1. The Working Party on Acceptance of the Anti-Dumping Code was established by the Council at its meeting on 29 September 1970 to examine special problems of developing countries in connexion with the Agreement on the Implementation of Article VI and any proposals and suggestions for a solution to these problems, which may lead to a wide and early acceptance of the Agreement, and to report to the Council.

2. The Working Party met on 23 September 1971 under the chairmanship of Mr. A. Buxton (United Kingdom).

3. In reply to an invitation by the Council to developing countries to submit explanations of their specific problems in adhering to the Anti-Dumping Code and detailed proposals for their adherence and for the application of the Code to their exports, communications had been received from Israel and India. These communications were before the Working Party in documents Spec(71)27 and Spec(71)98.

4. The representatives of Israel and India recalled that the fundamental problem for developing countries in respect of possible anti-dumping measures against their exports was that the home market prices in developing countries for domestically manufactured problems were, for various reasons, in most cases higher than the prices the products could fetch in the export markets. In order to find outlets abroad for their manufactures, developing countries were thus compelled to sell at prices which could be termed "dumped" under the criteria of Article VI of GATT and the Anti-Dumping Code, although there were no dumping intentions in the traditional sense of the words on the side of the exporters.

5. They stressed that the proposals made in the two documents before the Working Party were only to be taken as tentative suggestions; the main wish on the part of the developing countries was to obtain a recognition that in their case it was not reasonable to use home market prices or production costs as normal values in dumping investigations.

6. The representatives of developed countries expressed understanding for the problems raised by the developing countries. They pointed out, however, that some safeguards already existed in Article VI and the Code. There was thus the requirements of Article 5 of the Code that investigations should not be opened unless there were evidence of both dumping and of material injury; the injury criterion in many cases would rule out anti-dumping actions against exports of developing countries. There was also the provision in Article 2(d) of the Code that price comparisons should be made in a different manner if there was a particular market situation in the exporting country.
7. The representatives of developing countries agreed that there had been very few cases of anti-dumping action against their exports. They underlined, however, that the mere threat of anti-dumping actions on the ground that their exports were technically dumped, caused a considerable amount of insecurity amongst exporters, who were thus discouraged from using export opportunities which would otherwise be open to them.

8. In reply to questions put by members of the Working Party, the representative of Israel expressed the opinion that Israel would have no special difficulties in applying fully the Anti-Dumping Code, if it decided to accede to it, provided that a solution could be found to the problem of defining normal value. The representative of India said that it was his understanding that developing countries when adhering to the Code - if their specific problems were taken into account - would endeavour their best to accept the discipline of the Code.

9. Representatives of developed countries said that in considering the consequences of accepting the Code the developing countries should not forget that they - although they might already receive Code treatment - would get further advantages through membership of the Committee on Anti-Dumping Practices. In the Committee they would thus take part in the consultations on cases of imposition of anti-dumping duties in other member countries of the Committee.

10. With regard to the particular suggestions made in documents Spec(71)27 and Spec(71)98, representatives of developed countries pointed out that they would cause technical difficulties. The proposal (in Spec(71)27) that normal value should be defined along the lines of Article I(1) of the Brussels Definition of Value, i.e. on the basis of sales in the international market between independent buyers and sellers, would meet with the difficulty that there was frequently no such internationally established price level; it could furthermore lead to a situation where it would actually be easier, not more difficult, for importing countries to take anti-dumping action.

11. Against the proposal (in Spec(71)98) that the normal value should be determined on the basis of export prices for like products to the major markets of the exporting country in question or on prices generally obtained for like products when exported to other third country markets of the same country, it was argued that such a formula would automatically exclude from anti-dumping action products exported at an equally low price to all or to most markets. The developing countries maintained, however, that the criticism in this case was based on unrealistic assumptions.

12. Some representatives of developed countries said that they could accept an understanding in the form of a note to Article 2(d) of the Code or in the form of an expression of intent in the report by the Working Party to the effect that:

(i) in handling anti-dumping cases concerning exports of developing countries particular attention should be given to problems connected with price comparisons and definition of normal value; and

(ii) that it might not be appropriate in the case of exports from developing countries to apply the criteria of Article 2(a) of the Code; the exporting developing country could request that recourse instead be had to Article 2(d).
13. The representative of the European Communities made the following suggestions for a common understanding by the parties to the Code with regard to imports from developing countries:

(a) In respect of price comparisons, they should agree to:

   (i) envisage to have recourse to the provisions of Article 2(d) whenever it was justified in a particular case, and

   (ii) to take into account all drawbacks on duties and taxes granted by central or local authorities.

(b) They should in all cases weigh with great care the interests of the exporting country against those of the importing country.

(c) They should agree to examine in the Committee on Anti-Dumping Practices the possibilities of accepting price undertakings, which might allow for an additional margin of profit.

14. The representative of the United Kingdom said that he could support all the suggestions made by the representative of the Communities.

15. The Working Party agreed to reconvene at a date to be fixed by the Chairman in consultation with the members, after they had had time to consider the suggestions made at the meeting.