods en route, parties shall enter into consultations within a period of no more than fifteen days from the date of the request. If the consultations have failed to settle the dispute within a period of fifteen days after the request, the complaining party may request the establishment of a panel.

Consultations

In cases of urgency, including those involving perishable goods en route, the parties concerned, panels and the appellate body shall make every effort to accelerate the proceedings to the greatest extent possible.

The Council is empowered to act for the CONTRACTING PARTIES, in accordance with normal GATT practice (BISD 265/215).
D. Good Offices, Conciliation, Mediation

1. Good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree. They may be requested at any time by any party to a dispute. They may begin at any time and be terminated at any time. Once terminated, the complaining party can then proceed with a request for the establishment of a panel under Article XXIII:2. When good offices, conciliation or mediation are entered into within sixty days of a request for consultations, the complaining party must allow a period of sixty days from the date of the request for consultations before requesting the establishment of a panel. The complaining party may request a panel during the sixty days if the parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.

2. If the parties to a dispute agree, procedures for good offices, conciliation or mediation may continue while the panel process proceeds.

3. The Director-General may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting contracting parties to settle a dispute.

F. Panel/Party Procedures

(a) Establishment of a Panel

The request for a panel shall be made in writing. It shall indicate whether consultations were held, and provide a brief summary of the factual and legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel with other than standard terms of reference, the written request shall include the proposed text of special terms of reference.

Right to a Panel

If the complaining party so requests, a panel shall be established at the latest at the Council meeting following that at which the request first appears as an item on the Council's regular agenda, unless at that meeting the Council decides otherwise.
(b) Standard Terms of Reference

1. Panels shall have the following terms of reference unless the parties to the dispute agree otherwise within twenty days from the establishment of the panel:

"To examine, in the light of the relevant GATT provisions, the matter referred to the CONTRACTING PARTIES by (name of contracting party) in document L/... and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2".

2. In establishing a panel, the Council may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties subject to the provisions of the preceding paragraph. The terms of reference thus drawn up shall be circulated to all contracting parties. If other than standard terms of reference are agreed upon, any contracting party may raise any point relating thereto in the Council.

(c) Composition of Panels

1. Contracting parties shall undertake, as a general rule, to permit their representatives to serve as panel members.

Selection of Panelists

1. Panels shall be composed of well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a GATT panel, served as a representative to the GATT or in the GATT Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a contracting party.

2. The roster of panelists shall be expanded and improved. To this end, contracting parties may suggest names of individuals possessing the qualifications outlined in paragraph 1 above to serve on panels and shall provide relevant information on their knowledge of international trade and of the GATT.

4. Panels shall be composed of three members unless the parties to the dispute agree, within ten days from the establishment of the panel, to a panel composed of five members.
5. If there is no agreement on the members within twenty days from the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the Council, shall form the panel by appointing the panelists whom he considers most appropriate, after consulting both parties. The Director-General shall inform the contracting parties of the composition of the panel thus formed no later than ten days from the date he receives such a request.

(d) Procedures for Multiple Complainants

1. Where more than one contracting party requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all parties concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel will organize its examination and present its findings to the Council so that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel will submit separate reports on the dispute concerned. The written submissions by each of the complainants will be made available to the other complainants, and each complainant will have the right to be present when one of the other complainants presents its view to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

(e) Third Contracting Parties

1. The interests of the parties to a dispute and those of other contracting parties shall be fully taken into account during the panel process.

2. Any third contracting party having a substantial interest in a matter before a panel, and having notified this to the Council, shall have an opportunity to be heard by the panel and to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.
Third Party Rights

1. Such third parties shall have a right to receive submissions of the parties for the first meeting of the panel [and to be present at that meeting].

2. If a third party considers a measure already the subject of a panel nullifies or impairs benefits accruing to it under the General Agreement, that party may have recourse to normal GATT dispute settlement procedures. Such a dispute shall be referred to the original panel wherever possible.

(f) Time Devoted to Various Phases of a Panel

1. Panel procedures should provide sufficient flexibility so as to ensure high-quality panel reports, while not unduly delaying the panel process.

2. Panels shall follow the Suggested Working Procedures found in the July 1985 note of the Office of Legal Affairs unless the members of the panel agree otherwise after consulting the parties to the dispute. After consulting the parties, the panel members shall, as soon as practicable and whenever possible within one week after the composition and terms of reference of the panel have been agreed upon, fix the timetable for the panel process at least until its first substantive meeting.

3. In determining the timetable for the panel process, the panel shall provide sufficient time for the parties to the dispute to prepare their submissions.

4. Each party to the dispute shall deposit its written submissions with the Secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in the second paragraph of this section and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

5. In order to make the procedures more efficient, the period in which the panel shall conduct its examination, from the time the composition and terms of reference of the panel have been agreed upon to the time when the final report is provided to the parties to the dispute, shall, as a general rule, not exceed six months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within three months.

6. When the panel considers that it cannot provide its report within six months, or within three months in cases of urgency, it shall
inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case should [shall] the period from the establishment of the panel to the submission of the report to the contracting parties exceed nine months.

7. In the context of consultations involving a measure taken by a developing contracting party, the parties may agree to extend the periods established in paragraphs 2 and 4 of Section C. If, after the relevant period has elapsed, the parties cannot agree that the consultations have concluded, the Chairman of the Council shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing contracting party, the panel shall accord sufficient time for the developing contracting party to prepare and present its argumentation. The provisions of paragraph 4 of Section G are not affected by any action pursuant to this paragraph.

Interim Review Stage

1. Within 10 days following the consideration of rebuttal submissions and oral arguments, the panel shall submit the descriptive (factual and argument) sections of its draft report to the parties. Within a period of [10] days thereafter, the parties shall submit their comments in writing.

2. Following the deadline for receipt of comments from the parties, the panel shall issue an interim report to the parties, including both the descriptive sections and the panel’s findings and conclusions. Within 10 days thereafter, a party may submit a written request for the panel to review precise aspects of the interim report prior to circulation of the final report to the Council. At the request of a party, the panel shall hold a further meeting with the parties on the issues identified in the written comments. If no comments are received from any party within the comment period, the interim report shall be considered the final panel report and circulated promptly to the contracting parties.

3. The findings of the final panel report shall include a discussion of the arguments made at the interim review stage. The interim review stage shall be conducted within the time period agreed in Section F(f)(5) of the Mid-Term text.

Panel and Appellate Body Recommendations

1. Where a panel or the appellate body decides that a measure is inconsistent with the General Agreement, it shall recommend that the contracting party concerned bring the measure into conformity with the General Agreement. In cases involving non-violation nullification or impairment, the panel or appellate body shall recommend that the contracting party concerned [consider ways and means of making] [make] a satisfactory adjustment. With respect to measures found to be inconsistent with the General Agreement, the panel or appellate body may, in its report, identify possible ways by which the contracting party concerned might
implement the panel or appellate body recommendations, but any such views shall not be considered to be part of the recommendations.

G. Adoption of Panel Reports

1. In order to provide sufficient time for the members of the Council to consider panel reports, the reports shall not be considered for adoption by the Council until thirty [20] days after they have been issued to the contracting parties.

2. Contracting parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Council meeting at which the panel report will be considered.

3. The parties to a dispute shall have the right to participate fully in the consideration of the panel report by the Council, and their views shall be fully recorded. The practice of adopting panel reports by consensus shall be continued without prejudice to the GATT provisions on decision-making, which remain applicable. However, the delaying of the process of dispute settlement shall be avoided.

4. The period from the request under Article XXII:1 or Article XXIII:1 until the Council takes a decision on the panel or appellate body report shall not, unless agreed to by the parties, exceed fifteen [12] months. The provisions of this paragraph shall not apply, notwithstanding the provisions of paragraph 6 of Section F(f).

Consideration of Panel Reports

Within [30/60] days of the issuance of a panel report to the contracting parties, the report shall be adopted at a Council meeting unless one of the parties formally notifies the Council of its decision to appeal or the Council decides [otherwise] [by consensus] [not to adopt the report]. If a party has notified its intention to appeal, the report by the panel shall not be considered by the Council until after completion of the appeal.] This adoption procedure is without prejudice to the right of contracting parties to express their views on a panel report.

H. Technical Assistance

1. While the Secretariat assists contracting parties in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing contracting parties. To this end, the Secretariat shall make available a qualified legal expert within the Technical Co-operation Division to any developing contracting party so requests. This expert shall assist the developing contracting party in a manner ensuring the continued impartiality of the Secretariat.
2. The Secretariat shall conduct special training courses for interested contracting parties concerning GATT dispute settlement procedures and practices so as to enable contracting parties' experts to be better informed in this regard.

Appellate Review

1. Standing Appellate Body

(a) A standing appellate body shall be established by the CONTRACTING PARTIES. The body shall hear appeals from panel cases. The appellate body shall be composed of a pool of 7 members, [3/5] of whom shall serve on any one case. Members of the pool shall serve in rotation.

(b) Members shall be appointed by the CONTRACTING PARTIES to serve for a four-year term. Vacancies shall be filled as they arise using the aforesaid procedure.

(c) The appellate body membership shall be broadly representative of membership in GATT. Members shall be persons of recognized authority, with demonstrated expertise in law, international trade and GATT matters generally. They shall be unaffiliated with any government. Members shall be available at all times and on short notice, and shall stay abreast of GATT activities. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

(d) Only parties to the dispute, not third parties, may appeal a panel decision or participate in the appellate review.

(e) The proceedings shall not exceed [60/90] days from the date a party formally notifies its intent to appeal to the date the appellate body issues its decision.

(f) An appeal shall be limited to issues of law and legal interpretation arising from the panel report.

(g) The appellate body shall be provided with technical assistance as required.

5In determining whether to accept an appeal, the appellate body may take into account, inter alia, such considerations as whether: (1) the panel report raises new issues of law which have not yet been considered and decided by the appellate body; (2) the issue is decided in a manner different from that of previous decisions; (3) the panel proceedings ignore procedural rights and obligations of the parties, in particular basic principles of due process of law as provided for in rules on GATT dispute settlement; or (4) the panel report is not consistent with the terms of reference.
2. Procedures for Appellate Review

(a) Suggested working procedures shall be drawn up by the appellate body in consultation with the chairman of the Council and the Director-General, and communicated to the contracting parties for their information.

(b) The proceedings of the appellate body shall be confidential.

(c) [A party which has not previously requested the panel to review precise aspects of the panel's findings during the panel's interim review procedure shall not have recourse to an appeal.] The appellate body shall address each of the issues raised by the parties to the dispute during the appellate proceeding [, providing that the party has previously raised such issues at the interim review stage].

(d) The appellate body may uphold, modify or reverse the legal findings and conclusions of the panel.

3. Adoption

An appellate report shall be adopted by the Council and unconditionally accepted by the parties to the dispute unless the Council decides [otherwise] [by consensus] [not to adopt the appellate report] within [30] days following its issuance to the contracting parties. This adoption procedure is without prejudice to the right of contracting parties to express their views on an appellate report.

Ex Parte Communications

No ex parte communications are permitted between the panel or appellate body and the parties to the dispute concerning matters under consideration by the panel or appellate body.

I. Surveillance of Implementation of Recommendations and Rulings

1. Prompt compliance with recommendations or rulings of the CONTRACTING PARTIES under Article XXIII is essential in order to ensure effective resolution of disputes to the benefit of all contracting parties.

2/1/1/1/the/contracting/party/concerned/shall/inform/the/Council/of/its/intentions/in/respect/of/implementation/of/the/recommendations/or/rulings/1/1/If/it/is/expected/that/to/comply/immediately/with/the/recommendations/or/rulings/the/contracting/party/concerned/shall/have/a/reasonable/period/of/time/in/which/to/do/so/
Implementation

1. At a Council meeting held within [30] days of the adoption of the panel or appellate body report, the contracting party concerned shall inform the Council of its intentions in respect of implementation of the recommendations and rulings under Article XXIII:2. If it is impracticable to comply immediately with the recommendations and rulings, the contracting party concerned shall have a reasonable period of time in which to do so. The reasonable period of time shall be:

   (a) the period of time proposed by the contracting party concerned, provided that such period is approved in the Council by consensus; or, in the absence of such consensus,

   (b) a period of time mutually agreed by the parties to the dispute within [60] days following adoption of the recommendations and rulings; or, in the absence of such agreement,

   (c) a period of time determined through binding arbitration within [90] days following adoption of the recommendations and rulings.

2. Unless the parties agree otherwise, the period from the request under Article XXII:1 or Article XXIII:1 until the determination of the reasonable period of time shall not exceed [x] months.

3. Where there is disagreement as to the existence or GATT consistency of measures taken to comply with the recommendations and rulings under Article XXIII:2, such dispute shall be decided through recourse to GATT dispute settlement procedures, involving resort to the original panel wherever possible. The panel shall issue its decision within [60/90] days of referral of the matter to it. When the panel considers that it cannot provide its report within this time frame, it shall inform the Council in writing of the reasons for the delay together with an estimate of the period within which it will submit its report.

3. The Council shall monitor the implementation of recommendations or rulings adopted under Article XXIII:2. The issue of implementation of the recommendations or rulings may be raised at the Council by any contracting party at any time following their adoption. Unless the Council decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Council meeting after six months following their adoption and shall remain on the Council's agenda until the issue is resolved. At least ten days prior to each such Council meeting, the contracting party concerned shall provide the Council with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

6 It has been suggested that this period be set at 12 months.
4. In cases brought by developing contracting parties, the Council shall consider what further action it might take which would be appropriate to the circumstances, in conformity with paragraphs 21 and 23 of the 1979 Understanding regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 265/214).

Compensation and the Suspension of Concessions

1. Compensation and the suspension of concessions or other obligations are temporary measures available in the event that the recommendations and rulings under Article XXIII:2 are not implemented within a reasonable period of time. Compensation within GATT is voluntary [and shall be applied on an m.f.n. basis].

2. If the contracting party concerned fails to bring the measure found to be inconsistent with the General Agreement into compliance therewith or otherwise comply with the recommendations and rulings under Article XXIII:2 within the reasonable period of time, such party shall, if so requested, and no later than the expiry of the reasonable period of time, enter into negotiations with contracting parties seeking implementation, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed within [20] days after the expiry of the reasonable period of time, any contracting party seeking implementation may request authorization from the Council to suspend the application to the contracting party concerned of concessions or other obligations under the General Agreement.

3. When the situation described in paragraph 2 above occurs, the Council, upon request, shall grant authorization to suspend concessions or other obligations within [30] days of the expiry of the reasonable period of time unless the Council decides [otherwise] [by consensus] [to reject the request]. However, if the party concerned objects to the level of suspension proposed, the matter shall be referred to arbitration. Such arbitration shall be carried out by the original panel, if members are available, or by an arbitrator appointed by the Director-General, and shall be completed within 60 days of the expiry of the reasonable period of time. Concessions or other obligations shall not be suspended pending the outcome of the arbitration.

4. The amount of trade covered by the suspension of concessions or other obligations authorized by the Council or determined by arbitration shall be appropriate in the circumstances.

5. The arbitration body shall not examine the nature of the suspended concessions or other obligations, but shall determine whether the amount of trade covered is appropriate in the circumstances. The parties shall accept the arbitration body's determination as final.

6. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the measure found to be inconsistent with the General Agreement has been removed, or the contracting party that must implement recommendations or rulings provides a
solution to the nullification or impairment of benefits, or a mutually satisfactory solution is reached.

7. The amount of suspension [may] [shall, if requested by one of the parties,) be determined before expiry of the reasonable period of time, in accordance with the agreed procedures, and on the understanding that such suspension shall not come into effect before the expiry of the reasonable period of time.

Non-Violation Complaints

1. Where a measure has been found to constitute a case of nullification or impairment of benefits under the General Agreement without violation of the General Agreement, the objective of the dispute settlement process is to adjust the situation which has been nullified or impaired. Compensation may also be envisaged in such a case. There is therefore no obligation to withdraw or modify a measure that is consistent with the General Agreement.

2. If a contracting party submits a complaint under Article XXII or XXIII on the ground that measures which do not violate the provisions of the General Agreement have nullified or impaired benefits accruing to it under the General Agreement, the complaining contracting party must present detailed supporting evidence, including evidence which demonstrates the negative impacts on trade flows.

3. If the parties to a dispute agree that the dispute between them concerns nullification and impairment of benefits under Article II of the General Agreement as a result of a measure which does not conflict with the provisions of that Agreement, they shall immediately engage in bilateral negotiations. If such negotiations do not yield a result with [x] days, the parties shall have recourse to binding arbitration.

4. If the parties to a dispute do not agree that theirs is a non-violation dispute, they shall have recourse to the normal panel procedure in order to elicit a decision on whether there has been an infringement of GATT rules. The report of the panel shall be subject to consideration by the Council according to the normal procedures (as agreed in these negotiations) or to the appellate review procedure (as agreed in these negotiations). In case the panel report or the appellate decision, as adopted by the Council, rules that there has been no infringement of the GATT the parties shall have immediate recourse to negotiation, and if necessary, to binding arbitration, as provided for in paragraph 3.

5. In case the parties to a non-violation dispute have recourse to binding arbitration, the arbitrator or the arbitral panel shall give a binding decision on whether or not there has been nullification or impairment of benefits accruing to a party under the GATT. The arbitrator or arbitral body, if so requested by (one of) the parties, shall give a
binding ruling on the value of the benefits which have been nullified or impaired.]

6. [Mutually agreed solutions of, and any arbitral award settling, a non-violation dispute shall be notified to the Council].

7. [The general provisions on compensation and retaliation (as agreed in these negotiations) apply mutatis mutandis to the implementation of decisions of the arbitrator or the arbitral panel in non-violation disputes, provided that, if the arbitrator or the arbitral panel has rendered a binding ruling on the value of the benefits which have been nullified or impaired pursuant to paragraph 5, this ruling shall determine the amount of the compensation or retaliation.]

**Strengthening of Multilateral System**

The contracting parties shall: (i) abide by GATT dispute settlement rules and procedures; (ii) abide by the recommendations, rulings and decisions of the CONTRACTING PARTIES; (iii) not resort to unilateral measures or the threat of unilateral measures inconsistent with GATT rules and procedures; and (iv) for the purposes of (iii), undertake to adapt their domestic trade legislation and enforcement procedures in a manner ensuring the conformity of all measures with GATT dispute settlement procedures.

**Special Procedures involving Least-Developed Contracting Parties**

1. At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed contracting party, particular consideration shall be given to the special situation of least-developed countries.

2. In dispute settlement cases involving a least-developed contracting party where a satisfactory solution has not been found in the course of consultations under Article XXII:1 or XXIII:1, the Director-General shall, upon request by a least-developed contracting party, offer his good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The

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7 A decision needs to be taken on procedures for the appointment of an arbitrator.

8 This proposed commitment is linked to other parts of this Decision concerning: (a) an agreement not to oppose the establishment of a panel or the adoption of panel or appellate body reports; (b) an agreement not to retain measures found inconsistent with the General Agreement, or to fail to remedy other measures found to nullify or impair benefits under the General Agreement, beyond the "reasonable period" for compliance; and (c) an agreement not to oppose authorization for the affected party to suspend concessions or other obligations if non-compliance continues after the expiration of the "reasonable period".
Director-General, in providing the above assistance, may consult any source which he deems appropriate.

Special and More Favourable Treatment for Developing Countries

1. Where one or more of the parties is a developing contracting party, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more-favourable treatment for developing countries that form part of the General Agreement and of the instruments negotiated in GATT under its auspices, which have been raised by the developing contracting party in the course of the dispute settlement procedures.

E. Arbitration

1. Expeditious arbitration within GATT as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

2. Resort to arbitration shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed. Agreements to resort to arbitration shall be notified to all contracting parties sufficiently in advance of the actual commencement of the arbitration process.

3. Other contracting parties may become party to an arbitration proceeding upon the agreement of the parties which have agreed to have recourse to arbitration. The parties to the proceeding shall agree to abide by the arbitration award. Arbitration awards shall be notified to the Council where any contracting party may raise any point relating thereto.

Arbitration

The provisions on implementation and surveillance shall apply mutatis mutandis to arbitration awards.
Article XXIV
Draft Decision

Preamble

The CONTRACTING PARTIES

Having regard to the provisions of Article XXIV of the General Agreement;

Recognising that customs unions and free trade areas have greatly increased in number and importance since the establishment of the GATT, and today cover a significant proportion of world trade;

Recognising the contribution to the expansion of world trade that may be made by closer integration between the economies of the parties to such agreements;

Recognising also that such contribution is increased if the elimination between the constituent territories of duties and other restrictive regulations of commerce extends to all trade, and diminished if any major sector of trade is excluded;

Reaffirming that the purpose of such agreements should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories; and that in their formation or enlargement the parties to them should to the greatest possible extent avoid creating adverse effects on the trade of other contracting parties;

Convinced also of the need to reinforce the effectiveness of the role of the CONTRACTING PARTIES in reviewing agreements notified under Article XXIV, by clarifying the criteria and procedures for the assessment of new or enlarged agreements, and improving the transparency of all Article XXIV agreements;
Recognising the need for a common understanding of the obligations of contracting parties under Article XXIV:12:

Agree as follows:

1. Customs unions, free trade areas, and interim agreements leading to the formation of a customs union or free trade area, to be consistent with Article XXIV, must satisfy the provisions of its paragraphs 5, 6, 7 and 8 inter alia.

Article XXIV:5

2. The evaluation under Article XXIV:5(a) of the general incidence of the duties and other regulations of commerce applicable before and after the formation of a customs union shall in respect of duties and charges be based upon an overall assessment of weighted average tariff rates and of customs duties collected. This assessment shall be based on import statistics for a previous representative period to be supplied by the customs union, on a tariff line basis and in values and quantities, broken down by GATT country of origin. The GATT secretariat shall compute the weighted average tariff rates and customs duties collected in accordance with the methodology used in the assessment of tariff offers in the Uruguay Round. For this purpose, the duties and charges to be taken into consideration shall be the applied rates of duty. It is recognised that for the purpose of the overall assessment of the incidence of other regulations of commerce for which quantification and aggregation are difficult, the examination of individual measures, regulations, products covered and trade flows affected may be required.

3. The "reasonable length of time" referred to in Article XXIV:5(c) should exceed ten years only in exceptional cases. In cases where contracting parties believe that ten years would be insufficient they shall provide a full explanation to the CONTRACTING PARTIES of the need for a longer period.
Article XXIV:6

4. Paragraph 6 of Article XXIV establishes the procedure to be followed when a contracting party forming a customs union proposes to increase a bound rate of duty. In this regard it is reaffirmed that the procedure set forth in Article XXVIII, as elaborated in the guidelines adopted by the CONTRACTING PARTIES on 10 November 1980 (27S/26) and in the 1990 Decision on Article XXVIII, Modification of Schedules, of the CONTRACTING PARTIES, must be commenced before tariff concessions are modified or withdrawn upon the formation of a customs union or an interim agreement leading to the formation of a customs union.

5. It is agreed that these negotiations will be entered into in good faith with a view to achieving mutually satisfactory compensatory adjustment. In such negotiations, as required by Article XXIV:6, due account shall be taken of reductions of duties on the same tariff line made by other constituents of the customs union upon its formation. Should such reductions not be sufficient to provide the necessary compensatory adjustment, the customs union would offer compensation, which may take the form of reductions of duties on other tariff lines. Such an offer shall be taken into consideration by the contracting parties having negotiating rights in the binding being modified or withdrawn. Should the compensatory adjustment remain unacceptable, negotiations should be continued. Where, despite such efforts, agreement in negotiations on compensatory adjustment under Article XXVIII cannot be reached within a reasonable period from the initiation of negotiations, the customs union shall, nevertheless, be free to modify or withdraw the concessions; affected contracting parties shall then be free to withdraw substantially equivalent concessions in accordance with Article XXVIII.

6. The General Agreement imposes no obligation on contracting parties benefiting from a reduction of duties consequent upon the formation of a customs union, or an interim agreement leading to the formation of a customs union, to provide compensatory adjustment to its members.
Review of Customs Unions and Free Trade Areas

7. All notifications made under Article XXIV:7(a) shall be examined by a working party in the light of the relevant provisions of the General Agreement and of paragraph 1 of this Decision. The working party shall submit a report to the CONTRACTING PARTIES on its findings in this regard. The CONTRACTING PARTIES may make such recommendations to contracting parties as they deem appropriate.

8. In regard to interim agreements, the working party may in its report make appropriate recommendations on the proposed timeframe and on measures required to complete the formation of the customs union or free trade area. It may if necessary provide for further review of the agreement.

9. Substantial changes in the plan and schedule included in an interim agreement shall be notified, and shall be examined by the CONTRACTING PARTIES if so requested.

10. Should an interim agreement notified under Article XXIV:7(a) not include a plan and schedule, contrary to Article XXIV:5(c), the working party shall in its report recommend such a plan and schedule. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations. Provision shall be made for subsequent review of the implementation of the recommendations.

11. Customs unions and members of free trade areas shall report periodically to the CONTRACTING PARTIES, as envisaged by the CONTRACTING PARTIES in their instruction to the GATT Council concerning reports on regional agreements (18S/38), on the operation of the relevant agreement. Any significant changes and/or developments in the agreements should be reported as they occur.
Dispute Settlement

12. The dispute settlement provisions of the General Agreement may be invoked with respect to any matters arising from the application of those provisions of Article XXIV relating to customs unions, free trade areas or interim agreements leading to the formation of a customs union or free trade area.

Article XXIV:12

13. Each contracting party is fully responsible under the General Agreement for the observance of all provisions of the General Agreement, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its territory.

14. The dispute settlement provisions of the General Agreement may be invoked in respect of measures affecting its observance taken by regional or local governments or authorities within the territory of a contracting party. When the CONTRACTING PARTIES have ruled that a provision of the General Agreement has not been observed, the responsible contracting party shall take such reasonable measures as may be available to it to ensure its observance. The provisions relating to compensation and suspension of concessions or other obligations apply in cases where it has not been possible to secure such observance.

15. Each contracting party undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another contracting party concerning measures affecting the operation of the General Agreement taken within the territory of the former.
AGREEMENT ON TECHNICAL BARRIERS TO TRADE

The Negotiating Group met informally on 18-20 September, 8-10 October and 17-18 October 1990 to continue its discussion of the Agreement on the basis of the draft text in document MTN.GNG/NG8/W/83/Add.3.

The attached revised version of the draft text has been prepared in the light of the discussion held during these informal meetings and incorporates the result of the consultations held.

The Negotiating Group noted with satisfaction that most of the issues have now been solved and that the text represents a substantive improvement, clarification and expansion of the Agreement. However, the following points require further attention:

Articles 3 and 7 concerning the obligations of Parties with respect to the activities of local government bodies, on which difference of substance remains. The Negotiating Group agreed that this matter will need to be examined further;

Article 14 on dispute settlement procedures, which will need to be reconsidered in the light of the work in the Negotiating Group on Dispute Settlement. An alternative text suggested by some delegations is included in this document.

The relation of the instrument to the outcome of the negotiations on sanitary and phytosanitary measures under the Negotiating Group on Agriculture will also need to be addressed subsequently.

Article 15 concerning the final provisions and the form of the final instrument will need to be reverted to at an appropriate time.
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AGREEMENT ON TECHNICAL BARRIERS TO TRADE

PREAMBLE

Having regard to the Multilateral Trade Negotiations, the Parties to the Agreement on Technical Barriers to Trade (hereinafter referred to as "Parties" and "this Agreement");

Desiring to further the objectives of the General Agreement on Tariffs and Trade (hereinafter referred to as "General Agreement" or "GATT");

Recognizing the important contribution that international standards and conformity assessment systems 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 conformity assessment systems;

Desiring however to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade;

Recognizing that no country should be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade;

Recognizing that no country should be prevented from taking measures necessary for the protection of its essential security interest;

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 procedures for assessment of conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard;

Hereby agree as follows:
Article 1

General provisions

1.1 General terms for standardization and procedures for assessment of conformity shall normally have the meaning given to them by definitions adopted within the United Nations system and by international standardizing bodies taking into account their context and in the light of the object and purpose of this Agreement.

1.2 However, for the purposes of this Agreement the meaning of the terms given in Annex 1 applies.

1.3 All products, including industrial and agricultural products, shall be subject to the provisions of this Agreement.

1.4 Purchasing specifications prepared by governmental bodies for production or consumption requirements of governmental bodies are not subject to the provisions of this Agreement but are addressed in the Agreement on Government Procurement, according to its coverage.

[1.5 The relationship of this Agreement to the outcome of the negotiations on sanitary and phyto-sanitary measures in the Negotiating Group on Agriculture to be addressed.]

1.6 All references in this Agreement to technical regulations, standards and conformity assessment procedures shall be construed to include any amendments thereto and any additions to the rules or the product coverage thereof, except amendments and additions of an insignificant nature.

TECHNICAL REGULATIONS AND STANDARDS

Article 2

Preparation, adoption and application of technical regulations by central government bodies

With respect to their central government bodies:

2.1 Parties shall ensure that in respect of technical regulations, products imported from the territory of any Party shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.

2.2 Parties shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. Such legitimate objectives are, inter alia, national security requirements; the prevention of deceptive practices; protection of human
health or safety, animal or plant life or health, or the environment. In assessing such risks, relevant elements of consideration are, inter alia, available scientific and technical information, related processing technology or intended end uses of products.

2.3 Technical regulations shall not be maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a less trade-restrictive manner.

2.4 Where technical regulations are required and relevant international standards exist or their completion is imminent, Parties shall use them, or the relevant parts of them, as a basis for their technical regulations except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.

2.5 A Party preparing, adopting or applying a technical regulation which may have a significant effect on trade of other Parties shall, upon the request of another Party, explain the justification for that technical regulation in terms of the provisions of Article 2, paragraphs 2 to 4. Whenever a technical regulation is prepared, adopted or applied for one of the legitimate objectives explicitly mentioned in Article 2, paragraph 2, and is in accordance with relevant international standards, it shall be rebuttably presumed not to create an unnecessary obstacle to international trade.

2.6 With a view to harmonizing technical regulations on as wide a basis as possible, Parties 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.

2.7 Parties shall give positive consideration to accepting as equivalent technical regulations of other Parties, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations.

2.8 Wherever appropriate, Parties shall specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics.

2.9 Whenever a relevant international standard does not exist or the technical content of a proposed technical regulation is not in accordance with the technical content of relevant international standards, and if the technical regulation may have a significant effect on trade of other Parties, Parties shall:
2.9.1 publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that they propose to introduce a particular technical regulation;

2.9.2 notify other Parties through the GATT secretariat of the products to be covered by the proposed technical regulation, together with a brief indication of its objective and rationale; such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;

2.9.3 upon request, provide to other Parties, particulars or copies of the proposed technical regulation and, whenever possible, identify the parts which in substance deviate from relevant international standards;

2.9.4 without discrimination, allow reasonable time for other Parties to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

2.10 Subject to the provisions in the lead-in to Article 2, paragraph 9, where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit such of the steps enumerated in Article 2, paragraph 9 as it finds necessary provided that the Party, upon adoption of a technical regulation, shall:

2.10.1 notify immediately other Parties through the GATT secretariat of the particular technical regulation and the products covered, with a brief indication of the objective and the rationale of the technical regulation, including the nature of the urgent problems;

2.10.2 upon request, provide other Parties with copies of the technical regulation;

2.10.3 without discrimination, allow other Parties to present their comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

2.11 Parties shall ensure that all technical regulations which have been adopted are published promptly or otherwise made available in such a manner as to enable interested parties to become acquainted with them.

2.12 Except in those urgent circumstances referred to in Article 2, paragraph 10, Parties shall allow a reasonable interval between the publication of a technical regulation and its entry into force in order to allow time for producers in exporting Parties, and particularly in developing country Parties, to adapt their products or methods of production to the requirements of the importing Party.
Article 3

Preparation, adoption and application of technical regulations by local government bodies and non-governmental bodies

[3.1 Parties shall ensure that local government bodies and non-governmental bodies within their territories comply with the provisions of Article 2, noting that:

3.1.1 notification shall not be required for technical regulations the technical content of which is substantially the same as that of previously notified technical regulations of central government bodies of the Party concerned; and that

3.1.2 contacts with other Parties, including the notifications, provision of information, comments and discussion referred to in Article 2, paragraphs 9 and 10, may be required to take place through the Party concerned.]

Alternative text

[3.1 Parties shall take such reasonable measures as may be available to them to ensure that local government bodies and non-governmental bodies within their territories comply with the provisions of Article 2, with the exception of the obligation to notify proposed technical regulations. Contacts with other Parties may be required to take place through the Party concerned. In addition, Parties shall not take measures which require or encourage such bodies to act in a manner inconsistent with the provisions of Article 2.]

Article 4

Preparation, adoption and application of standards

4.1 Parties shall ensure that their central government standardizing bodies accept and comply with the code of good practice for the preparation, adoption and application of standards in Annex 3 to this Agreement. They shall take such reasonable measures as may be available to them to ensure that local government and non-governmental standardizing bodies within their territories as well as regional standardizing bodies of which they or one or more bodies within their territories are members, accept and comply with this code of good practice. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such standardizing bodies to act in a manner inconsistent with the code of good practice in Annex 3. The obligations of Parties with respect to compliance of standardizing bodies with the provisions of the code of good practice shall apply irrespective of whether or not a standardizing body has accepted the code of good practice.

4.2 Standardizing bodies that have accepted and are complying with the code of good practice in Annex 3 shall be acknowledged by the Parties as complying with the principles of this Agreement.
CONFORMITY WITH TECHNICAL REGULATIONS AND STANDARDS

Article 5

Procedures for assessment of conformity by central government bodies

5.1 Parties shall ensure that, in cases where a positive assurance of conformity with technical regulations or standards is required, their central government bodies apply the following provisions to products originating in the territories of other Parties:

5.1.1 conformity assessment procedures are prepared, adopted and applied so as to grant access for suppliers of like products originating in the territories of other Parties under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation; access entails suppliers' right to an assessment of conformity under the rules of the procedure, including, when foreseen by this procedure, the possibility to have conformity assessment activities undertaken at the site of facilities and to receive the mark of the system;

5.1.2 conformity assessment procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. This means, inter alia, that conformity assessment procedures shall not be more strict or be applied more strictly than is necessary to give the importing Party adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create.

5.2 When implementing the provisions of Article 5, paragraph 1, Parties shall ensure that:

5.2.1 conformity assessment procedures are undertaken and completed as expeditiously as possible and in a no less favourable order for products originating in the territories of other Parties than for like domestic products;

5.2.2 the standard processing period of each conformity assessment procedure is published or that the anticipated processing period is communicated to the applicant upon request; when receiving an application, the competent body promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of all deficiencies; the competent body as soon as possible transmits the results of the assessment in a precise and complete manner to the applicant so that corrective action may be taken if necessary; even when the application has deficiencies, the competent body proceeds as far as practicable with the conformity assessment if the applicant so requests; and that, upon request, the applicant is informed of the stage of the procedure, with any delay being explained;

5.2.3 information requirements are limited to what is necessary to assess conformity and determine fees;
5.2.4 the confidentiality of information about products originating in the territories of other Parties arising from or supplied in connection with such conformity assessment procedures is respected in the same way as for domestic products and in such a manner that legitimate commercial interests are protected;

5.2.5 any fees imposed for assessing the conformity of products originating in the territories of other Parties are equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, taking into account communication, transportation and other costs arising from differences between location of facilities of the applicant and the conformity assessment body;

5.2.6 the siting of facilities used in conformity assessment procedures and the selection of samples are not such as to cause unnecessary inconvenience to applicants or their agents;

5.2.7 whenever specifications of a product are changed subsequent to its determination of conformity to the applicable technical regulations or standards, the conformity assessment procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the technical regulations or standards concerned;

5.2.8 a procedure exists to review complaints concerning the operation of a conformity assessment procedure and to take corrective action when a complaint is justified.

5.3 Nothing in Article 5, paragraphs 1 and 2 shall prevent Parties from carrying out reasonable spot checks within their territories.

5.4 In cases where a positive assurance is required that products conform with technical regulations or standards, and relevant guides or recommendations issued by international standardizing bodies exist or their completion is imminent, Parties shall ensure that central government bodies use them, or the relevant parts of them, as a basis for their conformity assessment procedures, except where, as duly explained upon request, such guides or recommendations or relevant parts are inappropriate for the Parties concerned, for, inter alia such reasons as national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

5.5 With a view to harmonizing conformity assessment procedures on as wide a basis as possible, Parties shall play a full part within the limits of their resources in the preparation by appropriate international standardizing bodies of guides and recommendations for conformity assessment procedures.

5.6 Whenever a relevant guide or recommendation issued by an international standardizing body does not exist or the technical content of a proposed conformity assessment procedure is not in accordance with relevant guides and recommendations issued by international standardizing bodies, and if
the conformity assessment procedure may have a significant effect on trade of other Parties, Parties shall:

5.6.1 publish a notice in a publication at an early appropriate stage, in such a manner as to enable interested parties to become acquainted with it, that they propose to introduce a particular conformity assessment procedure;

5.6.2 notify other Parties through the GATT secretariat of the products to be covered by the proposed conformity assessment procedure, together with a brief indication of its objective and rationale. Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;

5.6.3 upon request, provide to other Parties particulars or copies of the proposed procedure and, whenever possible, identify the parts which in substance deviate from relevant guides or recommendations issued by international standardizing bodies;

5.6.4 without discrimination, allow reasonable time for other Parties to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

5.7 Where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for a Party, that Party may omit such of the steps enumerated in Article 5, paragraph 6, as it finds necessary provided that the Party, upon adoption of the procedure, shall:

5.7.1 notify immediately other Parties through the GATT secretariat of the particular procedure and the products covered, with a brief indication of the objective and the rationale of the procedure, including the nature of the urgent problems;

5.7.2 upon request, provide other Parties with copies of the rules of the procedure;

5.7.3 without discrimination, allow other Parties to present their comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account.

5.8 Parties shall ensure that all conformity assessment procedures which have been adopted are published promptly or otherwise made available in such a manner as to enable interested parties to become acquainted with them.

5.9 Except in those urgent circumstances referred to in Article 5, paragraph 7, Parties shall allow a reasonable interval between the publication of requirements concerning conformity assessment procedures and their entry into force in order to allow time for producers in exporting Parties, and particularly in developing country Parties, to adapt their products or methods of production to the requirements of the importing Party.
Article 6

Recognition of conformity assessment by central government bodies

With respect to their central government bodies:

6.1 Without prejudice to the provisions of Article 6, paragraphs 3 and 4, Parties shall ensure, whenever possible, that results of conformity assessment procedures in other Parties are accepted, even when those procedures differ from their own, provided they are satisfied that those procedures offer an assurance of conformity with applicable technical regulations or standards equivalent to their own procedures. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding, in particular:

(a) adequate and enduring technical competence of the relevant conformity assessment bodies in the exporting Party, so that confidence in the continued reliability of their conformity assessment results can exist; in this regard, verified compliance, for instance through accreditation, with relevant guides or recommendations issued by international standardizing bodies shall be taken into account as an indication of adequate technical competence;

(b) limitation of the acceptance of conformity assessment results to those produced by designated bodies in the exporting Party.

6.2 Parties shall ensure that their conformity assessment procedures permit, as far as practicable, the implementation of the provisions in Article 6, paragraph 1.

6.3 Parties are encouraged, at the request of other Parties, to be willing to enter into negotiations for the conclusion of agreements for the mutual recognition of results of each other's conformity assessment procedures. Parties may require that such agreements fulfill the criteria of Article 6, paragraph 1 and give mutual satisfaction regarding their potential for facilitating trade in the products concerned.

6.4 Parties are encouraged to permit participation of conformity assessment bodies located in the territories of other Parties in their conformity assessment procedures under conditions no less favourable than those accorded to bodies located within their territory or the territory of any other country.
Article 7

Procedures for assessment of conformity by local government bodies

[7.1 Parties shall ensure that local government bodies within their territories comply with the provisions of Articles 5 and 6, noting that:

7.1.1 notification shall not be required in cases where a local government body acts only as a sub-contractor for a central government body; and

7.1.2 contacts with other Parties including the notifications, provision of information, comments and discussion referred to in Article 5, paragraphs 6 and 7, may be required to take place through the Party concerned.]

Alternative text

[7.1 Parties shall take such reasonable measures as may be available to them to ensure that local government bodies within their territories which operate conformity assessment procedures comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures. Contacts with other Parties may be required to take place through the Party concerned. In addition, Parties shall not take measures which require or encourage such bodies to act in a manner inconsistent with the provisions of Articles 5 and 6.

7.2 Parties shall ensure that their central government bodies rely on conformity assessment procedures operated by local government bodies only if these bodies comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures.]

Article 8

Procedures for assessment of conformity by non-governmental bodies

8.1 Parties shall take such reasonable measures as may be available to them to ensure that non-governmental bodies within their territories which operate conformity assessment procedures comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies to act in a manner inconsistent with the provisions of Articles 5 and 6.

8.2 Parties shall ensure that their central government bodies rely on conformity assessment procedures operated by non-governmental bodies only if these latter bodies comply with the provisions of Articles 5 and 6, with the exception of the obligation to notify proposed conformity assessment procedures.
Article 9

International and regional systems

9.1 Where a positive assurance of conformity with a technical regulation or standard is required, Parties shall, wherever practicable, formulate and adopt international systems for conformity assessment and become members thereof or participate therein.

9.2 Parties shall take such reasonable measures as may be available to them to ensure that international and regional systems for conformity assessment, in which relevant bodies within their territories are members or participants, comply with the provisions of Articles 5 and 6. In addition, Parties shall not take any measures which have the effect of, directly or indirectly, requiring or encouraging such systems to act in a manner inconsistent with any of the provisions of Articles 5 and 6.

9.3 Parties shall ensure that their central government bodies rely on international or regional conformity assessment systems only to the extent that these systems comply with the provisions of Articles 5 and 6, as applicable.

INFORMATION AND ASSISTANCE

Article 10

Information about technical regulations, standards and conformity assessment procedures

10.1 Each Party shall ensure that an enquiry point exists which is able to answer all reasonable enquiries from other Parties and interested parties in other Parties as well as to provide the relevant documents regarding:

10.1.1 any technical regulations adopted or proposed within its territory by central or local government bodies, by non-governmental bodies which have legal power to enforce a technical regulation, or by regional standardizing bodies of which such bodies are members or participants;

10.1.2 any standards adopted or proposed within its territory by central or local government bodies, or by regional standardizing bodies of which such bodies are members or participants;

10.1.3 any conformity assessment procedures, or proposed conformity assessment procedures, which are operated within its territory by central or local government bodies, or by non-governmental bodies which have legal power to enforce a technical regulation, or by regional bodies of which such bodies are members or participants;
10.1.4 the membership and participation of the Party, or of relevant central or local government bodies within its territory, in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of this Agreement; they shall also be able to provide reasonable information on the provisions of such systems and arrangements;

10.1.5 the location of notices published pursuant to this Agreement, or the provision of information as to where such information can be obtained; and

10.1.6 the location of the enquiry points mentioned in Article 10, paragraph 3.

10.2 If, however, for legal or administrative reasons more than one enquiry point is established by a Party, that Party shall provide to the other Parties complete and unambiguous information on the scope of each of these enquiry points. In addition, that Party shall ensure that any enquiries addressed to an incorrect enquiry point shall promptly be conveyed to the correct enquiry point.

10.3 Each Party shall take such reasonable measures as may be available to it to ensure that one or more enquiry points exist which are able to answer all reasonable enquiries from other Parties and interested parties in other Parties as well as to provide the relevant documents or information as to where they can be obtained regarding:

10.3.1 any standards adopted or proposed within its territory by non-governmental standardizing bodies, or by regional standardizing bodies of which such bodies are members or participants; and

10.3.2 any conformity assessment procedures, or proposed conformity assessment procedures, which are operated within its territory by non-governmental bodies, or by regional bodies of which such bodies are members or participants;

10.3.3 the membership and participation of relevant non-governmental bodies within its territory in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements within the scope of this Agreement; they shall also be able to provide reasonable information on the provisions of such systems and arrangements.
10.4 Parties shall take such reasonable measures as may be available to them to ensure that where copies of documents are requested by other Parties, or by interested parties in other Parties, in accordance with the provisions of this Agreement, they are supplied at an equitable price (if any) which shall, apart from the real cost of delivery, be the same for the nationals of the Party concerned or of any other Party.

10.5 Developed country Parties shall, if requested by other Parties, provide, in English French or Spanish, translations of the documents covered by a specific notification or, in case of voluminous documents, of summaries of such documents.

10.6 The GATT secretariat will, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Parties and interested international standardizing and conformity assessment bodies, and draw the attention of developing country Parties to any notifications relating to products of particular interest to them.

10.7 Whenever a Party has reached an agreement with any other country or countries on issues related to technical regulations, standards or conformity assessment procedures, which may have a significant effect on trade, at least one Party to the agreement shall notify other Parties through the GATT secretariat of the products to be covered by the agreement and include a brief description of the agreement. Parties concerned are encouraged to enter, upon request, into consultations with other Parties for the purposes of concluding similar agreements or of arranging for their participation in such agreements.

10.8 Nothing in this Agreement shall be construed as requiring:

10.8.1 the publication of texts other than in the language of the Party;

10.8.2 the provision of particulars or copies of drafts other than in the language of the Party except as stated in Article 10, paragraph 5; or

10.8.3 Parties to furnish any information, the disclosure of which they consider contrary to their essential security interests.

10.9 Notifications to the GATT secretariat shall be in English, French or Spanish.

10.10 Parties shall designate a single central government authority that is responsible for the implementation on the national level of the provisions concerning notification procedures under this Agreement except those included in Annex 3.

10.11 If, however, for legal or administrative reasons the responsibility for notification procedures is divided among two or more central government authorities, the Party concerned shall provide to the other Parties complete and unambiguous information on the scope of responsibility of each of these authorities.
Article 11

Technical assistance to other Parties

11.1 Parties shall, if requested, advise other Parties, especially the developing countries, on the preparation of technical regulations.

11.2 Parties shall, if requested, advise other Parties, especially the developing countries, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of national standardizing bodies, and participation in the international standardizing bodies, and shall encourage their national standardizing bodies to do likewise.

11.3 Parties shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other Parties, especially the developing countries, and shall grant them technical assistance on mutually agreed terms and conditions regarding:

11.3.1 the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulations; and

11.3.2 the methods by which their technical regulations can best be met.

11.4 Parties shall, if requested, take such reasonable measures as may be available to them to arrange for advice to be given to other Parties, especially the developing countries, and shall grant them technical assistance, on mutually agreed terms and conditions, regarding the establishment of bodies for the assessment of conformity with standards adopted within the territory of the requesting Party.

11.5 Parties shall, if requested, advise other Parties, especially the developing countries, and shall grant them technical assistance, on mutually agreed terms and conditions, regarding the steps that should be taken by their producers if they wish to have access to systems for conformity assessment operated by governmental or non-governmental bodies within the territory of the Party receiving the request.

11.6 Parties which are members or participants of international or regional systems for conformity assessment shall, if requested, advise other Parties, especially the developing countries, and shall grant them technical assistance, on mutually agreed terms and conditions, regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.
11.7 Parties shall, if so requested, encourage bodies within their territories which are members or participants of international or regional systems for conformity assessment to advise other Parties, 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.

11.8 In providing advice and technical assistance to other Parties in terms of Article 11, paragraphs 1 to 7, Parties shall give priority to the needs of the least-developed countries.

**Article 12**

**Special and differential treatment of developing countries**

12.1 Parties shall provide differential and more favourable treatment to developing country Parties to this Agreement, through the following provisions as well as through the relevant provisions of other Articles of this Agreement.

12.2 Parties shall give particular attention to the provisions of this Agreement concerning developing countries' rights and obligations and shall take into account the special development, financial and trade needs of developing countries in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements.

12.3 Parties shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing countries, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing countries.

12.4 Parties recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing countries adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Parties therefore recognize that developing countries should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.

12.5 Parties shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Parties, taking into account the special problems of developing countries.
12.6 Parties shall take such reasonable measures as may be available to them to ensure that international standardizing bodies, upon request of developing countries, examine the possibility of, and, if practicable, prepare international standards concerning products of special interest to developing countries.

12.7 Parties shall, in accordance with the provisions of Article 11, provide technical assistance to developing countries to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing countries. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting country and in particular of the least-developed countries.

12.8 It is recognized that developing countries may face special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures. It is further recognized that the special development and trade needs of developing countries, as well as their stage of technological development, may hinder their ability to discharge fully their obligations under this Agreement. Parties, therefore, shall take this fact fully into account. Accordingly, with a view to ensuring that developing countries are able to comply with this Agreement, the Committee is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall in particular, take into account the special problems of the least-developed countries.

12.9 During consultations, developed countries shall bear in mind the special difficulties experienced by developing countries in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing countries with their efforts in this direction, developed countries shall take account of the special needs of the former in regard to financing, trade and development.

12.10 The Committee shall examine periodically the special and differential treatment, as laid down in this Agreement, granted to developing countries on national and international levels.
INSTITUTIONS, CONSULTATION AND DISPUTE SETTLEMENT

Article 13

The Committee on Technical Barriers to Trade

There shall be established under this Agreement:

13.1 A Committee on Technical Barriers to Trade composed of representatives from each of the Parties (hereinafter referred to as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary, but no less than once a year for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives, and shall carry out such responsibilities as assigned to it under this Agreement or by the Parties.

13.2 Working parties, technical expert groups, panels or other bodies as may be appropriate, which shall carry out such responsibilities as may be assigned to them by the Committee in accordance with the relevant provisions of this Agreement.

[13.3 It is understood that unnecessary duplication should be avoided between the work under this Agreement and that of governments in other technical bodies, e.g. the Joint FAO/WHO Codex Alimentarius Commission. The Committee shall examine this problem with a view to minimizing such duplication. - This paragraph to be addressed subsequently.]
Article 14

Consultation and dispute settlement

[Article 14, paragraphs 1 to 26 of the Agreement of 1979.]

Alternative text

Article 14.1

Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement shall be subject to the procedures of Articles XXII and XXIII of the GATT, including the Dispute Settlement Procedures as adopted by the CONTRACTING PARTIES, and shall take place under the auspices of the Committee on Technical Barriers to Trade.

Article 14.2

At the request of a Party to a dispute, or at its own initiative, a panel may establish a technical expert group to assist in questions of a technical nature, requiring detailed consideration by experts. Technical expert groups shall make such findings as will assist the panel in its work, including inter alia and if appropriate, findings concerning the detailed scientific judgement involved.

Article 14.3

Technical expert groups shall be governed by the procedures of Annex 2.

Article 14.4

Levels of obligation

The dispute settlement provisions set out above can be invoked in cases where a Party considers that another Party has not achieved satisfactory results under Articles ... and ... and its trade interests are significantly affected. In this respect, such results shall be equivalent to those envisaged in Articles ... and ... as if the body in question were a Party.

Article 14.5

Retroactivity

To the extent that a Party considers that technical regulations, standards, conformity assessment procedures which exist at the time of entry into force of this Agreement are not consistent with the provisions of this Agreement, such regulations, standards, conformity assessment procedures shall be subject to the provisions in Articles 13 and 14 of this Agreement, insofar as they are applicable.]
FINAL PROVISIONS

Article 15

Final Provisions

[To be addressed subsequently.]
ANNEX 1

TERMS AND THEIR DEFINITIONS FOR THE
PURPOSE OF THIS AGREEMENT

The terms presented in the fifth edition of the ISO/IEC Guide 2, General Terms and Their Definitions Concerning Standardization and Related Activities, and in the draft amendment sheet to this Guide, as it stood on 18 October 1990 shall, when used in this Agreement, have the same meaning as given in the definitions in the said Guide and in the amendment sheet thereto taking into account that services are excluded from the coverage of this Agreement.

For the purpose of this Agreement, however, the following definitions shall apply:

1. Technical regulation

   Document which lays down characteristics for products, processes and production methods including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

   Explanatory note

   The definition in ISO/IEC Guide 2 is not self-contained, but based on the so-called "building block" system.

2. Standard

   For the term "Standard" the following definition shall apply:

   Document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products, processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

   Explanatory note

   The terms as defined in ISO/IEC Guide 2 cover products, processes and services. This agreement deals only with technical regulations, standards and conformity assessment procedures related to products processes and production methods. Standards as defined by ISO/IEC Guide 2 may be mandatory or voluntary. For the purpose of this Agreement standards are defined as voluntary and technical regulations as mandatory documents. Standards prepared by the international standardization community are based on consensus. This agreement covers also documents that are not based on consensus.
3. **Conformity assessment procedures**

Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

**Explanatory note:** Conformity assessment procedures include, *inter alia*, procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations.

4. **International body or system**

Body or system whose membership is open to the relevant bodies of at least all Parties to this Agreement.

5. **Regional body or system**

Body or system whose membership is open to the relevant bodies of only some of the Parties.

6. **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.

**Explanatory note:**

In the case of the European Economic Community the provisions governing central government bodies apply. However, regional bodies or conformity assessment systems may be established within the European Economic Community, and in such cases would be subject to the provisions of this Agreement on regional bodies or certification systems.

7. **Local government body**

Government other than a central government (e.g. states, provinces, Länder, cantons, municipalities, etc.), its ministries or departments or any body subject to the control of such a government in respect of the activity in question.

8. **Non-governmental body**

Body other than a central government body or a local government body, including a non-governmental body which has legal power to enforce a technical regulation.
ANNEX 2

TECHNICAL EXPERT GROUPS

[The following procedures shall apply to technical expert groups established in accordance with the provisions of Article 14.

1. Technical expert groups are under the panel's authority. Their terms of reference and detailed working procedures shall be decided by the panel, and they shall report to the panel.

2. Participation in technical expert groups shall be restricted to persons of professional standing and experience in the field in question.

3. Citizens of parties to the dispute shall not serve on a technical expert group without the joint agreement of the parties to the dispute. Members of technical expert groups shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a technical expert group.

4. The Parties to a dispute shall have access to all relevant information provided to a technical expert group, unless it is of a confidential nature. Confidential information provided to the technical expert group shall not be released without formal authorization from the government or person providing the information. Where such information is requested from the technical expert group but release of such information by the technical expert group is not authorized, a non-confidential summary of the information will be provided by the government or person supplying the information.

5. The technical expert group should submit a draft report to the Parties concerned with a view to obtaining their comments, and taking them into account, as appropriate, in the final report.]
ANNEX 3

CODE OF GOOD PRACTICE FOR THE PREPARATION, ADOPTION AND APPLICATION OF STANDARDS

GENERAL PROVISIONS

A. For the purposes of this code the definitions in Annex 1 of this Agreement shall apply.

B. This code is open to acceptance by any standardizing body within the territory of a Party to the GATT Agreement on Technical Barriers to Trade, whether a central government body, a local government body, or a non-governmental body; to any governmental regional standardizing body one or more members of which are Party to the above Agreement; and to any non-governmental regional standardizing body one or more members of which are situated within the territory of a Party to the above Agreement (hereafter collectively called "standardizing bodies" and individually "the standardizing body").

C. Standardizing bodies that have accepted or withdrawn from this code shall notify this fact to the ISO/IEC Information Centre in Geneva. The notification shall include the name and address of the body concerned and the scope of its current and expected standardization activities. The notification may be sent either directly to the ISO/IEC Information Centre, or through the national member body of ISO/IEC or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.

SUBSTANTIVE PROVISIONS

D. In respect of standards, the standardizing body shall accord treatment to products originating in the territory of any other Party to the GATT Agreement on Technical Barriers to Trade no less favourable than that accorded to like products of national origin and to like products originating in any other country.

E. The standardizing body shall ensure that standards are not prepared, adopted or applied with a view, to or with the effect of, creating unnecessary obstacles to international trade.

F. Where international standards exist or their completion is imminent, the standardizing body shall use them, or the relevant parts of them, as a basis for the standards it develops, except where such international standards or relevant parts would be ineffective or inappropriate for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.

G. With a view to harmonizing standards on as wide a basis as possible, the standardizing body shall, in an appropriate way, play a full part within the limits of its resources in the preparation by relevant
international standardizing bodies of international standards regarding subject matter for which it either has adopted, or expects to adopt, standards. For standardizing bodies within the territory of a Party, participation in a particular international standardization activity shall, whenever possible, take place through one delegation representing all standardizing bodies in the territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardization activity relates.

H. The standardizing body within the territory of a Party shall make every effort to avoid duplication of, or overlap with, the work of other standardizing bodies in the national territory or with the work of relevant international or regional standardizing bodies. They shall also make every effort to achieve a national consensus on the standards they develop. Likewise the regional standardizing body shall make every effort to avoid duplication of, or overlap with, the work of relevant international standardizing bodies.

I. Wherever appropriate, the standardizing body shall specify standards based on product requirements in terms of performance rather than design or descriptive characteristics.

J. At least once every six months, the standardizing body shall publish a work programme containing its name and address, the standards it is currently preparing and the standards which it has adopted in the preceding period. A standard is under preparation from the moment a decision has been taken to develop a standard until that standard has been adopted. The titles of specific draft standards shall, upon request, be provided in English, French or Spanish. A notice of the existence of the work programme shall be published in a national or, as the case may be, regional publication of standardization activities.

The work programme shall for each standard indicate, in accordance with any ISONET rules, the classification relevant to the subject matter, the stage attained in the standard's development, and the references of any international standards taken as a basis. No later than at the time of publication of its work programme, the standardizing body shall notify the existence thereof to the ISO/IEC Information Centre in Geneva.

The notification shall contain the name and address of the standardizing body, the name and issue of the publication in which the work programme is published, the period to which the work programme applies, its price (if any), and how and where it can be obtained. The notification may be sent directly to the ISO/IEC Information Centre, or, preferably, through the relevant national member or international affiliate of ISONET, as appropriate.

K. The national member of ISO/IEC shall make every effort to become a member of ISONET or to appoint another body to become a member as well as to acquire the most advanced membership type possible for the ISONET member. Other standardizing bodies shall make every effort to associate themselves with the ISONET member.
L. Before adopting a standard, the standardizing body shall allow a period of at least sixty days for the submission of comments on the draft standard by interested parties in a Party to the GATT Agreement on Technical Barriers to Trade. This period may, however, be shortened in cases where urgent problems of safety, health or environment arise or threaten to arise. No later than at the start of the comment period, the standardizing body shall publish a notice announcing the period for commenting in the publication referred to in paragraph J. Such notification shall include, as far as practicable, whether the draft standard deviates from relevant international standards.

M. On the request of any interested party in a Party to the GATT Agreement on Technical Barriers to Trade, the standardizing body shall promptly provide, or arrange to provide, a copy of a draft standard which it has submitted for comments. Any fees charged for this service shall, apart from the real cost of delivery, be the same for domestic and foreign parties.

N. The standardizing body shall take into account, in the further processing of the standard, the comments received during the period for commenting. Comments received through standardizing bodies that have accepted this code of good practice shall, if so requested, be replied to as promptly as possible. The reply shall include an explanation why a deviation from relevant international standards is necessary.

O. Once the standard has been adopted, it shall be promptly published.

P. On the request of any interested party in a Party to the GATT Agreement on Technical Barriers to Trade, the standardizing body shall promptly provide or arrange to provide a copy of its most recent work programme or of a standard which it produced. Any fees charged for this service shall, apart from the real costs of delivery, be the same for foreign and domestic parties.

Q. The standardizing body shall afford sympathetic consideration to, and adequate opportunity for, consultation regarding representations with respect to the operation of this code presented by standardizing bodies that have accepted this code of good practice. It shall make an objective effort to solve any complaints.
Recommendation of the Committee on Technical Barriers to Trade

The Committee recommends that the GATT secretariat reach an understanding with the ISO to establish an information system under which:

1. ISONET members shall transmit to the ISO/IEC Information Centre in Geneva the notifications referred to in paragraphs C and J of the code of good practice for the preparation, adoption and application of standards in Annex 3 to the GATT Agreement on Technical Barriers to Trade, in the manner indicated there;

2. the following (alpha)numeric classification systems shall be used in the work programmes mentioned above:
   (a) a standards classification system which would allow standardizing bodies to give for each standard mentioned in the work programme an (alpha)numeric indication of the subject matter;
   (b) a stage code system which would allow standardizing bodies to give for each standard mentioned in the work programme an (alpha)numeric indication of the stage of development of the standard; for this purpose, at least five stages of development should be distinguished: (1) the stage at which the decision to develop a standard has been taken, but technical work has not yet begun; (2) the stage at which technical work has begun, but the period for the submission of comments has not yet started; (3) the stage at which the period for the submission of comments has started, but has not yet been completed; (4) the stage at which the period for the submission of comments has been completed, but the standard has not yet been adopted; and (5) the stage at which the standard has been adopted;
   (c) an identification system covering all international standards which would allow standardizing bodies to give for each standard mentioned in the work programme an (alpha)numeric indication of the international standard(s) used as a basis;

3. the ISO/IEC Information Centre shall promptly convey to the GATT secretariat copies of any notifications referred to in paragraph C of the code of good practice;

4. the ISO/IEC Information Centre shall regularly publish the information received in the notifications made to it under paragraphs C and J of the code of good practice; this publication, for which a reasonable fee may be charged, shall be available to ISONET members and through the GATT secretariat, to the Parties to the Agreement on Technical Barriers to Trade.
Decision of the Committee on Technical Barriers to Trade

Without prejudice to provisions on consultation and dispute settlement, the Committee decides that, in conformity with Article 13, paragraph 1, it shall at least once a year review the publication provided by the ISO/IEC Information Centre on information received according to the code of good practice in Annex 3 of the Agreement, for the purpose of affording Parties opportunity of discussing any matters relating to the operation of that code.

In order to facilitate this discussion, the GATT secretariat is requested to provide a list by country of all standardizing bodies that have accepted the code of good practice, as well as a list of those standardizing bodies that have accepted or withdrawn from the code since the previous review.

The GATT secretariat is also requested to distribute promptly to the Parties copies of the notifications it receives from the ISO/IEC Information Centre.