1. The United Kingdom Government took powers in April 1957, enabling the Board of Trade to impose anti-dumping or countervailing duties on dumped or subsidized imports. The Customs Duties (Dumping and Subsidies) Act, 1957, is broadly modelled on the provisions of Article VI of the GATT and the United Kingdom Government welcome the opportunity offered by the establishment of the Panel on Anti-dumping and Countervailing Duties to discuss some of the technical problems which arise in this field. For the purpose of the meeting of the Panel in April, they thought that it might be helpful to summarize the United Kingdom's views on a number of questions, based on the experience of operating these powers within the last two years.

1 The terms of reference of the Group of Experts, as approved by the CONTRACTING PARTIES at their Thirteenth Session (SR.13/18), are set out in L/908.

Since the GATT publication "Anti-Dumping and Countervailing Duties" 1958 was issued, the secretariat has distributed the following documentation:

- Memorandum received from the Governments of Czechoslovakia and Sweden L/943
- New Provisions received from the Government of Cuba L/953

Additional information relevant to the work of the Group of Experts will be issued as addenda to this document L/963.

2 The relevant text of the Act is reproduced on pages 146-152 of GATT publication "Anti-Dumping and Countervailing Duties" 1958. The regulations made by the Board of Trade in pursuance of Section 8 (4) of the above-mentioned Act are annexed hereto.
1. The Objective of Anti-Dumping Legislation

2. In the United Kingdom's view (which reflects that of the GATT), anti-dumping and countervailing duties should be used for the sole purpose of counteracting dumping or subsidization which is or threatens to be materially injurious to an industry in the importing country (or to a competitive exporting industry in a third country). It is for this reason that the United Kingdom Government are opposed to any form of automatic anti-dumping or countervailing action, or action which is taken without consideration of the issue of material injury as distinct from mere injury.

3. In order that trade should not be unnecessarily or arbitrarily impeded, it is, in the view of the United Kingdom Government, very desirable that all countries should adhere strictly to the provisions of Article VI in any use of anti-dumping or countervailing powers.

4. Understandably no mention is made in Article VI of intention in relation to dumping. While unintentional dumping may equally cause material injury, it seems to the United Kingdom that some regard should be paid to this point when a Government is deciding whether or not to impose an anti-dumping duty. If there is no intention to dump, it should be possible to persuade the exporter or manufacturer concerned to stop the dumping at the source. The extreme measure of an anti-dumping duty should, if possible, be reserved for the situation where an exporter or manufacturer deliberately sets out to capture trade by selling abroad at below his domestic market price. In so far as it is ascertainable, this is a factor taken into account when the Board of Trade come to determine, as they are required by the terms of the legislation to do, whether the imposition of an anti-dumping duty would be in the national interest.

5. The question of the deliberate subsidization of exports is different. Here it is self-evident that there is an intention to assist the export of a product, and the same reservation does not therefore apply.

II. The Initiative for Anti-Dumping or Countervailing Action

6. It follows from what has been said above that, in the United Kingdom view, the initiative for anti-dumping or countervailing action should normally come from the industry which is affected by the alleged dumping or subsidization. This is the practice in the United Kingdom: the Board of Trade await applications for duties and do not themselves normally initiate an enquiry. Moreover, the fact that the initiative is expected to come from the industry affected is emphasized by the requirement (as a matter of policy, not law) that the applicant for a duty shall produce at least prima facie evidence both of dumping and injury before the Board of Trade will undertake to consider the application. The Board of Trade would not take action, even by way of initiating an investigation, merely because the import price of a commodity was below its normal domestic value in the exporting country. In a case of subsidization, which involves direct or
indirect Government action in the exporting country, the Board of Trade would expect to play a part in the enquiry at a rather earlier stage because an industry could not be expected to obtain detailed information about another Government's practices.

III. Bearings and the Gathering of Information

7. The United Kingdom's procedure for the conduct of an anti-dumping investigation is as follows. As soon as the Board of Trade have been satisfied by the applicant that there is a prima facie case of dumping and of injury, they normally (although not invariably) publish a Press Notice to the effect that they are giving consideration to an application for a duty on a particular product from a particular country or countries and invite any interested party to submit representations for or against the application within a stipulated time. A few days prior to the issue of this Press Notice the Board will have informed the Embassy of the country concerned of the action being taken. In a subsidy case, the Government of the country named in the application will normally be asked to comment upon the facts before the Board of Trade make an announcement. In cases of dumping, however, Governments are not normally involved and responsibility for the dumping rests with the industry or firm concerned. The necessary factual information must therefore come from the industry itself, whether or not this is channelled through the Government. In the United Kingdom view, it is unnecessary and undesirable that every application in respect of dumping should become the subject of diplomatic exchanges.

8. It is open to the overseas manufacturer, as well as to the importer of the product concerned, to offer the Board of Trade any evidence relevant to an anti-dumping application and to express objections to it. Similarly consumers and users of the imported product may express their opinions since the Board finally have to determine whether the imposition of a duty is in the national interest. Representations may be made orally or in writing to the Board. To facilitate these representations, a summary of the application is given on a confidential basis to all parties who register a genuine interest in the case. There are no public hearings and normally no confrontation of the opposing parties.

9. Sometimes, where there is a conflict of evidence about prices, the Board of Trade may wish to question overseas manufacturers and to examine original documents. This is only done with the consent both of the Government and industry concerned, which is usually readily forthcoming and which the United Kingdom hopes will continue to be so. Such investigations are frequently the only method of making sure of the facts about prices; and it is clearly desirable that action should not be taken until the facts have been established beyond reasonable doubt.
10. When the Board of Trade have collected all the relevant evidence and views they make their decision as to whether or not there is dumping (or subsidization); if they are satisfied that there is, they then decide whether this is causing or threatening material injury to an industry; and finally, if both the previous criteria are satisfied, they decide whether the imposition of a duty would be in the national interest.

11. If an application is rejected, notice of rejection will be published in the Press if the original application was so publicised. In the event of a positive decision to impose a duty, the relevant Statutory Order will come into force without notice. (This is necessary to prevent forestalling.) But any such Order has to be approved within a stipulated period by an Affirmative Resolution of the House of Commons and the grounds for the Order therefore have to be publicly stated when the Resolution is moved. There is no provision for appeal, for the good reason that everybody will already have had ample opportunity to state their views and to give evidence.

IV. Determination of the Import Price of a Product

12. Reference has been made (e.g. in L/908 of 11 November 1958) to the "import" price which serves as the basis of price comparison with the normal domestic value of a product. However, paragraph 1 of Article VI of the GATT talks about the price of the product "exported" from one country to another and this is perhaps a guide as to how the comparison of prices should most appropriately be made. Paragraph 1 also stipulates that "due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability". It would seem that the essential aim is therefore to make an effective comparison between the normal domestic price in the exporting country and the price at which a similar product leaves that country, not the price at which it enters the importing country.

13. If the c.i.f. price in the importing country is taken as the basis there is no direct comparability because this price includes an element for freight, insurance, and perhaps certain other charges. A more accurate comparison is afforded by the f.o.b. price. (The ex-factory price for home and export sales respectively is probably the ideal but it is usually more difficult to ascertain this price.) While it may happen that the export price has to be deduced from the c.i.f. price, because the f.o.b. price is not known or there is none, the aim should be to work back to the f.o.b. price and compare this with the domestic price in the country of export, making any adjustments that may be necessary for the difference in internal freight between the factory and the domestic user and the factory and the port of export respectively and for any other differences.
14. If the c.i.f. price were taken as it stood as the basis of comparison, this would mean that a country could dump goods to the extent of the freight. For the United Kingdom with sea freight involved (often from a long distance), this could be an important disadvantage and it seems in principle right that the freight element should be ignored when a comparison is being made with normal domestic value for the purpose of determining dumping.

15. In a certain category of case it is not appropriate to compare the actual (f.o.b.) export price with the normal domestic value. This is when the export sale is not between a buyer and seller independent of each other—for example, when the sale is between a principal in the exporting country and a subsidiary of that principal in the importing country. In such instances other than purely commercial factors may determine the price. In the United Kingdom view it is reasonable to ignore that price and to determine a representative export price by starting with the actual selling price of the imported product on the open market of the importing country, making adjustments for freight, insurance, import duty and other charges until one has worked back to a notional f.o.b. price.

V. Determination of the Normal Value of a Product

16. In the United Kingdom's experience, the determination of the normal value of a product, which in the United Kingdom legislation is called the "fair market price" and by which is meant the domestic market price in the ordinary course of trade in the country of origin or export is the crucial and most difficult point in the effective use of anti-dumping powers. Exporters to the United Kingdom are not required to state on their invoices the "current domestic value" (or normal value) of their goods. Those countries which have such a requirement operate it primarily for the purpose of assessing import duty under the ordinary protective tariff, where assessment for duty is based on the current domestic value in the exporting country. Since the United Kingdom tariff is based on the c.i.f. value of the goods, there is no need for tariff purposes for the current domestic value to be shown and it would be a disproportionate burden upon traders to stipulate that it be shown as a matter of course for all goods solely for the purpose of the (non-automatic) anti-dumping legislation.

17. The important point about the normal value of goods in the exporting country for anti-dumping purposes is that it should be genuinely comparable with the export price. For this reason the United Kingdom legislation stipulates (as does Article VI of the GATT) that, in the determination of this price, adjustments should be made for differences in conditions and terms of sale and for differences in taxation. Thus, if a product is subject to a domestic turnover tax, this should be deducted from the normal value for the purpose of comparison with the export price which is not subject to the turnover tax. Similar adjustments may need to be made for such items as internal freight, agents' commission, rebates, mark-ups and so on, because, without such adjustments, a comparison with the export price might reveal a difference which did not necessarily constitute dumping.
18. It follows from this that the normal domestic value to be compared with the export price will seldom be an actual price as quoted in a price list or entered upon an invoice, although it will always be necessary to determine normal value by starting with an actual price and then making adjustments to it. As has been said in paragraph 13 above, the ideal is to compare the ex-factory price for domestic and export sales respectively. But in the United Kingdom's experience it is, as already stated, usually difficult to ascertain this price and it is therefore necessary to work on the basis of published price lists and other readily ascertainable data, making the necessary adjustments.

19. Although the objective of a uniform definition of the term "domestic market price" is desirable, as the Swedish memorandum suggests, it is essential that this price should be an ascertainable one. The United Kingdom has sympathy with the difficulties which have been experienced by Norway, which are similar to her own. It frequently happens that, on investigation, there appear to be a whole range of different domestic prices for a particular product, varying according to the quantity sold and the terms of individual contracts. The importing country is then faced with the need to decide which of these prices shall constitute the basis of the normal domestic market price in the exporting country. In these circumstances there are some attractions in the Norwegian idea of an average of the relevant price quotations and the United Kingdom agrees with the Swedish view that this proposal deserves closer study. On the other hand, a requirement to abide by an average of prices could in certain circumstances nullify attempts to deal with genuine dumping. An industry might, for example, sell a large aggregate quantity of a particular product in small lots at a high price and then deliberately make a few sales of large lots at a very low price - lower than could be accounted for by a normal quantity discount - in order to bring the average price down and thus evade anti-dumping action.

20. The United Kingdom legislation permits the determination of the normal value of a product by reference to the export price to third countries, but only if there are no sales of the product on the domestic market or no sales in such circumstances that the normal value can be deduced from them (that is, unrepresentative or deliberately misleading sales, or sales of which it is impossible to determine the price). This method has not yet been used in practice and it would appear to be as difficult to ascertain such an export price to third countries as to ascertain the domestic price.

21. Similarly, the United Kingdom legislation allows calculation of normal value on the basis of the cost or estimated cost of production of the imported product (again, only if there are no representative domestic sales). In the United Kingdom view, there is advantage in having clearly defined criteria for the determination of cost of production. Detailed provisions have therefore been made under the United Kingdom legislation for this purpose and, for the information of the Panel, a copy of the relevant statutory regulations is annexed to this memorandum.
22. In the United Kingdom view it is essential that the provisions for ascertaining the normal value of a product for the purpose of anti-dumping action should be reasonably flexible. Although the United Kingdom considers that anti-dumping powers should be used with great care this is all the more reason why, when there is genuine occasion for their use, they should be capable of being effective. But it is desirable that there should not be excessive scope for arguments on the occasion of each individual application for an anti-dumping duty. For this reason some agreement might be helpful on the general principles to be followed in establishing normal value but which at the same time preserved flexibility.

VI. Indirect Dumping

23. The United Kingdom legislation contains specific provision for dealing with indirect dumping and for the imposition of anti-dumping duties whether or not the dumped goods in question originate in the country of export. Section 1(2) of the Customs Duties (Dumping & Subsidies) Act provides that "imported goods shall be regarded as having been dumped -

(a) if the export price from the country in which the goods originated is less than the fair market price of the goods in that country, or

(b) in a case where the country from which the goods were exported to the United Kingdom is different from the country in which they originated, -

(i) if the export price from the country in which the goods originated is less than the fair market price of those goods in that country, or

(ii) if the export price from the country from which the goods were so exported is less than the fair market price of those goods in that country."

24. The question of origin is decided as follows. Section 8 of the Act states:

"Goods shall be regarded for the purposes of this Act as having originated in a country -

(a) if those goods were wholly produced in that country, or

(b) if some stage in the production of the goods was carried out in that country and the cost of carrying out such stages, if any, in the production of the goods as were carried out after those goods last left that country (but before the import of the goods into the United Kingdom) was less than twenty-five per cent of the cost of production of the goods as so imported, or
(c) if some stage in the production of any components or materials incorporated in the goods was carried out in that country and the cost of carrying out such stages in production as were carried out after those components or materials last left that country to convert those components or materials into the goods as imported into the United Kingdom was less than twenty-five per cent of the cost of production of the goods as so imported."

25. The purpose of these provisions is to enable the Board of Trade to catch goods dumped substantially in their final state, even if minor processes have been added, and also to prevent manufacturers from evading anti-dumping duties merely by arranging for a minor process of production to be carried out in a third country. The figure of 25 per cent has been adopted because this is considered sufficient to lessen the incidence of the original dumping from the first country: if goods could be held to originate in one country even if they subsequently underwent processes of manufacture in a second country representing a considerable proportion of their final value, thus removing or lessening the effects of any dumping to which they had earlier been subjected, this could lead to the misuse of anti-dumping powers and become protectionist in character. But in the United Kingdom view it is reasonable to provide for some action against indirect dumping and the use of dumped materials or components because it is otherwise simple for a manufacturer deliberately to evade anti-dumping measures. Nor does this appear to be contrary to the spirit of Article VI of the GATT which, as the Swedish memorandum points out, provides for countervailing action against subsidization in the country of origin as well as in the exporting country. The United Kingdom agrees that it would be helpful to have the views of the contracting parties on this point.

26. The United Kingdom has had no practical example of indirect dumping since the law was introduced.

VII. The Margin of Dumping

27. It follows from what has been said about the difficulty of ascertaining the normal value of a product that it is correspondingly difficult to fix any anti-dumping duty at the exact margin of dumping. It may well happen, for example, that there are several normal values for the same product, according to the quantity or quality sold.

28. Mindful of the requirement in Article VI of the GATT that anti-dumping duties should not exceed the margin of dumping, the United Kingdom has provided in the legislation for a procedure whereby importers may claim relief of duty on individual consignments of goods subject to an anti-dumping Order where they can satisfy the Board of Trade that the goods in question have not been dumped, or not dumped to the extent of the duty.
29. It is the United Kingdom practice to fix the amount of anti-dumping duty for a commodity in the Order imposing the duty and for this duty to be charged on all consignments from the particular source named (it may be all products from a particular country or products from one named manufacturer only). However, it is then open to the importer to claim a refund of duty in the manner described above on individual consignments which have not been dumped to the full extent of the duty. In this way the final amount of duty levied never exceeds the determined margin of dumping.

30. It would be quite impracticable to carry out an investigation in order to establish dumping ab initio on each individual shipment of a product, nor can this have been the intention of article VI of the GATT. Such a requirement would be unreasonable and disruptive of normal trade in the product concerned.

VIII. Interpretation of the term "Like Product"

31. The United Kingdom agrees with the Swedish view that the interpretation of the term "like product" is a matter for judgment in each particular case. As with normal value, it is necessary that this interpretation should not be too rigid; otherwise it is a relatively simple matter for anti-dumping action to be evaded. For example, in the case of textiles a manufacturer could deliberately vary very slightly the construction of a cloth sold on the home market although for all practical purposes it would remain the same article as that exported. It is desirable that anti-dumping action should be possible in such circumstances and the United Kingdom legislation therefore provides for consideration of the price of "any identical or comparable goods".

32. Whether the calculation of normal value should be based on the overall price of a like product from all producers in the exporting country or merely with the products of the producer concerned is again, in the United Kingdom view, a matter for judgment in each case. It may happen that there are a number of producers in the exporting country selling on the domestic market but that only one of these is also exporting the product concerned. Any anti-dumping action might then be confined to the single producer and no injustice would be done if it was the normal value of his products which was compared with the export price. In other cases, however, it would be necessary to consider the whole of the overseas domestic market in order to determine the representative price of the product concerned on that market.

IX. The Material Injury Criterion

33. As already stated, the United Kingdom considers that the criterion of "material injury" caused or threatened by dumping or subsidization should be treated very seriously. There is no attempt to define the term "material injury" in Article VI of the GATT nor could precise rules be evolved which would be equally applicable in every case.
34. Under the United Kingdom legislation the Board of Trade is responsible for determining the issue of material injury. Applicants for an anti-dumping or countervailing duty are normally asked to furnish the Board with such details as their industry's production, sales, stocks, profits, costs and employment position over a number of years. The Board then considers the level of imports of the dumped or subsidized product, the price at which this is selling in relation to the domestic price and the effect the imports are having upon the sales, prices and profits of the domestic industry.

35. The problem is to judge how much of any injury an industry may be suffering is properly attributable to the dumping or subsidization, since there are often other, quite extraneous causes which have to be disentangled. There are no public hearings in the United Kingdom but any party with a genuine interest in the case has access to the Board of Trade and may put his point of view (see also para. 8).

36. In the United Kingdom's view it is quite insufficient to determine material injury by reference to the sole consideration that the import price of a product, including Customs duties, is lower than the wholesale price for the corresponding product manufactured in the importing country. The domestic price may be an unduly high one, either because the domestic manufacturer is making excessive profits or because he is inefficient. The position of the industry should be looked at as a whole.

X. The Term "Industry" in relation to Material Injury

37. The United Kingdom is in agreement with the Swedish view about interpretation of the term "industry" in relation to anti-dumping action. As far as the United Kingdom is concerned, the Board of Trade is not prepared to entertain applications for anti-dumping or countervailing duties from individual firms or producers in the United Kingdom unless these represent a substantial proportion of the national output of the product concerned. The use of anti-dumping or countervailing duties to offset injury to a single firm within a large industry would indeed be protectionist in character, and the proper remedy for that firm lies in other directions.

38. The United Kingdom therefore agrees with the view expressed in the Swedish memorandum that the contracting parties should agree upon an interpretation of the term "industry" which makes clear that the judgment formed of material injury should be related to total national output of the commodity concerned or a substantial part thereof. While individual cases will obviously throw up particular problems, this should be a general guiding principle.
XI. Provisional Measures

39. The United Kingdom is opposed to any form of retrospection in the anti-dumping field and considers that provisional measures should be kept to a minimum and used only in cases of real need. As a matter of course certain countries levy deposits as soon as an anti-dumping investigation is announced or suspend determination of the final duty to be paid until the promulgation of their decision. In the United Kingdom's view this hampers normal trade and is unfair to importers since applications may well be eventually rejected on one ground or another. The United Kingdom, therefore, agrees with the Swedish view that if provisional measures are taken they should be in force for the shortest possible time and should always be without retroactive application. There should also be provision for repayment if it eventually transpires that the provisional measures were not justified.

40. In the absence of provisional measures, the desirability is emphasized of anti-dumping or countervailing investigations being completed as quickly as possible. The very existence of an enquiry either tends to dry up trade in the product concerned until the investigation is complete and a decision announced or induces forestalling which may well nullify the effects of an eventual duty. This, however, is a matter for individual governments: no time-limit can be stipulated which would apply in every case.

XII. Review of Decisions and Revocation of Duties

41. Since, in conformity with Article VI, the tests for the application of anti-dumping or countervailing duties are not merely that dumping or subsidization exists, but also that material injury is being caused or threatened, it is clearly right that governments, having decided that the imposition of duties is justified by these tests, should be prepared to review the need and justification for their continued application in the light of changing circumstances.

42. The question is whether the governments imposing such duties should themselves be required to conduct anything in the nature of a regular periodic review. While some measure of responsibility for the justification for continued application of these duties as circumstances may change should clearly lie with the governments imposing them, it would not seem appropriate to lay down any hard and fast rules of general application in this matter. One disadvantage of a periodical review at set intervals is that there would be a tendency for trade to come to a virtual standstill for a time before the review and this could be very unsettling.

43. Governments imposing such duties must clearly be free to decide whether or not to review the continued need and justification for them at any time, and to decide whether it continues to be in their national interest to continue charging them. Equally, it clearly is open to exporting industries or countries to ask for a review if they consider that they have a legitimate case for claiming that the circumstances have changed. Indeed, it is to be
presumed that the exporting industries or countries would not be slow in coming forward if they felt that the action was no longer consistent with the tests of Article VI. Under the United Kingdom system the effects of dumping are virtually under constant review through the procedure for claiming relief from duty. The Board of Trade receives all applications for such relief and if they saw that over a representative period all applications were successful, this would indicate that dumping had come to an end and the duty could then be revoked.

XIII. Imposition of Duties on behalf of Other Countries

44. Article VI of the GATT allows, with certain conditions, the imposition of anti-dumping or countervailing duties by one country on the goods of another when an exporting industry in a third country suffers or is threatened with material injury as a result of the dumping or subsidization. The United Kingdom legislation and that of certain other countries incorporates this power.

45. It is clearly right that the onus of making out a case for the imposition of duties on behalf of an industry in a country other than the importing country should rest with that industry or its government. The complainant should establish to the satisfaction of the importing country both the facts of dumping or subsidization and of resultant material injury. If the government of the importing country is then satisfied as to the facts of the case and on material injury it will presumably decide in the light of its own national interest whether or not a duty should be imposed. And in seeking the consent of the contracting parties in accordance with the requirement of paragraph 6 of Article VI of the GATT the government of the importing country should have the support of the government of the country whose exports are materially injured by the dumping or subsidization in presenting the case for a duty.
The Board of Trade in pursuance of the powers conferred upon it by Section 8 (4) of the Customs Duties (Dumping and Subsidies) Act, 1957(a) hereby make the following Regulations:—

1. (1) In computing the cost of production of any goods, the following costs, charges and expenses shall be taken into account:—

(a) the cost of materials (including unfinished goods and components) as received into the place of production, not including any customs or excise duty or any other duty or tax payable in respect of such materials which is subsequently refunded on the exportation of the goods produced;

(b) wages, being wages for labour directly engaged in the production of the goods;

(c) overhead expenses incurred in production, that is to say, expenses in respect of

(i) rent, rates and taxes in respect of factory or other buildings or land used in the production of the goods; lighting and heating of such buildings or land; motive power, electricity, gas, fuel and water used in the production of the goods;

(ii) supervision of the production of the goods, including wages and salaries of managers, foremen, time-keepers, watchmen and other similar officers and servants of the producer;

(iii) repairs, renewals and maintenance of plant, machinery and tools, and factory or other buildings or land used in the production of the goods;

(iv) depreciation of plant, machinery and tools;

(v) interest on capital outlay on factory or other buildings or land used in the production of the goods;

(vi) interest on depreciated value of plant, machinery and tools;
(d) the cost of interior packing ordinarily sold with the goods when they are sold retail.

(2) In computing the cost aforesaid the following items shall not be taken into account:-

(a) cost of exterior packing;

(b) producer's profit or the profit or remuneration of any exporter, trader, broker or other person dealing in the goods in their finished manufactured condition;

(c) royalties;

(d) cost of carriage and freight or insurance or any other charges incurred after the last stage in the production of the goods.

(3) Where goods have undergone successive stages of production carried out by two or more different persons, the cost of production shall (subject to the provisions of Regulation 5 hereof) be the cost of production incurred by the person who carried out the last stage.

2. The cost of any stage in the production of goods shall be computed by taking the cost of production, computed in accordance with Regulation 1 hereof, incurred by the person who carried out that stage, and deducting therefrom the cost to that person of the goods, or any materials or components which he incorporates therein, as received by him at the place at which he carried out that stage:

Provided that where it is necessary to determine by reference to Section 8 (1) (b) or (c) of the Act whether goods are goods originating in a country, then, in ascertaining the cost of any stage in the production of the goods which is carried out after the goods, or any material or component incorporated in the goods, last left that country and which includes or consists of the incorporation in the goods of any other material or component, the cost of such other material or component to the person carrying out that stage shall not be deducted.

3. If it appears to the Commissioners of Customs and Excise that any materials (including unfinished goods and components) were acquired on a sale which was not a sale in the open market between buyer and seller independent of each other (as defined in paragraph 2 of the Sixth Schedule to the Customs and Excise Act, 1952(b)), the cost of such materials to the purchaser shall be such amount as the Commissioners may determine to be the price which would have been paid on such a sale.
4. (1) Where goods have been determined to originate in a country by virtue of Section 8 (1) (b) or (c) of the Act, then in ascertaining the amount of the deduction to be made under Section 8 (2) of the Act for the cost of any stage in the production of the goods which includes or consists of incorporating in those goods any material or component, not being material or a component exported from that country, the cost of that material or component shall be taken into account.

(2) For the purpose of computing the deduction to be made under Section 8 (2) of the Act, Regulation 3 hereof shall have effect as if for the reference to the Commissioners of Customs and Excise there were substituted a reference to the Board of Trade.

5. Where it appears to the Board of Trade in ascertaining the cost of production of goods in any country for the purposes of Section 7 (3) of the Act, that the amount of such cost computed in accordance with Regulation 1 hereof was affected by any rebate or other similar concession granted or made because the goods were intended to be exported from that country, the cost of production for the purposes of the said Section 7 (3) shall be the amount computed in accordance with Regulation 1 hereof together with such amount as the Board of Trade may determine to represent the effect of such rebate or other concession.

6. In these Regulations:

(a) "the Act" means the Customs Duties (Dumping and Subsidies) Act, 1957(c);

(b) references to the person who carried out any stage in the production of goods are, where goods are subjected to any process to the order of the owner of the goods by some other person, references to the owner of the goods and not to that other person;

(c) references to the cost of production and to the cost of any stage in the production of goods are references to such costs in relation to each separate article comprised in a consignment or parcel of goods imported.
EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purpose.)

These Regulations prescribe the matters to be taken into account in computing the "cost of production" of goods where such cost is to be taken into account under the Customs Duties (Dumping and Subsidies) Act, 1957, in determining both the origin of the goods and whether they have been dumped.

The Regulations provide that "cost of production" is the cost to the last producer. They also make special provision for computing the cost of carrying out separate stages in production, and contain provisions enabling the Board of Trade to take into account rebates, and other forms of private subsidy.