INTERIM REPORT OF WORKING PARTY "A" ON ARTICLE XVIII

Part I: The Measure Notified by Haiti

1. The Working Party, pursuant to its terms of reference and taking account of the discussions at the plenary meetings of the Contracting Parties, has examined the measure notified by the Government of Haiti. The Working Party had as the basis of its consideration the two supporting statements (GATT/CP/60 and Add.1), and texts of relevant Laws of Haiti (GATT/CP/éO/Add.1 and GATT/CP.3/40), submitted by the Government of Haiti. In addition, certain supplementary information was offered by the representative of Haiti in the course of discussion.

2. The Working Party noted that the measure notified by Haiti established a monopoly by the State in the purchase, production and trading of tobacco, cigars and cigarettes. The range of goods to which the measure applies was indicated in Section (b) of the second statement in GATT/CP/60/Add.1.

3. After examination the Working Party was satisfied, and the Haitian representative agreed, that insofar as the Law establishing the Regie provided that the importation of tobacco, cigars and cigarettes should be subject to licences issued by a government authority and that licences should be issued at the discretion of that authority in the light of market requirements, there was an element of restriction in the measure which was contrary to the provisions of Article XI of the General Agreement. The representative of Haiti informed the Working Party that the operation of Article 17 of the Law did not conflict with the provisions of the General Agreement. Therefore, the Working Party directed its attention to the licensing requirements provided in Article 20 of the Law establishing the Regie.

4. In considering the eligibility of this measure for consideration under Article XVIII, the Working Party was satisfied that:
   (a) the measure was in force on 14 May 1949 and notification had been given to the Contracting Parties in accordance with the relevant provisions of paragraph 11 as modified by the Annecy Protocol of Terms of Accession and the Resolution of 21 March 1950,
   (b) the measure was of a non-discriminatory nature,
   (c) Haiti had not assumed an obligation under Article II of the Agreement in respect of any of the products to which the measure related, and
   (d) the purpose of the measure was the development of a branch of agriculture, namely the production of raw tobacco.

The Working Party considered, on the basis of this information, that the measure was eligible for consideration under Article XVIII.

5. The Working Party then proceeded to examine the substance of the measure in relation to the criteria set down in Article XVIII.
6. Having agreed that the measure did satisfy the requirements of the Article, the Working Party recommends that a release be granted, for a period of five years, under paragraph 12 of Article XVIII for the maintenance of the measure in so far as it requires importers to obtain an import permit.

Part III: The Measures Notified by Denmark


(a) The production and the refining of sugar is subject to licences issued by the appropriate authorities; the Government is also authorised, among other things, to fix the wholesale price for imported sugar. Importation and exportation of sugar and syrup are also subject to licence by the Government.

(b) Production of potato flour and starch of all descriptions is subject to licences issued by the Government; the importation and exportation of potato flour, starch of all descriptions, sago, glucose, and starch sugar, dextrine, paste, sizings and dressings and similar products of flour or starch, are likewise subject to licences issued by the Government.

(c) The importation of liquor and yeast is subject to licence. The main purpose of the scheme relating to liquor and yeast is to secure the greatest possible use of Danish raw materials, notably potatoes for the production of liquor and yeast. It is, therefore, to an important degree, a supplement to the potato flour scheme.

8. The Working Party also noted from the written statement that the measures relating to the three industries were instituted through legislation in 1932, 1933 and 1934 respectively, manifestly for the establishment and development of these industries and related branches of agriculture. The representative of Denmark informed the Working Party that in recent years measures to safeguard the balance of payments had been applied and there was now a control for this purpose under Article XII, covering a wide range of imported products, including those covered by the measures notified by the Government of Denmark.

9. It was the opinion of the Working Party that since the measures currently in force in Denmark for the safeguard of the balance of payments applied to the products in respect of which notifications had been made under paragraph 11 of Article XVIII, it was not necessary at present for the Contracting Parties to examine the measures under paragraphs 7 and 8 and make a decision concerning the maintenance of the measures under the provisions of paragraph 12 of Article XVIII. Following the precedent of the case of Chile at the Third Session and with reference to the relevant section of the report of the Third Session Working Party on Article XVIII, GATT/CP.3/60/Rev.1 (Section B), the Working Party did not examine the eligibility of these measures under Article XVIII. The Working Party also noted, as in the case of Chile, that if and when these measures ceased to be applied under Article XII, the Danish Government may notify the
Contracting Parties in advance of that time under Article XVIII. The application would then be considered under the provisions of paragraphs 7 and 8 of that Article. At that time, when considering the measures the Contracting Parties would have regard to all relevant facts.