

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 that consultations under Article XXIII:1 had been held with twelve other countries. At the request of Uruguay the CONTRACTING PARTIES authorized the Council of Representatives to take up the 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 Panel.

5. The original membership of the Panel, as recorded in C/M/9 and L/1739, comprised seven members in addition to the Chairman. Some of these members, owing to practical difficulties (such as transfer of duty station away from Europe, urgent duties elsewhere, etc.) found themselves unable to participate in the work and requested that their names be withdrawn from the Panel. In two cases, the Chairman of the CONTRACTING PARTIES, in accordance with established practice, has appointed a substitute. The actual membership of the Panel, resulting from these changes, is as follows:

Chairman: Mr. R. Campbell Smith (Canada)
Mr. E. J. Biermann (The Netherlands)
Mr. M. Itan (Israel)
Mr. S. L. Portella de Aguiar (Brazil)
Mr. A. Schnebli (Switzerland)

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 of the Panel

7. Immediately after its appointment, the Panel sought to determine the scope of its work by requesting the Uruguayan delegation definitively to identify the contracting parties, the products and the restrictive measures with respect to which action under Article XXIII:2 was taken. Uruguay was also requested to supply information on the circumstances which it considered had justified the invocation of Article XXIII:2, its view of the consistency or otherwise of the restrictive measures in question with the provisions of the General Agreement, the effects of the measures on Uruguay'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 concerned and Uruguay. These took place from 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 and of the contracting parties concerned in order that the Panel's recommendations might be drawn up after the records had been examined and accepted by both sides.

9. The Panel reconvened early in October immediately after comments on the records were received from the contracting parties concerned and Uruguay. In the course of the meeting the Uruguayan delegation made it known that it wished to raise further questions with the fifteen contracting parties, and a second round of consultations was accordingly held from 30 October to 5 November 1962 with the fifteen delegations.

¹Namely, Austria, Belgium, Canada, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, Italy, Japan, The Netherlands, Norway, Sweden, Switzerland and the United States of America.

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" (unless the difficulty is of the type described in paragraph 1(c) of the Article).¹ 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, for two kinds of action by 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". Whilst a "ruling" is called for only when there is a point of contention on fact or law, recommendations should always be appropriate whenever, in the view of the CONTRACTING PARTIES, these would lead to a satisfactory adjustment of the matter.

13. The latter part of paragraph 2 of Article XXIII states that "if the CONTRACTING PARTIES consider the circumstances are serious enough to justify such action, they may authorize a contracting party or parties to suspend the application to any other contracting party or parties of such concessions or other obligations under this Agreement as they determine to be appropriate in the circumstances". In the view of the Panel the requirement that the situation must be serious enough limits the applicability of the provision to cases where there is nullification or impairment; it would at any rate be difficult to conceive a situation in which the suspension of concessions or obligations could be appropriate where nullification or impairment was not involved.

¹However, at least in respect of quantitative import restrictions applied inconsistently with the General Agreement, it has been agreed by the CONTRACTING PARTIES that the holding of a consultation under paragraph 1 of Article XXII would fulfil the conditions of paragraph 1 of Article XXIII (cf. BISD, Ninth Supplement, pages 19-20).

²The paragraph goes on to enumerate the circumstances under which either of these two contingencies could arise, under the three sub-headings (a), (b) and (c).

Nullification or impairment

14. In most cases Uruguay claimed that the maintenance of the trade measures by the other contracting parties had nullified or impaired benefits accruing to Uruguay under the General Agreement. The Panel thought it essential to have a clear idea as to what would constitute a nullification or impairment. In its view impairment and nullification in the sense of Article XXIII does not arise merely because of the existence of any measures; the nullification or impairment must relate to benefits accruing to the contracting party "under the General Agreement".

15. In implementing the compensation provision of Article XXIII:2 the CONTRACTING PARTIES would therefore need to know what benefits accruing under the Agreement, in the view of the country invoking the provisions, had been nullified or impaired, and the reasons for this view. In cases where there is a clear infringement of the provisions of the General Agreement, or in other words, where measures are applied in conflict with the provisions of GATT and are not permitted under the terms of the relevant protocol under which the GATT is applied by the contracting party, the action would, prima facie, constitute a case of nullification or impairment and would ipso facto require consideration of whether the circumstances are serious enough to justify the authorization of suspension of concessions or obligations.¹ While it is not precluded that a prima facie case of nullification or impairment could arise even if there is no infringement of GATT provisions, it would be in such cases incumbent on the country invoking Article XXIII to demonstrate the grounds and reasons of its invocation. Detailed submissions on the part of that contracting party on these points were therefore essential for a judgment to be made under this Article.

16. In a number of cases, the contracting party concerned maintained (a) that certain measures applied by it were consistent with the provisions of GATT, or (b) that the measures, while not consistent with the provisions of the General Agreement, were permitted under the terms of the Protocol of Provisional Application, the Ancey Protocol or the Torquay Protocol on account of their being applied pursuant to "existing legislation". In most of these cases, the contention was not questioned by the Uruguayan delegation. For practical purposes, the Panel has taken the position that in cases where the contention has not been challenged and is not contradicted by the available records of the CONTRACTING PARTIES, it would be beyond its competence to examine whether the contention was or was not justified.

17. The Panel was faced with a particular difficulty in considering the status of variable import levies or charges. It noted the discussion which took place at the nineteenth session of the CONTRACTING PARTIES on this subject during which it was pointed out that such measures raised serious questions which had not been resolved. In these circumstances the Panel has not considered it appropriate to examine the consistency or otherwise of these measures under the General Agreement.

18. Whilst the Panel was conducting its consultations, the EEC introduced its Regulation on Cereals under the common agricultural policy, replacing the measures included in the original submission by Uruguay. The Panel noted the statement by the delegation of Uruguay that those new measures (which are described in COM.II/134) would have a significant impact on Uruguay's cereals trade. However, since these measures did not form part of Uruguay's original submission and since they were under consideration by the CONTRACTING PARTIES with the active participation of Uruguay, the Panel considered that it would not be appropriate for it to examine the compatibility or otherwise of the

¹It may be noted in this connection that the status of a measure (that is, whether or not it is consistent with GATT) is not to be affected by a waiver decision taken subsequently. In fact, Decisions taken under Article XXV:5 granting waivers from GATT obligations have normally expressly provided for the continued validity of the procedures of Article XXIII in respect of the otherwise "waived" obligations (cf. inter alia, BISD, Third Supplement, pages 35 and 41; Eighth Supplement, page 22).

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 Uruguayan delegation repeatedly referred to the general difficulties created for Uruguay by the prevalence of restrictive measures affecting its exports and to the resulting inequality in the terms on which temperate zone primary producers participate in world trade. The Panel noted that it was not charged with the examination of broader issues falling outside the purview of Article XXIII. It also noted that those broader issues are being actively discussed by the CONTRACTING PARTIES. The Panel is of the view that if the proposed recommendations, especially those relating to health regulations and those figuring in paragraph (c) of Section 4 of the individual reports, were fulfilled an important contribution would have been made to the solution of the difficulties mentioned by Uruguay in bringing the cases before the CONTRACTING PARTIES under Article XXIII.

¹These measures have been included in Section 1 of the relevant individual country reports merely in order to provide a complete list of measures which were considered by Uruguay to be confronting its export trade.

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 tariff 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 Meat of animals of the ovine species, frozen Offals, chilled | Import permit and import charge Import permit Import permit and import charge (the latter not applying to ovine offals) |
| 16.02 | Preserved meat | Import permit and import charge (the latter not applying to ovine meat) |
| 16.03 | Meat extracts | Import permit and import charge (the latter not applying to ovine meat) |
| 10.01 | Wheat | State trading, import charge and mixing regulation |
| 11.01 | Wheat flour | State trading |
| 10.03 | Barley | State trading and import charge |
| 15.07 | Linseed oil, crude | Turnover tax |
| 15.08 | Linseed oil, boiled | Turnover tax |
| 15.07 | Edible oils, crude and refined | Import permit ¹ and turnover tax |
| 53.07 | Yarn of combed wool | Import permit and discrimination |
| 53.11 | Wool textiles | Import permit and discrimination |

¹Import permit required if oil fit for direct human consumption except in the case of olive oil.

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 permit requirements, although of a restrictive nature, exerted little effect on Uruguay's exports; Uruguay should be able to increase her exports to Austria by an intensification of export efforts.

(b) Discrimination: The Austrian representative informed the Panel that Austria had in recent years made strenuous efforts to remove those import permit requirements which did not extend to OECD countries and thus discriminated in their favour. The existence of such discrimination did not, in his view, represent a material restriction of Uruguayan exports of combed wool yarns and wool textiles, and in any event liberalization towards GATT countries would be continued, except for certain "hardship" cases, in the very near future with a view to eliminating differential treatment between OECD and other GATT countries. The Uruguayan representative did not agree that the existence of this discrimination was not prejudicial to Uruguayan exports.

(c) Mixing regulation: The Panel noted the Austrian representative's statement that mixing regulations in respect of wheat were applied in accordance with legislation (State trading) which required the Austrian Government to ascertain the quantity and quality of the Austrian crop and accordingly determine the volume and type of imports.

(d) State trading: The representative of Austria informed the Panel that the Grain Compensation Board, the semi-official organization concerned, prepared an annual import programme for cereals and milling products on which volumes, timing and qualities of imports were based. When imports were to take place, tenders were invited of which the most attractive in terms of commercial criteria are accepted. This acceptance constituted the prerequisite for the delivery of an import licence.

(e) Turnover taxes: The Panel noted the statement of the representative of Austria that vegetable oils falling under tariff item 15.07 when imported in drums or, without other packing, in vehicles, were exempt from the turnover equalization tax and that, for the rest, turnover taxes on vegetable oils were of very low incidence and in no case did they exceed 5.25 per cent. The rate of the turnover tax on edible oils, insofar as they were not exempt from such tax, was 1.7 per cent. Thus edible oils were not placed at any disadvantage vis-à-vis butter which itself bore a 1.7 per cent tax. The Austrian representative also stated that domestic consumption of edible oils amounted to 27,000 tons in 1961/62 crop-year, whilst domestic production accounted for 5,500 tons. In the opinion of the Austrian representative these taxes did not constitute a barrier to Uruguay's trade, and that therefore reference to them in Section 1 should be deleted.

(f) Import charges: The representative of Austria explained that the import charges were levied in order to raise, where necessary, the price of imports to the level of prices prevailing on the Austrian market for domestic produce. The prices for domestic products were stabilized at a level predetermined by the Austrian Government. The import charges varied according to divergencies between Austrian domestic prices and import prices, but they never exceeded the level of duty as set out in the Austrian tariff.

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:

- (i) import charges;
- (ii) State trading; and
- (iii) turnover taxes.

(b) However the Panel considers that in respect of the import charges and State trading 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 Austria 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, two of which are discriminatory, and the mixing regulation, 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 Austria 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 Austria that it give immediate consideration to the removal of these measures. The procedure set out in paragraph 20 of the Panel's general report would become applicable in the event of the Government of Austria's failing to carry out this recommendation.

(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, frozen | Import permit, quota and variable Chilled 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 permit and compensation tax |
| 15.07 | Edible oils, refined or purified | Import permit and compensation tax |
| 23.04 | Oil cake and meal resulting from the extraction of vegetable oils | Import permit |

¹Measures applied under the common agricultural policy of the European Economic Community on cereals (see paragraph 18 of the Panel's general report).

²Measures which may be replaced shortly with the extension of the common agricultural policy to these items.

³The mixing regulation in respect of wheat will remain in force until 31 December 1962.

Brussels
tariff

| <u>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) |
| 53.05 | 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 regulation would be removed on 31 December 1962. According to a Belgian Royal Decree dating from 20 September 1956, industrial mills in Belgium have to purchase a certain proportion of their wheat requirements from the domestic production. Since 5 February 1962 this proportion of locally produced wheat has been fixed at 65 per cent. The Panel noted, however, that to the extent that a Belgian miller exported flour made from Belgian wheat, he could replace this quantity of wheat by an equivalent amount of imported wheat.

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 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 Belgium 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 and such quotas as may exist, 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 Belgium 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 Belgium that it give immediate consideration to the removal of these measures. The procedure set out in paragraph 20 of the Panel's general report would become applicable in the event of the Government of Belgium's failing to carry out this recommendation.

(C) CANADA

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 Canada, the Panel discussed with the delegations of Uruguay and Canada 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 Canada 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 | Health regulations |
| | Meat of animals of the ovine species, frozen | Health regulations |
| | Offals, chilled | Health regulations |
| 10.01 | Wheat | State trading, import permit and tariff preference |
| 11.01 | Wheat flour | State trading, import permit and tariff preference |
| 10.03 | Barley | State trading, import permit and tariff preference |
| 10.06 | Rice, peeled | Tariff preference |
| 15.07 | Linseed oil, crude | Tariff preference |
| 15.08 | Linseed oil, boiled | Tariff preference |
| 15.07 | Edible oils, crude | Sales tax and tariff preference |
| 15.07 | Edible oils, refined | Sales tax and tariff preference |
| 41.02 | Cow-hide | 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 |

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 sales tax (applied to all products except certain staples) on crude and refined edible oils was applied virtually only to those oils used in the manufacture of margarine. It was not possible to give a precise breakdown of the applicability of the tax to imported and locally produced oils used for this purpose. However, in 1961, the tax had been applied to oils, 30 per cent of which were not produced in Canada. As regards the remaining 70 per cent, statistics do not indicate the proportion of taxed oils locally produced or imported. In this connection, it had to be borne in mind that Canada was herself a significant exporter of oils and oilseeds. The sales tax was 11 per cent and applied equally to oils produced domestically or imported when used in the manufacture of margarine.

(b) Health regulations: The Panel noted the statement by the Uruguayan representative that the effects of the health regulations on uncooked ovine and bovine meat were a matter of prime concern to Uruguay. The regulations, as administered, excluded from the Canadian market uncooked meat from the many countries, including Uruguay, where foot-and-mouth disease existed. The Uruguayan representative stated that certain importing countries had, both by sending permanent or visiting inspectors to Uruguay and by suggesting modifications to Uruguayan meat production and marketing methods, been able to continue to purchase Uruguayan meat despite the existence of the disease. The Panel also took cognizance of the statement by the representative of Canada that the reasons for veterinary regulations were two-fold, first to protect Canadian livestock and, secondly, to satisfy United States requirements since the latter was Canada's principal meat export market. Imports could be admitted into Canada if Uruguay could certify that no cases of the foot-and-mouth disease had been reported in the country over a period of twelve months. Canned cooked meats were admitted without restriction.

(c) Preferences: The Panel noted that it was the hope of the Uruguayan Government that it would be possible for Canada to remove or reduce preferences which were a considerable barrier to the trade of countries such as Uruguay; although the maintenance of the preference admittedly was not something which Uruguay could not have anticipated at the time of accession. The Panel also noted the statement by the Canadian representative that margins of preference had, since the advent of the GATT, been reduced considerably in Canada as a result of reduction in most-favoured-nation rates of duty, and that there was little evidence to support the view that Canada's preferences adversely affected Uruguayan exports to Canada. For instance, in the case of peeled rice, despite the existence of Commonwealth preference, the product was imported entirely from countries not enjoying this preference.

(d) Import permit requirements and State trading: The Canadian representative informed the Panel that authority to issue import permits was vested in the Canadian Wheat Board in order that it might

discharge its responsibility for orderly marketing, inter-provincially, of wheat, oats and barley under the provisions of the Canadian Wheat Board Act of 1935. The Board did not own or operate facilities for the handling or storage of grain. On behalf of producers the Board was responsible for the movement of grain into export channels through established private traders. The Panel also noted the fact that Canada was a major exporter of cereals.

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

The Panel noted that in the opinion of the Government of Canada the health regulations were applied under the provisions of Article XX; import licensing on the grain items was permitted by the terms of the Protocol of Provisional Application under which Canada applied the GATT; the sales taxes were consistent with Article III since they were applied equally to imports and domestic products; the tariff preferences were permitted under Article I:2; and the State trading under Article XVII.

The representative of Uruguay did not wish to question the conformity with the provisions of the General Agreement of the measures maintained by Canada. He nevertheless wished to emphasize the fact that the measures in force in Canada had the effect of restricting the access to the Canadian 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 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 measures maintained by Canada, namely:

- (i) State trading;
- (ii) health regulations;
- (iii) tariff preferences; and
- (iv) turnover taxes.

However the Panel considers that in respect of the State-trading measures 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 to Government of Canada 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.

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 Canada 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 Canada, whilst affording adequate sanitary protection to domestic livestock. It is noted that the health regulations maintained by Canada are similar to those of the United States and for this reason it is felt that a joint consultation embracing both Canada and the United States might be appropriate.

In respect of tariff preferences, the Panel is of the view that, bearing in mind the basic objectives of the General Agreement, the Government of Canada would no doubt accord due consideration to any proposals that might be made by Uruguay in the context of the CONTRACTING PARTIES tariff

reduction activities or discussions relevant to the reduction of customs tariffs.

(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 Article XXIII in respect of Czechoslovakia, the Panel discussed with the delegations of Uruguay and Czechoslovakia 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 Czechoslovakia maintained State trading in respect of all the items included in the submission by Uruguay.

2. Effects of State trading in Czechoslovakia on the export trade of Uruguay

The representative of Uruguay maintained that the effects of State trading in Czechoslovakia were restrictive and resulted in restrictions of Czechoslovak imports from Uruguay. The representative of Czechoslovakia, however, claimed that State trading in Czechoslovakia had increased the volume of trade beyond that which would have prevailed without it, and that no benefits accruing to Uruguay under the Agreement were being impaired by Czechoslovakia. Czechoslovakia had granted Uruguay tariff concessions on hides, oils and wool and recognized the substantial interest of Uruguay in meat. Czechoslovakia imports of these commodities had increased considerably since the granting of the concessions. The representative of Czechoslovakia further contended that the Czechoslovak State-trading monopoly did not operate so as to afford protection on the average in excess of the amount of protection provided for by the concessions (as required in Article II:4 of the Agreement) and that Uruguay was granted equal and non-discriminatory opportunities to compete for participation in Czechoslovak purchases, in the sense of Article XVII. In his view the following statistics, which he supplied, justified this contention:

IMPORTS INTO CZECHOSLOVAKIA
(in thousands of metric tons)

| | <u>1948</u> | | <u>1961</u> | |
|----------------|--------------|---------------------|--------------|---------------------|
| | <u>Total</u> | <u>From Uruguay</u> | <u>Total</u> | <u>From Uruguay</u> |
| Rawhides | | | | |
| bovine | 22.5 | - | 41.2 | 1.3 |
| ovine | | | 1.6 | 0.1 |
| Tanned hides | - | - | 9.3 | - |
| Linseed oil | 4.2 | 0.9 | 5.9 | 1.3 |
| Oilcake | 0.8 | - | 39.0 | - |
| Wool | 9.0 | 0.4 | 25.0 | 0.8 |
| Bovine meat | 14.7 | - | 32.1 | 3.7 |
| Ovine meat | - | - | 0.3 | - |
| Offals | - | - | 0.1 | - |
| Meat conserves | 3.9 | - | 6.7 | - |
| Wheat | 222.8 | - | 1126.9 | - |
| Rice | 5.1 | - | 85.2 | - |

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 countries.

(b) Czechoslovakia's internal pricing policy

The Panel discussed with the representative of Czechoslovakia the internal price system in Czechoslovakia insofar as this might influence the volume of Uruguay's exports. The Czechoslovakian representative stated that under the Czechoslovak economic system, consumer prices were not directly related to import prices but rather conform to the general structure of consumer prices which took into account not only production and transport costs but also included an element to cover the costs of services rendered to the consumer free of charge (such as health, education and other social services). Pricing policy was employed to curb consumption of certain products (e.g. spirits) and to encourage that of others (e.g. books). As regards meat, the pricing policy adopted had not, in his opinion, been restrictive and per caput consumption of meat had in fact increased steadily over the last decade.

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

The Panel noted that in the opinion of the Government of Czechoslovakia the State-trading measures in force in Czechoslovakia were operated in conformity with the provisions of Articles XVII and II:4 of the General Agreement, and did not involve any quantitative restriction of imports in contravention of Article XI of the Agreement.

The Uruguayan representative, whilst noting that the State-trading measures maintained by Czechoslovakia were in conformity with the GATT, drew attention to the fact that the whole range of Uruguayan exports were subjected, in Czechoslovakia, to a form of treatment which could affect the opportunities for their full and free competition on the Czechoslovakian market. He noted that certain Uruguayan exports to Czechoslovakia had increased over the last thirteen years as stressed by the delegate of Czechoslovakia, but expressed the hope that Czechoslovakian imports of these and other items from Uruguay would increase in the future.

4. Recommendations

(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 measures in force in Czechoslovakia.

(b) However the Panel considers that in respect of these measures, having regard to their nature 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 Czechoslovakia 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.

(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 charge, | Barley | Import permit, variable 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 to barley are applied to wheat and wheat flour destined for animal feeding.

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 charges and maximum and minimum price system: The Uruguayan representative stated that these charges had a restrictive effect on Uruguay's exports to Denmark. The Danish representative advised the Panel that in the case of barley, one of the two items on which variable charges were leviable, total Danish imports in 1961 amounted to 320,984 metric tons. Uruguay, however, had not participated in this trade. The Danish representative stated that the system of variable charges and maximum and minimum price system in respect of barley had been introduced for balance-of-payments reasons and had been fully explained in L/1617.

(b) Import permit requirements and quotas: The representative of Denmark explained that for balance-of-payments reasons Denmark restricted imports of a number of commodities. In most cases quotas had been established. In this connection, the Danish representative pointed out that barley, an important Uruguayan export product, although formally subject to import control, in conjunction with a maximum and minimum price system, had, in fact, been permitted entry to Denmark without restriction since November 1961. The representative of Uruguay, however, stated that liberalization in Denmark had not as yet been extended to cover products of major importance to Uruguay. The representative of Denmark considered nonetheless that the remaining restrictions in force in Denmark did not harm Uruguay's export opportunities. It was, he considered, unlikely for example that Uruguay would be able to sell significant quantities of meat to Denmark, even if the restrictions were withdrawn, since Denmark was herself a major exporter of this item. The representative of Uruguay queried the need for controls if this were in fact the case.

The representative of Denmark informed the Panel that as from 1 January 1963, edible oils, crude and refined (item 15.07) would be liberalized.

(c) Wholesale taxes: The Danish representative informed the Panel that a general wholesale tax of 9 per cent had been introduced covering most goods except food. However, as a transitional feature, the existing turnover tax for woollen yarns and wool textiles at 15 per cent would remain in force until 1 April 1963. Local production of textiles in Denmark was high in relation to imports. In 1961 local production of all textiles amount to Kr.1,052 million, whilst imports were in the neighbourhood of Kr.800 million (exports amounted to the value of Kr.200 million).

(d) Mixing regulation: The representative of Denmark informed the Panel that Danish flour mills were required to use certain percentages of Danish bread grains (see also COM.II/61).

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

The Panel noted that in the opinion of the Danish Government the import permit and quota measures were compatible with the General Agreement in view of the fact that Denmark was at present permitted to maintain such measures under Article XII; the variable charges and maximum and minimum price system were not inconsistent with the provisions of the General Agreement; the mixing regulation fell within the terms of the protocol under which Denmark applied the GATT; and the turnover taxes were permitted under Article III of the General Agreement.

Apart from the variable charges, the status of which are 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 Denmark. He, nevertheless, wished to 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 Finland, the Panel discussed with the delegations of Uruguay and Finland 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 Finland maintained in force the following measures on items included in the submission by Uruguay:

Brussels
tariff
item No.

| <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) |) |
| | Meat of animals of the ovine species, frozen |) Import permit and health) regulations |
| | Offals chilled |) |
| 16.02 | Preserved meat |) |
| 16.03 | Meat extracts | Import permit and health regulations |
| 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 restrictions are contained in BOP/14 and L/1843.)

(a) Import permit requirements and quotas: The Panel noted the statement by the representative of Finland that his country's quantitative restrictions were maintained for balance-of-payments reasons. On some items listed a global quota was in force but in the case of others discretionary licensing was employed. The representative of Finland advised the Panel that in the recent past no licence had been refused by the Finnish authorities for imports from Uruguay. He was not, however, in a position to affirm that no licence application would be refused in future since this would depend upon circumstances. The representative of Finland also advised that global quotas, including those listed in Section 1, had generally been increased by 50 per cent between 1960 and 1961.

(b) Production or turnover taxes: The representative of Finland explained that Finland had experienced considerable difficulty in disposing of domestic butter fat production and that the Finnish Government had felt obliged to curb consumption of other fats. With this aim in view it had, in 1958, imposed a production tax on vegetable oils. Before 1 October 1962 imported oil had borne a charge of 149 FM per kilo consisting of duty and excise tax, and locally produced oil one of only 51 FM (excise tax). Since 1 October the customs duties had been removed and there was now a charge of 149 FM per kilo on edible oils, whether imported or domestically produced. This change had naturally improved the position of imported edible oils vis-à-vis those locally produced. As regards technical oils, such as linseed oil, in which Uruguay was interested, there was a customs duty of 10 FM (3 US\$ cents) per kilo for unbleached oil and 12 FM for bleached oil, but no other charges. The representative of Finland informed the Panel that production in Finland of vegetable oils amounted in 1961 to 9,000 tons, whilst imports of animal and vegetable oils (15.01-15.08) amounted to 11,408 tons.

(c) Health regulations: The representative of Finland informed the Panel that his country's health regulations were administered in a manner which excluded imports of uncooked meat from countries where foot-and-mouth disease existed according to official announcement by the World Health Organization. All domestically produced meat was subject to health controls established by the Finnish law.

(d) State trading: The representative of Finland informed the Panel that the State Granary was the sole agency for the import of inter alia wheat and wheat flour intended for human consumption. The aim of the State Granary was to maintain stability in the domestic market.

(e) Tariff preferences: The Panel noted the statement of the representative of Uruguay that these preferences were a potential threat to Uruguayan exports. The Finnish representative stated that the preferences listed above had been of no practical importance since no imports had taken place under them.

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

The Panel noted the Finnish statement that the import permit requirements and quotas were permissible under Article XII to which Finland had recourse; State trading as practised by Finland was operated in accordance with Article XVII of the General Agreement and did not involve restriction beyond that permissible under Article XII; the health regulations conformed with Article XX; and the turnover and production taxes were of the type provided for in Article III.

The representative of Uruguay did not wish to question the conformity with the provisions of the General Agreement of the measures maintained by Finland where such conformity was claimed by the

Government of Finland. He nevertheless wished to emphasize the fact that the measures in force in Finland had the effect of restricting the access to the Finnish 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 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 following measures maintained by Finland:

- (i) Production or turnover taxes;
- (ii) Health regulations;
- (iii) State trading; and
- (iv) Import permit requirements and quotas.

(b) However the Panel considers that in respect of the State-trading measures 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 Finland 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 Finland 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 Finland no longer had need to have recourse to Article XII.

Also, as regards health regulation, 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 Finland 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 Finland, whilst affording adequate sanitary protection to domestic livestock.

(c) The Panel has noted that certain tariff preferences which have been accorded by the Government of Finland are not provided for in Article I:2 of the General Agreement. However, the Panel can only leave it to the judgment of the Government of Uruguay as to whether or not it would wish to pursue further this matter under the provisions of paragraph 2 of Article XXIII.

(G) FRANCE

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 France, the Panel discussed with the delegations of Uruguay and France 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 France maintained in force the following measures on items included in the submission by Uruguay:

| <u>Brussels tariff 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 tariff preference ¹ |
| | Meat of animals of the ovine species, frozen |)) |
| | Offals chilled | Import permit, variable charge and tariff preference ¹ |
| 16.02 | Preserved meat | Import permit, quota and tariff preference ¹ |
| 16.03 | Meat extracts | Tariff preference ¹ |
| 10.01 | Wheat | Import certificate variable levy ² and tariff preference ³ |
| 11.01 | Wheat flour | Import certificate variable levy ² and tariff preference ³ |
| 10.03 | Barley | Import certificate variable levy ² and tariff preference ³ |
| 10.06 | Rice (peeled) | State trading and tariff preference ¹ |

¹Measures which may be replaced shortly with the extension of the common agricultural policy to those items.

²Measures applied under the common agricultural policy of the EEC on cereals. (See paragraph 18 of the Panel's general report.)

³These preferences, forming part of the original submission by Uruguay in respect of France (L/1662) have been withdrawn except for Algerian cereals concerning whose preferential position, no final decision has yet been reached.

| <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 situation in respect of Tunisia was at present under review. The Panel also noted the statement by the representative of Uruguay

¹See Annex for countries of the franc zone.

that Uruguay was interested in future leather exports which might be adversely affected by the development of tanning industries in those countries which enjoy preferences. Moreover, the Uruguayan Government considered that the other preferences listed were by their nature already having a deleterious effect on its exports to France. In this latter connection, the representative of France pointed out that the preferences presently accorded were currently the subject of renegotiation between the European Economic Community and the African and Malagasy Associated States since they were scheduled to expire on 31 December 1962. It was thus difficult for the French delegation to elucidate further on this particular matter since the information provided would be out of date within the near future.

(c) Discrimination: The Panel noted the contention of the representative of France that it would be difficult for France to remove the discriminatory import permit requirements in respect of item 53.05 (combed wool tops), item 53.07 (yarn of combed wool) and item 53.11 (wool textiles) until such time as the problem of combed wool tops had been settled. The Uruguayan practice of allowing the domestic combing industry to obtain its raw wool net of the levy imposed on exports of such wool amounted to a form of subsidization. The Panel noted that France appeared to be the only country which considered it necessary to discriminate against Uruguay on these grounds. The Panel also noted that the restriction had been extended to all non-OECD members of the GATT. It further noted that French combed wool tops were themselves able to compete successfully against Uruguayan exports of this commodity on world markets and that France was the world's second largest exporter of wool tops. The French representative took note of the above observations concerning the quantitative restrictions applied in France as regards certain contracting parties. He recognized that it would be permissible for the Government of France to resort to solutions other than quantitative restrictions.

Recognizing that the wool trade could benefit from closer contact between the two countries at a technical level, and noting the willingness on the part of Uruguay to discuss the matter further with the French authorities, the French representative invited Uruguay to send a mission to discuss the technical aspects of this matter with the French Government and wool industry. In this connection, he recalled the earlier offer made by a Uruguayan delegation to send a mission of technicians to France. The representative of Uruguay undertook to transmit this invitation to Montevideo, but expressed the view that such technical discussions should not be confined to the problem of wool tops but should cover other products which Uruguay seeks to export to the French market as well as all French exports to Uruguay.

(d) Import permit requirements and quotas in respect of certain meat items: As regards meat and preserved meat, imports are made by the private sector and applications for licences are considered in the light both of stocks held by the "Société Interprofessionnelle de Bétail et des Viandes" (SIBEV) and of the level of domestic prices.

(e) Variable charge (chilled offals): Only ovine and bovine tails are subject to this charge which is applied equally to domestic and imported tails.

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

The Panel noted that in the opinion of the Government of France the tariff preferences were provided for in Article I:2; the variable charge did not contravene any provisions of the GATT; and the State-trading measures were maintained consistently with Article XVII.

Apart from the variable charge and variable 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 France where such conformity was claimed by the Government of France. He nevertheless wished to emphasize the fact that the

measures in force in France had the effect of restricting the access to the French 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 France:

- (i) tariff preferences;
- (ii) variable charge; and
- (iii) State trading.

(b) However the Panel considers that in respect of the State-trading measures 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 France 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.

In respect of tariff preferences, the Panel is of the view that, bearing in mind the basic objectives of the General Agreement, the Government of France would no doubt accord due consideration to any proposals that might be made by Uruguay in the context of the CONTRACTING PARTIES tariff reduction activities or discussions relevant to the reduction of customs tariffs.

(c) As regards the import permit requirements, two of which involve quotas and three discrimination, 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 France 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 France that it give immediate consideration to the removal of these measures. The procedure set out in paragraph 20 of the Panel's general report would become applicable in the event of the Government of France's failing to carry out this recommendation.

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 Senegal

Republic of Mali

Islamic Republic of Mauritania

Malagasy Republic

Republic of the Niger

Republic of Chad

Federal Republic of Cameroon

Republic of Guinea

Republic of Morocco

Republic of Algeria

Republic of Tunisia

Togolese Republic

Principality of Monaco

(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 provisions of the General Agreement.

1. Measures in force

The Panel confirmed that the Federal Republic of Germany 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 ¹ |
| | Meat of animals of the bovine species, chilled | Import permit and quota ¹ |
| | Meat of animals of the ovine species, Offals, chilled | Import permit, quota and Import permit and quota ¹ |
| 16.02 | Preserved meat | Import permit and quota ¹ |
| 10.01 | Wheat | Import certificate and variable levy ² |
| 11.01 | Wheat flour | Import certificate and variable levy ² |
| 10.03 | Barley | Import certificate and variable levy ² |
| 10.06 | Rice (peeled) | Import permit ¹ |
| 15.07 | Edible oils, refined | Import permit and quota |

¹Measures which may be replaced shortly with the extension of the common agricultural policy to these items.

²Measures applied under the common agricultural policy of the European Economic Community on cereals. (See paragraph 18 of the Panel's general report.)

Brussels
tariff

| <u>item No.</u> | <u>Description of products</u> | <u>Measures in force</u> |
|-----------------|--------------------------------|--------------------------------------|
| 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 fuller account of the measures maintained on the meat items is contained in COM.II/2(b)/Rev.1 and L/1198.)

(a) Import permit requirements and quotas

The representative of the Federal Republic informed the Panel that no applications for imports from Uruguay have been received despite the fact that rice is under de facto liberalization, woollen textiles are not subject to quota restriction and the level of the quota for refined edible oils by far exceeds the request for imports and therefore has never been exhausted. In the case of neat leather the quota was only a formal one since it substantially exceeds the applications for imports from Uruguay. The Panel noted also that the permit requirement in respect of certain types of yarns of combed wool was discretionary and thus restrictive but that in the case of Uruguay no application for a permit had, in recent years, been refused.

The Uruguayan representative stated that he understood from this information that all applications for licences to import these products from Uruguay would continue to be granted.

As regards the quota on meat the representative of the Federal Republic pointed out that this was supplemented by an arrangement which enabled German importers to make compensatory purchases of meat outside the established quotas in return for exports of meat including processed meat. It would seem that to date, of the overseas countries, only Argentina had participated in this trade.

(b) Discrimination

The Panel took note of the representative of Germany's statement that the quota opened in respect of ovine meat, frozen, for Australia and New Zealand (now 600 tons per annum) arose from the fact that these two countries had foregone their special quotas on beef. An approach by Uruguay for inclusion in the frozen ovine meat quota would be taken into consideration by the Federal Republic of Germany. The Panel also took account of the statement by the representative of Uruguay that Uruguay had in fact already formally and repeatedly applied without success for a quota for ovine meat.

³The quota in force for cow-hides, tanned (41.02) is applied only to neat leather. As regards the import permit requirement for item 53.07, this is applicable only to yarn of combed wool, not put up for retail sale, raw, other than hard worsted yarns, bleached, dyed or printed. Similarly the import permit and quota régime in respect of woollen textiles is applicable to ex 53.11 woven fabrics of wool or of fine animal hair, other than for padding and felt cloth.

Note: An "equalization tax" is applied to all imports into the Federal Republic of Germany to provide for the same fiscal charges on imports as are borne, in the form of a turnover tax, by domestic products. The incidence of the tax is low, being, for example, 4 per cent in respect of edible oils.

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 prejudice to this legal question. Other import permit and quota restrictions, i.e. those applying to 41.02 (cow-hide, tanned), 53.07 (yarn of combed wool) and 53.11 (wool textiles) were maintained under the authorization of the Decision of 30 May 1959.

It was noted that in the opinion of the Government of the Federal Republic of Germany the "equalization" taxes were in conformity with the provisions of Article III.

The representative of Uruguay did not wish to question the conformity with the provisions of the General Agreement of the measures maintained by the Federal Republic of Germany where such conformity was claimed by the Government of the Federal Republic of Germany. He nevertheless wished to emphasize the fact that the measures in force in the Federal Republic of Germany had the effect of restricting the access to the German 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 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 following measures maintained by the Federal Republic:

- (i) equalization taxes; and
- (ii) import permit requirements and quotas in respect of frozen bovine meat, chilled bovine meat, chilled offals and refined edible oils and the import permit requirement in respect of rice.

(b) However, in respect of the import permit requirements and quotas mentioned above, 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 could have an adverse effect on Uruguayan exports. In this connection the Panel recalled the provisions of Article XXII pursuant to which the Government of the Federal Republic 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.

Furthermore, the Panel noted the statement by Uruguay that these measures seriously affected Uruguayan exports and were of great concern to Uruguay. The Panel recalled the German contention that the measures under the Marketing Laws were permitted under the terms of the Torquay Protocol and the fact that this contention was not accepted by most contracting parties. Since Uruguay did not raise this legal question before the Panel, the Panel did not proceed to consider recommendations on the basis of nullification or impairment. On the other hand, it notes that Germany is likely to replace these measures by other measures in the near future. The Panel considers it sufficient for the present to point out that the provision of paragraph 1(a)(ii) of the Torquay Protocol is irrelevant for any measures

required by legislation coming into force after 21 April 1951.

(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 of the Panel's general report would become applicable in the event of the Government of the Federal Republic of Germany's failing to carry out these recommendations.

(I) ITALY

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 Italy, the Panel discussed with the delegations of Uruguay and Italy 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 Italy 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 | Quota ¹ |
| 10.01 | Wheat | Import certificate, variable levy ² and State trading ³ |
| 10.03 | Barley | Import certificate and Variable levy ² |
| 15.07 | Linseed oil, crude Discrimination, quota and | production or turnover tax |
| 15.08 | Linseed oil, boiled | Production or turnover tax |
| 15.07 | Edible oils, crude, refined or purified | Mixing regulation and production or turnover tax |

¹Measure which may be replaced shortly with the extension of the common agricultural policy of the European Economic Community to this item.

²Measures applied under the common agricultural policy of the EEC on cereals. (See paragraph 18 of the Panel's general report.)

³To be removed 1 July 1963.

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 member States of the European Economic Community, were allocated the following quotas:

| | |
|-------------------------------|------------|
| fresh and chilled bovine meat | 5,500 tons |
| frozen bovine meat | 4,400 tons |

Latin American countries (in effect Argentina, Brazil and Uruguay) were allocated the following quotas:

| | |
|---------------------|-------------|
| chilled bovine meat | 2,200 tons |
| frozen bovine meat | 11,900 tons |

Quotas of almost the same dimensions were allocated for the three months' period August-October 1962.

The Panel took note of the statement by the Government of Italy that, in the absence of anti-dumping legislation, Italy had to protect its agricultural reconversion policy from the threats posed by the policy of subsidization adopted by some countries. In this connection, the Government of Italy recognized that Uruguay was not one of those countries which subsidized meat exports. The quotas had been introduced in respect of meat to replace minimum pricing regulations previously in force. In 1958 and 1959, when the free import régime had still been in force, annual imports of beef from Latin America had amounted to 48,000 tons and 41,000 tons respectively. The Panel also took account of the statement by the Uruguayan representative that Italy, by fostering domestic livestock production, was curbing the export opportunities of countries such as his own.

(b) Discrimination: Referring to the measures in force for crude linseed oil, the representative of Italy advised that countries falling under List B of Italy's import permit régime enjoyed free access to the Italian market whilst those under List A, including Uruguay, were restricted to a quota of US\$1,200,000 per annum.

The Panel noted the statement of the representative of Uruguay that crude linseed oil was one of the items for which Uruguay had negotiated a binding with Italy at Annecy. It also noted the Italian representative's statement that the position as regards crude linseed oil had improved insofar as it had now become possible to export this item to Italy within the quota mentioned above.

(c) Mixing regulation: The Panel took note of the statement by the representative of Italy that the mixing regulation for edible oils was employed to absorb seed oil held in the State stock and in order to maintain purity standards for olive oil. The volume of oils which could be imported varied according to the types and amounts of seed oils in the State stock, which itself comprised imported as well as domestic products.

(d) Production or turnover taxes: The Panel noted that these taxes were not applicable to olive oil and that the incidence of the taxes was Lt.6,000 per quintal on crude or boiled linseed oil and on edible oils.

(e) State trading: The representative of Italy explained that importation of wheat (and barley) was the monopoly of the Federation of Agricultural Consortia. Imports were made on an ad hoc basis, account being taken of Italy's commitments under the International Wheat Agreement.

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

The Panel noted that in the opinion of the Government of Italy the State-trading measures were consistent with the terms of Italy's Protocol of Provisional Application and the production taxes and mixing regulation with Article III of the GATT.

Apart from the variable 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 Italy where such conformity was claimed by the Government of Italy. He nevertheless wished to emphasize the fact that the measures in force in Italy had the effect of restricting the access to the Italian 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 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 following measures maintained by Italy:

- (i) production or turnover taxes;
- (ii) mixing regulation; and
- (iii) State trading.

(b) However the Panel considers that in respect of the State trading 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 Italy 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 quotas, one of which is discriminatory, 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 Italy 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 Italy that it give immediate consideration to the removal of these measures. The procedure set out in paragraph 20 of the Panel's general report would become applicable in the event of the Government of Italy's failing to carry out this recommendation.

(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 | Import permit and quota |
| 10.03 | Barley | State trading |
| 10.06 | Rice (peeled) | State trading |
| ex 15.07 | Groundnut oil and sunflower seed oil, crude and refined | Import permit and quota |
| ex 41.02 | Cow-hide, tanned | Import permit and quota |
| 41.03 | Sheepskin leather, tanned | Import permit and quota |
| ex 41.08 | Patent leather | Import permit and quota |
| 53.11 | Wool textiles | Import permit and quota (apply only to fabrics) |

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

(A fuller account of Japan's State-trading measures on grain are contained in COM.II/2(p)/Rev.1 and L/1172. Details of Japan's import restrictions are contained in BOP/11 and L/1855.)

(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 was mainly available in neighbouring Asian countries. The Panel also noted that Uruguay had exported rice to Japan in recent years on a barter basis.

3. Status of measures in terms of Japan's GATT obligations

The Panel noted the statement of the Government of Japan that the import permit requirements and quotas were applied in accordance with Article XII; the health regulations were provided for in Article XX; and Japan's State trading complied with Article XVII and did not restrict quantitatively beyond what was permissible under Article XII.

The representative of Uruguay did not wish to question the conformity, with the provisions of the General Agreement, of the measures maintained by Japan. He nevertheless wished to emphasize the fact that the measures in force in Japan had the effect of restricting the access to the Japanese market of 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 consultation 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 measures maintained by Japan, namely:

- (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 between these measures and the provisions of the General Agreement.

1. Measures in force

The Panel confirmed that the Netherlands 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, quota and variable import levy ¹ |
| | Meat of animals of the bovine species, chilled | Import permit, quota and variable import levy ¹ |
| | Meat of animal of the ovine species, frozen | Import permit, quota and variable import levy ¹ |
| | Offals, chilled | Import permit ¹ |
| 16.02 | Preserved meat | Import permit ¹ |
| 10.01 | Wheat | Import certificate and variable levy ² |
| 11.01 | Wheat flour | Import certificate and variable levy ² |
| 10.03 | Barley | Import certificate and variable levy ² |
| 15.07 | Linseed oil, crude | Import permit |
| 15.07 | Edible oils, crude | Import permit |
| 15.07 | Edible oils, refined | Import permit |
| 53.05 | Combed wool (tops) | Import permit |

¹Measures which may be replaced shortly with the extension of the common agricultural policy to these items.

²Measures applied under the common agricultural policy of the EEC on cereals (see paragraph 18 of the Panel's general report).

NOTE: The Netherlands maintains a turnover compensation tax on imports of all the items included in the submission by Uruguay.

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 where such conformity was claimed by the Government of the Netherlands. He nevertheless wished to emphasize the fact that the measures in force in the Netherlands had the effect of restricting the access to the Netherlands' market for a number of Uruguayan products which together constituted a considerable proportion of Uruguay's total exports. In this connection the Panel noted the earlier statements of Uruguayan representatives (see paragraph 2(c)).

4. Conclusions

In the light of the information obtained from the consultations with the two parties concerned, and for reason set out in paragraphs 16 and 17 of 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 the Netherlands:

- (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 maintained in accordance with the provisions of the General Agreement (Article XVII). The Norwegian representative informed the Panel that the Norwegian Government, as was stated in its report on its residual import restrictions, was currently studying the import permit and maximum and minimum

pricing measures in order to arrive at a judgment of their conformity with the General Agreement.

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, |
| | Meat of animals of the bovine species, chilled |) import charge ¹ and health) regulations |
| | Meat of animals of the ovine species, frozen |) Import charge ¹ and health |
| | Offals, chilled |) regulations) |
| 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 Edible oils, refined or purified | Variable import charge |
| 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 with the aim of ensuring farmers income parity with industrial workers). Although these charges in principle were fixed, changes could be made to compensate for short-term fluctuations on the market in cases where the domestic prices fell below or rose above certain predetermined levels.

(c) Variable import charges: The representative of Sweden explained that in respect of products for which no price limits were fixed the import charges were variable. The main reason for not fixing price limits for feeding stuffs was to allow for flexibility in order to regulate the cost level and thus influence livestock production.

(d) Mixing regulations: The Panel was informed by the representative of Sweden that the mixing regulations, although still legally provided for, had not been operative since January 1961.

(e) Health regulations: The Panel noted the statement of the representative of Uruguay that Sweden's sanitary regulations, in their present form, completely excluded Uruguayan uncooked meat from the Swedish market. The Swedish representative pointed out that the Swedish authorities, however, were periodically studying animal health conditions in Uruguay with a view to enabling imports whenever possible under the provision of the Swedish health regulations.

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

The Panel noted that in the opinion of the Government of Sweden the import charges and the variable import charges did not conflict with the provisions of the General Agreement; the mixing regulations were, when applied, in conformity with Article III, paragraph 6, and the health regulations were in conformity with Article XX.

Apart from the import charges and the variable 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 Sweden where such conformity was claimed by the Government of Sweden. He nevertheless wished to emphasize the fact that the measures in force in Sweden had the effect of restricting the access to the Swedish 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 Sweden:

- (i) import charges;
- (ii) variable import charges;
- (iii) mixing regulations; and
- (iv) health regulations.

(b) However the Panel considers that in respect of the import charges, variable import charges and mixing regulations 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 connexion the Panel recalled the provisions of Article XXII pursuant to which the Government of Sweden 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.

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 Sweden 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 Sweden, whilst affording adequate sanitary protection.

(c) As regards the discriminatory import permit requirement the Panel considers that insofar as it has not been established that this measure is being applied consistently with the provisions of the General Agreement or is permitted by the terms of the Protocol under which Sweden applies the GATT, it has to proceed on the assumption that its 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 Sweden that it give immediate consideration to the removal of this measure. The procedure set out in paragraph 20 of the Panel's general report would become applicable in the event of the Government of Sweden's failing to carry out this recommendation.

(N) SWITZERLAND

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 Switzerland, the Panel discussed with the delegations of Uruguay and Switzerland 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 Switzerland maintained in force the following measures on items included in the submission by Uruguay:

| <u>Brussels Tariff</u> <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 and quota |
| | Meat of animals of the ovine species, frozen Offals, chilled |) Import permit and quota) |
| 16.02 | Preserved meat | Import permit and quota |
| 10.01 | Wheat | State trading, import permit, variable charge ¹ and-mixing regulation |
| 11.01 | Wheat flour | State trading |
| 10.03 | Barley | State trading, import permit quota and variable charge ¹ |
| 10.06 | Rice (peeled) | State trading, import permit and variable charge ¹ |
| 15.07 | Edible oils, crude | State trading and variable charge ¹ |
| 15.07 | Edible oils, refined or purified | State trading and variable charge ¹ |
| 23.04 | Oil cake Meal of vegetable oils | State trading, import permit quota and variable charge ¹ |
| 53.11 | Wool textiles | Import Permit |

¹ The phrase "variable charges" indicates "price supplements" imposed at the frontier. In the case of cereals, price supplements are levied on products destined for animal feed and on the fodder residue of cereals imported for human consumption.

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

(A fuller account of the measures maintained by Switzerland on the agricultural products listed above is contained in COM.II/2(e)/Rev.1 and L/1052.)

(a) Import permits: The Panel took note of the statement of the representative of Switzerland that the permit required for woolen textiles was of purely formal nature and involved no restriction on trade. The requirements in respect of the meat items (02.01 and 16.02) were maintained for the administration of the quotas in force. For other import permit requirements see under "State trading" in paragraph 2(c) below.

(b) Quotas: The Panel noted the contention of the Uruguayan representative that the quota system in force on moat, barley and feedstuffs had the effect of restricting Uruguayan exports. It also noted the statement of the Swiss representative that imports constituted about 10 per cent of Switzerland's consumption of meat. Frozen beef could be imported within the quota on an import permit valid for six months and hold in stock in Switzerland until released by the authorities. Imports of feedstuffs were virtually free, for the quotas were broad and were in general not fully taken up. (See also

(C) State trading: (See also L/1014/Aidd.29)

(i) in respect of wheat flour: in this case the State-administration organization made imports directly;

(ii) in respect of barley, oil cake and oil meal: the State-trading organization issued import permits to importers within the limit of the established quotas, bought the products at the frontier and resold them to the importers after collecting the price supplement (see footnote under section 1);

(iii) in the case of bread wheat and edible oils: no quotas were imposed; the State-trading organization simply issued the permits and bought the products at the frontier and resold them to the importers after collecting the price supplement (see footnote under section 1).

(d) Variable charges (price supplements): The representative of Switzerland stated that the level of the price supplements in all cases was fixed at intervals by the Swiss Government. The price supplements levied were those applicable at the time, of entry of the product concerned. The representative of Uruguay stated that in his opinion this device could introduce an element of uncertainty into the export trade of distant countries.

The Panel noted that price supplements on wheat were in force solely on Heat destined for consumption by animals and that wheat for the making of bread, save for fodder residue, was exempt from the price supplement as well as from

restriction. A similar position prevailed in the case of rice, where only broken rice for animal feed was subject to the supplement. -The supplements on foodstuffs were levied in order to maintain the price of imported products at the level of like, domestic products. It also noted the contention of the representative of Switzerland that there was a close relationship between the volume of feeding stuffs imported and production of milk and meat, and that if the price of foodstuffs were to fall, beef production in Switzerland might increase to the detriment of imports of that item.

(e) Mixing regulation: The representative of Switzerland explained that the State purchased all domestically-grown wheat and assured its sale to the milling industry; imports were free from restrictions and mills were free to import any quantity they wished ,after making their purchases from the State.

(f) General: During the course of the consultations, the representative of Switzerland suggested to the representative of Uruguay that his Government might investigate both the considerable opportunities which, he considered, existed in the Swiss market for Uruguay and the reasons why Uruguay's share in Swiss imports had fallen off in recent years.

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

The Panel noted that Switzerland's relations with contracting parties were governed by the Declaration on the Provisional Accession of the Swiss Confederation to the General Agreement. Under the terms of the Declaration, Switzerland is permitted to maintain restrictions pursuant to certain laws which are specified in paragraph 1(b) of the Declaration. The Panel further noted that, in the opinion of the Government of Switzerland, the measures maintained either did not conflict with the provisions of the GATT or were provided for under the Declaration of Provisional accession of Switzerland.

Apart from the variable 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 Switzerland where such conformity was claimed by the Government of Switzerland. He nevertheless wished to emphasize the fact that the measures in force in Switzerland had the effect of restricting the access to the Swiss 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 paragraph 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 Switzerland:

- (i) import permit requirements and quotas;
- (ii) variable charges (price supplements);
- (iii) mixing regulation; and
- (iv) State trading.

(b) However the Panel considers that in respect of the measures mentioned above, having regard to their nature 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 connexion the Panel recalled the provisions of Article XXII pursuant to which the Government of Switzerland 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.

(O) UNITED STATES

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 United States, the Panel discussed with the delegations of Uruguay and the United States 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 the United States 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) | Health regulations |
| 02.06 | Wet salted meat | Health regulations |
| 16.02 | Preserved meat | Import permit and quota |
| 10.01 | Wheat | Quota system |
| 11.01 | Wheat flour | Quota system |

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

(An account of the quota system in force for wheat and wheat flour is contained in COM. II/2(i)/Rev.1 and L/1163).

(a) Health regulations:

(i) General: The Panel noted the statement by the representative of Uruguay that the United States' health regulations constituted a serious problem to Uruguay in the disposal of her meat, since the United States was both a large and natural outlet for Uruguayan meat. Moreover, the sanitary requirements of the United States had a direct influence on the sanitary control policies of neighbouring countries such as Canada and Mexico. However, and in contrast, despite the existence of foot-and-mouth disease in the country, Uruguay continued to be a substantial supplier to other markets.

(ii) Wet salted beef: The representative of Uruguay informed the Panel that Uruguay had negotiated a binding with the United States on wet salted beef at Annepy but a number of years had elapsed before the introduction of the binding. Not long after its introduction the United States had, in May 1959, extended restrictions for foot and mouth reasons to cover this item. As a result a promising.

source of export earnings had been Jostto Uruguay.

The representative of the United States provided the Panel with the following statistics relating to the importation of wet salted beef into the United States between the years 1950 and 1960:

UNITED STATES IMPORTS OF WET SALTED BEEF¹

Total and Specified Countries, Years 1950-1960

(Value \$000)

| Year | Total | Uruguay | Argentina | Brazil |
|------|--------|---------|-----------|--------|
| 1950 | 793 | 221 | 512 | 55 |
| 1951 | 22,725 | 834 | 2,284 | 785 |
| 1952 | 18,925 | 347 | 3,405 | 12 |
| 1955 | 2,712 | 480 | 970 | 0 |
| 1954 | 4,663 | 102 | 856 | 0 |
| 1955 | 896 | 0 | 845 | 0 |
| 1956 | 1,361 | 94 | 1,154 | 36 |
| 1957 | 4,089 | 68 | 3,135 | 72 |
| 1958 | 32,508 | 11 | 27,717 | 597 |
| 1959 | 27,035 | 1,156 | 17,543 | 4,252 |
| 1960 | 8,537 | 0 | 2,138 | 301 |

For background information, the representative of the United States also provided the Panel with figures which showed that imports into the United States of Uruguayan canned beef had increased from 3.4 million dollars in 1959 to 5.4 million dollars in 1961. In the opinion of the representative of the United States, these figures showed that Uruguayan beef, previously salted, was now entering the United States market in a canned form. The representative of Uruguay, however pointed out that under the present régime, Uruguayan beef suitable for processing was completely excluded from the United States market. The United States representative emphasized that the decision to bring into force the embargo on wet salted beef for foot-and-mouth reasons arose from

¹ As included under Statistical No. 0029000, beef, pickled or cured, for years 1950 to 1956. For years 1957-1960, as included in Statistical No. 0032900, meats canned, prepared or preserved. In May 1957, a decision of the US Customs' Court moved wet salted beef from Statistical No. 0029000 to Statistical No. 0032900.

laboratory findings which showed that wet salted beef could act a carrier of foot-and-mouth virus. The representative of Uruguay, on the other hand, stated that Uruguayan analysts considered that in practice wet salted beef: could not act as a carrier of the disease.

The United States Government provided the Panel with the following statement concerning the efforts which had been made to find a solution to the problem:

"Since the embargo was imposed in May 1959, no effort has been spared to try to develop alternative measures which would safeguard the United States cattle industry without interference with international trade. Following the visit to the United States of a Special Argentine Mission in July 1961, it was agreed that there would be intensive study by the United States of its procedures applicable to meat imports and for exchange between the United States and the affected South American countries of information and technical advice on animal disease control measures, inspection of food products and related matters. The United States also expressed a willingness to support Pan American Health Organization programmes for control and eventual eradication of foot-and-mouth disease in South America, if Congress would agree to appropriate additional funds for this purpose.

"Later, in December 1961, a Group of independent scientists Was sent to Argentina and Uruguay by the President of the United States to examine into the possibility of processing meat so as to eliminate the danger of disease transmissions. This group (the Harrier Group) issued a report suggesting a long-range programme to eradicate the disease and also a short-range programme for experimentation in search of ways of processing cured beef and cooked beef to render it safe.

"In March 1962, a meeting of the National Academy of Science was then held to discuss how best to proceed, with a view to designing, if possible, an AID contract for scientific studies of means of controlling the disease and of overcoming danger of its spread through trace in processed meats. A comprehensive programme was drawn up comprising several phases:

- (1) a short-term experiment to study under controlled conditions the persistence of live virus in cured meat, and
- (2) a long-term, research programme designed to find (1) new food technology techniques which would eliminate the virus during the curing process, and (2) means of eradicating the disease generally.

"It was contemplated that this programme, if adopted, would cost some \$20 million to launch and would cost about .12 million a year thereafter, a part of which cost would be borne by AID. It is not

yet known whether the programme devised will be acceptable to Argentina, whose representation of the Conference consisted largely of non-government experts, or whether means will be found to finance it. But any new facts or techniques developed by the programme, if carried out, would presumably be of value to Uruguay as well.

"Adoption of the programme could not, of course, guarantee a lifting of the embargo, even in the longer run, but it is certain that until the problem is solved, there is no hope for a resumption of the trade. Until the disease is eradicated or acceptable processing methods are found, the embargo must continue as a measure necessary to protect animal health in the United States."

The Uruguayan representative informed the Panel that he would report the contents of the United States statement to his Government since he interpreted it as meaning that the United States was now taking concrete steps to overcome the problem.

(b) Quotas:

The representative of the United States explained that the quotas for wheat and wheat flour had been established in 1941 on the basis of the average annual imports into the United States of wheat and wheat products in the period 1929-1933. Uruguay had been allocated an annual quota of 1,000 lbs. for wheat products but had not received a quota for wheat.

3. Status of the measures in terms of the United States GATT obligations

The Panel noted that in the view of the United States Government the health regulations in force were consistent with Article XX of the General Agreement and the quotas for wheat and wheat flour were generally applied consistently with paragraph 2(c) of Article XI, but, to the extent that such consistency was lacking, the measures were maintained in terms of the Protocol of Provisional Application under which the United States applied the GATT.

The representative of Uruguay did not wish to question the conformity with the provisions of the General Agreement of the measures maintained by the United States. He nevertheless wished to emphasize the fact that the measures in force in the United States had the effect of restricting the access to the United States market for a number of Uruguayan products which together constituted about 20 per cent 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 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 measures maintained by the United States, namely:

(i) quotas; and

(ii) health regulations.

(b) However the Panel considers that in respect of the quotas 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 connexion the Panel recalled the provisions of Article XXII pursuant to which the Government of the United States 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.

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 the United States 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 the United States, whilst affording adequate sanitary protection to domestic livestock. It is noted that the health regulations maintained by the United States are similar to those of Canada and for this reason it is felt that a joint consultation embracing both Canada and the United States might be appropriate.