POINT 14

(o) Countervailing duties

The Group addressed itself to the different points which appeared relevant to a study on countervailing duties. It considered that the remarks formulated earlier with respect to anti-dumping duties applied to a large extent to countervailing duties.

Article VI of the General Agreement provided that an importing country could impose countervailing duties on the products which had received, directly or indirectly, an export or production subsidy, the importation of which caused, or threatened to cause, substantial injury to a branch of national production.

The fact that the granting of certain subsidies was authorized by the provisions of Article XVI of the General Agreement, clearly did not debar importing countries from imposing, under the terms of Article VI, a countervailing duty on the products on which subsidies had been paid.

A large majority of the Group, however, considered that the criterion of substantial injury to production should be an equally fundamental prerequisite for the imposition of countervailing duties as for the imposition of anti-dumping duties.
With respect to the meaning of the word "subsidies", a large majority of the experts considered that it covered subsidies granted by governments or by semi-governmental bodies. Three experts considered that the word should be interpreted in a wider sense and felt that it covered all subsidies, whatever their character and whatever their origin, including also subsidies granted by private bodies. It was unanimously recognized that the word "subsidies" did not only cover actual payments, but that it embraced also measures having an equivalent effect.

Paragraph 3 of Article VI stipulated that no countervailing duty could be collected beyond the "estimated" amount of the bounty or of the subsidy granted. In order to arrive at this estimate, the majority of the Group considered it normal, and at least desirable, that the country which became aware of the existence of a subsidy and which ascertained the injury which this subsidy caused, should enter into direct contact with the government of the exporting country. It was also desirable that the latter country should give the information requested without delay. This would after all be in its own interest in that it would avoid the imposition of a countervailing duty on its exports at a rate which, failing this information, might be fixed at too high a level.

The Group considered that it was perfectly equitable that in conformity with the procedures of paragraph 4 of Article VI, countervailing duties should not be imposed on a product by reason of the exemption of such product from duties or taxes imposed on the like product when destined for consumption in the country of origin or exportation, or by reason of the refund of such duties or taxes. If, however, it were established that the exemption or the reimbursement exceeded the real charge which the product would have to pay in the exporting country, the difference could be considered as constituting a subsidy.
There was an exchange of views on the meaning of the expression "duties or taxes borne by the like product". The only question which arose was whether the expression related to the actual taxes imposed directly on the goods or all the taxes which have an incidence on the value of this product. The Group did not appear to be able to take a position on this point.

The above remarks relating to paragraph 4 equally applied to anti-dumping duties.

The prohibition of simultaneous application of anti-dumping and countervailing duties did not require comment.

Concerning the provisions of Article VI(c), the Group considered nothing more need be said beyond the remarks made when paragraph 6(b) relating to anti-dumping duties was considered, it being noted that as far as countervailing duties were concerned, a more streamlined therefore more effective procedure had been evolved than that for anti-dumping duties.