The Chairman, Mr. Shackle, made the proposal, which was accepted, that he suggest to the Chairman of the Drafting Committee that the representatives of Brazil, Canada, Cuba, New Zealand and the Union of South Africa be appointed regular members of this Sub-Committee as they regularly attend and participate in the discussions of the meetings.

Summary of Discussions on Article 17: Anti-Dumping and Countervailing Duties (Reference - E/PC/T/C.II/54/Rev.1)

The text of all paragraphs of Article 17 is given below with agreed additions underscored, and with amendments on which agreement could not be reached in square brackets:

Paragraph 1, was discussed primarily in the Fourth Meeting, but some modification was made in this meeting.

Paragraph 1. "No anti-dumping duty or charge shall be imposed on any product of any Member country imported into any other Member country in excess of an amount equal to the margin of dumping under which such product is being imported. For the purposes of this Article, the margin of dumping shall be understood to mean the amount by which the \[\text{landed} \] price of the product exported from one country to another is less \[\text{by more than} 5\% \] than (a) the comparable price charged for the like product to buyers in the domestic market of the exporting country, or, in the absence of such domestic price, either (b) the highest comparable price at which the like 
/product is
product is sold for export to any third country in the ordinary course of commerce, or (c) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and margin of profit; with due allowance in each case for differences of conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability."

The disposition of the comments given under paragraph 1 (pages 13 and 14 of Report E/FC/T/C.6/13) as a result of the changes above are:

(a) The Delegates for Czechoslovakia and France supported this amendment but did not press the point pending final consideration of the Australian addition of paragraph 5 below and of the question of allowing quantitative restrictions to be permitted to curb dumping.

(b) Taken into account by the addition of the underscored words in (c) of paragraph 1.

(c) Dealt with by the addition of "or charge" in line 1 above.

(d) The reservations made by Brazil was left for action by the Delegate of that country in the Drafting Committee, should he wish to maintain it.

(e) Withdrawn.

(f) If the present redraft of this Article does not meet the Delegation of India's point, that country may wish to voice it in the full Drafting Committee.

(g) Withdrawn.

(h) Dealt with by amendments.

(i) The word "landed" in square brackets was included in the text of this paragraph "on the sole responsibility of the United Kingdom".

/(j) The first
The first objection of the Delegation of New Zealand was met by the deletion of "in the absence of (a) or (b)" in the original United States text of this paragraph. The second objection was withdrawn on the explanation that the word "indirectly" in paragraph 2 met this point.

The words "by more than 5%" in line 7 in square brackets were included at the suggestion of the Delegate for Australia. The United States, supported by Delegates for certain other countries, advised against the inclusion of these words.

Paragraph 2. "No countervailing duties shall be imposed on any product of any Member country imported into another Member country in excess of an amount equal to the estimated bounty or subsidy determined to have been granted, directly or indirectly, on the production or export of such product in the country of origin or exportation."

The following definition was agreed upon but whether to include it as an amendment to this paragraph or under a list of definitions elsewhere, was left to the decision of the Legal Drafting Sub-Committee:

"The term 'countervailing duty' shall be understood to mean an additional duty imposed for the purpose of offsetting any bounty or subsidy bestowed, directly or indirectly, upon the manufacture, production or exportation of any merchandise."

The comments on paragraph 2 were disposed of as follows:

(b) Withdrawn.
(c) China may wish to raise this point in full Drafting Committee.
(d) Australia would not press this.
(e) Brazil and others may wish to raise this point in the Drafting Committee discussions of Section C, Chapter V of the Charter.
Paragraph 3: "No product of any Member country imported into any other Member country shall be subject to anti-dumping or countervailing duty by reason of the exemption of such product from duties or taxes imposed in the country of origin or exportation upon the like product when consumed domestically, or by reason of the refund of such duties or taxes".

Accepted with no change or comment.

Paragraph 4. "No product of any Member country imported into any other Member country shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsidization."

Accepted with no change or comment.

Paragraph 5. "No Member shall impose any anti-dumping or countervailing duties or charges on the importation of any product of other Member countries unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to materially injure or threaten to injure an established domestic industry, or is such as to prevent the establishment of a domestic industry."

Disposition of comments on paragraph 5:
(a) Brazil may wish to retain this attitude in full Drafting Committee.
(b) Dealt with by proposed deletion.
(c) Dealt with by addition of paragraph 6. 
(d) Dealt with by additions above.
(e) Withdrawn, as amendments to this Article clarify the views suggested by France in comment (e).

The General Comments given on page 17 of the London Report of the Sub-Committee were dealt with as follows:
(a) Withdrawn.
(b) Disposed of by paragraph 6/ below.
(c) Dealt with by amendments to paragraph 2 and paragraph 6 (f) below.

(d) In response to the Union of South Africa, comment, it was pointed out that anti-dumping duties as defined in this Article may be imposed upon the date of entry into force of this Charter, and that appeal to central authority is permitted in Article 35 and in paragraph 6 (f).

(e) Withdrawn.

Paragraph 6. "Any Member country maintaining restrictions against forms of dumping other than 'price dumping', e.g. Freight dumping or Dumping by means of Depreciation of Currency, shall only impose such dumping duties where it has determined after enquiry that the method and extent of dumping against which action is taken is such as to injure or threaten to injure an established domestic industry."

The Delegation of the United States feels that this paragraph suggested by Australia should be deleted.

Paragraph 6 (f). "The Organization shall, as soon as practicable, seek to establish criteria under which anti-dumping or countervailing duties may be imposed which would be accepted universally by Member countries. In particular, the Organization should consider the advisability of including among such criteria the requirement of a determination by an independent administrative authority in the country imposing the duties as to the actuality or potentiality of injury to a domestic industry."

Secretariat Note: It should be noted that Article 85, Amendments to the Charter, as presently worded, states that amendments need only receive the approval of affirmative votes of two-thirds of the Members of the Conference.

/The Delegate for Cuba
The Delegate for Cuba pointed out that "criteria" in English could not be translated into any one word in Spanish, and it was agreed to bring this to the attention of the translators when officially translating the Charter into Spanish.

The Technical Sub-Committee recommended that the words "anti-dumping and countervailing duties" be inserted after the phrase "customs regulations and formalities" in Article 35, paragraph 1, line 5, (Official London Report - E/PC/T/33) to stress the application of Article 35 in respect of Article 17, particularly paragraph 5.

The discussion of the suggested amendment to paragraph 1 of Article 17 by the Delegation of Cuba was postponed until the next meeting.