The CONTRACTING PARTIES instructed the GATT secretariat at their fourteenth session "to bring the GATT publication Anti-dumping and Countervailing Duties of July 1958 up to date and to issue this information in a special document".

This document, issued consequently, is to be considered an interim corrigendum to the GATT publication in question, and is based on the changes made available until October 1959. It is divided in the same way as the publication of 1958 as can be seen from the Index on the next page.

The Chapter on the "selection of products; effect of normal values and charges fixed in the decree" (page 18 of the GATT publication and page 7 of this document) was rewritten since it is now possible to distinguish between systems applied by the various countries, some of which were not yet clearly developed in 1958.

1 Sales No. GATT/1958-2

2 Paragraph 25 of document L/978 as approved by the CONTRACTING PARTIES on 13 May 1959, SR.14/2, page 11.
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<td>30</td>
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<td>39</td>
</tr>
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(The following countries introduced new provisions which - so far - are not yet operative):

- Cuba ........................................... 56
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CHANGES IN INTRODUCTION

Page 5 - third paragraph: Suppress the words "and the United Kingdom" in the eighth line. Suppress further the last two sentences of this paragraph (continued on Page 6) and the footnotes relating to them.

Page 6: List of countries not included in the analysis: suppress the last two lines relating to the United Kingdom.

Page 6: List enumerating the countries to which the analysis applies: insert "the United Kingdom" between Sweden and the United States.

Page 7 - second paragraph: Replace the word "and" between Sweden and South Africa by a comma, and insert after the words "South Africa" "and the United Kingdom".
Page 10 - third paragraph : Add "and the United Kingdom" after the word "Sweden".

Page 10 - table : Insert in the table between the note relating to Sweden and the note relating to the United States:

United Kingdom  The terminology is different, but the effect of the provisions is fundamentally the same.

Page 12 - table : Add to the table between the note relating to Sweden and the note relating to the United States:

United Kingdom  The legislation which derives from the GATT provisions distinguishes between countervailing and anti-dumping duties.

Page 12 - penultimate paragraph : The last sentence should read:

"On the other hand, countries, such as Sweden and the United Kingdom which do not base their customs valuation on the foreign domestic value of the imported product (but on the c.i.f. value of such products), encounter certain difficulties in applying anti-dumping duties (Question 6)."

Page 13 - third full paragraph : Insert in first line after "Sweden": "the United Kingdom".

Page 14 - second paragraph : Omit footnote No.1 relating to this paragraph.
The table should read as follows:

<table>
<thead>
<tr>
<th>Country</th>
<th>May 1958*</th>
<th>May 1959*</th>
<th>May 1958*</th>
<th>May 1959*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>9</td>
<td></td>
<td></td>
<td>101</td>
</tr>
<tr>
<td>Rhodesia and Nyasaland</td>
<td>3</td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>South Africa</td>
<td>22 plus</td>
<td>38</td>
<td>211</td>
<td>312</td>
</tr>
<tr>
<td></td>
<td>7 special duties</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sweden</td>
<td>1</td>
<td></td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>1</td>
<td>2</td>
<td>9</td>
<td>30</td>
</tr>
<tr>
<td>United States</td>
<td>2</td>
<td>2</td>
<td>96</td>
<td>169</td>
</tr>
</tbody>
</table>

Items affected by countervailing duties in force

<table>
<thead>
<tr>
<th>Country</th>
<th>May 1958*</th>
<th>May 1959*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>(one item includes several textile products)</td>
<td></td>
</tr>
<tr>
<td>South Africa</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(one item includes several metal products)</td>
<td></td>
</tr>
<tr>
<td>United Kingdom</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>United States</td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>

*The dates chosen so as to have uniform dates for all countries might not be precise in the case of an individual country.*
GENERAL SECTION

Page 16 : Add United Kingdom to the existing table in the following manner:

<table>
<thead>
<tr>
<th>Basis of &quot;normal value&quot;</th>
<th>United Kingdom</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Foreign domestic price</td>
<td>Yes</td>
</tr>
<tr>
<td>(b) Export price</td>
<td>Yes, if (a) not available, (b)</td>
</tr>
<tr>
<td>(c) Production costs</td>
<td>or (c) being equal alternatives.</td>
</tr>
</tbody>
</table>

Page 17- first paragraph : Third line. The sentence in parenthesis should read:

"..."(except the United Kingdom in her newly introduced provisions and Sweden which directly refer to the GATT provisions)...

Page 18- paragraph relating to Question 14 : Replace in the penultimate line the word "and" by a comma, and add in the last line before the word "have": "and the United Kingdom".
Mr. Viner states in the Report of 1926 (p.16) that decisions concerning the application of anti-dumping and similar duties should not be left to the discretion of a customs officer, but should only be applied subsequent to an official notice. This recommendation tends to limit the danger inherent in administrative action.

The countries whose regulations permit action by the customs authorities only consequent to prior notice by the government are Australia, Belgium, Rhodesia and Nyasaland, South Africa, Sweden, the United Kingdom and the United States. In all these instances provisions exist for the selection of the items on which anti-dumping and similar duties are to be levied, and also for the decision as to whether an import causes or threatens a material injury to the domestic industry. Since the customs authorities can take action only consequent to a decree, this system has, in order to simplify the language used in the questionnaire, been called "pre-selection".

Insofar as the division of the functions of the national authorities is concerned, the countries to which this study extends, can, therefore be divided into the following groups:

"1. Countries where the authorities charged with the selection of products limit themselves to indicating in the decrees the products on which anti-dumping duties are to be levied but leave all other functions (except the finding of material injury) to the customs authorities which, in relation to the actual importation, establish the "normal value", the anti-dumping margin, etc. Countries which operate this system are:

- Australia
- Rhodesia and Nyasaland
- South Africa
- Sweden and the
- United States, insofar as anti-dumping duties are concerned.
GENERAL SECTION

Already some of these countries include in their basic decrees, prices which are related to the dumping margin. The inclusion of such values may have two important effects. In the first place, it can facilitate the work of the customs officer by indicating that products imported at prices higher than the published value can be allowed in, eliminating for such products any further investigation. Second, it can limit the anti-dumping duty to the margin between the published value (if lower than "normal value", thus conforming with Article VI) and the dumped import price.

In Sweden, where a value is regularly published, the publication has both effects. In the isolated cases when South Africa resorted to the publication of prices this publication had merely the effect to limit the application of anti-dumping duties to goods below a certain price range. Rhodesia has made no use of the possibility of including values in the notices. Australia and the United States do not provide for the inclusion of values in the decrees.

2. To the second group belong those countries where the whole responsibility for fixing these duties lies with the authorities selecting the items and where the function of the customs authority (the authorities issuing import licences in the case of Belgium which for the time being makes no use of the possibility to levy countervailing duties) is practically limited to the collection of the duties prescribed in the basic notice. This system is applied by:

- Belgium
- United Kingdom
- United States, insofar as countervailing duties are concerned.

3. Finally, reference should be made to a third system which does not provide for pre-selection. In these instances, the customs authorities can take action within the framework of the relevant provisions without prior governmental notice. This system is applied by:

- Canada
- New Zealand

It is to be noted, however, that provisions exist in these countries which ensure that the decisions are taken in the public interest."
Page 19 - second full paragraph : Insert after the word "authorities", the following sentence:

"In the United Kingdom the burden of proof lies initially with the applicants but the Board of Trade take over the subsequent stages of investigation."

Page 19 - third full paragraph : Add in the penultimate line before the words "is charged", the following:

"and in the United Kingdom the Board of Trade".

Page 19 - fourth full paragraph : Add to the table the following reference:

"United Kingdom - Board of Trade (Statutory Order which has to be approved within a stipulated period by an Affirmative Resolution of the House of Commons)."

Page 19 - last paragraph : Insert in the second line after the word "Australia": "and the United Kingdom".

Page 20 - first paragraph : Second line, add after the words "South Africa" "the United Kingdom".

The sentence beginning at the end of the third line should read as follows:

"The United Kingdom and the United States provisions permit that the application might be limited to a specified exporter. The United States has occasionally made use of this provision and the United Kingdom once.

Page 20 - Chapter: "Effect of Normal Values..." : Omit this chapter.
Page 20 - Chapter: "The Assessment of Anti-dumping and similar duties" : Insert in the first line of the first paragraph of this Chapter, instead of the first words, the following:

"In assessing anti-dumping or countervailing duties the customs administrations follow closely..."

Page 21 - first paragraph : Omit second paragraph.

Page 21 - table : Insert in table between the note relating to Sweden and the United States:

"United Kingdom At the assessment stage the customs administration has merely to assess and collect the anti-dumping duties specified in the relevant Statutory Order made by the Board of Trade."

Page 21 - last paragraph (which continues on to page 22) : Replace this paragraph by the following two paragraphs:

"All countries state that they try to reduce the delay caused by the anti-dumping procedure to a minimum. The United States, however, adds that the delay during the time between the importation and the decision may be longer in cases where a new decree is necessary." (Question 29)

"All countries, furthermore, permit the importation of products during the investigation. While most countries in such an instance permit importation against security (e.g., guarantee for payment of additional duties), Canada does not require this. No security is required in the case of the United Kingdom."
"In the United States and in South Africa anti-dumping and countervailing duties are levied to the full amount in all circumstances. In the case of the United Kingdom the customs administration has no power to reduce the levy fixed in the statutory order; but this levy may be less than the full margin of dumping and relief of duty may be granted on individual consignments of goods not dumped to the full extent of the anti-dumping duty."

"(Question 30)"
The reply to question 5a (page 47) should be altered so as to read:

<table>
<thead>
<tr>
<th>Products</th>
<th>Countries</th>
<th>Period as from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matches (Royal Order of 19 August 1955)</td>
<td>Czechoslovakia</td>
<td>1 September 1955.</td>
</tr>
<tr>
<td></td>
<td>East Germany</td>
<td>Suppressed by Royal Order of 30 May 1958.</td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td>Bathtubs (Royal Order of 19 August 1955)</td>
<td>Hungary</td>
<td>1 September 1955.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Suppressed by Royal Order of 30 May 1958.</td>
</tr>
<tr>
<td>Certain silk and cotton fabrics (crepe fabrics of pure, artificial silk - printed; other fabrics of pure, artificial silk, not elsewhere specified - printed; other fabrics of artificial silk waste and pure, artificial textile fibres, not elsewhere specified - printed; cotton fabrics, not figured - printed - Royal Order of 10 December 1955)</td>
<td>East Germany</td>
<td>20 December 1955.</td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td>Suppressed by Royal Order of 30 May 1958.</td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
</tbody>
</table>
The replies to the following questions should be altered so as to incorporate the amendments to the Customs Act, effective 6 September 1958:

**Question 7:** The margin of dumping is the difference between the selling price - f.o.b. point of direct shipment - to the Canadian importer on the one hand (Section 6 of the Customs Tariff Act - Appendix 1, page 58) and the foreign domestic value (fair market value) on the other hand (Section 6 of the Customs Tariff Act - Appendix 1). The terms "selling price" and "foreign domestic value" (fair market value) are determined in accordance with Sections 35 - 40B of the Customs Act (Appendix 2, page ).

**Question 8:**
(a) Normally (Section 36(1) of the Customs Act - Appendix 2).

(c) In residual cases (Sections 37 and 38 of Customs Act - Appendix 2): under special circumstances (Section 39 of Customs Act - Appendix 2).

**Question 10:**
(a) Yes (Section 36 of Customs Act - Appendix 2 and General Regulations 4, 5 and 6 - Appendix 3, page 62).

(c) Yes (Section 36 of Customs Act - Appendix 2 and Regulations 2 and 3 - Appendix 3).

**Question 11:**
(a) Usually (Section 36 - Appendix 2).

(b) Sometimes (Section 37 - Appendix 2).

(c) Sometimes (Section 37 - Appendix 2).

(d) In special cases - end of season (Section 40A(7)(a) - Appendix 2).

(e) Possible - where goods are imported from state-trading countries at values lower than like goods are imported from third countries having a free economy they may be valued under Section 38(a) of the Customs Act on the basis of (e).

**Question 15:** Subject to minor qualifications the value established for ordinary duty purposes by the customs authorities is the basis for determining the margin of dumping (see Question 7). This situation could lead to the levy of anti-dumping duties if the Canadian Government decided to use the special valuation provisions of the Canadian Customs Act. Recourse could be made to the provisions of Section 40A(7)(c) of the Customs Act (Appendix 2) if Canada found it necessary to resort to
Article XIX of GATT. The Canadian Agreement with Japan refers to this provision. Apart from this, arrangements have been made with State-trading countries by which Canada could, after consultations with the countries concerned, establish the value of duty of shipments from State-trading countries on the basis for fair market values obtaining in the domestic market of a third country having a free economy (section 38(c) of the Customs Act - Appendix 2).

Question 28: (b) The importer has full opportunity to make representation and if he disagrees with the decision rendered he has the right of recourse to senior officials of the Department of National Revenue and the right to appeal to the Courts.

Where the dispute concerns the value for duty, he has the right of appeal to the Tariff Board before going to the Courts.

Appendix 2 (page 60):

The provisions reproduced in Appendix 2 should be replaced by the following:

Valuation for Ordinary Duty

Sections 35 to 40 of the Customs Act as Revised in 1958

"35. (1) The value for duty of goods imported shall be determined in accordance with the provisions of sections 36 to 40B.

(2) In this section and sections 36 to 40B, with reference to any goods,

(a) 'country of export' means the country from which the goods were shipped directly to Canada;

(b) 'cost of production' means an amount that in accordance with good business principles and practices fairly reflects the manufacturing or production costs of the goods at the time of shipment to Canada; and
"36. Valuation for duty

(1) Subject to section 38, the value for duty shall, notwithstanding any invoice or affidavit to the contrary, be the fair market value, at the time when and place from which the goods were shipped directly to Canada, of like goods when sold

(a) to purchasers located at that place with whom the vendor deals at arm's length and who are at the same or substantially the same trade level as the importer, and

(b) in the same or substantially the same quantities for home consumption in the ordinary course of trade under competitive conditions.

Rules to be applied in ascertaining value

(2) The following rules apply in the application of sub-section (1):

(a) if there were no sales at the time when the goods were shipped to Canada, there shall be substituted therefor the most recent sales prior to the time of shipment that fairly reflect the market value of the goods at the time of shipment;

(b) if there were no purchasers located at the place from which the goods were shipped to Canada, there shall be substituted therefor sales to the purchasers located nearest thereto;

(c) where goods imported into Canada and goods sold for home consumption are like goods except only that the goods sold for home consumption have applied to them a trade mark, as defined in the Trade Marks Act, that is not applied to the goods imported into Canada, and goods like the goods imported are not sold for home consumption, the goods imported and the goods sold for home consumption shall be deemed to be like goods for the purposes of this section, if, in the opinion of the Minister,

(i) the goods are being imported into Canada without that trade mark applied to them in order to avoid the operation of subsection (1) and

(ii) it is probable that there will be applied to the goods, subsequent to their importation into Canada, that trade mark or any other mark so closely resembling that trade mark that it is likely to be taken therefor;

(d) regard shall not be had to a sale for home consumption to a purchaser by a vendor who did not, at the same or substantially the same time, sell like goods in the ordinary course of trade to other persons in the country of export, not controlled by or in control of or otherwise related to the purchaser; and
(e) where goods were not sold in the same or substantially the same quantities for home consumption

(i) if the quantity shipped to Canada is larger than the largest quantity sold for home consumption, those quantities shall be deemed to be the same quantities,

(ii) if the quantity shipped to Canada is smaller than the smallest quantity sold for home consumption, the value for duty shall be based on the amount for which, in the opinion of the Minister, having regard to that trade, such smaller quantities would have been sold if they had been sold for home consumption.

(3) Where the value for duty cannot be determined under subsections (1) and (2) for the reason that

(a) there were no purchasers in the country of export (in this subsection called 'home purchasers') who were at the same or substantially the same trade level as the importer, or

(b) although there were home purchasers who were at the same or substantially the same trade level as the importer, there were no sales to them in the circumstances described in subsections (1) and (2),

the home purchasers, if any, at the trade level nearest and subsequent to that of the importer to whom sales were made in the circumstances described in subsections (1) and (2) shall, for the purposes of those subsections, be deemed to have been at the same trade level as the importer.

"37. When value for duty to be cost of production plus profit

Subject to section 36, where like goods were not sold for home consumption, or were not sold for home consumption in the circumstances described in section 36, but similar goods were so sold, the value for duty shall, notwithstanding any invoice or affidavit to the contrary, be the aggregate of

(a) the cost of production of the goods imported; and

(b) an amount that is the same percentage of the cost of production of the goods imported as the gross profit on the similar goods is of the cost of production of the similar goods.

"38. Special cases

Where in any case or class of cases

(a) the value for duty cannot be determined under section 36 or 37 for the reason that like or similar goods are not sold in the country of export or are not sold in such country in the circumstances described in those sections,
(b) the goods imported

(i) are intended to be assembled, packaged or further manufactured in Canada or are intended to enter into the course of manufacture in Canada,

(ii) are used or obsolete goods,

(iii) are not prime quality goods as known in the trade, or are known in the trade as remnants, close-outs or discontinued lines or are surplus goods,

(iv) constitute a job lot, or

(v) are intended to be used directly in the process of manufacture or production of goods and like goods are not sold in the country of export,

(o) like goods are leased but not sold in the country of export, or

(d) the Minister is of opinion that by reason of unusual circumstances the application of sections 36 and 37 is impracticable,

the value for duty shall be determined in such manner as the Minister prescribes.

"39. Cost plus reasonable profit

(1) Where the Minister is satisfied that material injury has been or may be caused to any industry in Canada, or any portion thereof, by reason of the importation of any new or unused goods or class of such goods at a value for duty less than the cost of production thereof, plus a reasonable amount for gross profit, he may so report to the Governor in Council, and, notwithstanding anything in this Act, the Governor in Council may order that the value for duty of those goods or that class of goods shall be increased to an amount equal to the cost of production thereof plus a reasonable amount for gross profit, having regard to the gross profit generally earned in that trade in the country of export, to be determined in the manner prescribed in section 37.

Duration of order

(2) The Governor in Council may at any time revoke an order made under subsection (1) and, unless sooner revoked, an order made under subsection (1) expires at the end of one year after the making thereof.

"40. Determination of cost of production, gross profit, etc.

Where sufficient information has not been furnished or is not available to enable the determination of cost of production, gross profit or fair market value under section 36, 37 or 39, the cost of production, gross profit or fair market value, as the case may be, shall be determined in such manner as the Minister prescribes.
"40A. Minimum value

(1) Notwithstanding anything in this Act, where the value for duty as determined under sections 36 to 40 is less than the amount for which the goods were sold to the purchaser in Canada, exclusive of all charges thereon after their shipment from the country of export, the value for duty shall be the amount for which the goods were sold, less the amount, if any, by which the fair market value of the goods has decreased between the time of purchase and the time of exportation.

Foreign tax excluded

(2) The amount of any internal tax imposed within the country of export or origin on any goods imported into Canada, from which such goods have been exempted or have been or will be relieved by means of a refund or drawback, shall be deducted from the value for duty of such goods as determined under sections 36 to 40.

Foreign import duties excluded

(3) The Governor in Council may order that such import duties imposed within the country of export or origin as he specifies shall be deducted, in whole or in part, from the value for duty of any goods as determined under Sections 36 to 40.

Discounts

(4) In determining the value for duty of any goods, no discount or deduction shall be allowed that is not shown, allowed and deducted on invoices covering sales for home consumption in the country of export, in the ordinary course of trade.

Value of best article in package

(5) In determining the value for duty of goods of the same material, or of a similar kind but of a different quality, that are shipped in the same package, and were invoiced or sold at an average price, the value for duty of the best article contained in such package shall be deemed to be the average value of all the goods.

Goods on consignment

(6) For the purposes of sections 36 to 40, where goods are shipped to Canada on consignment

(a) if the goods were sold in the course of transit before importation, the person to whom such goods are sold shall be deemed to be the importer, and

(b) in all other cases, the consignee shall be deemed to be the importer.
Value for duty where market price has declined

(7) Notwithstanding anything in this Act

(a) where the market price of any manufactured goods in the country of export has, as the result of the advance of the season or the marketing period, declined to levels that do not reflect in the opinion of the Minister their normal price, the value for duty shall be the amount determined and declared by the Minister to be the average price, weighted as to quantity, at which the like or similar goods were sold for consumption in the country of export during a reasonable period, having regard to that trade, immediately preceding the date of shipment of the goods to Canada,

(b) where the market price in the country of export of any fresh fruit or vegetable of a class or kind produced in Canada has, as a result of the advance of the season or the marketing period, declined to levels that do not reflect in the opinion of the Minister their normal price, the value for duty of such fresh fruit or vegetable, when imported into such region or part of Canada and during such period as the Minister may specify, shall be the amount determined and declared by him to be the average value, weighted as to quantity, at which like fresh fruits or vegetables were imported during the three-year period immediately preceding the date of shipment to Canada, and

(c) where at any time it appears to the satisfaction of the Governor in Council on a report from the Minister that goods of any kind not entitled to entry under the British Preferential tariff or any lower tariff are being imported into Canada under such conditions as prejudicially or injuriously to affect the interests of Canadian producers or manufacturers, the Governor in Council may authorize the Minister to determine the value for duty of any class or kind of such goods, imported into such region or part of Canada and during such period as the Minister may specify, or may authorize the Minister to prescribe the manner in which such value for duty shall be determined, and the value so determined shall be deemed to be fair market value of such goods.

"40B. Additions

(1) If the value for duty as determined under sections 36 to 40A does not include

(a) the amount of any subsidy or drawback of Customs duty that has been allowed by the government of any other country, or
(b) the amount or money value of any so-called royalty, rent or charge for use of any machine or goods of any description, that the seller or proprietor does or would usually charge thereon when the same are sold or leased or rented for use in the country of export, such amount shall be added thereto.

(2) There shall be added to the value for duty as determined under sections 36 to 40A the amount of consideration or money value of any special arrangement between the exporter and the importer, or between any persons interested therein, because of the exportation or intended exportation of such goods, or the right to territorial limits for the sale or use thereof.
SOUTH AFRICA

Page 89 (Introduction)

Delete lines 19 and 20 where reference is made to section 90.

Anti-Dumping Duties
(pages 90 to 95)

Question 2:

Delete the words "and section 90" appearing in the answer.

Question 3:

Substitute for the answer to this question the following:

"Not wider in scope except:

(i) certain possible instances of freight dumping duty as specified in sections 83(1)(d) and 84(d)(1) - a freight dumping duty was recently imposed on kraft paper after consultation with the CONTRACTING PARTIES during the thirteenth session (SR.13/18): and

(ii) exchange dumping duty as specified in sections 83(1)(e) and 84(e)(1) - no such duty has been levied since the Second World War."

Question 4:

Substitute for the second paragraph of the answer the following:

"Legislative provision, however, exists for dealing with certain other types of dumping e.g. "exchange" dumping, etc., - see section 83."

Question 5:

In paragraph (b):

(1) The figure "1958" at the end of the question should read "1948".

(2) Substitute for the answer in this paragraph the following:

"312 (during the period January 1948 to December 1958)."

Question 7:

In the answer:

(1) Delete the figure "(i)" at the beginning of the first paragraph.
(2) Delete in sub-paragraph (a) the words:

"if such amount is greater than 5 per cent of the export price."

(3) Delete the whole of paragraph (ii).

Question 8:

Substitute for the answer to the question in paragraph (c) the following:

"Not defined."

Question 11:

In the answer to paragraph (b), (c), (d) and (e) delete the words "and for the purpose of section 90".

Question 12:

(1) Substitute for the first paragraph of the answer the following:

"Yes - section 33 provides that whenever the Minister is satisfied that goods of a class or kind manufactured in the Union of South Africa have been or are likely to be imported under the conditions prescribed in this section to the detriment of an industry in the Union, and that it would be in the public interest for him to do so, he may impose any of the prescribed anti-dumping duties."

(2) Substitute for the second paragraph of the answer the following:

"The criteria of 'detriment to an industry' and 'public interest' are not defined in the relevant legislation. The great care with which each application for the imposition of an anti-dumping or countervailing duty is investigated, however, is evidenced by the fact that out of 323 applications received during the period January 1948 to December 1958, only sixty have been approved."

Question 30:

Substitute for the answer to this question the following:

"Yes - section 84."

Countervailing Duties
(page 97)

Question 5:

(1) Substitute for the answer to the question in paragraph (a) the following:

<table>
<thead>
<tr>
<th>Product</th>
<th>Country</th>
<th>Date from</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metal supporting poles, masts or structures including cross arms and</td>
<td>Italy</td>
<td>1 February 1957</td>
</tr>
<tr>
<td>stay fittings for overhead lines for electric power transmission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sugar</td>
<td>All countries</td>
<td>Since prior to 1948</td>
</tr>
<tr>
<td>Certain woven fabrics of cotton</td>
<td>United States</td>
<td>13 December 1957</td>
</tr>
<tr>
<td>Certain canvas piece-goods</td>
<td>United States</td>
<td>27 June 1958</td>
</tr>
<tr>
<td>Kraft paper</td>
<td>United States</td>
<td>19 December 1958</td>
</tr>
</tbody>
</table>

(2) Substitute for the answer to the question in paragraph (b) the following:

"16 (during the period January 1948 to December 1958)."
Appendix 1 (page 98 to 103)

(1) Substitute for paragraph (a) of section 84 the following:

"(a) 'ordinary dumping duty', which shall be the amount by which the domestic value, as defined in section 85, exceeds the export price as defined in that section: Provided that if there be no export price, the amount of the dumping duty shall, subject to any action taken by the Minister in terms of the proviso to sub-section (1) of section 83, be an amount equal to the domestic value of the goods as defined in section 92."

(2) In section 85 -

(a) Substitute for the definition of "export price" the following definition:

"'export price' means the price free on board at which the goods are sold by the exporter to the importer in the Union: Provided that if in the opinion of the Commissioner such price exceeds the ordinary price free on board at which such or similar goods would be sold by an exporter to the importer in the Union under fully competitive conditions, the Commissioner may determine a price which, subject to the right of appeal to the Minister, shall be deemed to be the export price of those goods."

(b) Substitute for the definition of 'domestic value' the following definition:

"'domestic value' means the domestic value as defined in section 92 less any drawback of duty granted by the government of the exporting country in respect of the goods in question on their exportation, but in the application of section 92 to paragraph (a) of sub-section (1) of section 83 and paragraph (a) of section 84 there shall be substituted for the words 'time of exportation to the Union' and the words "date of exportation to the Union" in sub-section (1) and (2), respectively of section 92, the words 'date of purchase thereof by the importer', except in the case of goods exported to the Union on consignment account or for which nominal prices are charged or for which no charge is made."

(3) Substitute for sub-section (2) of section 89 the following:

"(2) The provisions of this section shall lapse after a period of nine years from the date of commencement of the Customs Amendment Act, 1951."

(4) Delete the whole of section 90.
Appendix 2: (page 103)

Substitute for sub-section (2) of section 92 the following:

"(2) When goods are sold in the territory from which they are exported to the Union under such conditions that no domestic value thereof can be calculated in terms of sub-section (1), or when goods exported to the Union are not sold for consumption in the territory from which they are so exported, or when the domestic value calculated in terms of sub-section (1) is below the ordinary market price at which such or similar goods have been sold in such territory during the six months preceding the date of exportation to the Union, the Commissioner may determine a value which, subject to the right of appeal to the Minister, shall be deemed to be the domestic value of those goods."

Appendix 4:

Substitute the attached revised Appendix 4 (page 104)


<table>
<thead>
<tr>
<th>PRODUCT</th>
<th>COUNTRY</th>
<th>PERIOD FROM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women's outerwear and underwear</td>
<td>United Kingdom, United States</td>
<td>7 November 1956</td>
</tr>
<tr>
<td></td>
<td>Japan</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hong Kong</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Czechoslovakia</td>
<td>14 June 1957</td>
</tr>
<tr>
<td></td>
<td>Austria</td>
<td></td>
</tr>
<tr>
<td></td>
<td>France</td>
<td></td>
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<tr>
<td></td>
<td>Belgium</td>
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<tr>
<td></td>
<td>The Netherlands</td>
<td></td>
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<tr>
<td></td>
<td>Italy</td>
<td></td>
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<tr>
<td></td>
<td>Federal Republic of Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>United Kingdom</td>
<td>19 August 1955</td>
</tr>
<tr>
<td></td>
<td>Czechoslovakia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East Germany</td>
<td></td>
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<tr>
<td></td>
<td>Hungary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>14 June 1957</td>
</tr>
<tr>
<td></td>
<td>Japan</td>
<td>7 November 1958</td>
</tr>
<tr>
<td></td>
<td>Hong Kong</td>
<td></td>
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<tr>
<td></td>
<td>Belgium</td>
<td></td>
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<tr>
<td></td>
<td>Czechoslovakia</td>
<td></td>
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<tr>
<td></td>
<td>East Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td>7 December 1956</td>
</tr>
<tr>
<td></td>
<td>The Netherlands</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>14 June 1957</td>
</tr>
<tr>
<td></td>
<td>Egypt</td>
<td>28 October 1955</td>
</tr>
</tbody>
</table>

SOUTH AFRICA

APPENDIX 4

LIST OF DUMPING DUTIES IMPOSED UNDER SECTION 83 OF THE CUSTOMS ACT

<table>
<thead>
<tr>
<th>PRODUCT</th>
<th>COUNTRY</th>
<th>PERIOD FROM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Women's nylon stockings</td>
<td>United Kingdom</td>
<td>19 August 1955</td>
</tr>
<tr>
<td></td>
<td>Czechoslovakia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td>7 December 1956</td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>14 June 1957</td>
</tr>
<tr>
<td></td>
<td>Japan</td>
<td>7 November 1958</td>
</tr>
<tr>
<td></td>
<td>Hong Kong</td>
<td></td>
</tr>
<tr>
<td>Winter sheets</td>
<td>Czechoslovakia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>14 June 1957</td>
</tr>
<tr>
<td>Towels of woven terry towelling</td>
<td>Belgium</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Czechoslovakia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>East Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hungary</td>
<td>7 December 1956</td>
</tr>
<tr>
<td></td>
<td>The Netherlands</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Poland</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USSR</td>
<td>14 June 1957</td>
</tr>
<tr>
<td>Separable slide fasteners</td>
<td>Czechoslovakia</td>
<td>6 September 1957</td>
</tr>
<tr>
<td>Yarns, threads and twists, containing 50 per cent or more by weight of</td>
<td>Egypt</td>
<td>28 October 1955</td>
</tr>
</tbody>
</table>
| cotton
<table>
<thead>
<tr>
<th>PRODUCT</th>
<th>COUNTRY</th>
<th>PERIOD FROM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certain woven fabrics in the piece, containing 50 per cent or more by weight of cotton</td>
<td>Japan, Czechoslovakia, East Germany, Hungary, Poland, USSR, Belgium, The Netherlands, United States, United Arab Republic, Hong Kong, Japan</td>
<td>31 December 1956, 7 December 1956, 14 June 1957, 7 December 1956, 13 December 1957 and 20 June 1958, 27 June 1958, 7 November 1958</td>
</tr>
<tr>
<td>Baths, metal, porcelain or vitreous enamelled</td>
<td>Czechoslovakia, France (including the Saar), Federal Republic of Germany</td>
<td>21 September 1956</td>
</tr>
<tr>
<td>Bolts and nuts</td>
<td>France (including the Saar)</td>
<td>6 August 1954</td>
</tr>
<tr>
<td></td>
<td>Federal Republic of Germany</td>
<td>25 February 1955</td>
</tr>
<tr>
<td></td>
<td>The Netherlands</td>
<td>1 April 1955</td>
</tr>
<tr>
<td></td>
<td>United Kingdom</td>
<td>19 August 1955</td>
</tr>
<tr>
<td></td>
<td>Belgium</td>
<td>23 March 1956</td>
</tr>
<tr>
<td>Wood Screws</td>
<td>Austria</td>
<td>6 August 1954</td>
</tr>
<tr>
<td></td>
<td>Federal Republic of Germany</td>
<td></td>
</tr>
<tr>
<td>Enamelware</td>
<td>Hong Kong</td>
<td>23 December 1955</td>
</tr>
<tr>
<td>Drilling bits for use in the coal mining industry</td>
<td>United Kingdom</td>
<td>3 December 1954</td>
</tr>
<tr>
<td>Various items of electrical accessories</td>
<td>United Kingdom</td>
<td>17 June 1955</td>
</tr>
<tr>
<td>Telephone cables</td>
<td>Federal Republic of Germany</td>
<td>21 November 1958</td>
</tr>
<tr>
<td>Distribution switchboards</td>
<td>United Kingdom</td>
<td>2 March 1956</td>
</tr>
</tbody>
</table>
### Table

<table>
<thead>
<tr>
<th>PRODUCT</th>
<th>COUNTRY</th>
<th>PERIOD FROM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electrical transformers</td>
<td>Belgium</td>
<td>29 June 1956</td>
</tr>
<tr>
<td>Electrical motors, 3 phase, not less than 1 h.p.</td>
<td>Belgium, United Kingdom, Austria</td>
<td>5 August 1954, 2 March 1956, 29 June 1956</td>
</tr>
<tr>
<td>Certain products of aluminium and aluminium alloys</td>
<td>United Kingdom</td>
<td>31 October 1958</td>
</tr>
<tr>
<td>Lead sheet, plain</td>
<td>United Kingdom</td>
<td>11 October 1957</td>
</tr>
<tr>
<td>Brake linings</td>
<td>United Kingdom</td>
<td>11 November 1955</td>
</tr>
<tr>
<td>Hot-plate controls (switches)</td>
<td>Federal Republic of Germany</td>
<td>6 August 1954</td>
</tr>
<tr>
<td>Capsules of aluminium foil for bottles</td>
<td>Belgium, The Netherlands</td>
<td>7 September 1956</td>
</tr>
<tr>
<td>Sheet glass</td>
<td>Czechoslovakia</td>
<td>20 September 1957</td>
</tr>
<tr>
<td>Certain items of household crockery of china, porcelain or earthenware</td>
<td>Japan</td>
<td>7 September 1956</td>
</tr>
<tr>
<td>Tiles, wall, earthenware</td>
<td>Czechoslovakia, East Germany</td>
<td>16 March 1956, 12 October 1956</td>
</tr>
<tr>
<td>Dry white lead and litharge</td>
<td>France (including the Saar), Federal Republic of Germany, United Kingdom</td>
<td>26 September 1958</td>
</tr>
<tr>
<td>Certain metallic naphthenate driers</td>
<td>United Kingdom</td>
<td>11 April 1958</td>
</tr>
<tr>
<td>Dry red lead</td>
<td>France (including the Saar), Federal Republic of Germany, United Kingdom</td>
<td>26 September 1958</td>
</tr>
<tr>
<td>Acetone</td>
<td>United Kingdom</td>
<td>18 January 1957</td>
</tr>
<tr>
<td>PRODUCT</td>
<td>COUNTRY</td>
<td>PERIOD FROM</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>--------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Insulin</td>
<td>Denmark</td>
<td>7 November 1958</td>
</tr>
<tr>
<td></td>
<td>The Netherlands</td>
<td></td>
</tr>
<tr>
<td></td>
<td>United Kingdom</td>
<td></td>
</tr>
<tr>
<td>D.D.T. products</td>
<td>Italy, United Kingdom)</td>
<td>7 November 1958</td>
</tr>
<tr>
<td></td>
<td>United States</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The Federal Republic of Germany</td>
<td></td>
</tr>
<tr>
<td>Toilet brushes</td>
<td>Italy</td>
<td>28 September 1956</td>
</tr>
<tr>
<td></td>
<td>Hong Kong</td>
<td></td>
</tr>
<tr>
<td>Hardboard</td>
<td>Belgium, Finland</td>
<td>6 August 1954</td>
</tr>
<tr>
<td></td>
<td>Norway, Sweden</td>
<td>29 October 1954</td>
</tr>
<tr>
<td>Unbleached kraft paper</td>
<td>United States</td>
<td>28 November 1958</td>
</tr>
<tr>
<td>Self adhesive plasters, bandages, plaster of Paris plasters and bandages</td>
<td>United Kingdom</td>
<td>6 September 1957</td>
</tr>
<tr>
<td></td>
<td>Federal Republic of Germany</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Denmark</td>
<td>13 December 1957</td>
</tr>
</tbody>
</table>
ANTI-DUMPING DUTIES

Since the United Kingdom made use of her anti-dumping and countervailing provisions, the attached replies to the questionnaire were made available. They should be inserted as Section VIII after the analysis of Sweden and before the analysis of the United States (pages 115/116).

PART I - GENERAL

1. Do the provisions follow the wording of Article VI, or is a different terminology used?

The terminology is different, but the effect of the provisions is fundamentally the same.

2. If the terminology is different, what are the provisions used to arrive at the levy of duties on dumped (or subsidized) imports?

The provisions are contained in the Customs Duties (Dumping and Subsidies) Act, 1957, in particular Sections 1, 2, 6 and 7 (see Appendix 1).

3. If the provisions are wider in scope than those of Article VI, how is it ensured that they are applied in conformity with Article VI insofar as contracting parties are concerned?

The only respect in which the provisions are wider in scope is that the size of an anti-dumping or countervailing duty is not statutorily limited to the margin of dumping or the extent of the subsidy in the case of every consignment of the goods in question. Section 3 of the Act, however, provides for the repayment of duty where an importer can satisfy the Board of Trade that an individual consignment of goods has not been dumped to the full extent of the duty. This section is applied so as to ensure that, so far as contracting parties are concerned, the final amount of duty paid does not exceed the margin of dumping or the extent of the subsidy. (See also Question 7.)

4. What problems of international trade have been dealt with by recourse to these provisions (commercial dumping, State subsidies, differential exchange rates, imports from State-trading countries, etc.)?

Commercial dumping, State subsidies.

5. (a) What are the cases in which an anti-dumping duty has been levied since 1948? Indicate the products and exporting countries involved and the period during which such duties are levied.
The United Kingdom anti-dumping legislation came into force on 17 April 1957. Since then two anti-dumping duties have been imposed. The first related to polymethylsiloxane fluids produced by a particular manufacturer in France and came into force on 6 January 1958. It was revoked on 2 June 1959. The second, in respect of pearled barley originating in the Federal Republic of Germany, came into force on 8 May 1959.

(b) How many requests for the application of anti-dumping duties have been received from domestic producers since 1948?

Thirty-two up to end of June 1959.

5. What are the special difficulties which have been encountered in applying the national anti-dumping legislation?

The determination of the normal value of a product, which in the United Kingdom legislation is called the "fair market" price, has proved difficult in practice. Investigations in particular cases have shown that the normal value to be compared with the export price for a product is seldom an actual price as quoted in a price list or entered upon an invoice, although it is always necessary to determine normal value by starting with an actual price and making adjustments to it. Frequently there is a whole range of domestic prices, varying according to quantity, location, etc. The ideal is to compare an ex-factory price for domestic and export sales respectively. But in the United Kingdom's experience it is 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 in order to ensure that the comparison between the "fair market" price and the export price is effectively a comparison between the prices on two similar sales.

PART II - NATIONAL LEGISLATION AND REGULATIONS

7. How is the extent of dumping defined?

Section 1(2) of the Customs Duties (Dumping and Subsidies) Act defines dumping as the difference between the export price of the goods and their "fair market" price in the country of origin or export. Section 1(1) empowers the Board of Trade to impose such duty as they think necessary to meet the dumping.

8. If the legislation provides for the determination of the dumping margin by the application of the under-mentioned criteria, how are the criteria defined?

(a) "Comparable price in the ordinary course of trade for the like product when destined for consumption in the exporting country" (Article VI, para. 1(a)).

(b) "The highest comparable price for the like products for export to any third country in the ordinary course of trade" (Article VI, para. 1(b)(1)).

(c) "The cost of the production of the product in the country of origin, plus a reasonable addition for selling cost and profit" (Article VI, para. 1(b)(ii)).
All three criteria are embodied in the Customs Duties (Dumping and Subsidies) Act and are defined in Section 7 of the Act. In the case of (c), the cost of production of any goods is ascertained according to statutory regulations made under Section 8(4) of the Act.

9. Does the legislation provide that criterion (b) above may be used only when (a) is not ascertainable and similarly that criterion (c) may be used only when (a) and (b) are not ascertainable?

Section 7 of the Customs Duties (Dumping and Subsidies) Act provides that criteria (b) or (c) may be used only when (a) does not apply or is not ascertainable. But in this event (b) and (c) are equal alternatives without precedence over one another.

10. In the price calculation is provision made:

(a) for differences in conditions and terms of sale?
(b) for differences in taxation?
(c) for other differences affecting price comparability?

Yes, Section 7(2) and (3) of the Act makes this provision.

11. Are the calculations to be based on:

(a) the price of the same product from the same producers?
(b) the price of a like product from the same producer?
(c) the price of a like product from other producers in the exporting country?
(d) average prices for like products in the exporting country?
(e) prices for like products in a third country?

The legislation does not specify the basis of calculating but is not sufficiently wide to include (e). In practice, calculations might be based on any one of (a) to (d) according to the circumstances of the particular case.

12. Is it laid down that anti-dumping duties should be limited to cases where material injury has been caused or threatened, or where the establishment of an industry is materially retarded? If so, what are the criteria?

Yes, so far as contracting parties are concerned. The term "material injury" is not defined in the United Kingdom legislation, any more than in Article VI of the GATT. The Board of Trade are responsible for determining the issue of material injury and they take into account all relevant factors concerning the state of the industry in question and the effect on it of the dumped imports.

The United Kingdom attaches great importance to the criterion of material injury and to the adoption of rigorous standards in determining it.
13. Is there provision for the levy of anti-dumping duties on:

(a) products imported from a country other than the country of origin?
(b) products which are not themselves dumped (or subsidized) but which are made from products which have been dumped or subsidized in a third country?

(a) Yes. (Section 1(2)(b) of the Customs Duties (Dumping and Subsidies) Act).

(b) Yes, in the special circumstances provided for in Section 8 (1)(b) and (c) of the Customs Duties (Dumping and Subsidies) Act, which defines origin.

14. Do the laws and regulations permit the levy of anti-dumping duties in the interest of another contracting party? (Article VI, para. 6(b))

Yes.

15. What relationship exists between the customs valuation system and the determination of prices for the application of anti-dumping duties?

None. The United Kingdom tariff is based on the c.i.f. value of the imported goods and exporters to the United Kingdom are not required to state on their invoices the "current domestic" value (or normal value) of their goods. The determination of prices for the application of anti-dumping duties, on the other hand, is based on a comparison of the "fair market" price in the country of origin or export with the export price of the goods from that country and is made only when an anti-dumping investigation is initiated.

16. Are anti-dumping duties applied only on selected products specified by law, decree, etc., or is the customs administration instructed to levy anti-dumping duties on all dumped exports?

Anti-dumping duties are applied only on selected products specified in a Statutory Order.

**PART III - THE SELECTION OF ITEMS ON WHICH ANTI-DUMPING DUTIES ARE TO BE LEVIED**

17. Are items placed on the list of products on which anti-dumping duties are to be levied only after investigation of a complaint by a domestic producer of injury caused by dumped imports?

Yes, or after a complaint by an industry in another country communicated through its Government (see Question 14).

18. (a) At what stage is a claim of injury investigated?

When dumping or subsidization has been established.

(b) Do these investigations take account of the effects of dumping or subsidization on a single producer, a branch of an industry or the whole of an industry?

The whole of an industry (i.e., the national production of the goods in question or a substantial proportion thereof).
19. What is the procedure in the pre-selection stage:
   (a) investigation?
   (b) burden of proof?
   (c) decision?
   (d) appeal?

   (a) As soon as the Board of Trade are satisfied by the applicants that there is a prima facie case of dumping and resultant injury, they normally (though not invariably) publish a press notice to the effect that they are considering an application and invite representations for or against it within a stipulated time. When the Board have collected all the relevant evidence and views, they make their determination 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.

   (b) The burden of proof lies initially with the applicants but the Board of Trade take over the subsequent stages of investigation. If 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 of both the government and industry concerned.

   (c) In the event of a positive decision to impose a duty, the relevant Statutory Order comes into force without further notice. Any such Order has to be approved within a stipulated period by an Affirmative Resolution of the House of Commons. If the decision is to reject the application for a duty, a press notice is normally published.

   (d) There is no provision for appeal. All interested parties will have had opportunity to state their views and to give evidence at the time the application was publicly notified.

20. (a) Is the anti-dumping duty fixed in the proclamation, or (b) has it only the effect of empowering the customs administration to levy an anti-dumping duty leaving the final finding concerning the existence and extent of the dumping in the cases of the actual imports to the customs authorities?

   The amount of the anti-dumping duty is specified in the relevant Statutory Order.

   (Section 1(1) of the Customs Duties (Dumping and Subsidies) Act empowers the Board of Trade to impose such a duty as they think necessary to meet the dumping. Normally, this would be equal to the margin of dumping. If, however, a duty of this size would clearly result in the goods in question being priced out of the United Kingdom market, a duty less than the margin of dumping might be fixed which would at the same time be adequate to offset the material injury caused or threatened by the dumping.)

21. Is the duty applied to all imports of the like product, or only to imports from specified countries, or only to purchasers from specified exporters?

   The duty is applied to imports from specified countries or from specified exporters or manufacturers in those countries, according to the circumstances of the case.
22. (a) Does such a proclamation lay down prices so as to permit the import of more expensive products without the application of anti-dumping duties?

No; but if goods of the description in question are imported at higher prices, with the result that the margin of dumping is reduced or eliminated, relief of duty may be authorized under Section 3 of the Customs Duties (Dumping and Subsidies) Act.

(b) Do the prices so laid down have the effect of limiting the extent of the anti-dumping duties which can be applied?

Not applicable.

23. Is the validity of a proclamation limited in time or does it remain in force until repealed?

Statutory Orders may be limited in time (for example, to deal with seasonal dumping) or may remain in force until repealed.

PART IV. - THE ADMINISTRATION OF ANTI-DUMPING DUTIES BY CUSTOMS AUTHORITIES IN RESPECT OF EACH INDIVIDUAL CONSIGNMENT

The function exercised by the customs authorities in respect of the imposition of anti-dumping duties is limited to the assessment and collection of these duties on such products and at such a level as are specified in the relevant Statutory Order. All other functions (for example the determination of normal value, and of injury) are exercised by the Board of Trade (see replies to Questions 16 and 20). Therefore, the Questions 24 to 30 (except Question 29) of Part IV of the questionnaire do not apply.

29. (a) When dumping is suspected can the goods be cleared against security?

Goods may be imported freely until such time as an anti-dumping order is made. No action is taken on suspicion, nor is any deposit or security required while an investigation is proceeding.

(b) How is it ensured that the length of time involved in the procedure for determining whether an anti-dumping duty is to be levied is not unreasonably long?

Every effort is made to ensure that anti-dumping investigations are completed as quickly as possible in the interest of all the parties concerned, for example by the stipulation of time limits at certain stages. There are, however, no statutory requirements as to the length of an investigation.
1. Do the provisions follow the wording of Article VI or is a different terminology used?

The terminology is different, but the effect of the provisions is fundamentally the same.

2. If the terminology is different, what are the provisions used to arrive at the levy of duties on subsidized imports?

The provisions are contained in Section 1 of the Customs Duties (Dumping and Subsidies) Act, 1957.

3. If the provisions are wider in scope than those in Article VI, how is it ensured that they are applied in conformity with Article VI insofar as contracting parties are concerned?

See the answer to Question 3 in the Anti-dumping Section.

4. What problems of international trade have been dealt with by recourse to these provisions (State subsidies, differential exchange rates, imports from State-trading countries, etc.)?

State subsidies.

5. (a) What are the cases in which a countervailing duty has been levied since 1948? Indicate the products and exporting countries involved and the period during which such duties were levied.

No countervailing duties have been imposed since the United Kingdom legislation came into force on 17 April 1957.

(b) How many requests for the application of countervailing duties have been received from domestic producers since 1948?

Four up to the end of June 1959.

6. What are the special difficulties which have been encountered in applying the national countervailing legislation?

The principal difficulty has been found to be the determination of the exact amount of the subsidy, particularly where this is indirect in character.

PART II - NATIONAL LEGISLATION AND REGULATIONS

7. How is the extent of subsidization defined?

Section 1 of the Customs Duties (Dumping and Subsidies) Act defines subsidization as the giving directly or indirectly, by a Government or some other authority outside the United Kingdom, a bounty or subsidy on the
production or export of goods (whether by grant, loan, tax relief or in any other way and whether related directly to the goods themselves, to materials of the goods or to something else). The definition includes:

(a) the giving of any special subsidy on the transport of a particular product, and

(b) the giving of favourable treatment to producers or exporters in the course of administering any governmental control over the exchange of currencies where such treatment has the effect of assisting a reduction of the prices of goods offered for export.

The application of restrictions or charges on the export of materials from any country, so as to favour producers of that country who use these materials in goods produced by them, is not regarded as a subsidy.

Section 1(1) of the Act empowers the Board of Trade to impose such duties as they think necessary to meet the giving of a subsidy. Section 3(5) provides that, if the importer of any consignment of goods chargeable with a countervailing duty, can satisfy the Board of Trade that the amount of the subsidy affecting those goods is less than the extent of the duty, the Board shall authorize the repayment of any excess duty paid.

8. to 11. These questions are not applicable to countervailing duties.

12. Is it laid down that countervailing duties should be limited to cases where material injury has been caused or threatened, or where the establishment of an industry is materially retarded? If so, what are the criteria?

Yes, so far as contracting parties are concerned. See answer to Question 12 in the Anti-dumping Section.

13. Is there provision for the levy of countervailing duties on:

(a) products imported from a country other than the country of origin?

(b) products which are not themselves subsidized but which are made from subsidized products?

(a) Yes. Countervailing duties may be imposed on any imported products which have been affected by a subsidy, whether in the country of origin or otherwise.

(b) Yes. (See answer to Question 7.)

14. Do the laws and regulations permit the levy of countervailing duties in the interest of another contracting party?

Yes.

15. Not applicable to countervailing duties.
16. Are countervailing duties applied only on selected products specified by law, decree, etc., or is the customs administration instructed to levy countervailing duties on all subsidized imports?

Countervailing duties are applied only on selected products specified in the relevant Statutory Order.

**PART III - THE SELECTION OF ITEMS ON WHICH COUNTERVAILING DUTIES ARE TO BE LEVIED**

17. to 21. The answers given to these questions in the Anti-dumping Section apply equally to countervailing duties.

22. (a) Does such a proclamation lay down prices so as to permit the import of more expensive products without the application of countervailing duties?

No; but if goods of the description in question are imported at higher prices with the result that the effect of the subsidy is reduced or eliminated, relief of duty may be authorized under Section 3(5) of the Customs Duties (Dumping and Subsidies) Act.

(b) Do the prices so laid down have the effect of limiting the extent of the countervailing duties which can be applied?

Not applicable.

23. See the answer to Question 23 in the Anti-dumping Section.

**PART IV - THE ADMINISTRATION OF COUNTERVAILING DUTIES BY CUSTOMS AUTHORITIES IN RESPECT OF EACH INDIVIDUAL CONSIGNMENT**

The answers to questions in Part IV are the same as for the corresponding questions in the Anti-dumping Section since the same procedure is adopted in respect of countervailing duties as in respect of anti-dumping duties.

**APPENDIX 1**

Customs Duties (Dumping and Subsidies) Act, 1957

(Here the United Kingdom legislation - at the time being reproduced in Annex 3, pages 146 to 152 - should be included.)
UNITED STATES

Anti-Dumping Duties
(pages 116-122)

Question 5(b):
Change to read:

"171 (this figure includes all investigations through 31 December 1958, whether initiated by complaint or by the Government and includes the requests which led to the two dumping findings listed above)."

Question 6:
Change last sentence to read:

"A Bill sponsored by the Treasury Department making corresponding changes in the definition of foreign market value contained in the Anti-dumping Law became effective 14 August 1958, (see section 205 of the Anti-dumping Act, as amended - Appendix 2)."

Question 7:
Change "cost of production" in last line to "constructed value".

Question 8:
Change first sentence of answer to read:

"(a), (b) (both included in the term 'foreign market value') and (c) (referred to as 'constructed value') in that order."

Question 10:
Change second sentence of answer to read:

"Allowance is also made for trade or quantity discounts and for differences in circumstances of sale when comparing the price to the United States with home market or third country prices."

Insert a new sentence following the revised second sentence, to read as follows:

"If the comparison is made on the basis of merchandise which is not identical with the merchandise exported to the United States, allowance is made for differences in costs of manufacture."
Question 12:

In the last sentence of the answer, change "31 December 1956" to "31 December 1958" and change "six" to "ten".

Question 15:

Change the last sentence of the answer to read as follows:

"Even though the valuation for ordinary customs purposes will, for most products, no longer be based upon the 'foreign value,' by reason of the Customs Simplification Act of 1956, the prescribed invoice form will continue to provide for a statement as to the 'foreign value'."

Countervailing Duties
(pages 123-126)

Question 5(a):

Change the first tabulation to read:

<table>
<thead>
<tr>
<th>Product</th>
<th>Country</th>
<th>Date of Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shelled almonds</td>
<td>Spain</td>
<td>12 February 1959</td>
</tr>
<tr>
<td>Blue vein cheese</td>
<td>Canada</td>
<td>16 January 1953</td>
</tr>
<tr>
<td>Wool tops</td>
<td>Uruguay</td>
<td>6 May 1953</td>
</tr>
<tr>
<td>Cordage</td>
<td>Cuba</td>
<td>19 July 1954 (revoked as to shipments after 30 December 1958)</td>
</tr>
</tbody>
</table>

Question 5(b):

Change to read:

"87 (this figure includes all investigations through 31 December 1948 whether initiated by complaint or by the Government and includes the requests which led to the issuance of the four countervailing duty orders listed in the first portion of the reply to (a) above."

Appendix I (page 127 to 130)

Statement of the United States concerning Anti-Dumping Duties

Paragraph 1

Change first sentence of paragraph 1 to read:

"The Anti-dumping Act was originally enacted in 1921, and was most recently amended in 1958 by Public Law 630, 85th Congress."
Paragraph 7:
Change to read:

"7. When the validity of a complaint has been established, importers are notified by the appraisers at the various ports of entry that a question of dumping has been raised. Appraisement is not withheld except as set forth in paragraph 8 below."

Paragraph 9:
In the last sentence of paragraph 9, change "cost of production" to "constructed value".

Paragraph 10:
Change third sentence of paragraph 10 to read:

"Allowance is also made for trade or quantity discounts and for differences in circumstances of sale when comparing the price to the United States with home market or third country prices."

Paragraph 14:
Change "cost of production" to "constructed value".

Paragraph 15:
Change "1956" in the fourth sentence of paragraph 15 to "1958" and change "six" to "ten".

Paragraph 16:
Change to read:

"From 1 January 1934 (at which time detailed records on the Anti-dumping Act were begun to be kept) until 31 December 1958, 251 dumping cases were processed. A finding of dumping was made in eight of these cases."

Paragraph 18:
Change "cost of production" to "constructed value", in second sentence.

Paragraph 21:
Change paragraph 21 to read:

"Public Law 630, 85th Congress, which became effective 14 August 1958, amended the Anti-dumping Act in two important respects. It brought the definition of foreign market value in the Anti-dumping Act into general conformity with the definition of fair value in the regulations; and it brought the value definitions in the Anti-dumping Act into conformity with the value definitions in the Customs Simplification Act of 1956. These changes will permit greater speed and efficiency in processing dumping cases."

Paragraph 22:
Delete paragraph 22.

Appendix 2:(page 130)
Replace the existing text by the following:

"ANTI-DUMPING ACT OF 1921 AS AMENDED BY SECTIONS 301 AND 302 OF THE CUSTOMS SIMPLIFICATION ACT OF 1954 AND BY PUBLIC LAW 630, 85th CONGRESS (42 STAT. 11; 68 STAT. 1138; 19 U.S.C. 160)"
Appendix 2 (c.130): Replace the old version of the Anti-dumping Act by the following:

Anti-Dumping Act, 1921, as amended
(19 U.S.C. 160 et seq.)

DUMPING INVESTIGATION

SEC. 201. (a) Whenever the Secretary of the Treasury (hereinafter called the "Secretary") determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a "finding") of his determination and the determination of the said Commission. For the purposes of this subsection, the said Commission shall be deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative. The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the Secretary has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value), he shall forthwith publish notice of that fact in the Federal Register and shall authorize, under such regulations as he may prescribe, the withholding of appraisement reports as to such merchandise entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping has been raised by or presented to him or any person to whom authority under this section has been delegated, until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subdivision (a) in regard to such merchandise.

(c) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative.
UNITED STATES OF AMERICA

SPECIAL DUMPING DUTY

SEC. 202. (a) In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping was raised by or presented to the Secretary or any person to whom authority under section 201 has been delegated, and as to which no appraisement report has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the constructed value) there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to:

(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to:

(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales,
offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (c), (d), (e), or (f) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

PURCHASE PRICE

SEC. 203. That for the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

EXPORTER'S SALES PRICE

SEC. 204. That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the
expences, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

FOREIGN MARKET VALUE

SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.

CONSTRUCTED VALUE

Sec. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of -
(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and

(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c).

(c) The persons referred to in subsection (b) are:

(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

(2) Any officer or director of an organization and such organization;

(3) Partners;

(4) Employer and employee;

(5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

(6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.
UNITED STATES OF AMERICA

EXPORTER

SEC. 207. That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such persons; or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on or by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

OATHS AND BONDS ON ENTRY

SEC. 208. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales prices of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person

(1) has made oath before the collector, under regulations prescribed by the said Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector; in an amount equal to the estimated value of the merchandise, conditioned: (1) that he will report to the collector the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States; (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise; and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.
SEC. 209. That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of constructed value to the contrary notwithstanding) and report to the collector the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of this title.

APPEALS AND PROTESTS

SEC. 210. That for the purposes of this title the determination of the appraiser or person acting as appraiser as to the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and subject to the same limitations; and the general appraisers, the United States Customs Court, and the Court of Customs and Patent Appeals shall have the same jurisdiction, powers, and duties in connection with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

DRAWBACKS

SEC. 211. That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

DEFINITIONS

SEC. 212. For the purposes of this title -

(1) The term "sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered -

(A) to all purchasers at wholesale, or

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.
(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

(3) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component materials or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.

(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

(4) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

SHORT TITLE

SEC. 213. That this title may be cited as the "Antidumping Act, 1921."

Appendix 3 (page 138)

Statement of the United States concerning Countervailing Duty

4th full paragraph on page 139

Change the first sentence to read:

"From 1 May 1934 to 31 December 1958 (the records prior to this period are not complete) 163 countervailing duties were processed."
WHEREAS Decree Law No. 2080 of 27 January 1955, published in the Official Gazette of 7 February 1955, authorizes the Executive Power to undertake the reform of the Customs Tariff and to fix customs duties and impose surcharges;

WHEREAS Article 3, paragraph 8, of the said Decree Law further authorizes the Executive Power to impose a surcharge on goods for which export bounties are granted in the countries of manufacture or production, or in countries where the rate of exchange is adjusted in a fictitious manner which has equivalent effect to the granting of an export bounty;

WHEREAS, in pursuance of the authorization conferred upon it by Article 3 of said Decree Law No. 2080 of 1955, the Executive Power promulgated Decree No. 227 of 28 January 1958 introducing a new Customs Tariff which includes General Provisions, a Schedule of Tare-weights, a Nomenclature and a Schedule of Tariff Duties;

WHEREAS Articles 51 and 53 of Chapter X of the said General Provisions authorize the Finance Minister to impose anti-dumping and countervailing duties for the purpose of offsetting the effects of dumping and/or of any bounties or subsidies bestowed, directly or indirectly, on the manufacture, production, export or transportation of any merchandise imported into Cuba;

WHEREAS Article 55 of the said General Provisions of the Customs Tariff provides that the Regulations shall lay down the various categories or methods of dumping and/or subsidization and shall establish adequate procedures for the determination and levy of anti-dumping and countervailing duties and whereas sub-paragraph (b) of paragraph 2 of the transitional provisions of said Decree No. 227 of 28 January 1958 provides that the Ministerial Committee on Tariff Reform shall prepare and submit to the Executive Power the proposed Decree incorporating Regulations for the determination and levy of anti-dumping and countervailing duties;

WHEREAS the relevant legal stipulations have to be carried out in pursuance of the Law governing the application of legal provisions for the safeguard of domestic production.

The President of the Republic, exercising the powers conferred upon him by the Constitution and by existing legislation, in particular by Decree Law No. 2080 of 27 January 1955 and Decree No. 227 of 28 January 1958, acting upon a proposal by the Finance Minister and the Ministerial Committee on the Tariff Reform, with the assistance of the Council of Ministers,

RESOLVES as follows:
REGULATIONS CONCERNING FOREIGN DUMPING AND SUBSIDIES AND THE LEVY OF ANTI-DUMPING AND COUNTERVAILING DUTIES

CHAPTER I

DUMPING

Article 1

The importation into Cuban territory of merchandise at less than its normal value, which is such as to cause or threaten injury to a Cuban industry, to retard its development or hinder the establishment of a domestic industry, shall constitute dumping, due account being taken therefor of the provisions of paragraphs (a) and (b) of Article 51 of the General Provisions of the Customs Tariff.

Article 2

Any agreement with fraudulent intent between the foreign exporter and the Cuban importer, for the purpose of fixing the price of the merchandise at a level lower than its normal value with the intent of evading import duties, consular taxes or any charges levied by the Customs Services, shall also constitute dumping where, simultaneously with evasion, such action results in, or brings about, the consequences referred to in Article 1. Where such action does not result in or bring about such consequences, the importer shall incur the penalties set forth in Article 221 of the Customs Ordinance as amended by Decree Law No. 570 of 1953.

Article 3

Dumping shall be legally remedied and offset through the levy of anti-dumping duties. The procedures set forth below for determining the margin of dumping existing in each case shall be intended to safeguard the legitimate interests of domestic producers, due consideration being given to the legitimate interests of domestic importers, without impeding the normal flow of goods into the import market.

CHAPTER II

SUBSIDIES

Article 4

Any product or merchandise benefiting from premiums, grants, fictitious exchange rates, concessional adjustments in freight rates or any other bounty or subsidy bestowed directly or indirectly upon the manufacture, production or export of such product or merchandise, shall be subjected upon importation into Cuba to special countervailing duties for which the rates and method of
levy are set forth below, where importation is such as to cause or threaten injury to a Cuban industry, or is such as to retard its development or to hinder its establishment.

Article 5

Countervailing duties may also be imposed on merchandise imported from countries in which the State acts as entrepreneur or fixes export prices, wherever the importation of such merchandise into Cuba is such as to cause or threaten injury to a domestic industry.

CHAPTER III

PROCEDURES FOR THE DETERMINATION OF CASES OF DUMPING OR OF GOODS BENEFITING FROM SUBSIDIZATION AND FOR THE LEVY OF ANTI-DUMPING AND COUNTERVAILING DUTIES

Article 6

Where it deems it appropriate to do so, the Special Commission on Tariffs shall submit to the Minister for Foreign Affairs and the Finance Minister, through the Executive Committee of the National Economic Council, a detailed report listing those products, merchandise or articles manufactured or produced, or about to be manufactured or produced in Cuba, which it suspects may be imported into Cuba at less than normal value. Such reports shall be circulated to Cuban Consuls for the purposes referred to in paragraphs (a), (b), (c), (d) and (e) of Article 17 of Instruction No. 14 issued by the Minister for Foreign Affairs and dated 27 February 1933, or any other provision substituting or supplementing such instruction.

When certifying or attesting consular or commercial invoices relating to merchandise listed in such reports, in pursuance of paragraph (b) of the said Article, Cuban Consuls shall inform the Technical Tariff Commission of the normal prices ruling in the principal markets of the country concerned. Where they observe discrepancies between such prices and those declared, they shall so notify the Technical Tariff Commission as promptly as possible.

The above-mentioned reports shall also be circulated to the Director-General of Customs and to the Customs Collectors throughout the Republic, in order that they should scrutinize prices declared at the time of the customs clearance of merchandise listed in such reports.

Article 7

The National Bank of Cuba, the Cuban Bank for Agricultural and Industrial Development, the Cuban Foreign Commercial Bank and the Bank for Economic and Social Development may bring to the knowledge of the Technical Tariff Commission any information which may be of interest for the purpose of
controlling dumping or subsidies bestowed on any merchandise in foreign countries trading with Cuba, with a view to preventing and avoiding the harmful effects referred to in Article 1.

The Director General for Industries in the Ministry of Agriculture shall in the appropriate manner, and after consultation with domestic industries, notify the Technical Tariff Commission of the effects of any importation prejudicial to domestic producers.

Article 8

Producers, crop-pickers, manufacturers or industrialists, acting individually or through their respective associations, or such associations acting on their own initiative, may address information directly to the Technical Tariff Commission in order to offset dumping or subsidies in respect of goods imported or to be imported from abroad where such imports threaten or cause prejudice to domestic production, such information to include specific details relating to the case under consideration and, wherever possible, documentary evidence or an indication as to where such evidence can be obtained.

Article 9

Officials who, by reason of their functions, are concerned in any manner with the forwarding or shipping of any goods previously notified by the Technical Tariff Commission and coming under the provisions of Article 7 of these Regulations, where they have cognizance of existing dumping practices, or of the granting of premiums or subsidies in respect of such goods, shall forthwith report to their superiors who shall promptly inform the Technical Tariff Commission.

Article 10

The domestic producers concerned may by written information addressed to the Technical Tariff Commission denounce any dumping practices or the granting of any premiums or subsidies upon the exportation of goods to Cuba which are like products, or products similar to those which are produced or manufactured domestically, irrespective of whether such goods are subject to customs duty upon importation into Cuba, such written denunciation to mention the relevant data and facts relating to the "Patente Unica" and "Licencia Municipal" to evidence the status as producer.

Article 11

Within two working days from the date on which the written denunciation is received, or on its own initiative by a majority vote, the Technical Tariff Commission shall:

(a) order the goods concerned to be held by the relevant Customs Station or Stations for a period not to exceed ten working days; provided that any such order may be issued by telegramme, subject to confirmation within two working days;
(b) report any decision to which it may make to the Director General of the Customs;

(e) summon the denouncing party who shall be granted a period of five working days - which shall not be extended - to provide banking security against any damage or prejudice, storage costs, delays, etc., which might be suffered by the importing party should the Commission determine that the denunciation intended to prevent dumping or importation of subsidized goods involves wilful misrepresentation or any alien intention. The amount and nature of the security to be provided shall be determined by the Technical Tariff Commission;

(d) order a summary investigation to be carried out for the purpose of determining, on a provisional basis, without conducting hearings whether there is prima facie evidence that any of the circumstances referred to in Articles 51 to 54, both inclusive, of the General Provisions of the Customs Tariff, do exist in fact.

Article 12

Where the summary investigation leads to a determination that the circumstances referred to in Article 11 (d) above do not exist, the merchandise shall be released, in the form and according to the procedures set forth in paragraph (a) of said Article.

Article 13

Where initial investigation shows that any of the circumstances referred to in Articles 51 to 54, both inclusive, of the General Provisions of the Customs Tariff do exist, the Technical Tariff Commission shall pass a Resolution to the effect that:

1. The importer shall be advised by the Customs Collector:

   (i) that the merchandise may be cleared for home consumption, subject to an effective deposit or banking security being provided for the amount which the Commission shall, in its judgement, determine to be appropriate; or

   (ii) failing the above, that the merchandise shall be held in bond or in bonded warehouse for importer's account until such time as may be necessary.

2. Provide for a time limit of fifteen working days for all parties to notify and produce all the evidence which they propose to invoke. It shall be open to the Commission to prolong the above-mentioned time limit for another fifteen days, at the instance of any interested party who produces valid reasons, before the expiry of the initial period. In exceptional circumstances, the Commission may, of its own accord, extend the time limit for the notification and submission of evidence, such extension to be regarded as extraordinary.

Article 14

Within the time limit referred to in the preceding Article in respect of the taking of evidence, the Technical Tariff Committee may order investigations to be conducted and require supporting or supplementary documents or technical reports to be submitted, as it may deem appropriate.
Article 15

Upon the expiration of the time limit for the submission of evidence, the Commission shall rule that substantiation of the case has ended; however, evidence, reports or documents which may be submitted and deemed to be appropriate to the case within the period allowed for submission of evidence may be annexed in the case before commencement of hearing, and to that end:

1. The Commission shall summon all the parties concerned to an oral and public hearing to be held in the meeting room of the Commission within a period of fifteen days from the day on which substantiation of the case ended.

2. The parties shall be at liberty to appear at the hearing which shall not be suspended for any reason whatever, to present their arguments either in person or by means of their legal representatives.

The Chairman shall first call on the denouncing party, or failing the existence of a denouncing party, to the rapporteur; next, to the importer, and lastly to the foreign exporter or his representative. Interruptions shall not be allowed. There shall be made minutes of the hearing to which there shall be annexed a shorthand note of the arguments to be taken obligatorily. Upon conclusion of the argument of the speaker last called upon, the hearing shall be closed.

Article 16

Within five days after the day on which the hearing is closed, the Technical Tariff Commission shall make a Resolution stating the reasons on which it is based, such Resolution to include the following:

(a) Number of Resolution - which must be numbered successively and separately for each calendar year; title; names of the parties appearing or of their representatives, as the case may be.

(b) Subject; a summary and objective description of the problem and a brief indication of the person intervening.

(c) The facts of the case, in the form of a succinct and objective presentation listing in successive and chronological order the reported facts, exonerating evidence, the proofs received and their appropriateness in the case, together with a brief record of the arguments.

(d) Conclusions in the form of incorporating, in succinct form, a legal and economic analysis of the case under consideration; and

(e) Recommendations addressed to the Finance Minister which shall expressly indicate:
Whether or not dumping has actually occurred or whether or not premiums or subsidies have actually been granted;

whether prejudice is caused or threatened to a domestic industry, whether a domestic industry may be materially retarded or whether the establishment of a new industry is being impeded;

the margin of dumping or the amount of the subsidy, as the case may be;

the rate of anti-dumping or countervailing duty to be imposed upon imports of the goods or merchandise in question, within the limits fixed by Articles 52 and 53 of the General Provisions of the tariff;

the necessity that without previous substantiation and on the basis of past practice, anti-dumping or countervailing duties should be imposed or not upon imports of goods or merchandise originating in one or several places regardless of whether several different exporters or countries are involved;

an appreciation of the conduct of the denouncing party from the point of view of the correctness of the facts and his good or bad faith.

Article 17

Anti-dumping and countervailing duties shall not be imposed:

(a) concurrently to offset or counteract one case of dumping one export premium, or subsidy;

(b) on the grounds that the goods or merchandise concerned are exempt from the duties and charges levied on the like product when intended for home consumption in the country of origin or export, or on the grounds that such duties and charges are reimbursed.

Article 18

In any case where the Technical Tariff Commission determines that the denunciation which had been intended to prevent dumping or importation of subsidized goods does not involve any bad faith or an alien intention the Finance Minister shall order the deposits or security provided by them to be released, without prejudice to action which may be undertaken, under existing legislation, by the parties which are presumed to suffer damage.

Article 19

Within a period of three working days from the day on which it makes the Resolution referred to in the preceding Article, the Technical Tariff Commission shall forward the dossier including a certified copy of the Resolution to the Finance Minister.
Article 20

Within a period of fifteen working days from the date of receipt, the Finance Minister shall enact the relevant Resolution in accordance with a proposal by the Technical Tariff Committee, such Resolution to be forwarded to the Director General of Customs and the original dossier shall be returned to the Technical Tariff Commission which shall transmit the Resolution to the relevant Customs Collector who shall notify it to the parties concerned.

The parties concerned and the Technical Tariff Commission shall be free directly to lodge an administrative appeal against the Resolution by the Finance Minister within a period of thirty working days from the date of last notification of the Resolution.

CHAPTER IV
THE LEVY OF ANTI-DUMPING OR COUNTERVAILING DUTIES

Article 21

Upon a determination by the Finance Minister that the Customs Administration is entitled to levy anti-dumping or countervailing duties, such duties shall be levied on a firm basis. Where the parties lodge an administrative appeal against the Resolution by the Finance Minister, the Customs Collectors shall levy 75 per cent of the differential duty or margin of dumping or of the countervailing duties, and the balance of 25 per cent shall be deposited with the General Treasury of the Republic pending the outcome of the administrative appeal. The same procedure shall be followed in respect of banking security where the goods are entered for home consumption under the guarantees provided for in Article 13 1(1).

Where the importer of the goods held in bond or in bonded warehouse has not entered them for home consumption, the relevant Customs Collector shall require him to enter them for consumption within a period of ten working days and, upon liquidation, the anti-dumping or countervailing duties, as determined by the Finance Minister, shall be levied in addition to the customs duties. Where the importer has not been identified or has allowed the time limit for entering the goods for home consumption to lapse without doing so, the merchandise shall be placed in the General Warehouse and shall be sold by public auction and notification thereof shall be made to the Consul of the country of shipment.

The auction price shall not be lower than the amount of customs duties and charges to be paid on account of the merchandise plus any anti-dumping or countervailing duties which may have been determined.
Where the goods have already ceased to be under customs jurisdiction, the relevant Customs Collector shall reconsider the clearance form or declaration, taking into account the anti-dumping or countervailing duties, and upon fresh liquidation the relevant amount shall be ordered to be paid and notification thereof made to the importer, or his successor or executor; any amount receivable shall subsequently be regarded as liquidated in favour of the Treasury, and a distraint shall forthwith be levied.

**Article 22**

Where the denunciating party has submitted a wanton statement or acted in bad faith, where it has been ascertained that the facts referred to in the denunciation are not proven, or when it is clearly demonstrated that denunciation has been effected for another purpose than to prevent dumping, or importation of subsidized goods, the party affected can institute appropriate proceedings against the author of such action and, to that end, the security provided by denouncer shall be maintained for a period of one year from the date on which notification of the Resolution is made by the Finance Minister. If the time limit expires without proceedings having been instituted, the security shall be released by the Customs Collector.

Where civil or criminal proceedings have been instituted, the security shall be maintained until such time as the final judgment is carried out.

**Article 23**

The Finance Minister or the Director General of the Customs, as the case may be, shall enact such Resolutions as are most appropriate to ensure the implementation of this Decree.

**Article 24**

The Finance Minister and the Technical Tariff Commission, each within its own sphere of competence, shall be responsible for the implementation of this Decree which shall take effect as from the date on which it is published in the Official Gazette of the Republic.
Dumping Prevention Act
28 June 1958
No. 279

Section 1

In order to prevent imports at dumping prices which cause or threaten material injury to domestic production or employment, the Council of State may order that, in addition to normal customs duties, a special customs duty may be levied not greater in amount than the difference between the normal value of the product and its import price, or the subsidy (or bounty) granted on the production or the export of that product.

Section 2

For the purposes of Section 1, the normal value of the product is considered to be the comparable price in the ordinary course of trade when destined for consumption in the exporting country, or, in the absence of such domestic price; either the highest comparable price for the like product for export to any third country in the ordinary course of trade, or the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

When the normal value is fixed, due allowance shall be made for differences in conditions and terms of sale and taxation as well as for other differences affecting price comparability.

If no reliable information is available on the facts determining the normal value, the price of another similar product, not cleared through customs, under Section 85 of the Customs Act (271/39), may be taken as the normal value of the product.

Section 3

For the purpose of Section 1, subsidy (or bounty) is considered to be any subsidy or bounty granted, directly or indirectly, on the production or export of the imported product in the country of origin or exportation, including any special subsidy on the transportation of such a product.

Section 4

If, in the case of the importation of a product, there are reasons to believe the existence of dumping, as defined in Section 1, the Ministry of Finance may, before a final decision is taken, order that security shall be given for the payment of the special duty. Thereafter, the Council of State shall make its decision on the matter within six months.
Section 5

The general provisions on customs duties are, as far as practicable, to be applied to these special customs duties.

Section 6

The decisions of the Council of State under this Act shall without delay be notified to the Speaker of Parliament, who shall notify them immediately to the Parliament, if it is assembled, or if the Parliament is not assembled immediately following the opening of the next meeting. Such decisions shall be annulled if the Parliament so decides.

Section 7

Further provisions on the execution and application of this Act may be given by decree.
FINLAND

Dumping Prevention Decree
28 June 1958
No. 280

Section 1.

The special customs duty provided under the Dumping Prevention Act, called hereinafter the Dumping Act (279/58), is determined by the Council of State based on the proposal of the Ministry of Finance.

Section 2.

Whoever considers that his interests require the imposition of a special customs duty under the Dumping Act shall make a proposal to that effect to the Ministry of Finance which, if they do not consider that the proposal should be rejected immediately as not justified, shall submit the question as to the fixing of the special customs duty to the Council of State for decision.

Such a proposal as mentioned in paragraph 1, shall be accompanied by all relevant information concerning the facts in support of the proposal.

Section 3.

If it is to be expected that such a product will be continuously imported at a price less than the normal value, as defined in Section 2 of the Dumping Act and in a manner likely to create a danger for domestic production or employment the Council of State shall fix for such a product, according to the conditions set forth in the said provision, a value. A special customs duty, amounting to the difference between this value and the import price shall be paid for the product until further notice. Under the same conditions, the Council of State shall fix for a product on the production or export of which a subsidy, as defined under Section 3 of the Dumping Act, has been granted, a special customs duty amounting to the value of this bounty which shall be paid until further notice.

Section 4.

Further provisions on the execution and application of this Decree may be given, if necessary, by the Ministry of Finance.
FRANCE

Order No. 58-1264 of 20 December 1958
concerning the Powers of the Government
in the matter of Countervailing Duties
and Anti-Dumping Duties

Article 1:

Article 18, paragraph d of the Customs Code is hereby repealed.

Article 2:

The following Article 19 bis shall be inserted in the Customs Code:

"Article 19 bis. Merchandise, the import of which causes or threatens to cause serious prejudice to an existing sector of national production or to a sector which is being established or proposed to be established, may, on entering the customs territory, be liable to:

"a countervailing duty, if the merchandise in question (whether liable to Customs Duty or not) qualifies abroad for the benefit of a direct or indirect bounty or subsidy, whatever the nature, origin or mode of grant of the bounty or subsidy;

"an anti-dumping duty, if the price paid or to be paid in respect of the merchandise in question (whether liable to Customs Duty or not) is;

"less than the comparable price prevailing in commercial transactions under conditions of unrestricted competition in respect of like merchandise intended for consumption in the country of origin, or in one of the transit countries or in the exporting country, after deduction of the duties and taxes chargeable on sales effected in the said countries from which the merchandise in question was exempted, or the amount of which has been reimbursed or is reimbursable by reason of its export;

"or, in the absence of such a price, less than the highest comparable price prevailing in commercial transactions under conditions of unrestricted competition in respect of like merchandise exported to a third country, or less than the true or estimated cost of production of the merchandise in the country of origin plus a reasonable supplement for selling expenses and profit.

"The detailed regulations governing the application and the rates of the countervailing duties or anti-dumping duties shall be made by orders of the Ministers of Finance and Economic Affairs. The said orders may designate the merchandise liable to such duties by reference to its technical or commercial description and to the undertaking which manufactures or sells the merchandise. The orders shall be applicable to the entire customs territory or such part thereof as they may specify."
"The countervailing duties and the anti-dumping duties, the amount of which may not exceed the bounty or subsidy or dumping margin, shall be settled, collected and recovered in the same way as Customs duties."

**Article 3:**

The present Order shall be published in the Journal Officiel de la République française and shall have the force of law.
1. This Ordinance may be cited as the Customs (Dumping and Subsidies) Ordinance, 1959, and shall come into operation on such date as the Minister may by notification in the Gazette appoint.

2. (1) In this Ordinance, unless the context otherwise requires:

"General Agreement" means the General Agreement on Tariffs and Trade concluded at Geneva in the year 1947.

"Minister" means the Minister for the time being charged with responsibility for import and export control.

(2) References to:

(a) giving a subsidy are references to giving, directly or indirectly, a bounty or subsidy on the production or export of goods (whether by grant, loan, tax relief or in any other way and whether related directly to the goods themselves, to materials of the goods or to something else), and include:

(i) the giving of any special subsidy on the transport of a particular product, and

(ii) the giving of favourable treatment to producers or exporters in the course of administering any government control over the exchange or currencies where such treatment has the effect of assisting a reduction of the prices of goods offered for export.

but do not include the application of restrictions or charges on the export of materials from any country so as to favour producers in that country who use those materials in goods produced by them.

(b) producing goods include references to growing or manufacturing goods and to the application of any process in the course of producing goods;

(c) the country in which goods originated shall be taken, in a case where there are two or more countries which answer that description, as a reference to any of those countries;
(d) the country from which goods are exported to the Federation are referred to the country from which they were consigned to the Federation; and goods which in the course of consignment from any country to the Federation pass through or are transhipped in any third country shall not on that account be regarded for the purposes of this Ordinance as having been exported from that third country.

(3) This Ordinance shall be construed as one with the Customs Ordinance, 1952, and, subject to the foregoing provisions of this section, section 2 of the Customs Ordinance, 1952, shall apply for the interpretation of this Ordinance as it applies for the interpretation of the Customs Ordinance, 1952.

Export Price

3. For the purposes of this Ordinance, in relation to goods imported into the Federation the export price of such goods from the country in which the goods originated or from which they are exported shall be determined as follows:

(a) if the Comptroller is satisfied:

(i) that the goods are imported under a contract of sale which is a sale in the open market between a buyer and seller independent of each other; and

(ii) as to the price on that sale; and

(iii) as to such other facts as are material for this purpose, the export price shall be the price on that sale, subject to a deduction for:

(iv) the cost of insurance and freight from the port or place of export in the said country to the port or place of import; and

(v) any other costs, charges or expenses incurred in respect of the goods after they left the port or place of export, except in so far as any such costs, charges or expenses have to be met separately by the purchaser; or

(b) in any other case, the export price shall be determined by the Comptroller by reference to a sale of such goods (or of any goods in which such first-mentioned goods were incorporated) in the open market between a buyer and seller independent of each other.
Fair Market Price

4. For the purposes of this Ordinance, the fair market price of any goods in a country shall be determined as follows:

(a) subject to the provisions of paragraph (b) of this section, the price at which goods of the description in question (that is to say, any identical or comparable goods) are being sold in the ordinary course of trade in such country for consumption or use there, but subject to any necessary adjustments, whether for differences in conditions and terms of sale, for differences in taxation, or otherwise, which may be required for the purpose of ensuring that the comparison between the fair market price and the export price is effectively a comparison between the prices on two similar sales; or

(b) if it appears to the Comptroller that goods of that description are not being sold in such country, or not being sold in such circumstances that the fair market price can be determined in accordance with paragraph (a), the fair market price shall be determined by the Comptroller by reference to any price obtained for goods of that description when exported from such country, with adjustments made for the purpose mentioned in paragraph (a) or, if the Comptroller thinks fit, by reference to the cost or estimated cost of production of the goods the dumping of which is in question, with such additions in respect of selling cost and profit as may appear to the Comptroller to be proper:

Provided that no account shall be taken under this section of any application of restrictions or charges on the export of materials from any country so as to favour producers in that country who use those materials in goods produced by them.

Origin of Goods

5. For the purpose of this Ordinance goods shall be regarded as having originated in a country:

(a) if those goods were wholly produced in such country; or

(b) if some stage in the production of the goods was carried out in such 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 such country (but before the import of the goods into the Federation) was less than twenty-five per centum 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 such 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 Federation was less than twenty-five per centum of the cost of production of the goods as so imported:

Provided that where:

(a) the export price of any goods from the country in which they originated is in question, and

(b) some stage in the production of the goods, or of any components or materials incorporated in the goods, was carried out after they last left that country,

the deductions to be made by the Comptroller in the price by reference to which the export price is to be ascertained shall include a deduction for the cost of carrying out any such stage in the production of the goods and in the production of any components or materials incorporated in the goods; and the fair market price shall be the fair market price of those goods or, as the case may be, of those components or materials, in the state in which they left that country.

Dumping

6. For the purposes of this Ordinance 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 Federation 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.

Power of the Minister to impose Duties

7. (1) Where it is represented to the Minister that goods of any class or description are being or have been imported into the Federation in circumstances in which they are, under the provisions of this
Ordinance, regarded as having been dumped or subject to the giving of a subsidy, and that, having regard to all the circumstances, it would be in the national interest to do so, he may, by order published in the Gazette, fix a duty or duties to be levied on goods of any class or description imported into the Federation, and to be paid by the importer thereof:

Provided that where the Minister is not satisfied that the effect of the dumping or of the giving of the subsidy is such as to:

(i) cause or threaten material injury to an established industry in the Federation; or

(ii) retard materially the establishment of an industry in the Federation,

the Minister shall make no such order if it appears to him that to do so would conflict with the obligations of the Government of the Federation under the provisions for the time being in force of the General Agreement.

(2) Where, on receiving any representations under sub-section (1), the Minister is satisfied that:

(a) a prima facie case exists of the dumping or subsidizing of goods;

(b) it is desirable that a duty should be imposed under sub-section (1); and

(c) it is impossible to establish the export price or fair market price of goods without so much delay as would prejudice the national interest if no duty under sub-section (1) were imposed in the meanwhile:

he may thereupon make an order under sub-section (1) (hereinafter called an "interim order") imposing such duty as is necessary in the opinion of the Minister temporarily to counteract the effect of such dumping or subsidy:

Provided that as soon as such export price or fair market price, as the case may be, has been established the Minister may revoke or vary such interim order in such manner as he may consider necessary.

(3) Any order made under this section shall, at the next meeting of the House of Representatives, be laid on the table of such House and shall, at the expiration of ten days from being so laid, or of such extended period as the House of Representatives may by resolution direct, cease to have effect if and insofar as it is not confirmed by a resolution passed by the House of Representatives within the said ten days or, if such period has been extended, within such extended period.
(4) Where an order ceases to have effect in whole or in part as provided by sub-section (3), then any duty levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect, shall be repayable in accordance with the provisions of the Customs Ordinance, 1952.

Provisions of Orders under Section 7

8. (1) An order made under Section 7 shall prescribe:

(a) the class or description of the goods liable to the duty imposed thereby; and

(b) the rate of the duty imposed thereby.

(2) An order made under Section 7 may prescribe such provisions with respect to the goods chargeable with duty and to the cases in which the duty is chargeable thereunder as may appear to the Minister necessary for the purposes of this Ordinance and in particular, and without prejudice to the generality of the foregoing, may prescribe provisions:

(a) limiting the class or description of the goods by reference to the particular persons or organizations by whom the goods were produced or who were concerned with the production of the goods in some specified manner;

(b) defining the rate of duty by reference to value or weight or other measure of quantity;

(c) directing that duty be charged for any period or periods, whether continuous or not, or without any limit or period, or at different rates for different periods or parts of periods;

(d) in connexion with the commencement, variation or determination of a duty, authorizing repayments in respect of duty where it is shown that any conditions prescribed by such order are fulfilled.

CUSTOMS (DUMPING AND SUBSIDIES)

Relief from Duty

9. (1) Where it appears to the Minister that relief under this section should be available as respects a duty imposed by an order under Section 7 (being an order made to afford protection against dumping) he may, if he thinks fit, in that or a subsequent order made under Section 7 apply the provisions of this section in relation to that duty.
(2) Where this section applies in relation to any duty the importer of any goods in respect of which an order has been made under Section 7 may apply to the Minister for relief from duty on such goods.

(3) If on any application under this section the Minister is satisfied that the export price of the goods, with the amount of the duty added thereto, exceeds the fair market price of identical or comparable goods, he may in his discretion remit or repay the amount of the excess duty; and the Comptroller shall on the direction of the Minister remit or repay the duty up to the amount of such excess.

(4) An application under this section in respect of any goods shall be made within six months of the payment of duty on such goods.

(5) In making any application under this section the importer shall furnish the Minister with such information and evidence as the Minister may require from him for ascertaining the export price or fair market price.

(6) The foregoing provisions of this section shall have effect in relation to a duty imposed by an order under Section 7 (being an order made to afford protection against the giving of a subsidy) as if references to the fair market price in a country were references to the expert price from that country increased by such amount (if any) as may be necessary to offset the effect of the giving of the subsidy.

Duties under Section 7 deemed to be Customs Duties for purpose of collection

10. Except insofar as may be otherwise provided in any order made under Section 7, any duty levied thereunder shall be deemed for the purposes of collecting and enforcing the collection thereof to be a customs duty imposed under the Customs Ordinance, 1952.

Power to require Information from Importers

11. (1) The Comptroller may require the importer of any goods to state such facts concerning the goods and their history as he may think necessary to determine whether the goods are goods originating in a country specified in an order made under Section 7 or goods exported from any country, and to furnish him in such form as he may require with proof of any statements so made; and if such proof is not furnished to the satisfaction of the Comptroller, or the required facts are not stated, the goods shall be deemed to have originated in, or, as the case may be, to have been exported from, such country as the Comptroller may determine.
(2) Where an order made under Section 7 limits the class or description of goods in respect of which duty is chargeable under this Ordinance, or the cases in which duty is so chargeable, so that the question whether any, and if so, what duty is chargeable on the goods depends on other matters besides the country in which the goods originated or from which they were exported, the Comptroller may require the importer to state such facts as he may think necessary to determine that question so far as regards those other matters, and to furnish him in such form as he may require with proof of any statements so made; and if such proof is not furnished to the satisfaction of the Comptroller or the required facts are not stated, those facts shall be deemed for the purposes of duty under this Ordinance to be such as the Comptroller may determine.

Power of Comptroller to Delegate

12. The Comptroller may, subject to such conditions and restrictions as he may prescribe, delegate all or any of the power conferred on him by this Ordinance to such senior officers of customs as he may think fit.

Duty to be additional to that imposed by other Law

13. Any duty chargeable under this Ordinance on any goods shall be chargeable in addition to any other duty for the time being chargeable thereon under the Customs Ordinance, 1952, or any other written law.

Regulations

14. The Minister may make regulations:

(a) prescribing the costs, charges and expenses to be taken into account in ascertaining costs of production or the cost of any stage in production;

(b) prescribing the manner in which cost of production is to be ascertained in cases where different stages are carried out by different persons;

(c) prescribing the manner in which the cost of different stages of production is to be carried out;

(d) generally for the purpose of carrying this Ordinance into effect.