

FRENCH IMPORT RESTRICTIONS

*Report adopted on 14 November 1962
(L/1921 - 11S/94)*

1. The Panel was established by the CONTRACTING PARTIES in connection with the request made by the Government of the United States that the CONTRACTING PARTIES consider, pursuant to paragraph 2 of Article XXIII of the General Agreement, import restrictions applied by the Government of France to products on which the European Economic Community had given tariff concessions to the United States in the recently concluded negotiations under the GATT. The terms of reference of the Panel were:

"To examine the matter referred by the Government of the United States to the CONTRACTING PARTIES pursuant to paragraph 2 of Article XXIII relating to import restrictions maintained by France, and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or rulings provided for in paragraph 2 of Article XXIII."

2. The Panel heard statements by the representative of the United States and by the representative of France and obtained clarification on certain points from these representatives.

3. The Panel was informed by the French representative that his Government did not contest that the restrictions under consideration were contrary to Article XI of the General Agreement. Moreover, in the course of the discussion, the French representative did not invoke any other provisions of the General Agreement in justification of the maintenance of the restrictions.

4. The Panel agreed that the maintenance by a contracting party of restrictions inconsistent with Article XI after the contracting party concerned had ceased to be entitled to have recourse to Article XII constituted nullification or impairment of benefits to which other contracting parties were entitled under the GATT and the effects of such nullification or impairment were aggravated if this maintenance of restrictions continued for an extended period of time.

5. The Panel noted that the United States had claimed nullification or impairment in respect of benefits which it expected to receive from tariff concessions on the particular products set out in the Annex to the Note by the United States delegation in document L/1899. It follows from the Panel's general finding in paragraph 4 above that the Panel considers that, as a result of the import restrictions maintained by France, there is nullification or impairment of benefits to which the United States is entitled under the GATT.

6. The Panel therefore suggests that the CONTRACTING PARTIES could appropriately recommend to the French Government the withdrawal of restrictions inconsistent with Article XI, with particular reference to restrictions on the products which have been specifically referred to by the United States Government. In suggesting this recommendation the Panel has very much in mind the view expressed in its report by the Working Party on Organizational and Functional Questions¹, which met during the Review Session, namely that the first objective, in cases of this sort, should be to secure the withdrawal of the measures which are inconsistent with the General Agreement. The view of the Panel is that the making of such a recommendation by the CONTRACTING PARTIES and its fulfilment would be the most satisfactory way of resolving the question which is before the CONTRACTING PARTIES.

¹BISD, Third Supplement, pages 250 and 251.

7. The Panel would therefore suggest that the CONTRACTING PARTIES recommend to the United States Government that it refrain, for a reasonable period, from exercising its right, under the procedures of paragraph 2 of Article XXIII, to propose suspension of the application of equivalent obligations or concessions. The Panel also suggests that the CONTRACTING PARTIES authorize the Council to deal with any proposals regarding such suspension put forward by the Government of the United States should it find it necessary to do so.