NOTES ON THE JOINT CONSULTATION ENTERED INTO BETWEEN ITALY AND CERTAIN CONTRACTING PARTIES UNDER ARTICLE XXII:1

1. At the sixteenth session the Italian Government expressed its readiness to enter into consultations pursuant to the provisions of Article XXII:1, concerning the restrictions on importation which had been retained by Italy after its emergence from balance-of-payments difficulties. By L/1222 contracting parties were requested to initiate consultations or to indicate their intention to participate in any consultations initiated, in accordance with the procedures adopted on 10 November 1958 (BISD, Seventh Supplement, page 24).

2. In accordance with these, the United States initiated a consultation which was held from 19-21 September 1960 in Geneva. The Governments of Canada, Australia, New Zealand and Japan claimed a substantial trade interest in a varying range of the products which were the subject of the consultation between Italy and the United States, and participated in the consultation. The present paper notes the more important points raised during this consultation.

Scope of the consultation with respect to different participating contracting parties

3. In its notification requesting a consultation, the United States had indicated that it would wish to consult with Italy on the entire list of products which required special authorization for importation from the dollar area. The other participating contracting parties had submitted to Italy different lists showing the products on the dollar negative list regarding which they would wish to participate in the consultations. At the opening of the consultation, the representative of Italy pointed out that contracting parties could participate in the consultation only in respect to those products in which they could assert a substantial interest. While the Italian delegation would be prepared to engage in a discussion with the participating countries in the most flexible manner, it nevertheless wished to reserve its right to examine the claims to substantial interest should it consider it necessary to do so in the light of the proceedings of the consultation.

4. The Japanese representative stated that the Japanese Embassy in Rome had received a note, dated 9 September, from the Italian Government indicating its readiness to engage in trade discussions with the Japanese Government. In view of the clear obligation imposed on contracting parties by Article XXII:1 to consult upon representation, his delegation had construed the note to be an acceptance to consult under that provision. It was on the basis of this understanding that he participated in the present consultation. The representative of Italy said that he was not in a position to speak concerning the note by his Government.
Dollar liberalization to be announced shortly

5. At the outset of the consultation the representative of Italy supplied the other participating contracting parties with a new negative list of products which would remain under restriction subsequent to a new liberalization measure which was expected to be announced by the end of September 1960. When the new measure came into force this new negative list would supersede the one contained in Section B of L/1136/Add.2. In presenting this list, the representative of Italy called attention to and emphasized the following points:

(a) it was the intention of the Government of Italy to liberalize the items which had appeared on List B in L/1136/Add.2 but which were not included in the new list. The Ministerial Decree affecting this liberalization was being prepared and would probably be published by the end of September;

(b) the new liberalization list to be announced by the end of September had not been finalized. The present negative list must therefore be regarded as provisional; there might be additions or deletions according to the final version of the new liberalization list. Consequently, the presentation of the provisional list at the consultation should in no way be regarded as committing the Italian Government;

(c) representatives to this consultation who received a copy of this list were earnestly requested to observe the SECRET status of the document.

6. In addition to the new provisional negative list the Italian delegation also supplied a list of products which, by a Ministerial Decree of 28 July 1960, had been temporarily prohibited from importation until 30 September 1960, and a list of products subject to State trading in Italy. In presenting the former list, the Italian representative stated that it had not been decided by the Italian Government whether these temporary measures of restriction would be extended beyond the end of September 1960. These temporary restrictions had been introduced to meet particular difficulties which were expected to be solved by that time.

The residual restrictions

7. In the view of the Italian representative the consultation could perhaps be more profitably pursued after the publication of the Ministerial Decree which would enable the Italian Government to supply a definitive negative list. Representatives of other contracting parties welcomed the new measure of liberalization and the assurance that the measure would be made effective shortly. It was agreed that the consultation could proceed on the basis of the new negative list even
though it was provisional in nature. The representative of Italy explained that with respect to a limited number of items on the list the Italian administration might propose to the Government to resort to a request for a waiver in order to enable Italy to maintain the restrictions. There are a few other items regarding which restrictions or prohibitions, in the view of the Italian Government, were justified under the provisions of Article XX or Article XXI of the General Agreement. With regard to the remaining items, the Italian Government intended to adopt a programme of progressive liberalization.

8. In reply to questions, the representative of Italy stated that it was at present too early to foresee the nature and the scope of the waiver which his Government might decide to request. For some of the items the difficulties foreseen were of a transitional nature and the period during which restrictions might have to be maintained under the authority of a waiver would be comparatively short. In respect of other items the difficulties might be of a more obdurate nature and a waiver might have to be requested on the longer-term basis. One of the principal difficulties in the formulation of the waiver requests arose from the established requirement that any restrictions authorized be applied in a non-discriminatory manner. Some of the products in question were at present restricted for the dollar area only and their consolidation in a waiver might require the re-introduction of restrictions on like products from OPEC sources. On the last point, the representatives of the United States and Canada called attention to the consistent position taken by their Governments that the reduction or elimination of discrimination against dollar imports should be achieved through the removal of restrictions rather than through the introduction of new restrictions on imports hitherto free from restriction.

9. They also expressed the view that the granting of waivers under the General Agreement had been conceived as a method of accommodating contracting parties in circumstances of temporary or transitional difficulty. It would be highly undesirable, and even damaging to the very foundation of the General Agreement, if waivers were granted the effect of which was to exclude certain products from the coverage of the provisions of the General Agreement so that the industries concerned would be permanently insulated from international competition.

10. The Italian representative explained that in introducing liberalization measures the Government always took due account of representations made by other contracting parties and always endeavoured to meet their expressions of substantial interest insofar as possible; for example, the liberalization measures to be announced shortly included aluminium and certain other products on which representations had been made by Canada. This would also apply in future in the further liberalization measures that the Italian Government now undertook progressively to introduce. In this connexion, representatives of other contracting parties noted that the
interests of their respective countries were not limited to the products in which trade actually took place in past years, having regard to the fact that strict import restrictions were in existence which severely distorted the pattern of international trade. At any rate discriminatory restrictions should be eliminated irrespective of the degree of interest involved.

11. With regard to certain items the Government of Italy considers that they are justified under Article XX or Article XXI of the General Agreement. Representatives of other contracting parties took note of the Italian statement; Italy's position would thus be reported to their respective Governments for consideration.

State Trading

12. The representative of Italy, in reply to questions on items included in the list of products under State trading, observed that the operation of State trading would seem to be outside the scope of this consultation on import restrictions. In his view, contracting parties should seek discussion on those products in terms of Article XVII of the General Agreement, preferably in the Group of Experts on Subsidies and State trading. In reply to this, it was pointed out that in accordance with the note relating to Article XI, XII, etc. in Annex I to the General Agreement, the restriction of imports through the use of State-trading operations should be regarded as constituting import restriction covered by Article XI, etc. Strictly speaking, therefore, insofar as imports were restricted, they should be a relevant subject for the present consultation.

Timing of further Action by Italy

13. The representative of Italy stated that the Italian Government was actively engaged in considering further measures to be taken with regard to items on the new negative list. Some indication of the future programme might be given by the Italian delegation at the seventeenth session. In view of the extensive liberalization to be announced in September, no substantial further progress, however, should be expected by that time. The Italian Government would shortly enter into consultations with certain other contracting parties (e.g. Japan, Israel) with respect to items subject to restriction which were of substantial interest to them. It was the intention of the Italian Government to draw up a complete and definitive programme including further liberalization after all these consultations had been concluded. It therefore expected that it would be in a position to submit a definitive programme only by the eighteenth session. In view of the substantial progress that had been made, the representative of Italy considered it not unreasonable to expect that other contracting parties would not press for further action on the part of Italy until that time.
General Observations

14. In discussing several items on the dollar restricted list the representatives of the United States and Canada called attention to the fact that Italian exports of the same products enjoyed free access to the North American market. In certain cases such imports were entering into the United States and Canadian markets in great quantities and were putting a considerable competitive pressure on American producers. This situation had given rise to serious discontent on the part of American producers whose products did not receive free access on the Italian market. While Italy continued to have balance-of-payments difficulties complaints by American producers could be answered on the grounds of mutual commitments under the General Agreement. Now that Italy was no longer entitled to apply such restrictions the Governments of the United States and Canada were being faced with increasing difficulties in meeting the complaints of its domestic producers. In general the contracting parties which had for many years been deprived of the benefits they had expected to derive from the tariff concessions which they had obtained in exchange of tariff commitments given by them were now entitled to expect the realization of such benefits. Consequently the remaining discrimination should quickly be eliminated and all restrictions which were no longer justified under the General Agreement should be removed as soon as possible.

15. The representative of Italy stated that his delegation had taken due note of all the views expressed by the other representatives participating in the consultation (i.e. the views of a general nature as noted in the foregoing paragraphs and the views and representations relating to individual items) and undertook to convey them to the attention of his Government.

16. The representative of the United States indicated that he would make a full report on the consultation to his Government which would determine its further action in this matter in the light of that report. The representative of Italy expressed the hope that the United States Government would take full account of the substantial effort already made by the Government of Italy. The Italian Government had agreed at the sixteenth session to produce a programme for dealing with its residual import restrictions and to consult in the interval. In practice the Italian Government had in the meantime taken extensive action which had the effect of substantially removing the remaining discrimination against dollar exports. Furthermore, the Italian Government was currently examining the possibility of further liberalization in addition to that to be announced by the end of this month. In the event of any such liberalization the Italian Government would like to take the initiative to get in touch again with the interested contracting parties as soon as possible. The representative of the United States agreed to give full weight to this statement in his report to his Government.