Point 4

(d) "Production Costs" and "Sales Costs" where these enter the production Costs

It was presumed by the Group that the term "production costs" included all those items involved, directly or indirectly, in the cost of producing an article. While the precise apportionment of these costs to various headings might differ in various national regulations, the term would normally cover such items as, for example, the cost of materials and components, labour, general overheads, depreciation on plant and machinery and interest on capital invested.

The Group noted the provision in paragraph 1(b)(ii) of Article VI that to the cost of production, when this criterion was being used for the determination of normal value, there was to be "a reasonable addition" for selling cost and profit. The effect of this was to construct what might be regarded as a notional ex-factory sales price on the domestic market of the exporting country in circumstances where there was no such actual price or not one that could be used for the determination of normal value. As in the case of "production costs", the regulations of various countries differed on the items to be included under the heading of "selling costs". Typical examples were such items as advertising costs and sales commission. The Group agreed, however, that whatever the particular method used for determining both production and sales costs the aim should always be to arrive at a normal value which was genuinely comparable with the export price. Only thus could dumping properly be established.

Point 9

(1) Relationship between Application of Anti-Dumping Duties and the Most-Favoured-Nation Clause

Although it was generally recognized that the unconditional most-favoured-nation obligation as laid down in Article I of GATT did not permit a discriminatory application of anti-dumping duties, it...
was thought that this notion needed certain clarification. Although there was no doubt that the anti-dumping provisions could only be applied in respect of countries which exercised dumping, the Group considered that the application of the most-favoured-nation principle, when applied to a case where there was dumping to the same degree from more than one source and where that dumping caused or threatened material injury to the same extent, the importing country ought normally to be expected to levy anti-dumping duties equally on all the dumped imports. An exception to this rule might arise if the importing country had a bilateral arrangement which precluded such action.

Point 10
(j) Freight Dumping

After an exchange of views, the Group decided that what was generally known as freight dumping did not fall under the general provisions of Article VI and was thus outside the terms of reference of the Group. However, freight dumping practices were apt to lead to unfair competition and the Group decided therefore to direct the attention of the CONTRACTING PARTIES to this problem. The Group also took note that the CONTRACTING PARTIES had discussed a particular case of freight dumping during the fourteenth session.

Point 11
(k) "Sales Dumping" by Importers Selling at a Loss

It sometimes happened that importers sold imported products at a loss, for example, in order to gain a foothold in a market. However, provided that the f.o.b. export price of the article was not below the normal domestic value of the comparable article in the country of export, this was not dumping in the GATT sense. It could become dumping if the importer were in some way recompensed for his loss by the exporter. If a refund or any other consideration was made by the exporter, this should be taken into account in determining the export price and if the resulting export price was less than the fair value, the result would be a dumping price. Unless an
importer who sold at a loss was recompensed in some way by the exporter he was unlikely to continue the practice for any length of time or on a sufficient scale to cause material injury to the industry in the importing country.

The Group of Experts furthermore drew attention to Note 1 relating to paragraph 1 of Article VI included in Annex I to the text of the General Agreement. (BISD, Third Volume)

Point 12

(m) Methods of dealing with the dumping of commodities for which prices are fixed by international stabilization programmes

In deciding whether or not to act against the dumping of a commodity for which there was a price fixed by an international stabilization programme, the importing country would presumably consider the effect of such a programme in relation to the question of any injury caused or threatened by the dumping and also, where its legislation permitted, in the determination of where its national interest lay. For example, if an importing country was a party to an international stabilization programme which led to imports of these goods at the fixed, but nevertheless technically speaking, dumped price, the country might well consider that it was not a suitable case for anti-dumping action. On the other hand, the existence of a stabilization programme with floor prices did not in itself prevent the use of anti-dumping powers consistently with Article VI.

Point 13

(n) Advisability of Introducing a Procedure whereby the CONTRACTING PARTIES are to be notified whenever a country introduces anti-dumping or countervailing duties

The Group expressed itself in favour of inviting contracting parties to transmit to the GATT secretariat any information relating to changes in their legislation concerning anti-dumping measures and countervailing duties, and also to notify the secretariat of the introduction, alteration or removal of countervailing duties and anti-dumping measures. The secretariat, in turn, were to inform the contracting parties of the notifications received. Some experts suggested that the secretariat should submit to the CONTRACTING PARTIES during one of the two annual meetings a compilation of the anti-dumping measures and countervailing duties and of the changes which had occurred.