

15 November 1962

REPORT OF THE PANEL ON URUGUAYAN RECOURSE TO ARTICLE XXIII

*Report adopted on 16 November 1962
(L/1923 - 11S/95)*

Terms of reference and membership

1. The Panel was appointed by the Council in February 1962 on the instructions of the CONTRACTING PARTIES given at the nineteenth session. Its terms of reference were:

"In the light of the written submissions of Uruguay and in consultation with the contracting parties concerned, to examine the cases referred to it by Uruguay, in accordance with the provisions of paragraph 2 of Article XXIII, and to report thereupon to the Council."

2. It will be recalled that in October 1961 the representative of Uruguay drew the attention of the Council of Representatives (L/1572) to the trade problems concerning temperate primary producers such as Uruguay, both as regards the limited marketing opportunities available to them and the failure of the prices of their products to be maintained at a satisfactory level. He made certain proposals to overcome these problems, and distributed a table (Spec(61)294), showing the extent to which Uruguayan exports were confronted by restrictive measures in force in nineteen industrialized countries.

3. At the nineteenth session of the CONTRACTING PARTIES in November 1961, the representative of Uruguay stated that Uruguay would have recourse to Article XXIII in respect of fifteen countries (L/1647). The CONTRACTING PARTIES were informed that Uruguay had, during 1960, held a consultation with the Federal Republic of Germany under Article XXIII:1 and, in 1961, with France and Italy under Article XXII. In a further statement during the nineteenth session in December 1961 (L/1679), the representative of Uruguay informed the CONTRACTING PARTIES

matter

of the Uruguayan recourse under paragraph 2 of Article XXIII should Uruguay so request.

4. On 11 and 13 December 1961 the delegation of Uruguay addressed a communication to each of the fifteen Governments concerned, reiterating the representations already made, to the effect that consideration should be given to the abolition of their restrictive measures, which had been the subject of the consultations referred to above (cf. paragraph 9 of C/W/33). In February 1962, the delegation of Uruguay formally submitted to the Council of Representatives a request that it take action in accordance with the provisions of Article XXIII:2. The Council, in February 1962 (L/1739), accordingly appointed the present

6. When the Panel was appointed, it was agreed that the Chairman should select among it four members to examine each case. This arrangement having been rendered impracticable by the reduced membership, it was agreed that the Panel should sit in plenary sessions, except that, in deference to their wishes, Mr. Campbell Smith, Mr. Schnebli and Mr. Biermann would not be required to participate, respectively, in the consideration of the cases of Canada, Switzerland and the EEC countries; they are therefore in no way responsible for the conclusions which the Panel has drawn with regard to the respective countries.

Proceedings

's exports and the extent to which it considered benefits accruing to it under the General Agreement had been nullified or impaired.

8. In response to this request, the Uruguayan delegation submitted in June a general note in which it confirmed that the Uruguayan submissions related to all the fifteen contracting parties named by it at the Council meeting¹; stated that it would wish the Panel to review all the measures enumerated in document L/1662 (which were of twelve different types and applied to over thirty different products or groups of products); and generally reiterated the position it had taken as noted in the various previous statements. Subsequently, the Uruguayan delegation also supplied fifteen separate papers concerning the representations and consultations under Article XXII or XXIII:1 which had led to the cases being brought under Article XXIII:2. The receipt of these papers enabled the Panel to commence its consultations with the fifteen contracting parties (immediately after 15 February) on 17 to 28 July. During these consultations the Panel examined each restrictive measure, the manner in which it was applied and its relationship with the provisions of the General Agreement and the relevant protocol. The Panel also discussed with the delegations of Uruguay and the contracting parties concerned the question of nullification or impairment of benefits accruing to Uruguay under the Agreement as it was alleged to have arisen from the application of each measure. The records of these consultations were immediately transmitted to the delegations of Uruguay delegations

General considerations

10. Paragraph 2 of Article XXIII provides that the CONTRACTING PARTIES shall promptly investigate any matter referred to them under that paragraph. From the context it is obvious, however, that before a "matter" can be so referred to the CONTRACTING PARTIES it must have been the subject of representations or proposals made pursuant to paragraph 1 of the Article which have not resulted in a "satisfactory adjustment" (under the difficulty of the type described in paragraph 1 of the Article).
Under paragraph 1 representations or proposals can be made by a contracting party if it considers:

- (i) that a benefit accruing to it directly or indirectly under the General Agreement is being nullified or impaired; or
- (ii) that the attainment of any objective of the Agreement is being impeded.²

In referring the cases to the CONTRACTING PARTIES the Uruguayan delegation maintained that they had fulfilled these conditions for the invocation of paragraph 2 of Article XXIII.

11. Paragraph 2 of Article XXIII provides, apart from promptly investigating any matter so referred to them, that the CONTRACTING PARTIES, namely:

- (i) they shall make appropriate recommendations or give a ruling on the matter;
- (ii) they may authorize the suspension of concessions or obligations.

The action stated under (i) is obligatory and must be taken in all cases where there can be an "appropriate" recommendation or ruling. The action under (ii) is to be taken at the discretion of the CONTRACTING PARTIES in defined circumstances.

12. The paragraph states that the CONTRACTING PARTIES "shall make appropriate recommendations to the contracting parties which they consider to be concerned or give a ruling on the matter, as appropriate". While the "ruling" is called for only when there is a point of contention on fact or law, recommendations should be made in all cases.

measures applied under that Regulation with the General Agreement.¹ The Panel also noted that the measures applying to certain other products might be replaced shortly with the extension of the application of the common agricultural policy, but in the absence of any definite indication in this regard, the Panel deemed it advisable to treat such measures as they now existed.

19. For the reasons given in paragraph 16 to 18 above, the Panel has not found itself in a position to sustain Uruguay's claim regarding nullification or impairment in respect of a number of cases.

Recommendations based on nullification or impairment

20. Where the Panel finds that there is prima facie nullification or impairment of benefits accruing to Uruguay under the Agreement, it has proposed recommendations based on that finding. Where a measure affecting imports is maintained clearly in contradiction with the provisions of the General Agreement (and is not covered by the "existing legislation" clause of a Protocol), the Panel has in all cases recommended that the measure in question be removed. Reference is made in these recommendations based on nullification or impairment to the possibility of further action, in the event of non-fulfilment, by the CONTRACTING PARTIES under paragraph 2 of Article XXIII. In respect of these particular cases the Panel proposes the following procedure for adoption by the CONTRACTING PARTIES:

The contracting parties concerned be asked to report on their action taken to comply with the CONTRACTING PARTIES' Recommendations or any other satisfactory adjustment (such as the provision of suitable concessions acceptable to Uruguay) by 1 March 1963. If by that date the Recommendations are not carried out and no satisfactory adjustment is made, the circumstances shall be deemed to be "serious enough" to justify action under the penultimate sentence of Article XXIII:2 and Uruguay shall be entitled immediately to ask for the authorization of suspension of concessions or obligations. The CONTRACTING PARTIES should make arrangements for prompt determination as to what concessions or obligations the suspension of which should be authorized.

21. In recommending this two-stage procedure, the Panel had principally in mind, once again, the requirement stated in Article XXIII:2 that the situation must be "serious enough" before suspension should be authorized. It noted, as a report of the ninth session (BISD, Third Supplement, pages 250-251) had made it clear, the action of authorization of suspension of concessions or obligations should never be taken except as a last resort; it also noted that the aim of Uruguay at this stage was to seek the prompt removal of the measures in question.

General observations

22. In invoking the provisions of Article XXIII the

23. With these general considerations and observations, the Panel submits, for consideration and adoption by the CONTRACTING PARTIES, the attached fifteen reports on the Uruguayan recourse under Article XXIII with respect to the fifteen contracting parties.

(A) AUSTRIA

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Austria, the Panel discussed with the delegations of Uruguay and Austria the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that Austria maintained in force the following measures on items included in the submission by Uruguay:

<u>Brussels</u> <u>tariff item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
02.01	Meat of animals of the bovine species	Import permit and import charg.

2. Short description of the measures and their effects on the export trade of Uruguay

(For a fuller account of the measures maintained on the meat and cereal items listed above, see COM.II/2(a) and L/1144.)

(a) Import permits: The Panel noted the contention of the Uruguayan Government that the existence of the import permit régime in Austria had a restrictive effect on Uruguayan exports to that country. It also took account of the statement of the representative of Austria that Austria had made significant progress in the last few years towards liberalizing its trade with GATT countries. In 1962, over 70 per cent of its trade with contracting parties had, in fact, been liberalized. It was hoped to complete the liberalization by the end of 1964, except for a small number of "hardship" items which could not yet be enumerated. In the view of the Austrian representative the remaining Austrian import

3. Status of the measures

The Panel noted that in the opinion of the Austrian Government the import charges and the turnover taxes were not in contravention with any provision of GATT and that the State-trading measures were applied in conformity with Article XVII and did not involve discrimination.

Apart from the import charges, the status of which is discussed in paragraph 17 of the Panel's general report, the representative of Uruguay did not wish to question the conformity with the provisions of the General Agreement of the measures maintained by Austria where such conformity was claimed by the Government of Austria. He nevertheless wished to emphasize the fact that the measures in force in Austria had the effect of restricting the access to the Austrian market for a number of Uruguayan products which together constituted a considerable proportion of Uruguay's total exports.

4. Conclusions

(a) In the light of the information obtained from the consultations with the two parties concerned, and for reasons set out in paragraphs 16 and 17 of the Panel's general report, the Panel does not consider that it would be appropriate to make any specific recommendations based on nullification or impairment in terms of Article XXIII:2 in respect of the following measures maintained by Austria:

~~were~~ import

(B) BELGIUM

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Belgium, the Panel discussed with the delegations of Uruguay and Belgium the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that Belgium maintained in force the following measures on items included in the submission by Uruguay.

Brussels
tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
02.01	Meat of animals of the bovine species, frozen	Import permit and quota ²
	Meat of animals of the bovine species, chilled	Import permit, quota and variable surtax ²
	Meat of animals of the ovine species, frozen	Import permit ²
16.02	Preserved meat	Import permit ²
16.03	Meat extracts	Import permit and compensation tax ²
10.01	Wheat	Import certificate, variable levy and mixing regulation ³
11.01	Wheat flour	Import certificate and variable levy ¹
10.03	Barley	Import certificate and variable levy
15.07	Linseed oil, crude	Import permit and compensation tax
	Edible oils, crude	Import p

<u>Brussels tariff item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
41.02	Cow-hide, tanned	Compensation tax
41.06	Chamois-dressed leather	Compensation tax
41.08	Patent leather and metallized leather	Compensation tax
ex 53.01	Washed wool	Compensation tax (suspended)
753.0510ETBT1 000073.4 Tm/F8 11 Tf211	Combed wool (tops)	Import permit
53.07	Yarn of combed wool	Compensation tax
53.11	Wool textiles	Compensation tax

Note: A fiscal "transmission" tax is charged on all items appearing in Uruguay's submission. It is applied without discrimination to all products, whether Belgian or imported, and varies from 5 per cent to 12 per cent ad valorem.

2. Short description of the measures

(A fuller account of the measures maintained on the meat items is contained in COM.II/2(i) and L/1173.)

(a) Import permits: The Panel noted the statement of the Belgian Government that, in no case, were the import permit requirements, listed above, restrictive. These permits, which were called in Belgium "licences d'importation" were granted automatically, free of charge and with no distinction between sources of supply. In the case of meat of animals of the bovine species, frozen and chilled, the permit could be used to administer a quota if one were in force. The import permit requirement in respect of frozen ovine meat, preserved meat, meat extracts, crude linseed oil and edible oils, oil cake, meal of vegetable oils and combed wool (tops) were maintained for administrative reasons only.

(b) Quotas: At the present time Belgium does not apply any quota restrictions on the importation of frozen and chilled bovine meat. The quotas must, therefore, be regarded as potential only.

(c) Variable surtax: The variable surtax applied to chilled bovine meat has been described in document CG.2, page 11. The surtax is charged over and above the normal duties and is varied from time to time to take account of differences between domestic and imported prices.

(d) Compensation tax: These are taxes fixed by the Minister of Finance and levied on importation in order to bring foreign producers into line with Belgian national producers who pay an equivalent tax on the products in question.

(e) Mixing regulation: The Panel noted that this mixing

However, this right of substitution was restricted to 25 per cent of his total turnover. Flours destined for the manufacture of farinaceous foods and semolinas were exempted from the mixing regulation, subject to certain conditions. Flours used for the manufacture of biscuits for export were also exempted from the mixing regulation.

3. Status of the measures in terms of Belgium's GATT obligations

The Panel noted that, in the opinion of the Government of Belgium, the variable surtax and the "transmission" tax did not conflict with any provision of the GATT; the compensation taxes were maintained in conformity with Article III. The mixing regulation in respect of wheat was permissible in terms of the Protocol of Provisional Application under which Belgium applied the GATT.

Apart from the variable levy and variable surtax, the status of which is discussed in paragraph 17 of the Panel's general report, the representative of Uruguay did not wish to question the conformity, with the provisions of the General Agreement, of the measures maintained by Belgium, where such conformity was claimed by the Government of Belgium. He nevertheless wished to emphasize that the measures maintained by Belgium had the effect of restricting the access to the Belgian market for a number of Uruguayan products which together constituted a considerable proportion of Uruguay's total exports.

4. Conclusions

(a) In the light of the information obtained from the consultations with the two parties concerned, and for reasons set out in paragraphs 16 and 17 of the Panel's general report, the Panel does not consider that it would be appropriate to make any specific recommendations based on nullification or impairment in terms of Article XXIII:2 in respect of the following measures maintained by Belgium:

- (i) variable surtax;
- (ii) transmission taxes;
- (iii) compensation taxes; and
- (iv) mixing regulation.

(b) However the Panel considers that, in respect of the variable surtax and mixing regulation

(C) CANADA

In accordance with its terms of



Brussels

tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
53.05	Combed wool (tops)	Tariff preference
53.07	Yarn of combed of wool	Tariff preference
53.11	Wool textiles	Tariff preference

2. Short description of the measures and their effects on the export trade of Uruguay

(For a fuller account of the measures maintained on the meat and cereal items listed above, see COM.II/2(m)/Rev.1 and L/1175.)

- (a) Sales tax: The representative of Canada explained that the

(D) CZECHOSLOVAKIA

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of

The representative of Czechoslovakia stated that Czechoslovak imports from Uruguay were continuing to increase in 1962 and that it was the declared policy of Czechoslovakia to continue to promote imports, including processed and semi-manufactured products, from the developing

(E) DENMARK

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Denmark, the Panel discussed with the delegations of Uruguay and Denmark the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that Denmark maintained in force the following measures on items included in the submission by Uruguay:

Brussels
tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
02.01	Meat of animals of the bovine species, frozen)) Meat of animals of the bovine species, chilled)) Meat of animals of the ovine species, frozen)) Offals, chilled)	Import permit and quota
16.02	Preserved meat	Import permit and quota
16.03	Meat extracts	Import permit and quota
10.01	Wheat ¹	Import permit, quota and variable charge
11.01	Wheat flour ¹	Import permit, quota and mixing regulation
10.03	Barley	Import permit, variable charge, and maximum and minimum price system
15.07	Edible oils, crude and refined	Import permit and quota
53.07	Yarn of combed wool	Wholesale tax
53.11	Wool textiles	Wholesale tax

¹The same measures as applied

2. Short description of the measures and their effects on the export trade of Uruguay

(For a fuller account of the measures maintained on the meat and cereals items see COM.II/2(h)/Rev.1. Details of Denmark's import restrictions are contained in BOP/13 and L/1851.)

(a) Variable

emphasize the fact that the measures in force in Denmark had the effect of restricting the access to the Danish market for a number of Uruguayan products which together constituted a considerable proportion of Uruguay's total exports.

4. Conclusions

(a) In the light of the information obtained from the consultations with the two parties concerned, and for reasons set out in paragraphs 16 and 17 of the Panel's general report, the Panel does not consider that it would be appropriate to make any specific recommendations based on nullification or impairment in terms of Article XXIII:2 in respect of the measures maintained by Denmark, namely:

- (i) import permit requirements and quotas;
- (ii) maximum and minimum price system;
- (iii) import charges;
- (iv) wholesale taxes; and
- (v) mixing regulations.

(b) However the Panel considers that in respect of the maximum and minimum price system, import charges and mixing regulation mentioned above, having regard to the nature of the measures and the interest which Uruguay has in the products in question, there are a priori grounds for assuming that they could have an adverse effect on Uruguay's exports. In this connection the Panel recalled the provisions of Article XXII pursuant to which the Government of Denmark would no doubt accord sympathetic consideration to any concrete representations which Uruguay might wish to make concerning these measures, or their administration, with a view to minimizing any such adverse effects.

Further, as regards the import permit requirements and quotas, the Panel would recall the view of contracting parties as expressed in the consultations under Article XII:4 that the Government of Denmark should endeavour to ensure that the quantitative restrictions maintained under Article XII do not have incidental protective effects which would render their removal difficult when Denmark no longer had need to have recourse to Article XII.

(F) FINLAND

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Fin.92 292.08 Tm/F8 11 Tf305.76 305.04

Brussels
tariff
item No.

Description of products

Measures in force

02.01	Meat of animals of the bovine species, frozen and chilled)))	Import permit and health regulations
	Meat of animals of the ovine species, frozen)	
	Offals chilled)	
16.02	Preserved meat		Import permit
16.03	Meat extracts		Import permit and quota
10.01	Wheat		State trading
11.01	Wheat flour		State trading
10.03	Barley		Import permit
10.06	Rice, peeled		Import permit
15.07	Linseed oil, crude		Import permit
15.08	Linseed, boiled		Import permit and quota
15.07	Edible oils, crude		Production or turnover tax
15.07	Edible oils, refined		Production or turnover tax
23.04	Oil cake		Import permit
23.04	Meal of vegetable oils		Import permit
41.01	Sheepskins in the wool		Import permit and quota
41.02	Cow-hide, tanned		Tariff preference
41.03	Sheepskin leather, tanned		Tariff preference
41.06	Chamois-dressed leather		Tariff preference
41.07	Parchment-dressed leather		Tariff preference
41.08	Patent leather		Tariff preference
53.07	Yarn of combed wool		Tariff preference
53.11	Wool textiles		Import permit, quota and tariff preference

2. Short description of the measures and their effects on the export trade of Uruguay

(For a fuller account of the measures maintained on the meat and cereals items, see COM.II/2(f) and L/1145. Details of Finland's import resi

The representative of Uruguay did not wish to question the conformity with

(G) FRANCE

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of i

<u>Brussels tariff item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
15.07	Linseed oil, crude	State trading, tariff preference and import permit
15.08	Linseed oil, boiled	Tariff preference
15.07	Edible oils, crude and refined	State trading, tariff preference import permit and quota
41.02	Cow-hide, tanned	Tariff preference
41.03	Sheepskin leather, tanned	Tariff preference
41.06	Chamois-dressed leather	Tariff preference
41.07	Parchment-dressed leather	Tariff preference
41.08	Patent leather	Tariff preference
53.03	Waste of wool	Tariff preference
53.05	Combed wool (tops)	Import permit and discrimination
53.07	Yarn of combed wool	Import permit and discrimination
53.11	Wool textiles	Import permit and discrimination

2. Short description of the measures and their effects on the export trade of Uruguay

(A fuller description of the measures in force for meat is contained in COM.II/2(k) and L/1165.)

(a) State trading: The representative of France stated that State trading in edible oils was carried out by the "Société Interprofessionnelle des Oléagineux et les Huiles Alimentaires" (SIOFA) which enjoyed a monopoly of the trade in oils not only in France but in certain of the oilseed producer countries in the franc zone. Imports of edible oils were made within the framework of global quotas (cf. COM.II/112). As regards linseed oil, imports were made by the "Société Interprofessionnelle du Lin" (SILIN). As regards rice, there were practically no imports from third countries.

(b) Tariff preferences: The Panel noted the statement by the representative of France that France accorded duty-free entry to many products originating in the countries of the franc zone¹ while duties were charged against other countries. The tariff preference in force for items Nos. 41.02 to 41.08 (leathers) had little practical effect since, as yet, the countries of Africa had not developed tannin industries to any significant extent and, in the case of Morocco and Tunisia, exports, mainly of small hides, constituted an insignificant share of France's total imports of leather. There was, in fact, a duty on Moroccan leather once a tariff quota had been exceeded and the sEsM(thBT65tBT1 0 @ 1 393.36 117.84 Tm

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ANNEX I

The franc area is defined on the basis of the following criteria:

- existence of a common foreign exchange fund between the member countries of the area;
- existence of a common set of exchange regulations for each of the member countries of the area;
- freedom of transfers within the area;
- existence of a fixed parity between the currencies of the member countries of the area.

At the present time, the members of the area are as follows:

1. The French Republic

its overseas departments: Guadeloupe, Martinique, French Guiana, Reunion;

its overseas territories: Comoro Archipelago, St. Pierre and Miquelon, New Caledonia, Wallis and Futuna Islands, French Polynesia, condominium of the New Hebrides.

2. Central Africa Republic

Republic of the Congo (Brazzaville)

Republic of the Ivory Coast

Republic of Dahomey

Republic of the Upper Volta

Gabon Republic

Republic of

(H) THE FEDERAL REPUBLIC OF GERMANY

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of the Federal Republic of Germany, the Panel discussed with the delegations of Uruguay and the Federal Republic of Germany the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship between these measures and the pro

Brussels
tariff
item No.

Description of products

Measures in force

41.02	Cow-hide, tanned	Import permit and quota ¹
53.07	Yarn of combed wool	Import permit ¹
53.11	Wool textiles	Import permit and quota ¹

2. Short description of the measures and their effects on the export trade of Uruguay

(A)

3. Status of the measures in terms of Germany's GATT obligations

The Panel noted that, in the view of the Government of the Federal Republic of Germany, the import permit requirements and quotas as applied to meat and refined edible oils were justifiable in terms of the Torquay Protocol, under which the Federal Republic of Germany provisionally applied the GATT, because they resulted from the administration of marketing laws in force prior to Germany's accession. The Panel also noted the observation by the representative of Uruguay that this view had not been shared by the majority of contracting parties. The Panel further noted that these measures were the subject of a decision under Article XXV:5, that decision (page 31 of BISD, Eighth Supplement) being taken without

(c) As regards the discriminatory quota in respect of frozen ovine meat, the import permit requirements and quotas in respect of neat leather and certain woollen textiles, and the import permit requirement in respect of certain yarn of combed wool, the Panel considers that insofar as it has not been established that these measures are being applied consistently with the provisions of the General Agreement or are permitted by the terms of the Protocol under which the Federal Republic of Germany applies the GATT, it has to proceed on the assumption that their maintenance can nullify or impair the benefits accruing to Uruguay under the Agreement. It concludes, therefore, that the CONTRACTING PARTIES should recommend to the Government of the Federal Republic of Germany that it give immediate consideration to the removal of these measures. The procedure set out in paragraph 20

2. Short description of the measures and their effects on the export trade of Uruguay

(A fuller description of measures in force is contained in COM.II/40(b) and L/1170.)

(a) Quota: The representative of Italy provided the Panel with details of the quota in force on frozen and chilled bovine meat. For the four months' period April-July 1962, List B countries, excluding the

(e) State trading: The representative of Italy explained that importation of wheat

(J) JAPAN

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Japan, the Panel discussed with the delegations of Uruguay and Japan the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that Japan maintained in force the following measures on items included in the submission by Uruguay.

Brussels
tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
02.01	Meat of animals of the bovine species, frozen and chilled	Import permit, quota and health regulations
	Meat of animals of the ovine species, frozen)) Health regulations
	Offals, chilled))
16.02	Preserved meat	Import permit and quota
10.01	Wheat	State trading
11.01	Wheat flour	

(a) Health regulations: The Panel noted the statement by the representative of Japan that the restrictions in force for the control of foot-and-mouth disease and sheep pox had been framed after a very careful investigation of the position. At present uncooked meat of even cloven-hoofed animals originating in Latin America, European countries, Africa and Asian countries with the exception of Okinawa and Taiwan, was excluded except for small shipments needed for testing purposes. The restrictions were needed to safeguard against disease of local livestock production which the Japanese Government was attempting to foster. The Panel, however, noted the statement of the representative of Uruguay that the health restriction problem was among the most important confronting Uruguay in her trade relations with Japan and that the administration of health regulations amounted to a form of de facto discrimination.

(b) Import permits and quotas: The Panel noted the statement of the representative of Japan that meat consumption in Japan would increase with the raising of living standards and that between 1959 and 1960 the consumption of sausage meat had increased by no less than 40 per cent. In 1961, Japan produced 2,056 tons of corned beef and consumed 2,301 tons and produced 4,859 tons of other beef preparations canned or bottled and consumed 4,678 tons. Meat imports were controlled by the Japanese Livestock Promotion Corporation to which was allocated foreign exchange by the Government. In its turn the Corporation allocated foreign exchange to importers. The import permit and quotas were, in this instance, allocated under the Fund Allocation System. As regards the import permits for items other than meat, the representative of Japan stated that such permits fell within the framework of the Japanese Fund Allocation System. Quotas had been established and from time to time the Japanese Government made announcements concerning the volume of imports which were permissible within the framework of these quotas.

(c) State trading: The representative of Japan explained that the importation of cereals into Japan was controlled by the State. Twice a year the Japanese Government determined the amounts and qualities of the various types of cereals to be imported. Within the framework of these pre-determined quantities, periodic announcements were made calling for tenders. Importers then tendered to the Government to supply the cereals and the successful applicants were allocated the necessary foreign currency. In the case of rice, Japan found it necessary to import the specific round variety which is demanded by popular taste. This round variety ETBT1 0 0 1 175.2 551.ITf(Government) TjETBTted

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- (i) import permit requirements and quotas;
- (ii) health regulations; and
- (iii) State trading.

(b) However, the Panel considers that in respect of the State-trading measure mentioned above, having regard to the nature of the measures and the interest which Uruguay has in the products in question, there are a priori grounds for assuming that they can have an adverse effect on Uruguay's exports. In this connection the Panel recalled the provisions of Article XXII pursuant to which the Government of Japan would no doubt accord sympathetic consideration to any concrete representations which Uruguay might wish to make concerning these measures, or their administration, with a view to minimizing any such adverse effects.

Further, as regards the import permit requirements and quotas, the Panel would recall the view of contracting parties, as expressed in the consultations under Article XII:4, that the Government of Japan should endeavour to ensure that the quantitative restrictions maintained under Article XII do not have incidental protective effects which would render their removal difficult when Japan no longer had need to have recourse to Article XII.

Also, as regards health regulations, the Panel noted the statement of Uruguay that these regulations, as administered at present, constituted a considerable, if not insuperable, barrier to the uncooked meat exports of Uruguay. The Panel suggests to the CONTRACTING PARTIES that it would be useful if Japan were to enter into consultation with Uruguay to examine the possibility of administering the regulations in such a way as to permit the entry of Uruguayan meat into Japan, whilst affording adequate sanitary protection to domestic livestock.

(K) THE NETHERLANDS

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of the Netherlands, the Panel discussed with the delegations of Uruguay and the Netherlands the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship

2. Short description of the measures and their effects on the export trade of Uruguay

(A fuller account of the measures applied on the meat items appears in COM.II/2(g)/Rev.1 and L/1054).

(a) Import permits and quotas: The representative of the Netherlands explained that import permit requirements maintained without quotas were for administrative reasons and no restriction whatsoever was implied. The quota restrictions in force for chilled and frozen bovine meat was the subject of notification in the Netherlands residual restriction list.

(b) Variable import levies (in respect of meat items 02.01): The Netherlands representative informed the Panel that these levies were in addition to normal customs duties. The levies, although in principle variable, had in fact been changed only once in the last five years. Their purpose was to raise the price of imported meat approximately to the levels maintained for domestically slaughtered meat.

(c) Uruguay's trade with the Netherlands: The Panel noted the statement by the representative of Uruguay that despite the measures in force, Uruguay was able to conduct trade with the Netherlands at a satisfactory overall level and, although the Netherlands was an exporter of meat herself, Uruguay was able to export her meat to that country because of the entrepôt and processing trade in the Netherlands.

The Panel noted in this connection the statement made by the Uruguayan representative in a letter dated 21 February 1962 to the Netherlands' permanent representative that "consultations carried out indicated that within the present import situation in the Netherlands there clearly appears to exist a considerable margin for the diversification and increase of Uruguayan exports" and the statement of the Uruguayan representative at the consultations held with the Netherlands on 14 November 1961 that "there was no specific complaint against the Netherlands import régime for Uruguayan export products".

3. Status of the measures in terms of the Netherlands' GATT obligations

The Panel noted that in view of the Government of the Netherlands the variable import levies on the meat items (02.01) conformed with Article II and the turnover compensation taxes with Article III of the GATT.

Apart from variable import levies, the status of which is discussed in paragraph 17 of the Panel's general report, the representative of Uruguay did not wish to question the conformity, with the provisions of the General Agreement, of the measures maintained by the Netherlands B0 Orlands

- (i) variable import levies; and
- (ii) turnover compensation taxes.

However, in respect of the variable import levies, the Panel considers that, having regard to the nature of the measures and the interest which Uruguay has in the products in question, there are a priori grounds for assuming that these measures can have an adverse effect on Uruguayan exports.

As regards the import permit requirements and quotas, the Panel considers that, insofar as it has not been established that these measures are being applied consistently with the provisions of the General Agreement or are permitted by the terms of the Protocol under which the Netherlands applies the GATT, their maintenance can nullify or impair the benefits accruing to Uruguay under the Agreement. However, in view of the statement by the representative of Uruguay, quoted in paragraph 2(c) above, that "there was no specific complaint against the Netherlands import régime for Uruguayan export products" the Panel considers that there are no grounds for its formulating recommendations in terms of the provisions of Article XXIII:2.

(L) NORWAY

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Norway, the Panel discussed with the delegation of Uruguay and Norway the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and relationship between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that Norway maintained in force the following measures on items included in the submission by Uruguay:

Brussels
tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
02.01	Meat of animals of the bovine species, frozen)))
	Meat of animals of the bovine species, chilled)))
	Meat of animals of the ovine species, frozen)))
	Offals, chilled)
16.02	Preserved meats	Import permit
16.03	Meat extracts	Import permit
10.01	Wheat	State trading
11.01	Wheat flour	State trading

Brussels
tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
23.04	Oil cake	State trading
23.04	Meal resulting from extraction of vegetable oils	State trading

2. Short description of the measures and their effects on the export trade of Uruguay

(A fuller account of measures applied appears in COM.II/2(c) and L/1150.)

(a) Import permits and maximum and minimum prices system: The Panel noted the statement of the Uruguayan representative that these measures by encouraging domestic production of cattle acted as a curb on Uruguay's beef exports to Norway. The Norwegian representative, whilst admitting the protective effects of these measures, nevertheless maintained that they had to be seen in the light of agricultural protectionism generally and in particular in Western Europe. Norway was too small both as a producer and as a market to attempt to take the lead in finding a solution to this particular problem. Moreover, the price regulations, which had been introduced in 1958 were less restrictive of imports than had been the quota system which they had replaced. In this connection the following statistics for imports of meat (02.01) into Norway were cited:

1956	400 tons
1957	900 tons
1958	7,600 tons
1959	3,800 tons
1960	2,500 tons

In 1960 Uruguay's share had been 11.4 tons and in 1961, 41.8 tons. It was possible that the comparatively small exports from Uruguay could be attributed to non-competitiveness. Denmark, New Zealand and Argentina were able to sell considerable quantities of meat on the Norwegian market. There were no bilateral agreements which gave these countries advantages over Uruguay.

The Panel noted the statement of the Norwegian representative that permits were restricted when domestic frozen and chilled bovine and ovine meat prices were below a prefixed level but that once this level had been exceeded imports could be made freely. Licences were issued for imports of preserved meats and meat extracts on a discretionary basis.

(b) State trading: The Panel noted the contention of the representative of Uruguay that State trading in Norway, by protecting local agriculture and by inhibiting trading contacts was a restriction on trade. It also noted the statement by the representative of Norway that on the contrary purchasing of imports by the State Grain Organization was made purely on a commercial and non-discriminatory basis; enquiries as to the reason why no recent purchases or grains had been made from Uruguay had revealed that no offers had been received.

3. Status of the measures in terms of Norway's GATT obligations

The Panel noted that in the opinion of the Government of Norway, the State-trading measures were

The representative of Uruguay did not wish to question the conformity with the provisions of the General Agreement of the State-trading measures maintained by Norway. He nevertheless wished to emphasize that the measures maintained by Norway had the effect of restricting the access to the Norwegian market for a number of Uruguayan products.

4. Conclusions

(a) In the light of the information obtained from the consultations with the two parties concerned, and for reasons set out in paragraph 16 of the Panel's general report, the Panel does not consider that it would be appropriate to make any specific recommendations based on nullification or impairment in terms of Article XXIII:2 in respect of the State trading maintained by Norway.

(b) However the Panel considers that in respect of the State-trading measure mentioned above, having regard to the nature of the measures and the interest which Uruguay has in the products in question, there are a priori grounds for assuming that they could have an adverse effect on Uruguay's exports. In this connection the Panel recalled the provisions of Article XXII pursuant to which the Government of Norway would no doubt accord sympathetic consideration to any concrete representations which Uruguay might wish to make concerning these measures, or their administration, with a view to minimizing any such adverse effects.

(c) As regards the import permit requirements which involve a maximum and minimum price system in the case of meat (02.01), the Panel considers that insofar as it has not been established that these measures are being applied consistently with the provisions of the General Agreement or are permitted by the terms of the Protocol under which Norway applies the GATT, it has to proceed on the assumption that their maintenance can nullify or impair the benefits accruing to Uruguay under the Agreement. It concludes, therefore, that the CONTRACTING PARTIES should recommend to the Government of Norway that it give immediate consideration to the removal of these measures. The procedures set out in paragraph 20 of the Panel's general report would become applicable in the event of the Government of Norway's failing to carry out this recommendation.

(M) SWEDEN

In accordance with its terms of reference, and on the basis of information supplied by Uruguay in support of its recourse to paragraph 2 of Article XXIII in respect of Sweden, the Panel discussed with the delegations of Uruguay and Sweden the facts concerning the maintenance of the restrictive measures included in the Uruguayan submission, the effects of these measures on trade, and the relationship between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that Sweden maintained in force the following measures on items included in the submission by Uruguay:

Brussels
tariff

<u>item No.</u>	<u>Description of products</u>	<u>Measures in force</u>
02.01	Meat of animals of the bovine species, frozen) Import permit, discrimination,) import charge ¹ and health) regulations
	Meat of animals of the bovine species, chilled))
	Meat of animals of the ovine species, frozen) Import charge ¹ and health) regulations
	Offals, chilled)
16.02	Preserved meat	Import charge ¹
10.01	Wheat	Import charge ¹ and mixing regulation
11.01	Wheat flour	Import charge ¹ and mixing regulation
10.03	Barley	Variable import charge
15.07	Edible oils, crude) Variable import charge
	Edible oils, refined or purified)
23.04	Oil cake) Variable import charge
	Meal of vegetable oils)

2. Short description of the measures maintained and their effects on the export trade of Uruguay

(A fuller account of the measures maintained is contained in COM.II/2(o) and L/1171.)

(a) Discriminatory import permit requirement (frozen bovine meat): The Panel noted that the discrimination in favour of the former OEEC countries, the sterling area, the Belgian, Netherlands,

¹Import charges are in principle fixed as long as the domestic price remains within certain predetermined price limits (see under 2(b)).

French, Italian, Portuguese and Spanish currency areas, Finland, Yugoslavia, Guinea, Indonesia, Iraq and Somalia arose from the fact that meat exported from these countries and areas did not require an import licence when entering Sweden. Imports of meat from other sources, including Uruguay, were subject to import permits. It was further noted that the reasons for the continued application of this procedure had been extensively discussed during the examination of the Swedish agricultural policy by Committee II as noted in L/1171, paragraphs 34 and 35. The representative of Sweden informed the Panel that the licence control for meat was more formal than real and that licences were normally granted on application.

(b) Import charges: The Panel took note of a statement by the Swedish representative that import charges were enforced in order to bring long-term world prices into line with long-term Swedish prices (a six-year agreement being in force between the State and the farmers' organizations