

MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND

RESTRICTED

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Special Distribution

Group of Negotiations on Goods (GATT)

Negotiating Group on MTN
Agreements and Arrangements

AGREEMENT ON TECHNICAL BARRIERS TO TRADE

1. Following intensive discussions and work based on proposals by various participants, I submit, upon my own responsibility, the draft text on Technical Barriers to Trade. This text represents a significant improvement, clarification and expansion of the Agreement.
2. The text does not prejudice the negotiating position of any participant nor the final form of the Agreement.
3. The text in **bold** type represents the areas of broad convergence without prejudging its final acceptance by any participant. However, it is necessary to note that, while there is a large majority supporting these issues, sometimes with different views, at least one delegation has opposed the inclusion of a Code of Good Practice for the preparation, adoption and application of standards, and one other delegation has reserved its position on the extension of the Agreement to Processes and Production Methods. The text appearing in normal type represents areas where there are divergences, sometimes fundamental, or where further work is needed.
4. Participants are, of course, free to submit further proposals, suggestions and amendments to the draft.
5. The draft text is attached.

18 July 1990

D R A F T

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

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 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 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 in relation to technical regulations.

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. In so doing, Parties shall, inter alia, ensure that technical regulations:

- 2.2.1 do not contain requirements that are more stringent or are applied more strictly than necessary to meet legitimate objectives of general public interest taking into account risks that would be created by not meeting those objectives. Such legitimate objectives are inter alia national security requirements; prevention of deceptive practices; protection for human health or safety, animal or plant life or health, or the environment;
- 2.2.2 take into account an acceptable level of protection from risks mentioned in paragraph 2.1.2, as identified through appropriate risk assessment procedures, which would allow the maximum trade opportunities while ensuring the fulfilment of legitimate objectives of general public interest; risk assessment would be based on, inter alia, scientific and technical evidence, consumer applications and relevant processing technology;
- 2.2.3 are not 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;
- 2.2.4 are not applied in such a way as to affect products either originating in geographic areas where the problem being addressed does not occur or destined for industrial or consumer applications where the problem does not exist;
- 2.2.5 are formulated in such a way that the necessary requirements are based on the least trade restrictive alternatives which are reasonably available and are consistent with other provisions of this Agreement;
- 2.2.6 are consistent with provisions of this Agreement when adopted to comply with international agreements;

2.3 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 the technical regulations except where, as duly explained upon request, such international standards or relevant parts are inappropriate for the Parties concerned, for inter alia such reasons as national security requirements; the prevention of deceptive practices; protection for human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological problems.

2.4 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.

2.5 Wherever appropriate, Parties shall specify technical regulations in terms of performance rather than design or descriptive characteristics.

2.5 Whenever appropriate, Parties shall specify technical regulations and standards in terms of performance rather than design or descriptive characteristics, or processes and production methods.

2.6 Whenever a relevant international standard does not exist or the technical content of a proposed technical regulation is not substantially the same as the technical content of relevant international standards, and if the technical regulation may have a significant effect on trade of other Parties, Parties shall:

- 2.6.1 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 technical regulation;
- 2.6.2 notify other Parties through the GATT secretariat of the products to be covered by technical regulations together with a brief indication of the objective and rationale of proposed technical regulations; Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;
- 2.6.3 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;
- 2.6.4 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.

2.7 Subject to the provisions in the heading of Article 2, paragraph 5, 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 5 as it finds necessary provided that the Party, upon adoption of a technical regulation shall:

- 2.7.1 notify immediately other Parties through the GATT secretariat of the particular technical regulation, the products covered, with a brief indication of the objective and the rationale of the technical regulation, including the nature of the urgent problems;
- 2.7.2 upon request, provide other Parties with copies of the technical regulation;
- 2.7.3 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.

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

2.9 Except in those urgent circumstances referred to in Article 2, paragraph 6, 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 countries, and particularly in developing countries, to adapt their products or methods of production to the requirements of the importing country.

2.10 Parties which are members of regional standardizing bodies shall, when adopting a regional standard as a technical regulation or standard fulfil the obligations of Article 2, paragraphs 1 to 8 except to the extent that the regional standardizing bodies have fulfilled these obligations.
{It is proposed to delete this provision.}

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 5 and 6, shall take place through the Party concerned.

Article 4Preparation, adoption and application
of standards

With respect to their central government bodies

4.1.1 Parties shall ensure that products imported from the territory of any other 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 in relation to such standards.

4.1.2 Parties shall ensure that standards are not prepared, adopted or applied with a view to creating obstacles to international trade. Parties shall likewise ensure that neither standards themselves nor their application have the effect of creating unnecessary obstacles to international trade. In so doing, Parties shall comply with the provisions of Article 2, sub-paragraphs 1.2.1 to 1.2.6.

4.2 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 4 to this Agreement. They shall take such reasonable measures as may be available to them to ensure that local government or non-governmental standardizing bodies within their territory as well as regional standardizing bodies of which they or one or more bodies within their territory are member, 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 4.

4.3 As soon as possible after a body mentioned in Article 4.2 has accepted or withdrawn from the code of good practice in annex 4, Parties shall notify other Parties through the GATT secretariat of this fact, except, in the case of a regional body, to the extent that the regional body has itself fulfilled this obligation. The notification shall include the name and address of the body concerned and the products covered by its current and expected standardization activities.

Article 4bis

Whenever a Party has reached an agreement with any other party on issues related to standards and technical regulations (including processes and production methods) 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 a brief description of the agreement. Parties concerned are encouraged to enter, upon request, into consultations with other Parties for the purpose of concluding similar agreements or of arranging for the participation in such agreements.

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 Parties shall ensure that 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 Parties shall ensure that 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 adequate confidence that products conform with the applicable technical regulations or standards, taking account of the risks non-conformity would create;
- 5.1.3 any requirements for conformity assessment procedures of individual specimens of a product shall be limited to what is reasonable and necessary;
- 5.1.4 approval authorities shall make their approval decisions on the basis of sound technical evidence;
- 5.1.5 Parties shall ensure that conformity assessment procedures are undertaken and completed as expeditiously as possible and in a no less favourable order for imported products as for like domestic products;
- 5.1.6 Parties shall ensure that 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 shall promptly examine the completeness of the documentation and inform the applicant in a precise and complete manner of all deficiencies. The competent body shall as soon as possible transmit 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 shall proceed as far as practicable with the conformity assessment. Upon request, the applicant shall be informed of the progress of the application, with any delay being explained;

- 5.1.7 information requirements shall be limited to what is necessary to assess conformity and determine fees;
- 5.1.8 the confidentiality of information about imported products arising from or supplied in connection with such conformity assessment procedures shall be respected in the same way as for domestic products in such a way that legitimate commercial interests are protected;
- 5.1.9 any fees imposed for assessing the conformity of products originating in the territories of other Parties shall be 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 communications and transportation costs arising from differences between location of facilities of the applicant and the conformity assessment body;
- 5.1.10 the siting of facilities used in conformity assessment procedures and the selection of samples shall not be such as to cause unnecessary inconvenience to applicants, importers, exporters or their agents;
- 5.1.11 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 shall be limited to what is necessary to determine whether adequate confidence exists that the product still meets the technical regulations or standards concerned;

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

5.2 Nothing in Article 5, paragraph 1 shall prevent Parties from carrying out reasonable spot checks within their territories.

5.3 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 for human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological or infrastructural problems.

5.4 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 or recommendations for conformity assessment procedures.

5.5 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 substantially the same as the technical content of relevant guides or recommendations issued by international standardizing bodies, and if the conformity assessment procedure may have a significant effect on trade of other Parties, Parties shall:

- 5.5.1 publish a notice of the proposal 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 conformity assessment procedure;
- 5.5.2 notify other Parties through the GATT secretariat of the products to be covered by the proposed conformity assessment procedures together with a brief description of the objective and the rationale of those procedures. Such notifications shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account;
- 5.5.3 upon request provide to other Parties, particulars or copies of the proposed procedures and, whenever possible, identify the parts which in substance deviate from relevant guides or recommendations issued by international standardizing bodies;
- 5.5.4 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.

5.6 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 5, as it finds necessary, provided that the Party, upon adoption of the procedure, shall;

5.6.1 notify immediately the 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;

5.6.2 upon request provide to other Parties, copies of the rules of the procedure;

5.6.3 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.

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

5.8 Except in those urgent circumstances referred to in Article 5, paragraph 6, 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 countries, and particularly in developing countries, to adapt their products or methods of production to the requirements of the importing country.

Article 6

[Recognition of Conformity Assessment]

Parties shall ensure, whenever possible, that their central government bodies accept conformity assessment procedures issued by relevant bodies, or rely on declaration of conformity by producers, in the territories of other Parties, even when the conformity assurance methods used differ from their own, provided they are satisfied that the methods employed in the territory of the exporting Party provide a sufficient means of evaluating whether the criteria have been fulfilled or of assuring conformity with the relevant requirements including accreditation criteria. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding the methods, procedures and results employed in the territory of the exporting Party, in particular in the case of perishable products or of other products which are liable to deteriorate in transit.

Parties shall ensure that their central government bodies accept, whenever possible, results of conformity assessment procedures by relevant bodies within the territories of other Parties, even when these procedures differ from their own, provided they are satisfied that the results provide a sufficient means of assuring conformity with the relevant requirements. It is recognized that prior consultations may be necessary in order to arrive at a mutually satisfactory understanding regarding the relevant procedures.

* * *

Parties shall ensure that in assessing conformity with technical regulations and standards based on processes and production methods, their central government bodies also accept PPMs used in exporting Parties which differ from their own, provided they are satisfied that the PPMs in the exporting Parties provide equivalent guarantees in terms of the objectives of the technical regulations and standards. Parties shall ensure that their central government bodies make every effort to reach agreement on conformity, or equivalency of PPMs, through consultation. To this end, exporting Parties shall facilitate the provision of relevant information to importing Parties. They shall also facilitate the carrying out of inspections or spot checks in their territories by importing Parties when these are necessary for this purpose.

* * *

Parties shall ensure that conformity assessment procedures are prepared, adopted and applied so as to provide for the accreditation or registration of qualified testing laboratories, inspection or quality system registration bodies located in the territories of other Parties under conditions no less favourable than those accorded to bodies located within its territory or the territory of any other Party. Bodies determined according to the rules of the relevant system in the importing country to be able and willing to fulfil the requirements of the procedures shall have the right to issue results of conformity assessment procedures under conditions no less favourable than those accorded to national bodies or bodies located in the territory of any other Party. Such results of conformity assessment procedures shall be accepted under terms no less favourable than those accorded to bodies located in the territory of the Party or the territory of any other Party;

Parties shall ensure that their conformity assessment procedures and administrative procedures are such as to permit, as far as practicable, the implementation of the provisions in Article 6, paragraph 1.

* * *

6.1 Parties are encouraged to:

6.1.1 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; or

6.1.2 accept the results of conformity assessment procedures in other Parties, even when those procedures differ from their own, provided they offer an assurance equivalent to their own that products conform with the applicable technical regulations or standards. It is recognized that prior consultations may be necessary to ensure:

(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 work 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 recognition to work results produced by designated bodies in the exporting Party.

6.2 Parties are encouraged to have conformity assessment procedures which permit, as far as practicable, the implementation of the provisions in Article 6, paragraph 1.

6.3 Where Parties' conformity assessment procedures require a positive assurance from conformity assessment bodies, Parties shall, on the request of other Parties, 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 fulfil the criteria of Article 6, paragraph 1, sub-paragraph 2, and give mutual satisfaction regarding their potential for facilitating trade in the products concerned.

* * *

6.4 Whenever a Party has reached an agreement with any other party on issues related to conformity assessment 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 a brief description of the agreement. Parties concerned are encouraged to enter, upon request, into consultations with other Parties for the purpose of concluding similar agreements or of arranging for the participation in such agreements.

Article 7

Procedures for assessment of conformity by local government and
non-governmental bodies

7.1 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 which operate conformity assessment procedures, as well as regional bodies which operate conformity assessment procedures and of which one or more of their bodies are member, comply with the provisions of Article 5, with the exception of Article 5, paragraph 2, sub-paragraph 2, and Article 5, paragraph 6, sub-paragraph 1. In addition, Parties shall not take measures which have the effect of, directly or indirectly, requiring or encouraging such bodies operating conformity assessment procedures to act in a manner inconsistent with any of the provisions of Article 5.

7.2 Parties shall ensure that their central government bodies rely on conformity assessment procedures operated by non-governmental bodies or local government bodies only if these latter bodies comply with the provisions of Article 5, with the exception of Article 5, paragraph 5, sub-paragraph 2, and Article 5, paragraph 6, sub-paragraph 1.

* * *

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 referred to in Article 5, paragraphs 5 and 6, shall take place through the Party concerned.

(Proposal by Nordic countries of 18 July 1990)

7.2 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 Article 5, paragraph 5, sub-paragraph 2, and Article 5, paragraph 6, sub-paragraph 1. 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.

7.3 Parties shall ensure that their central government bodies rely on conformity assessment procedures operated by local government bodies or non-governmental bodies only if these latter bodies comply with the provisions of Articles 5 and 6, with the exception of Article 5, paragraph 5, sub-paragraph 2, and Article 5, paragraph 6, sub-paragraph 1.

* * *

7.1 Parties shall take such reasonable measures as may be available to them to ensure that local government and non-governmental bodies within their territories which operate conformity assessment procedures comply with the provisions of Article 5, with the exception of notification requirements (5.5.2 and 5.6.1). 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 any of the provisions of Article 5 (and 6).

7.2 Parties shall ensure that their central government bodies rely on conformity assessment procedures operated by local government and non-governmental bodies only if these bodies comply with the provisions of Article 5, with the exception of notification requirements (Articles ...; ...).

* * *

Article 8

International and regional systems

8.1 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.

8.2 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 Article 5, with the exception of paragraph 1, sub-paragraph 1, having regard to the provisions of Article 8, paragraph 3. 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 Article 5.

8.3 Parties shall take such reasonable measures as may be available to them to ensure that international and regional systems for product certification and guides for certification bodies in which relevant bodies within their territories are members or participants, are formulated 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 originating in a member country, a participant country or in any other country, including the determination that such suppliers are able and willing to fulfil the requirements of the system. Access for suppliers is obtaining certification from an importing Party which is a member of or participant in the system, or from a body authorized by the system to grant certification, under the rules of the system. Access for suppliers also includes receiving the mark of the system, if any, under conditions no less favourable than those accorded to suppliers of like products originating in a member country or a participant country.

8.4 Parties shall ensure that their central government bodies rely on international or regional systems for certification of products and guides for certification bodies only to the extent that the systems and guides comply with the provisions of Article 5 and Article 8, paragraph 3.

8.4 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 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 2.

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

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 Nothing in this Agreement shall be construed as requiring:

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

10.7.2 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

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

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

10.9 Parties shall designate a single central government authority that is responsible for the implementation on the national level of the provisions concerning notification procedures according to Article 2, paragraphs 5 and 6, Articles 3 and 4, Article 7, paragraphs 3 and 4, Article 8, and Article 9, paragraph 2. (References to be amended.)

10.10 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 their 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 may exist, in their particular technological and socio-economic conditions, developing countries adopt certain technical regulations or standards, including test methods, 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;

13.1(bis) Without prejudice to the dispute settlement procedures of the Agreement, in particular Article 14.24 thereof, the Committee decides that, in conformity with Article 13.1, it shall at least once a year review a list, drawn up by the GATT secretariat and sub-divided into separate sections for each Party, of the bodies mentioned in Article 4.2 that have accepted the code of good practice in annex 4, for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of that code.

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.

Article 14

Consultation and dispute settlement

Consultation

14.1 Each Party shall afford sympathetic consideration to and adequate opportunity for prompt consultation regarding representations made by other Parties with respect to any matter affecting the operation of this Agreement.

14.2 If any Party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the attainment of any objective of this Agreement is being impeded, by another Party or Parties, and that its trade interests are significantly affected, the Party may make written representations or proposals to the other Party or Parties which it considers to be concerned. Any Party shall give sympathetic consideration to the representations or proposals made to it, with a view to reaching a satisfactory resolution of the matter.

14.3 The Party to which a request on consultations 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 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 Party that requested the holding of consultations may proceed directly to request the Committee to investigate the matter.

14.4 Requests for consultations shall be notified to the Committee by the Party which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request.

14.5 In cases of urgency, including those which concern perishable goods en route, Parties shall enter into consultations within a period of no more than ten days from the date of the request. If the consultations have failed to settle the dispute within a period of thirty days after the request, the complaining Party may proceed directly to request the Committee to investigate the matter.

Dispute settlement

14.6 It is the firm intention of Parties that all disputes under this Agreement shall be promptly and expeditiously settled, particularly in the case of perishable products.

14.7 If the consultations under Article 14 fail to settle a dispute within sixty days after the request for consultations, the Committee shall meet at the request of any party to the dispute within thirty days of receipt of such a request, to investigate the matter with a view to facilitating a mutually satisfactory solution. If the Parties jointly consider that consultations have failed to settle the dispute, the request for a Committee meeting may be given during the sixty day period.

14.8 In the case of perishable products the Committee shall, in keeping with Article 14, paragraph 6, consider the matter in the most expeditious manner possible with a view to facilitating a mutually satisfactory solution within three months of the request for the Committee investigation.

14.9 It is understood that where disputes arise affecting products with a definite crop cycle of twelve months, every effort would be made by the Committee to deal with these disputes within a period of twelve months.

14.10 During any phase of a dispute settlement procedure including the earliest phase, competent bodies and experts in matters under consideration may be consulted and invited to attend the meetings of the Committee; appropriate information and assistance may be requested from such bodies and experts.

Good Offices, Conciliation, Mediation

14.11 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 Committee investigation or establishment of a panel as provided under Article 14. 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 meeting of the Committee. The complaining Party may request a meeting of the Committee 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.

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

14.13 Chairman of the Committee may, acting in an ex officio capacity, offer his good offices, conciliation or mediation with the view to assisting Parties to settle a dispute.

Arbitration

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

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

14.16 Other 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.

Panel proceedings

14.17 If no mutually satisfactory solution has been reached under the procedures of Article 14, paragraph 7 within three months of the request for the Committee investigation, the Committee shall, upon request of any Party to the dispute, establish a panel.

14.18 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. If the complaining Party so requests, a decision to establish a panel shall be taken at the latest at the Committee meeting following that at which the request first appeared as an item on the Committee's agenda, unless at that meeting the Parties to the dispute agree otherwise.

14.19 When a panel is established, the Committee shall, unless the Parties to the dispute agree otherwise, within twenty days from the establishment of the panel, direct it to:

examine the matter;

consult with Parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

make a statement concerning the facts of the matter as they relate to the application of provisions of this Agreement and make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

14.20 In establishing a panel, the Committee may authorize its Chairman to draw up the terms of reference of the panel in consultation with the parties to the dispute subject to the provisions of the preceding paragraph. The terms of reference thus drawn up shall be communicated to the Committee. If other than standard terms of reference are agreed upon, any Party may raise any point relating thereto in the Committee.

14.21 Panels shall be governed by the procedures in Annex 2.

14.22 Panels may establish a technical expert group to assist in questions of a technical nature requiring detailed consideration by experts and direct it to:

examine the matter;

consult with the parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution;

make a statement concerning the facts of the matter; and

make such findings as will assist the panel in its work, including inter alia, and if appropriate, findings concerning the detailed scientific judgments involved, whether the measure was necessary for the protection of human, animal or plant life or health, and whether legitimate scientific judgment is involved.

14.23 Technical expert groups shall be governed by the procedures of Annex 3.

Time devoted to panel proceedings

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

14.25 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 paragraph above and after consultations with the parties to the dispute, that the parties to the dispute 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.

14.26 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 four months. In cases of urgency, including those relating to perishable goods, the panel shall aim to provide its report to the parties within two months.

14.27 When the panel considers that it cannot provide its report within four months or within two months in cases of urgency, it shall inform the Committee 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 the period from the establishment of the panel to the submission of the report to the Committee exceed seven months.

14.28 In cases where a technical expert group has been established, the period for panel proceedings shall be extended accordingly, but not by more than two months.

Enforcement

14.29 After the investigation is complete or after the report of a panel or other body is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to panel reports, the Committee shall take appropriate action normally within thirty days of receipt of the report, unless extended by the Committee, including:

a statement concerning the facts of the matter; or
recommendations to one or more Parties; or
any other ruling which it deems appropriate.

14.30 Parties having objections to panel reports shall give written reasons to explain their objections for circulation at least ten days prior to the Committee meeting at which the panel report will be considered.

14.31 Prompt compliance with recommendations or rulings of the Committee is essential in order to ensure effective resolution of disputes to the benefit of all Parties. The Party concerned shall inform the Committee of its intentions in respect of implementation of the recommendations or rulings. If it is impracticable to comply immediately with the recommendations or rulings, the Party concerned shall have a reasonable period of time in which to do so.

14.32 The Committee shall monitor the implementation of recommendations or rulings adopted. The issue of implementation of the recommendations or rulings may be raised at the Committee by any Party at any time following their adoption. Unless the Committee decides otherwise, the issue of implementation of the recommendations or rulings shall be on the agenda of the Committee meeting after six months following their adoption and shall remain on the Committee's agenda until the issue is resolved. At least ten days prior to each such Committee meeting, the Party concerned shall

provide the Committee with a status report in writing of its progress in the implementation of the panel recommendations or rulings.

14.33 If a Party to which recommendations are addressed considers itself unable to implement them, it shall within two months furnish reasons in writing to the Committee. In that event the Committee shall consider what further action may be appropriate.

14.34 If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more Parties to suspend, in respect of any other Party, the application of such obligations under this Agreement as it determines to be appropriate in the circumstances. In this respect, the Committee may, inter alia, authorize the suspension of the application of obligations, including those in Articles 5 to 9, in order to restore mutual economic advantage and balance of rights and obligations.

FINAL PROVISIONS

Article 15

Final Provisions

ANNEX 1

TERMS AND THEIR DEFINITIONS FOR THE SPECIFIC PURPOSES OF THIS AGREEMENT

1. 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 amendment sheet adopted...1990 to this Guide, shall when used in this Agreement have the same meaning as given in the definitions in the said Guide and in the amendment sheet therefor with the following exceptions.

1.1 Services [and processes] shall be excluded from the coverage of the definitions.

1.2 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.

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 purposes 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.

Technical regulations

(to be worked out)

Processes and production methods

Means by which or conditions under which a product advances to its final state.

One or more planned actions in a series of conditions or operations (e.g. mechanical, electrical, chemical, inspection, test) by means of which a material or product advances from one stage to its final state. PPMs include conditions of growth as well as controlled treatments that subject materials or products to the influence of one or more types of energy (e.g. human, animal, mechanical, electrical, chemical, thermal) as required to achieve a desired reaction, change, result or performance.

PPM Standard (or PPM provision within a product or process standard)

Standard or provision that specifies the process or production method to be employed in one or more stages in the design, manufacture, delivery, installation, treatment, or utilization of equipment, structures or products, or that specifies methods or conditions in accordance with which a product is to be grown or raised. Testing or certification for conformity with these methods, rather than the characteristics of the final product, is required in conjunction with one or more steps in the process.

2. In addition to what is presented in ISO/IEC Guide 2 and in its amendment sheet the following definitions shall apply.

2.1 International body or system

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

2.2 Regional body or system

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

2.3 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.

2.4 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.

2.5 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.

2.6 Conformity assessment procedure

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

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.

Conformity assessment procedure

Any technical procedure used, directly or indirectly, to give positive assurance that a product conforms with the applicable technical regulations or standards.

Explanatory note:

For the purposes of this Agreement, possible conformity assessment procedures or elements thereof are, inter alia, a manufacturer's declaration of conformity regarding the product or the quality assurance system used; the submission or availability of information regarding the product or the quality assurance system used; testing or inspection of the product or the quality system used; certification of the product or registration of the quality assurance system used; application of a mark of conformity; accreditation of testing laboratories, inspection bodies, or certification bodies; type approval, lot approval or unit approval of the product or approval of the quality assurance system used; good manufacturing practices; good laboratory practices; good clinical practices.

ANNEX 2

PANEL PROCEEDINGS

The following procedures shall apply to panels established in accordance with the provisions of the Agreement.

1. In order to facilitate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of government officials knowledgeable in the area of sanitary and phytosanitary regulations and experienced in the field of trade relations. This list may also include persons other than government officials. In this connection, each Party shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two governmental experts whom the Parties would be willing to make available for such work. When a panel is established, the Chairman, within seven days shall propose the composition of the panel consisting of three or five members, preferably government officials. The Parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons.

2. Citizens of countries whose central governments are parties to a dispute or in customs union with a party to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members 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 panel.

3. Each panel shall develop its own working procedures. Each panel may consult and seek information and technical advice from any source it deems appropriate. Before a panel seeks such information or technical advice from a source within the jurisdiction of a Party, it shall inform the government of that Party. In case such consultation with competent bodies and experts is necessary it should be at the earliest possible stage of the dispute settlement procedure. Any Party shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be revealed without formal authorization from the government or person providing the information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information shall be provided by the government or person supplying the information.

4. Where more than one 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.

5. The single panel shall organize its examination and present its findings to the Committee 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 shall 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.

6. 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.

7. The interests of the parties to a dispute and those of other Parties shall be fully taken into account during the panel process. Any third Party having a substantial interest in a matter before a panel, and having notified this to the Committee, 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. At the request of the third Party, the panel may grant the third Party access to the written submissions to the panel by those parties to the dispute which have agreed to the disclosure of their respective submission to the third Party.

8. Where the parties to a dispute have failed to come to a satisfactory solution, the panel shall submit its findings in a written form. Panel reports shall set out the rationale behind any findings and recommendations that it makes. Where a bilateral settlement of the matter has been found, the report of the panel may be confined to a brief description of the case and to reporting that a solution has been reached.

9. To encourage development of mutually satisfactory solutions between the parties to the dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Parties.

ANNEX 3

TECHNICAL EXPERT GROUPS

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

1. Participation in technical expert groups shall be restricted to persons, preferably government officials, of professional standing and experience in the field in question.
2. Citizens of countries whose central governments are Parties to a dispute shall not be eligible for membership of the technical expert group concerned with that 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.
3. 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 revealed 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.
4. To encourage development of mutually satisfactory solutions between the Parties and with a view to obtaining their comments, each technical expert group should first submit the descriptive part of its report to the Parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the Parties.

ANNEX 4

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 or individually called standardizing bodies).
- C. Standardizing bodies shall notify their relevant central government authorities or, in the case of a regional body, those of their members, of the fact that they have accepted or withdrawn from this code. The notification shall include the name and address of the body concerned and the subject matter covered by its current and expected standardization activities. Regional standardizing bodies may alternatively make this notification directly to the GATT secretariat.

Standardizing bodies shall simultaneously make the same notification to the ISO Information Centre in Geneva. Standardizing bodies within the territory of a Party shall do this through the national member of ISONET, or in the absence thereof, directly. Regional standardizing bodies shall do this through an international affiliate of ISONET or through one or more national members of ISONET or, in the absence of both, directly.

SUBSTANTIVE PROVISIONS

- D. Where international standards exist or their completion is imminent, standardizing bodies shall use them, or the relevant parts of them, as a basis for the standards they develop, except where such international standards or relevant parts are inappropriate for inter alia such reasons as the prevention of deceptive practices*; protection for human health or safety, animal or plant life or health, or the environment; fundamental climatic or other geographical factors; fundamental technological problems; and, in the case of developing countries, development, financial or trade needs.

*protection of competition

- E. With a view to harmonizing standards on as wide a basis as possible, standardizing bodies shall, in an appropriate way, play a full part within the limits of their resources in the preparation by relevant international standardizing bodies of international standards regarding subject matter for which they either have adopted, or expect 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 national territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardization activity relates.
- F. Standardizing bodies shall make every effort towards the establishment of, and their association with, a member of ISONET on the national territory or the regional level and towards the acquisition by this member of the most advanced membership type possible.
- G. Standardizing bodies within the territory of a Party shall make every effort to avoid duplication of or overlap with the work of other standardizing bodies on the national territory or with the work of regional standardizing bodies which covers the national territory. They shall also make every effort to achieve a national consensus on the standards they develop and on the comments they make under paragraph L.
- H. Wherever appropriate, standardizing bodies shall specify standards in terms of performance rather than design or descriptive characteristics.
- I. At least once every six months, standardizing bodies shall publish in a national or, as the case may be, regional publication of standardization activities a work programme containing their name and address, the standards they are currently preparing and the standards which they have 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 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 their work programmes, standardizing bodies shall notify the existence thereof to the ISO Information Centre in Geneva. Standardizing bodies within the territory of a Party shall do this through the national member of ISONET or, in the absence thereof, directly. Regional standardizing bodies shall make this notification through an international affiliate of ISONET or through one or more national members of ISONET or, in the absence of either, directly. The notification shall contain the name and address of the standardizing body, the period to which the work programme applies, its price (if any), and how and where it can be obtained.

- J. Before adopting a standard, standardizing bodies shall hold a public enquiry of at least 60 days on the full text of the draft standard. No later than the start of this public enquiry, standardizing bodies shall publish a notice announcing the period of the public enquiry on the draft standard concerned in a national or, as the case may be, regional publication of standardization activities.
- K. On the request of any interested party in a Party to the GATT Agreement on Technical Barriers to Trade, standardizing bodies shall provide a copy of a draft standard which they submitted to public enquiry. Standardizing bodies shall either send such copies themselves or have them sent by another body with which they have a contractual arrangement for this purpose. Such copies shall be sent by speedy means of delivery at the start of the public enquiry. If the request has been received during the public enquiry, as promptly as possible. For this service a reasonable fee may be charged, which shall, apart from the real costs of delivery, be the same for domestic and foreign parties.
- L. Standardizing bodies shall take comments on their draft standards into account whenever those comments have been received during the period of public enquiry from standardizing bodies that have accepted this code of good practice*. Such comments shall be replied to as promptly as possible. Standardizing bodies shall make an objective effort to resolve dissenting viewpoints. Where such a comment contests a proposed deviation from an international standard, it is up to the standardizing body that has prepared the draft standard to explain why that deviation is necessary for a legitimate objective such as mentioned in paragraph D.

*Standardizing bodies shall allow all interested parties in other Parties to make comments in writing, discuss these comments upon request, and take these written comments and results of the discussions into account.
- M. Once the standard has been adopted, it shall be promptly published.
- N. On the request of any interested party in a Party to the GATT Agreement on Technical Barriers to Trade, standardizing bodies shall promptly provide a copy of their most recent work programme or of a standard which they produced. Standardizing bodies shall either send copies themselves or have them sent by another body with which they have a contractual arrangement for this purpose. For this service a reasonable fee may be charged, which shall, apart from the real costs of delivery, be the same for foreign and domestic parties.

- O. Standardizing bodies shall afford sympathetic consideration to and adequate opportunity for prompt consultation regarding complaints with respect to any of the good practices in this code whenever those complaints are made by standardizing bodies that have accepted this code of good practice. They shall make an objective effort to resolve such complaints.

* * *

Companies established or incorporated in the territories of Parties shall be accorded the right of participation in regional bodies or systems in the same manner as it is accorded to any other other companies participating in those bodies or systems.

APPENDIX TO THE DRAFT TEXT OF 18 JULY 1990

Recommendation of the Committee on Technical Barriers to Trade

The Committee recommends that ISO establish an information system under which:

1. ISONET members shall transmit to the ISO Information Centre in Geneva the notifications referred to in paragraphs C and I of the code of good practice for the preparation, adoption and application of standards in annex 4 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 of public enquiry has not yet started; (3) the stage at which the public enquiry has started, but has not yet been completed; (4) the stage at which the public enquiry 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 Information Centre in Geneva shall regularly publish the information received in the notifications made to it under paragraphs C and I of the code of good practice; this publication, for which a reasonable fee may be charged, shall be available to ISONET members.

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Proposed Decision by the Committee on Technical Barriers to Trade

Purpose and background: To ensure a uniform application of the procedures to notify arrangements within the scope of this Agreement. Notifications would include bilateral or multilateral arrangements on issues related to standards, technical regulations, testing, inspection, product certification, product approval, or the approval of conformity assessment bodies.

Decision: The notification of such arrangements shall include the following information:

- (i) the names of adherents to the agreement, of which at least one is a Party to the Agreement;
- (ii) the title of the agreement;
- (iii) the central government body(bodies) responsible for its implementation;
- (iv) the effective dates of adoption and entry into force;
- (v) the product or sectors covered; and,
- (vi) a summary of the general provisions of the agreement which provides a clear indication of the content and objective of the agreement.