The following comments on items I-V of the Anti-Dumping Checklist have been received from the Government of the United Kingdom. Further communications from governments will be circulated as addenda to this document.

I. Concept of dumping

1. The question to be considered under this heading is how should imports against which action may in certain circumstances be taken, be identified. Namely, how should dumping be defined. It is essential in the United Kingdom's view to maintain a clear distinction between the problem of identifying the imported goods as potentially actionable and the problem of defining the circumstances in which action against the imports is justified because the considerations, the objectives and the difficulties involved in the formulation of the two definitions are different. In particular it appears to the United Kingdom that, for the reasons indicated in the following paragraphs, it is unrealistic to think that a satisfactory practicable definition of dumping can be found the intention of which is to obviate the need to establish the effects of the imports, that is to say a definition which is based on, or incorporates, pre-determined assumptions in regard to injury.

A. Price discrimination criteria

2. The United Kingdom considers that the definition of dumping by reference to price comparisons as provided for in Article VI 1(a) (with the fall-back alternatives provided in 1(b)) is the most satisfactory definition which has so far been devised and indeed the only one which fulfils the essential requirements which the definition of dumping must meet. In the United Kingdom's view the definition of dumping must be such as to:
(i) enable the domestic industry, if they consider that import competition is causing or threatening them with material injury, to provide \textit{prima facie} evidence to show that the competition is of a kind against which they may be afforded protection;

(ii) enable the authorities of the importing country to identify the imports as potentially actionable within a reasonable period of time without unrealistic demands upon administrative resources;

(iii) provide a basis for determining the subsequent action, i.e. a basis for determining the amount of the duty.

3. All the other concepts of dumping which have been suggested could only lead to definitions which are impracticable because they involve either immensely complicated and protracted investigations or they require assessments which cannot be established by reference to verifiable facts, and cannot be precisely evaluated in quantitative terms, e.g. assessment of exporters' and/or importers' motives, consumers' preferences etc.

B. Hidden dumping by associated houses

4. The problem of dumping by exporters who are or appear to be associated with importers (whatever the form of the association may be) can in the United Kingdom's view, be properly and adequately dealt with as the GATT Group of Experts concluded (see pages 11 and 12 of their report) in accordance with the note relating to paragraph 1 of Article VI included in Annex 1 of the General Agreement.

II. Limitation criteria

5. A definition of dumping which required the application of the criteria listed under this heading would not, in the United Kingdom's view, meet the practical conditions for the definition set out in paragraph 2 above. Both the criteria relate to the effect of the imported goods on the domestic industry and require assessments which are proper to and can only be made as a result of investigation of the material injury aspect of a case.

6. Thus the percentage of domestic production which the imports may represent without causing or threatening injury to the domestic industry will vary according to the different circumstances in each case - (see paragraphs 9 and 12 below). Moreover, in many cases the percentage figure itself could not be determined before a decision has been reached on the domestic production which could be properly accepted as constituting "an industry".
7. It must, however, be emphasized in this connexion that in the United Kingdom's view it is essential that the authorities in the importing country should follow procedures (i) under which applications are not initiated or accepted in cases where the volume of imports is so small in relation to domestic production of the goods in question that they obviously could not be causing or threatening material injury; (ii) which enable the authorities to dismiss an application on such de minimis grounds at the earliest stages of a case.

8. The alignment of export prices is, in the United Kingdom's view, an equally or perhaps an even more inappropriate and impracticable criterion on which to base a definition of the potentially actionable imports. To question whether anti-dumping measures should "permit" alignment of exporters prices is rendered unnecessary and, indeed, irrelevant by the material injury provision in Article VI. The point to be determined in relation to the prices of the imported goods is not whether and if so with what prices they are aligned but what effect they are having on domestic prices and this must be established by the investigation of material injury, i.e. of the effects of the imports on the domestic industry.

III. Concept of material injury

A. Possible elements to be examined in this context: profits - sales - market share - employment

9. The purpose and scope of the examination which, in the view of the United Kingdom, is required in order to establish whether the effect of the dumped imports is such as to justify action, i.e. whether they are causing or threatening material injury to the domestic industry, are set out in the rationale to Provision 13 of the draft Code which reads as follows:

"The proper application of the crucial injury criterion of Article VI requires careful investigation in order to establish the causal relationship between dumping and injury and to establish that the injury caused is material ... the prima facie evidence is seldom so clear and consistent that an immediate assessment can be made of the condition of the industry and the causes of its difficulties if any; there is no way in which investigation can be avoided or can be reduced to stereotyped routine examination because the circumstances in each case vary and because material injury cannot be defined in precise and absolute terms. For example it cannot be assumed that a volume of dumped imports representing a certain percentage of domestic sales causes material injury because the effect of imports representing X per cent might be negligible in one case and very substantial in another."

10. It is clear from this that all the elements listed would in most cases need to be examined and that others, e.g. capacity, and the total volume of imports compared with the volume of dumped imports, might be of equal or greater relevance.
11. For the reasons indicated above it appears impossible to draw up a precise and at the same time practicable definition of material injury or to devise simple criteria applicable in all cases by which the effects of the imports could be simply and quickly evaluated. Is it, nevertheless, possible at least to pre-determine certain circumstances in which the imported goods would not cause or threaten material injury? So far as the effect on prices is concerned it might be thought that if the dumped goods were not being sold at prices lower than those of the comparable domestic goods, the imports could not be injuriously affecting domestic prices. But if domestic prices were equal to or lower than the price of the imports detailed investigation might - and usually would - be required to establish whether the domestic producers had, in fact, lowered their prices in order to contain or reduce the volume of the dumped imports, and, if so, to assess what the injurious effect of this had been. Again, it has often been suggested that it should be possible to determine the volume of imports which could not cause material injury. In the United Kingdom's view, however, if the volume is so small that it obviously can present no danger, the application should never be accepted in the first place. On the other hand, if imports represent more than a few per cent of domestic production there are a number of objections to laying down a precise figure. First, it is almost certain that the converse proposition would very soon become accepted, namely that imports of more than the named percentage must be assumed to be seriously damaging; secondly, a comparatively small volume of imports can in certain circumstances have a very damaging effect by virtue of their influence on prices; thirdly, while imports may not currently be causing injury it may be found that there is a clear threat that they will do so in the near future.

12. In the light of all the difficulties and complexities indicated above, the United Kingdom is forced to conclude that it is not feasible to define the circumstances in which it can automatically be assumed that material injury is being caused or threatened or that there is absence of such injury or threatened injury.

B. Concept of threat of material injury

13. It is apparent that there are particular difficulties, in addition to all those indicated in the preceding paragraphs, in determining whether the dumped imports threaten to cause material injury to the domestic industry. The nature of these is indicated in Provision 14 and the rationale in the draft Code and it seems unnecessary to elaborate further on these in this note. The United Kingdom would, therefore, only wish to emphasize, in connexion with the observations made above, and particularly in regard to fixing a volume figure below which the imports should be assumed to be innocuous, that it is particularly necessary to guard against the danger that when it is clearly established that the dumped imports are not currently causing material injury, a finding of threat of injury will be made in order to avoid rejection of a case.
Concept of retardation of establishment or of development of an industry

14. The United Kingdom recognizes the importance which a number of countries must attach to preventing dumped imports from retarding the development of an industry or, indeed, preventing production from being even started. It is clear that the evaluation of deterrent effects presents enormous problems in itself and also that unless anti-dumping action taken on these grounds is most carefully considered and controlled it might lead to a form of protection which was not, in fact, justified and which might, over the years, build up a significant barrier against the expansion of international trade. It is, therefore, to be hoped that the countries particularly concerned will bear these aspects in mind when putting forward their suggestions for dealing with the problem.

IV. Sporadic or intermittent dumping

15. The United Kingdom fully appreciates the anxiety felt by countries whose industries are particularly vulnerable to sporadic dumping, the nature and dangers of which have been so clearly set out in the Note by the Government of Canada (TN.64/NTB/N/9, 6 April 1966). In the United Kingdom's view it should be possible to deal with the problem of sporadic dumping under statutory and administrative provisions which provided adequate safeguards against action being taken against dumping which was or was deemed to be sporadic but which was not causing or threatening material injury to the domestic industry concerned - such provisions would be in accordance with the spirit and intention of Article VI and should therefore be acceptable to all.

16. The countries with the most experience of sporadic dumping are, clearly, in the best position to put forward suggestions for dealing with it. In the Note the United Kingdom would, therefore, only wish to observe that provisional action under special provisions related to sporadic dumping and devised, inter alia, to distinguish it from other dumping, appears the most likely means of securing a satisfactory solution to this problem, namely one which would afford adequate protection to the importing country while safeguarding the interests of exporting countries.

V. Definition of industry

17. The views of the United Kingdom on this item are reflected in Provision 12 and in the rationale to it, and have also been expressed in discussion of this Section of the Code. The United Kingdom cannot usefully add further comments in this note in the absence of suggestions from other countries on the various aspects of this problem.