ITEM 5

e) Investigations in exporting countries

The Group of Experts has taken note of the practices followed in various
countries in the field of investigations which are carried out in exporting
countries, as summarized in document L/1071.

The Group recognized the delicacy of this question in view of the fact
that in the case under consideration the agent of a foreign country
approaches a national of the exporting country in the territory of such
country. However, the group was unanimous in recognizing that the obligation
to impose anti-dumping measures only where all the facts in justification of
such measures and, in particular, the existence of dumping prices have been
clearly established, leads in some exceptional cases to the necessity of
carrying out investigations in the foreign country concerned in order to
establish the facts, but it was duly stressed that such investigations should
not be initiated unless there were valid reasons to suspect the existence of
dumping practices.

The Group was of the opinion that it would be desirable that a country
wishing to carry out such an investigation should first approach the
government or some governmental authority in that country for the purpose
of informing them in advance. The Group is convinced that the government
concerned would not, in general, object to such an investigation being
conducted, considering that the investigation would be undertaken in the
interest of its exporters.
The Group wishes to stress that any information gained during such an investigation should be treated as strictly confidential and used only for the purposes of the enquiry.

ITEM 6

f) Governmental or administrative hearings in importing countries

The Group took note of the practices followed as regards hearings in importing countries. Several systems are at present in force: public hearings, private hearings, opportunity afforded to all interested parties to be heard when the results of investigations are submitted to Parliament, etc., etc.

Whatever system may be envisaged, the Group is of the opinion that it would be desirable not to impose any anti-dumping duty (by way of decrees or ordinances, etc.) unless the interested parties have been afforded an opportunity to be heard by the competent authorities.

ITEM 7

g) Contacts between governments concerned prior to the imposition of anti-dumping measures

The Group was of the opinion that it would be desirable to establish contact with the government of the interested country before imposing any anti-dumping duty, on the grounds that, in addition to considerations of courtesy between governments such contacts would be likely to limit the number of cases where an anti-dumping duty was effectively levied.

ITEM 8

h) Imposition of anti-dumping duties on behalf of third countries and opportunity for such countries to take measures to counteract dumping

The Group was of the opinion that the situation of third countries is fully dealt with in Article VI, paragraph 6, which relates to cases where countries may levy an anti-dumping duty on behalf of third countries.
Such provisions constitute an exception from one of the basic principles of Article VI, paragraph 1, to the extent that the imposition of an anti-dumping duty is not contingent upon the existence of injury caused to the importing country, but upon injury caused or threatened to one or several third countries.

In order to avoid any misunderstanding, the Group wishes to stress that if a third country is to be justified in requesting an importing country to impose measures against another country, that third country should produce evidence that the practices engaged in by the other country are causing material injury to a domestic industry and not only to exports in that third country.

In cases where the importing country grants a request from a third country, anti-dumping measures may not, however, be imposed until and unless the CONTRACTING PARTIES have approved the proposed measure (Article VI, paragraph 6).

The Group, while noting that such cases might be infrequent, thought it desirable to bring the CONTRACTING PARTIES' attention to the fact that such procedures would be slow and might therefore make the proposed measures ineffective. The Group can only leave it to the CONTRACTING PARTIES to appreciate whether it would be desirable to envisage a method to expedite the decision to be made, for instance, by instituting a panel which might meet at short notice whenever necessary.

In any case, there was no doubt that the initiation of the procedures laid down in Article VI, paragraph 6 was left to the discretion of the importing country.

Consequently, the Group was of the opinion that where the importing country found it impossible or undesirable to grant the request from a third country which claimed to suffer injury, the third country had no other alternative but to rely on Articles XXII and XXIII of the General Agreement.