

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/NTM/W/25

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Special Distribution

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## Multilateral Trade Negotiations

### Group "Non-Tariff Measures"

#### Sub-Group "Technical Barriers to Trade"

## MEETING AT TECHNICAL LEVEL OF SEPTEMBER/OCTOBER 1975

### Note by the Secretariat

1. The Sub-Group met at technical level from 23 September to 3 October 1975. The Sub-Group agreed that the secretariat should chair the Sub-Group. It invited the Secretary General of UNCTAD or his representative to attend this meeting of the Sub-Group as an observer.
2. The Sub-Group examined suggestions made by delegations regarding the text of the Proposed Code of Conduct for preventing Technical Barriers to Trade with a view to establishing specific drafting suggestions. The text of the Proposed Code is annexed to MTN/NTM/W/5. Suggestions made before the meeting are set out in MTN/NTM/W/12 and Add.1. A number of other suggestions were made during the meeting.
3. This note, which has been prepared on the responsibility of the secretariat, sets out the main suggestions examined at the meeting. No conclusions were reached by the Sub-Group. This note is designed to facilitate the work of the Sub-Group at its next meeting.

### Preamble

- It was felt that it was premature to draft a definitive version of the preamble at this stage.

- Insert the following paragraph in the preamble:

"Recognizing that nothing in this Code shall be construed with a view to preventing developing countries from adoption of standards, including packaging and labelling regulations, and methods for ensuring conformity with standards consistent with their development needs."

### Definitions

- The Sub-Group discussed the question of the definitions to be used in the Draft Code. The Sub-Group agreed to examine the applicability of the definitions recently adopted by the United Nations Economic Commission for Europe and under examination in the International Organization for Standardization, which are set out in pages 34 to 39 of MIN/NTM/W/5. The Sub-Group examined two hypotheses:

- (a) that the ECE/ISO definitions would be used without any modifications as such and that any qualification of these definitions which was required for the purpose of the Code should be achieved through separate notes to this effect; and
- (b) that where any qualification of the definitions was required for the purpose of the Code, this should be achieved by modifying the definitions themselves.

The two alternative ways of presenting the definitions drawn up during the examination of these two hypotheses, are annexed to the present note.

- The Sub-Group discussed the terminology to be used in the Draft Code. It was suggested that the ECE/ISO terminology should be used.<sup>1</sup> Some delegations expressed reservations regarding the use of the term "technical specification" in place of the term "standard".

### Operative provisions

#### Section 2

Paragraph (a) - Replace the second sentence by "They shall likewise ensure that neither mandatory standards themselves nor their application have the effect of creating obstacles to international trade which are disproportionate to the legitimate objectives of the regulations concerned."

This suggestion appears to be relevant to a number of other provisions in the text e.g. 4(a), 5(a), 9(a), 13(c).

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<sup>1</sup>As no final decisions were taken during the meetings, the terminology used in the Draft Code has been used throughout the present note.

Section 2 (cont'd)

- Add "including packaging and labelling regulations" after "mandatory standards" in both sentences. The view was expressed that problems relating to packaging and labelling were already covered by virtue of the definition of the term "standard".

This suggestion appears to be relevant to a number of other provisions in the text e.g. 4(a), 5(a), 9(a).

- Add "particularly to developing countries" at the end of both sentences.

This suggestion appears to be relevant to a number of other provisions in the text e.g. 4(a), 5(a), 9(a), 13(c).

- Paragraph (b) - Insert the word "clearly" before the word "inappropriate".

This suggestion appears to be relevant to a number of other provisions in the text e.g. 4(c).

- Paragraph (c) - Amend the first line to read: "With a view to achieving harmonization of their mandatory standards on as wide a basis as possible,".

- New paragraph - Add a new paragraph after (c), to read: "Adherents shall do everything within their power so that international standards may be established within a framework that is effectively representative from the aspect of the extent of participation of interested countries, taking particular account of the situation of developing countries through the application of differential treatment, where necessary and feasible."

- Paragraph (d) - Replace the phrase "in terms of performance rather than detailed design" by "in terms of performance, and shall avoid the use of design criteria that specify for example physical or dimensional characteristics of a product or methods or conditions of manufacture".

This suggestion appears to be relevant to a number of other provisions in the text e.g. 4(c).

Section 2 (cont'd)

New paragraph - Add a new paragraph before (e) reading: "When adherents decide before (e) to adopt a mandatory standard substantially based on an international standard, they shall notify the GATT secretariat as soon as possible on the product coverage and the relevant symbol and serial number of the international standard."

Paragraph (c) - Insert in the introductory sentence after "technical content of introduction of (e) (ii) an international standard" the words: "and if this content is liable to have a significant effect on international trade". One alternative proposal would add at the end of (e) (ii) the words: "except those that are clearly of no importance to international trade".

This suggestion appears to be relevant to a number of other provisions in the text e.g. 18.

Paragraph (e) - Redraft (e) (i) to read: "publish a notice at an appropriate stage that they are working on a particular draft mandatory standard; ...".

(ii) - Substitute for "the GATT secretariat" the words "the Committee for Preventing Barriers to Trade". See also section 19.

Paragraph (e) - Amend the sub-paragraphs to read:

(iv), (v) and (vi)

(iv) "allow reasonable time to other adherents to submit their comments and take into account these comments";

(v) "if requested undertake consultations with interested adherents and take into account the results of these consultations before the mandatory standard is adopted".

Paragraph (e) - Add a new sub-paragraph at the end of (e), reading: "It is new sub-paragraph recommended that adherents identify in the mandatory standard the relevant parts which differ from the international standard."

Paragraph (f) - Redraft the paragraph to read: "However, where urgent problems of safety, health, environmental protection or national security exist, adherents may omit such of the steps in paragraph (e) of this section as they find necessary. In that event they shall immediately thereafter notify to the Committee on Preventing

Section 2 (cont'd)

## Paragraph (f) (cont'd)

Technical Barriers to Trade of the products covered, with a brief indication of the objective of the mandatory standard and the nature of the urgent problems. They shall take into account comments which they may subsequently receive from other adherents in considering whether to initiate amendments."

- Redraft the paragraph to read: "When an adherent intends to solve rapidly urgent problems of safety, health, environmental protection or national security through the abrogation of existing mandatory standards or the introduction of new ones, paragraph (e) shall not apply. In that event, this adherent shall notify the GATT secretariat of the changes made, including their implementation period. Furthermore, they shall undertake consultations on request with other adherents."

Paragraph (h) - Replace the words in the first line "except where there are urgent problems of public safety, health, environmental protection or national security" by "except in those circumstances referred to in paragraph (f) above".

- In the fourth line, after the words "allow time for producers in exporting countries" and the words "and particularly to those in developing countries".

Paragraphs (j) and (k) - Delete (j) and (k).

Paragraph (j) - Replace the phrase: "adherents shall use all reasonable means within their power to ensure that ..." by the following "... developing adherents shall use all reasonable means within their power to ensure, and developed adherents will ensure, that ...".

This suggestion appears to be relevant to a number of other provisions in the text e.g. 4(a), (c) - (f), (h), (g), 7, 8, 11, 12, 13(b) and (h), 14 and 15, 16(b), (c).

Paragraph (k) - Complete the text as follows: "The regional standards of regional standardizing bodies regularly not applied by the member countries to products coming from countries outside the regional organization are not subject to notification."

Section 3      - Replace the present text by:

- (a) "Adherents shall use all reasonable means within their power to ensure that local government bodies and regulatory bodies other than central government bodies within their territories do not prepare, adopt or apply mandatory standards with a view to creating obstacles to international trade. They shall likewise use all reasonable means within their power to ensure that neither the mandatory standards of local government bodies /and regulatory bodies other than central government bodies/ within their territories nor their application have the effect of creating an unjustifiable obstacle to international trade."
- (b) "Where mandatory standards are required and relevant international standards exist or their completion is imminent, adherents shall use all reasonable means within their power to ensure that local government bodies /and regulatory bodies other than central government bodies/ within their territories use the international standards, or the relevant parts of them, as a basis for the mandatory standards, except where such international standards or relevant parts are inappropriate for the local government bodies /or regulatory bodies/ concerned."
- (c) "Where appropriate, adherents shall use all possible means within their power to ensure that local government bodies /and regulatory bodies other than central government bodies/ within their territories specify mandatory standards in terms of performance rather than detailed design."
- (d) "Except where the technical content of proposed mandatory standards of local government bodies within the territory of an adherent is substantially the same as the technical content of an international standard, the adherent shall use all reasonable means within its power to ensure that the local government bodies -
  - (i) publish a notice at an appropriate stage that they are working on a particular mandatory standard;
  - (ii) provide the adherent with particulars or copies of draft mandatory standards which the adherents shall transmit to other adherents on request;
  - (iii) allow a reasonable time for comment;
  - (iv) take account of comments received from other adherents."

Section 3 (cont'd)

- (e) "However, where a mandatory standard is prepared for the purpose of meeting an urgent problem of safety, health, environmental protection /or security/ any of the steps in paragraph (d) may be omitted, if necessary. In that event, adherents shall use all reasonable means within their power to ensure that the local government body within its territory preparing the mandatory standard takes account of comments received from other adherents."
- (f) "Adherents shall use all reasonable means within their power to ensure that local government bodies within their territories publish all mandatory standards which have been adopted by them."
- (g) "Except where there are urgent problems of public safety, health, environmental protection /or security/ adherents shall use all reasonable means within their power to ensure that local government bodies within their territories allow a reasonable interval between the publication of the mandatory standard and its entry into force in order to allow time for producers in exporting countries to adapt their products or methods of production so as to be able to comply with the relevant standard."

- It was suggested that an attempt should be made to shorten this suggestion e.g. by modifying the end of the present text of section 3 to read "with the exception of 2(c), (e) (ii), (j) and (k)".

Section 4

Paragraph (a) - Amend the first sentence to read as follows:

"Adherents shall use all reasonable means within their power to ensure that bodies within their territory, whether governmental or non-governmental, do not prepare, adopt or apply voluntary standards with a view to creating obstacles to international trade."

- It was suggested that voluntary standards prepared by central governmental bodies should be dealt with separately.

Paragraph (b) - Amend the paragraph as follows:

Section 4 (cont'd)

Paragraph (b) (cont'd)

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

Paragraph 4, (f) (ii) - Redraft paragraph (f) (ii) to read: "on request by the adherent, provide particulars or copies of draft standards which shall make such material available on request from interested parties in other adherents" and (f) (iv) to read: "take account of comments that the adherent may receive from other adherents".

Paragraph 4, (j) and (k) - It was suggested that paragraphs (j) and (k) be deleted.

Paragraph (k) - Add after "inclusive of this section", "within a reasonable period of time".

- Redraft (k) to read: "Adherents shall fulfil and shall use all reasonable means within their power to ensure that bodies within their territories which are members of regional standards bodies fulfil the provisions of paragraphs (a) to (h) inclusive ..."

Section 5

Paragraph (e) - Alter the third line to read: "... that the exporting adherent's methods provide either a guarantee that the products tested conform to the relevant mandatory standard or an equivalent means of determining ..."

- Change in the first line the word "should" to "shall" and leave the rest of the text as is.

Paragraphs (d) and (e) - Reverse the order of these two paragraphs.



Section 6

- Paragraph (a) - Redraft (a) to read: "A positive assurance that imported products conform with mandatory standards shall only be required when such assistance is necessary to achieve the objective of the mandatory standards. In such cases adherents shall, whenever possible ..."
- It was suggested that the words "whenever possible" be strengthened.
- Paragraph (a) (ii) - Redraft (ii) to read: "accept assurances of conformity with the relevant mandatory standard provided by a governmental quality assurance body or a quality assurance body officially recognized in the territories of other adherents".
- Paragraph (a) (iii) - It was suggested that the language be improved to bring out the idea that tests may be carried out in third countries, i.e. other than the importing or exporting country.
- Paragraph (b) - Amend the introductory paragraph to read: "In cases when it has been clearly established that it is not possible to implement the methods provided for in paragraph (a) of this section and tests are carried out on the territory of the importing adherent, adherents shall apply the following provisions:"
- It was suggested that the objective of the above proposal would be better served by altering paragraph (a) in section 6, e.g. by replacing "whenever possible" by "except when it has been clearly established that it is not possible,". Several delegations felt that the proposal, whether incorporated in (b) or (a) would cause difficulties.
- Paragraph (b) (iv) - Delete the words "if requested".
- Paragraph (b) (vi) - Replace the existing text by: "The confidentiality of information about imported products arising from or supplied in connexion with such tests shall be respected in the same way as for domestic products, except where problems of safety or health arise."
- Some delegations felt that this amendment would cause difficulties by altering the concept of equal treatment.

Section 8 - Amend the introduction in a way similar to that suggested for Section 4.

Section 9

Paragraph (d) - It is suggested that the text should make clear that at international level publication mentioned in this paragraph should be effected through the intermediary of the GATT secretariat which would make the distribution to adherents to the Code.

Paragraph (e) - Replace the text in the two sets of square brackets by the following: "Adherents shall ensure that such systems accept products produced in the territories of other adherents at the same time as they accept domestic products, and under conditions no less favourable than those accorded to domestic products."

Paragraphs (e) and (f) - Merge paragraphs (e) and (f) to read: "Adherents shall ensure that such systems are open, as soon as implemented, to suppliers of similar products produced in the territories of other adherents, under conditions no less favourable than those accorded to domestic suppliers; nevertheless, if for particular reasons it is considered inadvisable to open such systems or agreements from the outset to suppliers in the territories of other adherents, their application may be limited in the initial stages."

New paragraph (g) - Add a new paragraph (g), to read: "Where quality assurance systems employ certifications marks, such systems shall, where applicable, incorporate requirements for adherents to introduce in their territories comparative legislative measures to regularize administrative procedures and to provide for the legal protection of certification marks on the basis of equality of rights and obligations." Some delegations felt that this amendment would give rise to difficulties.

This suggestion appears to be also relevant to section 13 - new paragraph between (g) and (h).

New paragraph (h) - Add a further new paragraph (h), to read: "Where quality assurance systems employ certification marks, such systems shall, where applicable contain guidelines to assess the technical competence and reliability of participants."

Section 10 - Insert the words "or those on which they rely" after "of their central government bodies".

Section 13

Paragraph (d) - Replace "sole criterion" by "basic criterion".  
(i) and (ii)

Paragraph (d) - Add a new (iii), to read: "Such systems and arrangements should  
new (iii) contain guidelines to assess the technical competence and reliability of participants."

Paragraphs - Replace the existing text of (f) by: "International certification  
(f), (h)(ii), systems accept products produced in the territories of other  
(j) and (l) adherents which are not members of, or participants in the systems at the same time as they accept products from the territories of members of the systems, and under conditions no less favourable than those accorded to products from the territories of members of the systems;"

Paragraph - Make a consequential change in (h) (ii) as follows: "Accept  
(h) (ii) products produced in the territories of other adherents which are not members of the systems at the same time as they accept products from the territories of members of the systems and under conditions no less favourable than those accorded to products from the territories of members of the systems."

Paragraphs - Delete (j) and (l).  
(j) and (l)

Paragraphs - Add to (g) at the end of the introductory paragraph, the words:  
(g) and (j) "or in transferring a regional quality assurance system into an international quality assurance system:" and delete (j).

Section 16 - A suggestion was made that it would be useful to establish a clearing house for information on the activities of international standards bodies and international quality assurance systems. Another suggestion was that the GATT secretariat or the Committee that may be established might as a part of its continuing work, advise adherents as to the organizations from which such information may be obtained.

Paragraph (b) - Add the words "or Spanish" after the words "in English or French".

- Section 17
- It was suggested that it might be necessary to spell out the sort of technical assistance which developing countries would need if they were to meet the level of sophistication required by the standards of developed countries. It was also suggested that provision should be made for channelling of technical assistance to developing countries on a multilateral basis.
  - Replace the words "should consider requests for technical assistance" by "shall grant them technical assistance".

Other provisions

- Sections 19-22 - Some delegations indicated that they were still reflecting on questions relating to the administrative provisions.

- Section 19
- It was recalled that during the preparatory phase of the work an unsuccessful attempt had been made to find a shorter appropriate name for the Committee.
  - Add at the end of the first sentence the words "within two months after its entry into force".

- Paragraph (a)
- Amend the second sentence in the paragraph to read "to provide that in addition to meeting once a year, the Chairman could call additional meetings either if requested by an adherent or if he considers it necessary to hold a meeting in order to fulfil the objectives of the Code".
  - There is a proposal that the words "after consultation with members" should be added in the above sentence after the words "or if he considers it necessary".
  - An alternative proposal is that the first part of the second sentence should read: "The Committee shall meet from time to time, as necessary, and at least once a year ..."
  - Add another sentence at the end of the paragraph: "Furthermore it may rely for technical assistance on the services of the GATT secretariat and may also hear Technical experts proposed by one or more of its members."
  - It was suggested that, to begin with, that the Committee might be given a mandate "to deal with all matters relating to the implementation of the Code". At a later stage, it might be possible to consider whether any new elements might have to be added to the provisions.

Section 19 (cont'd)

- It was suggested that the terms of reference of the Committee should include an analysis and study of the non-tariff measures contained in the GATT Inventory.

Section 20

- A number of delegations suggested that the Section should be redrafted.
- Some delegations said that they would have difficulty in accepting the draft text. It was unlikely that adherents would make efforts on their own to identify the mandatory standards or quality assurance systems which result in barriers to trade, and take steps to bring them into conformity with the operative provisions of the Code. The section should therefore be redrafted to state that the Code dealt with all standards and quality assurance systems, whether existing or future. If this course were followed, adherents whose exports were adversely affected would first approach the adherent in question and then, if they did not receive satisfaction, the Committee.
- It was suggested that it may be necessary to provide for notification to the Committee of the actions taken by adherents to modify existing standards or quality assurance systems which resulted in barriers to trade.

Section 21

- Paragraph (a) - Insert, at the beginning of (a), the following text: "During consultations developed countries shall bear in mind the special difficulties experienced by developing countries in formulating and implementing standards and technical regulations and methods of ensuring conformity with those standards and technical regulations, 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." It was also suggested that the substance of this amendment might be put in the Preamble.
- Paragraph (c) - Divergent views were expressed concerning the desirability of the panel approach. Some delegations supporting the panel approach suggested the establishment of a permanent panel while others favoured ad hoc panels.

Section 21 (cont'd)

- Replace the existing text with the following: "The Chairman of the Committee for Preventing Technical Barriers to Trade shall appoint in consultations with the adherents concerned a Panel which shall promptly investigate any matter referred to the Committee under Section 21(b) above and may as part of the investigation, consult with any contracting party or with any competent body. After the investigation is complete, the Panel may:

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

(ii) make recommendations to the adherents concerned.

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

In the light of the results of the investigations conducted by the Panel, the Committee for Preventing Technical Barriers to Trade may authorize one or more adherents to this Code to suspend obligations under this Code in respect of one or more adherents."

- Paragraph (c) - There was a proposal to insert a new clause between (ii) and (iii)  
new clause to read: "a certain action by an adherent considered contrary  
between (ii) to this Code and should be terminated forthwith".  
and (iii)

Section 22

- Paragraph (e) - There is a proposal to add a provision to the effect that a written notice of withdrawal should also be presented to the Committee for Preventing Technical Barriers to Trade.

Packaging and Labelling

- Add a section, reading: "Adherents shall ensure that labelling regulations are not prepared, adopted or applied with a view to creating obstacles to international trade, particularly to developing countries. They shall likewise ensure that neither regulations themselves nor their enforcement have the effect of creating unjustifiable obstacles to international trade, particularly to developing countries."

Packaging and Labelling (cont'd)

- One delegation suggested that a distinctive mark of certification for packaging should be established, accepted and issued by each adherent; that if panels were established, they should consult the following organizations, inter alia, ULADE (Latin American Packaging Union), EPF (European Packaging Federation); and that a system relating to packaging should be established which would provide information and documentation to developing countries on a systematic basis.

A N N E X

D E F I N I T I O N S



HYPOTHESIS A<sup>1</sup>

1. Regulation

(GATT - 2)

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

Additional Notes:

(1) The intent of the Code was to ensure that all technical regulations are published.

(2) For the purposes of this Code the question of the authority that publishes is irrelevant, as long as it is mandatory to comply with the provisions of the regulation.

2. Technical specification

(GATT - 1)

A document which lays down characteristics of a product or a service such as levels of quality, performance, safety, dimensions. It may include terminology, symbols, testing and test methods, packaging, marking or labelling requirements. A technical specification may also take the form of a code of practice.

Additional Notes:

(1) For the purposes of this Code "technical specification" includes processes, conditions of growth, and production methods, which must be met to ensure health and safety.

(2) A technical specification may also deal exclusively with terminology, symbols, testing and test methods, packaging, marking or labelling requirements relating to products.

(3) For the purposes of this Code such technical specifications are excluded which deal with services, have the form of a code of practice or are prepared for use by a single enterprise, whether governmental, semi-governmental or non-governmental either for its own production or purchasing purpose.

- It was suggested that the question of exclusion of services might need to be reverted to.<sup>2</sup>

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<sup>1</sup>The text of the ECE/ISO definitions has been reproduced for the convenience of delegations. It was suggested that, if Hypothesis A were used, it might not be necessary to reproduce the text of the definitions in the Code, but only to make reference to the ECE/ISO definitions and to set out any notes necessary for the purposes of the Code. The number of the corresponding GATT definition is given in brackets.

<sup>2</sup>The same suggestion is also relevant to definitions 20, 21, 22, 23, 24.

## HYPOTHESIS B<sup>1</sup>

### 1. Regulation

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

### 2. Technical specification

A document, or those parts of a document, which lays down characteristics of a product (or a service) such as levels of quality, performance, safety, or dimensions. It may include, or deal exclusively with, terminology, symbols, testing and test methods, packaging, marking or labelling requirements; and it may include processes, conditions of growth, and production methods, which must be met to ensure health and safety. (A technical specification may also take the form of a code of practice.) It does not include specifications that are prepared for use by a single governmental, semi-governmental, or non-governmental enterprise for its own production or purchasing.

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<sup>1</sup>The proposed new language is underlined, while language deleted from the ECE/ISO definitions is in parentheses to facilitate comparison. The numbering follows that contained in Annex 2 of MTN/NTM/W/5 and Spec(75)27.

HYPOTHESIS A

(4) Only those parts of a document which lay down characteristics of a product or refer to terminology, symbols, testing and test methods, packaging or labelling requirements come under the scope of this Code.

- There was a suggestion to insert the following Note:

(5) "This Code covers those technical specifications which are drawn up for continuous and general use."

3. Standard

(GATT - 1)

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

ECE Notes:

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

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

Additional Notes:

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

- There was a suggestion to insert the following Note:

(2) "For the purposes of this Code standards mean technical specifications adopted in consensus procedure by a national standards body, or technical specification drawn up by an international standardizing body".

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4. Technical regulation

(GATT - 2)

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

## HYPOTHESIS B

### 3. Standard

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

#### 3(a) Voluntary standard

A standard with which there is no legal obligation to comply.

### 4. Technical regulation

Those parts of a regulation containing or referring to a standard or a technical specification.

HYPOTHESIS A

ECE Note:

A technical regulation may be supplemented by technical guidance which outlines some way(s) to fulfil the regulation.

Additional Note:

Only those parts of a regulation which are standards or technical specifications are within the scope of this Code.

5. Harmonized standards - may be relevant to Code  
(GATT - 14)

Standards of the same scope that have been approved by different standardizing bodies and which are either technically identical or recognized as technically equivalent in practice.

ECE Note:

Harmonization of standards is generally carried out in order to prevent or eliminate technical barriers to trade in the region of the world in which they are applied.

6. Mandatory standard - not relevant to Code  
(GATT - 2)

A standard of which the application has been made mandatory by a regulation.

7. Reference to standards - not relevant to Code  
(GATT - none)

A method of drafting a regulation in such a way that a detailed statement of technical specifications is replaced in the text by referring to one or more standards.

HYPOTHESIS B

5. Harmonized standards - may be relevant to Code, e.g. Section 4(b)

Standards of the same scope that have been approved by different standardizing bodies and which are either technically identical or recognized as technically equivalent in practice.

6. Mandatory standard - not relevant to Code

7. Reference to standards - not relevant to Code

HYPOTHESIS A

8. Reference to standards by exact identification - not relevant to Code  
(GATT - none)

A method of reference to standards by designating one or more specific standards in such a way that later revisions of the standard or standards will not be applied unless the regulation is modified.

ECE Note:

The standard is usually designated by its title, number and edition or date.

9. Reference to standards by undated identification - not relevant to Code  
(GATT - none)

A method of reference to standards by designating one or more specific standards in such a way that later revisions of the standard or standards will be applied without the necessity of modifying the regulation.

ECE Note:

The standard is usually designated only by its title and number.

10. General reference to standards - not relevant to Code  
(GATT - none)

A method of reference to standards by referring in a general way to present or future standards.

ECE Note:

This general way normally means that the relevant regulation includes a general clause so that all the present or future standards in a specific field are regarded as meeting the aim of the regulation.

11. National standards body - may be relevant to Code  
(GATT - 9)

A nationally recognized body whose principal function at the national level by virtue of its statutes or the law of the country, is the preparation and/or publication of national standards and/or approval of standards prepared by other bodies. This body is eligible to be the national member of the corresponding international and regional standards organization.

HYPOTHESIS B

8. Reference to standards by exact identification - not relevant to Code
9. Reference to standards by undated identification - not relevant to Code
10. General reference to standards - not relevant to Code
11. National standards body - may be relevant to Code



HYPOTHESIS A

12. International Standards Organization

(GATT - 10)

An organization, governmental or non-governmental, whose membership is open to all countries of the world and whose principal function, by virtue of its statutes, is the preparation and/or publication of standards and/or harmonization of the standards of its members.

Additional Note:

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

13. Regional standards organization - not relevant to Code

(GATT - 11)

An organization, governmental or non-governmental, whose membership is usually limited to certain countries from a given region of the world and whose principal function, by virtue of its statutes, is the preparation and/or publication of standards, and/or the harmonization of the standards of its members.

14. Standardizing body

(GATT - 10)

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

Additional Note:

This includes a national standards body, the principal function of which is the preparation and/or publication of national standards and/or approval of standards prepared by other bodies.

15. International Standardizing body

(GATT - 10)

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

Additional Note:

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

HYPOTHESIS B

12. International Standards Organization

An organization, governmental or non-governmental, whose membership is open to the relevant bodies in all (countries of the world) adherents and whose principal function, by virtue of its statutes, or one of whose recognized activities is the preparation and/or publication of standards and/or harmonization of the standards of its members.

13. Regional standards organization

An organization, governmental or non-governmental, whose membership is not open to relevant bodies in all adherents (usually limited to certain countries from a given region of the world) and whose principal function, by virtue of its statutes, or one of whose recognized activities, is the preparation and/or publication of standards, and/or the harmonization of the standards of its members.

14. Standardizing body

Retain ECE/ISO definition without change as follows: A body, governmental or non-governmental, one of whose recognized activities is in the field of standardization.

15. International standardizing body

A standardizing body whose membership is open to the relevant bodies in all (countries of the world) adherents.

HYPOTHESIS A

16. Regional standardizing body

(GATT - 11)

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

Additional Note:

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

17. National standard - not relevant to Code

(GATT - none)

A standard adopted by a national standards body.

18. International standard

(GATT - 4)

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

Additional Note:

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

19. Regional standard - not relevant to Code

(GATT - none)

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

20. Conformity with standards or technical specifications

(GATT - 12)

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

Additional Note:

For the purposes of this Code services are excluded.

HYPOTHESIS B

16. Regional standardizing body

A standardizing body whose membership is not open to the relevant bodies in all adherents (is usually limited to certain countries from a given region of the world).

17. National standard - not relevant to Code

18. International standard

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

19. Regional standard - not relevant to Code

20. Conformity with standards or technical specifications

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

HYPOTHESIS A

21. Administration procedures for determining conformity  
(GATT - 13)

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

Additional Note:

For the purposes of this Code services are excluded.

22. Certificate of conformity  
(GATT - none)

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

Additional Note:

For the purposes of this Code services are excluded.

23. Mark of conformity  
(GATT - none)

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

Additional Note:

For the purposes of the Code services are excluded.

24. Conformity certification  
(GATT - 16)

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

Additional Notes:

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

HYPOTHESIS B

21. Administrative procedures for determining conformity

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

22. Certificate of conformity

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

23. Mark of conformity

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

24. Conformity certification

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

HYPOTHESIS A

(2) There was a suggestion to insert the following note: "Including the action of providing information on which a decision as to conformity with the standard can be taken".

25. Certification system

(GATT - 16)

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

26. National certification system

(GATT - none)

Certification system organized and managed by a governmental or non-governmental body on a national level.

27. International certification system

(GATT - 17)

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

Additional Note:

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

28. Regional certification system

(GATT - 19)

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

Additional Note:

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

HYPOTHESIS B

25. Certification system

Retain ECE/ISO definition without change as follows: A system having its own rules of procedure and management, for carrying out conformity certification.

26. National certification system - not relevant to Code

There is a proposal to retain.

27. International certification system

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

28. Regional certification system

Certification system organized and managed by a governmental or non-governmental regional organization whose membership is not open to the relevant bodies in all adherents (usually limited to certain countries from a given region of the world).



HYPOTHESIS A

Certification body

(GATT - 15)

The definition to read:

"An impartial body, governmental or non-governmental, possessing the necessary competence and reliability to operate a certification system and in which the interests of the parties concerned with the functioning of the system are represented."

Bear in mind question of ensuring "competence and reliability" when substantive provisions of the Code are examined.

Third-party certification system - not relevant to Code

(GATT - none)

A certification system managed by a certification body or under its surveillance.

Self-certification - not relevant to Code

(GATT - none)

A form of conformity certification in which one or more manufacturers are responsible for conformity certification of their products with no surveillance from any certification body.

GATT definitions for which there are no ECE/ISO counterparts:

Central government body

(GATT - 5)

Central government, its ministries and departments or any body subject to the control of the central government in respect of the activity in question. In the case of the European Economic Community the provisions governing central government bodies would apply. Note: If the EEC were to sign the Code, the word "would" and the square brackets would disappear.

Local government body

(GATT - 6)

Government body which is not subject to the control of the central government in respect of the activity in question, such as:

HYPOTHESIS B

Certification body

Definition under consideration by ECE/ISO.

Third-party certification system - not relevant to Code

Self-certification - not relevant to Code

GATT definitions for which there are no ECE/ISO counterparts:

Central government body

As Hypothesis A

Local government body

As Hypothesis A

HYPOTHESIS A

- (i) the authorities of States, Provinces, Lander, Cantons, etc. in the case of a federal or decentralized system, and
- (ii) local government authorities.

Regulatory body

(GATT - 7)

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

Participation in a certification system

(GATT - 21)

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

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

- (i) the same rights to furnish evidence of conformity of products with particular standards or technical specifications and have accepted, as members of the system, and
- (ii) the same obligations to accept such evidence itself as members of the system.

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Regulatory body

As Hypothesis A

Participation in a certification system

As Hypothesis A.