Your Rapporteurs present below a summary of the written views submitted by various Delegations regarding item A-4 of the Provisional Agenda (Article 11 of the Suggested Charter) — Anti-Dumping and Countervailing Duties.

Australia believes that criteria for the imposition of anti-dumping and countervailing duties should be established under the Charter after it becomes effective rather than in the Charter itself. The criteria should include:

(a) A determination of actual or potential injury by an independent administrative authority.

(b) Optional and not mandatory application of these duties.

(c) Appeal to the ITO by any member aggrieved by any action of another member under this Article.

Australia objects to the definition in paragraph 1 of "margin of dumping" and will suggest amendments later.

India believes that a general definition of the circumstances under which anti-dumping and countervailing duties may be imposed is desirable.

The United Kingdom believes that anti-dumping duties should be prohibited because:

(a) They might be levied on top of duties which have been reduced by international agreement.
(b) Fair and reasonable application of anti-dumping duties would be difficult of administration.

(c) Anti-dumping duties might be used to evade most-favoured-nation treatment.

If anti-dumping duties are not prohibited, the definition of "margin of dumping" should allow for the addition of pre-importation charges to the purchase price.

South Africa believes that the definition of "margin of dumping" in paragraph 1 needs clarification and expansion as follows:

(a) Further definition of "comparable price" in (a) is required.

(b) Alternative (b) is unacceptable because all sales to third countries may be at dumping prices.

(c) Alternative (c) should provide that "cost of production" includes a normal profit.

(d) Provision should be made for the dumping of goods (1) which are not purchased until after importation, (2) by means of transportation subsidies or similar practices, and (3) by currency depreciation.

South Africa also believes that the allowance in paragraph 5 (last clause) for protection against dumping which prevents the establishment of a domestic industry is too elastic.

South Africa does not favour any requirement that anti-dumping duties cannot be imposed until a central organization accepts their justification, but believes that an appeal to a central authority against their imposition should be allowed.

Brazil is in general agreement with the purpose of Article 11, but would permit heavier than counter-balancing duties, or quantitative restrictions, in cases of aggravated or recurring dumping.
France believes that anti-dumping and countervailing duties should be allowed only if actual and serious injury results from dumping or from a foreign subsidy, and that aggrieved members should be entitled to appeal to a central organization under ITO where the member imposing the special duty would have the burden of proving the existence of the dumping or subsidy and the resulting injury.

Cuba suggests that "including the regime of salaries and conditions of labour" be inserted before the period at the end of paragraph 1.

Czechoslovakia suggests that Article 11 be expanded to cover protection against extraordinary increases in the volume of imports caused by

(a) hidden subsidies or refunds
(b) employment conditions in the exporting country
(c) currency depreciation not controlled by the International Monetary Fund

and,

that stronger guarantees against arbitrary action should be included in this Article.

The Netherlands and Belgium believe that Article 11 should:

(a) Allow protection against dumping only if it is systematic and not merely occasional.
(b) Allow but control protection against dumping by measures other than special duties.
(c) Specify in paragraph 3 refund of, as well as exemption from, duties and internal taxes.
(d) Define "product of any member".

China proposes a prohibition against countervailing duties to offset any subsidy allowed by a member to compensate a tariff preference granted by another member but not enjoyed by the member which allows the subsidy.
The following is a resumé of subject of the foregoing views:

General:
1. All members generally agree with the provisions of the Suggested Charter except:
   - United Kingdom
   - Australia (suggestion to defer this question until after the signature of the Charter)
   - Netherlands (want definition of "product" of any member country)
   - Belgium-Luxembourg
2. Definition of dumping:
   (a) Necessity of a definition - India
   (b) Should include exchange dumping - Czechoslovakia, South Africa
   (c) Should include social dumping (dumping due to low wages or labour conditions) - Cuba, Czechoslovakia, South Africa
   (d) Should include transactions between parent companies and their subsidiaries - South Africa
3. Restrictions on the idea of dumping:
   Systematic, not occasional, dumping in Belgium, Netherlands.
4. Penalization of dumping:
   Should be optional, not mandatory - Australia measures other than assessment of dumping duties should be permitted - Netherlands,
   Belgium, Brazil

Paragraph 1:
1. Margin of dumping:
   (a) More detailed definition of "comparable price" - South Africa
   (b) Suggested Charter unacceptable because all sales to third countries may be at dumping prices - South Africa
   (c) Allowance should be made for pre-importation charges - United Kingdom
   (d) "Cost of production" should include normal profit - South Africa
Paragraph 2

No countervailing duty if the subsidy offsets a preference refused to the Member country which grants the subsidy - China (2).

Paragraph 3

Cover refused if, as well as exemption from, internal taxes - Netherlands, Belgium.

Paragraph 5

(a) The clause "such as to prevent the establishment of a domestic industry" is too elastic - South Africa.

(b) Should, that provide for any "injury" whatever; the injury should be serious: Australia, South Africa, France (1), Belgium, Netherlands.

(c) The country which assesses the countervailing duties or dumping duties should have the burden of proving the serious injury - France (1).

(d) Procedure for appeal or arbitration - Australia, South Africa, France (1).

(e) The words "as a general rule" should be omitted - Netherlands, Belgium.

The following are the texts of the specific changes recommended by France (1) and China (2):

"Each member country undertakes not to impose any anti-dumping duty or countervailing duty on the importation of any product of other member countries unless they are in a position to prove:

(a) that there exists a dumping, bounty or subsidy as defined in paragraphs 1 and 2 of this Article.

(b) that its domestic industry has sustained grave injury from the dumping, subsidy or bounty.

The member country against whom the measures laid down in this Article have been taken shall be able to lodge a complaint with the
organization which will have to decide, after hearing the two states concerned, whether the measures complained of are justified or not".

On Countervailing Duties' (Article 11 - paragraph 2)

"In the event of preferential treatment being accorded by a country to certain countries to the exclusion of other member countries, no countervailing duty shall be imposed upon the products imported from such other member countries against subsidies which are granted by the latter to such products as compensation for covering the preferential margin".