11. The role of Article XVI in providing the CONTRACTING PARTIES with accurate information about the nature and extent of subsidies in other countries has been partly frustrated by the failure of some contracting parties to notify the subsidies they maintain. To the extent that this is based on the reluctance of contracting parties to expose themselves to charges of non-conformity with the Agreement it reflects a misinterpretation of Article XVI. On the one hand, the provisions of this Article do not condemn subsidies as such. On the other hand, a contracting party may be required to consult concerning a subsidy whether or not it has been notified. There seems, therefore, to be no substantial advantage to a contracting party in refraining from notifying its subsidies; on the contrary, notifications may dispel undue suspicions concerning those subsidies not previously notified.

14. The number of consultations conducted under the provisions of Article XVI is of little help in determining the effectiveness of the Article. Such consultations as have been held, however, have been satisfactorily concluded. Presumably the most important effect of the Article has been its restraining effect in preventing contracting parties from adopting subsidies which would violate the objectives of the Agreement. This effect, however, is impossible to measure and, as already noted, the Article has not resulted in any general abandonment of subsidies which affect exports or imports.

Spec(61)130
Consultation

1. Article XVI, paragraph 1, contains a mandatory provision for consultation. In this connexion the Panel wishes to point out that at the Review Session it was made clear that the intention of the present text is that consultations under Article XVI, paragraph 1, can be initiated by a contracting party which considers that serious prejudice is being caused or threatened without necessity for prior action by the CONTRACTING PARTIES (see paragraph 15, BISD, Third Supplement).

2. If a contracting party decides that it wishes to consult with another on a subsidy it may also have recourse to the provisions of Articles XXII and XXIII. The choice of which Article is employed rests with the contracting party requesting the consultations and the choice would presumably be made in the light of all relevant circumstances.

Notification

1. A major requirement of Article XVI is that countries which maintain subsidies having the effects described in paragraph 1 of the Article shall notify them in writing. At the ninth session the CONTRACTING PARTIES decided that notification should be made annually and a questionnaire was adopted to facilitate this. The Panel at its first meeting suggested modifications in the form of a questionnaire and these were adopted by the CONTRACTING PARTIES.
2. The notifications, in the Panel's view, have improved in recent years. However, there are still a number of contracting parties which have not replied to the questionnaire, and in a number of cases the information supplied still does not provide the kind of material which meets the intentions of the CONTRACTING PARTIES when they decided the form of the notification.

3. The Panel believes that there was some genuine misunderstanding of the subsidies which were notifiable under paragraph 1 of Article XVI, and in its second report, paragraphs 9 and 10, the Panel drew attention to the subsidies which, on the basis of the existing interpretation of Article XVI, were in fact notifiable.

4. To assist the work of the Panel it was agreed that countries would notify all subsidies, irrespective of whether in their view they were required to be notified under Article XVI. The Panel believes that there would be advantage in continuing with this procedure for the time being. During the review of the operation of the Article the CONTRACTING PARTIES might wish to consider whether this procedure should continue indefinitely or whether the procedures and form of notification might be reviewed at some future date, say at the end of 1962.