AUSTRIAN IMPORT RESTRICTIONS

Notes on the Consultations between Austria and the United States, Australia and Italy under Article XXII: 1

1. In May 1963, the United States advised the Government of Austria that it wished to resume the consultations, which had been begun in November 1963 (see INT(63)537), concerning the maintenance, by Austria, of quantitative restrictions on certain products. The Governments of Australia and Italy expressed their wish to be joined in the consultations, which were held on 3-5 June 1964 in Geneva. 1

Detailed examination

2. The representatives of Australia, United States and Italy (hereafter referred to as the consulting countries) put a number of detailed questions to the representative of Austria concerning individual restrictions maintained by Austria on products falling within the consultation and prospects for removal of the restrictions. These questions, and the Austrian replies, are summarized in an Annex.

General considerations

3. The Austrian time-table for liberalization. In the course of the consultation the representative of Austria summarized developments in the Austrian liberalization programme and outlined the present expectations of Austria concerning further action in this area. Austria had accepted the obligations of Article VIII in the International Monetary Fund and has been giving effect, by means of liberalization lists issued twice annually, to liberalization of trade with contracting parties to GATT. This year it had been possible to advance by one month the effective date of the second list, which became effective on 1 June 1964. This list completed a relatively high degree of liberalization in industrial products, and with respect to items remaining under restriction, there had been 20 per cent increases in global quotas on each recent occasion when a new liberalization list had been issued. Global quotas had been introduced on industrial products for trade with GATT contracting parties. In the agricultural sector, there had been some, though less, liberalization, and while global quotas were not used in all cases, tenders did not generally specify any country of origin and were intended to be non-discriminatory. As a result, Austria hoped to have removed by 1 January 1965 all remaining import restrictions with the following exceptions:

1 These developments were notified to the contracting parties in L/2046/Add.3,4,5.

*English only/Anglais seulement.
(1) a limited number of industrial products;

(2) a few processed agricultural products (although there was hope that some of these might be liberalized by the beginning of 1965);

(3) purely agricultural non-Marketing Law products on which Austria cannot hold out hope for early liberalization (such as apples);

(4) the products subject to the Marketing Laws, on which Austria feels she is entitled to maintain restrictions, imposed subject to legislation existing at the time of Austria's accession.

4. As regards Austria's bilateral agreements, of which there may be about ten of importance, Austria felt that she has had no alternative but to conclude such agreements with countries which do not have convertible currencies, as foreign trade with them is important to Austria. However, Austria feels that she has reduced the effects of the "switch premiums" in line with the IMF recommendations. No definite promise could be given at present of the date at which they would be eliminated.

5. General comments on the restrictions under consideration in this consultation, grouped according to the numbered categories listed above, are summarized below, as is the discussion of the bilateral agreements and of the switch premium system.

Residual restrictions

6. Industrial products. Apart from penicillin, which is discussed separately below, the consulting countries agreed that Austria had made progress in this area and that if Austria liberalizes the products which it was indicated were programmed for liberalization by the end of this year, it would come close to meeting its obligations in this area.

7. Processed agricultural products and agricultural products not under the Marketing Law. The consulting countries expressed disappointment that this group of products, which includes not only starches and processed vegetables but also grapes, apples, pears, fruit juices and wines, should have shown so little progress to date. The United States indicated that it was aware of a movement to include chickens and other products under the Marketing Law or similar legislation. It was noted that tariffs appeared to be very high on some products falling within this category (the Austrian representative promised to supply ad valorem equivalents for the starch tariffs and those on preserved vegetables which were thought by the United States representative to amount to 80 or 90 per cent), and the United States representative pointed out that sufficient protection might be afforded by the tariffs alone. Further, in this group of products there were several cases, especially apples and pears, where increases in quotas did not even match decreases in Austrian production from one year to the next, not to mention any forward movement by which imports might be allowed to supply a greater proportion of total supplies. For the fruits, especially, it appeared that
the Austrian consumer and the important Austrian tourist industry were being denied imports even at seasons when local produce was scarce, or of poor quality only. Hence, Austria was especially urged to consider lengthening the seasons for quota-free importation, and to consider greater liberality toward quality fruit the year around, not only in the interests of living up to obligations toward others but also as a stimulus to higher quality in home production.

8. Finally, with respect to these same products and the industrial residuals as well, the consulting countries commented that for a long time now there has been no balance-of-payments justification for maintenance of restrictions by Austria and they noted that there appeared to be no other basis in the General Agreement for maintenance of such restrictions.

9. The Austrian replies, which stressed the difficulties facing a small country with a relatively large agricultural population, large mountainous agricultural areas and very limited means of improving the structure of agriculture and introducing effective farm methods, are noted in the comments on individual items. The Austrian representative also noted that agriculture-based industry presented one of the better ways of assisting incomes in less-favoured farming areas. In general, moreover, the Austrian representative considered that the whole question of residual restrictions remains pending before the contracting parties, and he stated that while Austria is willing to co-operate in any general effort to reach a solution, she is unable to take steps alone to liberalize in these difficult sectors. These restrictions will be notified in accordance with the procedures adopted by the contracting parties. Consideration will, nevertheless, be given to lengthening of seasons, especially for apples and pears; there may be other cases, as in special starches, where some improvements may be introduced from the standpoint of foreign suppliers.

Marketing Law products

10. The United States representative posed a number of questions concerning the operation of the Marketing Law, bearing on the evolution which the administration and legal basis of this system may have undergone since 1951, when Austria signed the Torquay Protocol, since it would presumably be the system which was then in effect, and mandatory, which would define the area within which Austria might claim a right to maintain restrictions today. It was brought out that language permitting the Marketing Board to establish conditions as to the origin, quantity, price, quality, storage and distribution of products to be imported was introduced into the legislation in 1960, but it was noted that this language is permissive only. The Austrian representative concurred in the foregoing: he will supply a reply later as to whether such conditions were in fact specified by the Board earlier, around 1951. Further, it appeared that the requirement that all grains be offered to the Austrian Stabilization Board was introduced into the legislation in 1960 and was not in effect in 1951. A question was raised whether in 1951 tenders for grain specified a 5 per cent premium to importers from the USSR, and the Austrian representative agreed to supply a reply. Other questions which could not be answered immediately were: Did the 1951 legislation require specification of
"Manitoba Red No.2" wheat? Did lard importers need prior contracts to purchase lard in order to obtain import licences? Has the commodity coverage of the marketing legislation been enlarged since 1951? To a question whether there was any intention to enlarge the scope of the legislation, the Austrian representative affirmed that consideration was being given to such action, but that it was not imminent and that Austria would not claim the cover of the Torquay Protocol if such action were taken, but would, if necessary, include such items among its "hard-core" residual restrictions. As to whether the Marketing Laws had operated to narrow or widen the spread between domestic and world prices, the Austrian representative said that in fact producer prices in Austria were kept at the same level for many years whilst world market prices rose.

11. Finally, the United States representative inquired whether Austria has limitations on the quantity of domestic production which is price-supported through the operation of the Marketing Laws. The Austrian representative said there were none. Interest was expressed in the criteria of the Marketing Laws concerning levels of prices or income to be assured to domestic producers. The United States representative noted that on its face the legislation appeared to give Austrian authorities very wide discretion to pursue a liberal or restrictive import policy, depending upon the interpretation put upon the expression "with due regard to inland production".

Penicillin

12. As noted in the Annex, Austria proposes to justify the maintenance of a quantitative restriction on penicillin on the ground that it is essential to the health of the nation to assure a continuing domestic supply of this product. Though no precise figures on production are available, the United States representative estimated that the import quota may represent something like 1 per cent of the Austrian output. Duties of 20 and 18 per cent ad valorem are imposed on the two forms in which penicillin is imported. The Austrian representative indicated that it is not proposed to maintain quantitative restrictions on pharmaceutical preparations other than antibiotics. A question was raised as to whether Article XX(b) was intended to foster maintenance of a domestic industry against the possibility of an emergency, as restriction would do in this case, or whether it were not intended for normal preventive use, to keep harmful products out of domestic commerce, as happens in most cases in which this exception is invoked. It was agreed that it might be useful to look into interpretations available on this provision.

Currency prescription

13. There was a discussion of the clearing account dollar discount system, also known as "switch previews", which offers importers a price advantage in purchases from Eastern countries (see Notes on November 1963 consultations INT(63)537) and thus, in the view of the consulting countries, discriminates against countries with convertible currencies. As noted above, the Austrian representative took the position that this is primarily a payments device and hence a matter for consideration primarily with the International Monetary Fund. The International Monetary Fund had originally requested Austria to remove this discount system by
the end of 1963, which date was subsequently extended by conversations between Austria and the Fund. Austria might continue to discuss this matter with the Fund representative. The Austrian representative stated that in any event liberalization put an end to the working of this system, so that there was a built-in guarantee that its effects would be progressively restricted as liberalization proceeded; furthermore, the scheme does not apply to all items, but only to some of those which are in fact traded with the East and not liberalized. Austria was asked to supply to the consulting countries a list of products on which such premiums were given in the period January-June 1964.

Bilateral agreements

14. There was discussion of Austria's bilateral agreements, of which the Austrian representative promised to supply a list, together with the quotas for which they provide. The Australian representative inquired whether in fact the bilateral quotas were first filled, thus discriminating against countries without bilateral agreements who could only compete for the residual quantity if any. The Austrian representative replied that no effort is made to fill bilateral quotas first, that adequate supplies to fill the bilateral quotas are in many cases not available and that the total Austrian global quotas usually exceed the sum of what has been opened to bilateral partners. To this extent the bilateral quotas have no practical effect. He maintained, moreover, that global quotas never, and tenders infrequently, contain specifications of country, or the equivalent in quality specifications, notwithstanding exceptional cases which were cited. Moreover, the successive increases in global quotas by 20 per cent, upon the issuance of each recent liberalization list, have been making a significant contribution to solution of this problem with respect to most non-Marketing Law items.

Further procedures

15. Subject to modification of present views as a result of further consideration of the legal position and a study of the replies which the Austrian representative has promised to furnish to the consulting countries, these countries believe that it might be useful to obtain an informal advisory opinion from the Executive Secretary of the General Agreement concerning the scope and duration of Austria's right, under the Torquay Protocol, to maintain quantitative restrictions required by the Austrian Marketing Laws. The representative of Austria expressed himself as willing to join in this request, if, upon further examination of the questions involved, the other countries still have legal questions which Austria would regard as susceptible to clarification by this procedure. A representative of the Executive Secretary stated that if it is decided to seek an advisory opinion, it would be well for the joint request from Austria and the other consulting countries to be put in writing, so that the questions would be clearly stated. All the countries concerned made it clear that they would not regard such an advisory opinion as binding.
ANNEX

DISCUSSIONS CONCERNING INDIVIDUAL COMMODITIES

Industrial Products

The representative of Austria mentioned that in the further liberalization lists issued by Austria since the last consultation, the following items of interest to the United States had been liberalized completely:

ex 30.04 Band aids of all types
ex 33.06 Toilet preparations, other 
ex 39.07 Products of plastic materials 
ex 40.06 Self-adhesive tape
ex 42.02 Travel goods 
ex 61.07 Ties, bow-ties and cravats
84.10E Injection pumps and parts thereof, for internal combustion engines
ex 87.02 Radio' receiving sets in liberalized motor vehicles
ex 89.01 Boats made of plastic material
ex 90.10B Boxes and bowls for developing of photographic and cinematographic films; ... (other supplies) of plastic materials
ex 92.11 Coin operated phonographs
97.04A Billiard tables and roulette tables
97.04C Other parlour and party games 
ex 97.04D Parts for party and parlour games, except: table-tennis rackets
ex 97.06C2 Accessories and equipment .... for gymnastics or athletics ...

29.44A and 30.03A - Penicillin

The representative of the United States indicated that his Government considered that the single new and very efficient Austrian plant enjoyed enough protection from the tariff and the equalization tax as evidenced by the very substantial Austrian exports of this item. He expressed concern regarding the import restriction maintained by Austria and hoped that it might be reviewed. The representative of Austria explained that the equalization taxes were levies solely for the purpose of placing imports on an equal footing with local manufactures, in respect of which turnover taxes had been levied. He also said that penicillin would remain under restriction, as the Government of Austria considered it important for special health reasons. Although it was not the intention of the Austrian Government to exclude the importation of this product, Austria felt that the necessity of ensuring domestic production warranted maintenance of restriction under Article XX(b) of the General Agreement. The United States representative noted that while the Austrian representative contended that the inclusion of penicillin on the "hard-core" list might be justified under Article XX(b), the United States could not accept this interpretation without further study. Domestic production of other medical and pharmaceutical products (other than antibiotics) was not to be given this special protection. The Austrian representative mentioned that penicillin could not be stored longer than six months without loss of efficacy.
32.09B - Lacquer, paints, water colours, etc.

The representative of Austria stated that this product could not be included in the 1 June liberalization list because production is in small enterprises which need more time in which to make the transition to liberalization. However, it was not the intention of the Austrian Government to include this product in the hard-core list.

38.07A - Spirits of turpentine

The representative of Austria said that the situation had not changed since last November and that the Austrian Government had not yet decided whether to include turpentine in the hard-core list. The United States representative expressed the view that the import duty was rather high, and asked that Austria supply ad valorem equivalents.

49.09 and 49.11 - Picture postcards and greetings cards

The representative of Austria said that the liberalization of these products had been postponed, but that they are not considered to be hard-core items.

61.01 - Men's and boys' outer garments
61.02 - Women's, girls' and infants' outer garments
ex 61.03 - Men's and boys' shirts and parts thereof, of cotton

It was mentioned by the representative of Austria that liberalization for these products has been postponed to a later date, when it is hoped to liberalize them in their entirety. These are not considered to be hard-core items.

85.15C - Transistorized radio receiving sets

The representative of Austria indicated that the protection to transistor radios was granted in order to assist a sensitive industry but that the product will be liberalized by the end of this year. The representative of Italy wished to know whether radios imported with cars were free of quota, and the Austrian representative replied that motor vehicles falling under item 87.02 could be imported freely and that their parts (including transistorized radios) were also included in the liberalization.

Processed Goods made from Agricultural Raw Materials and Agricultural Items not subject to the Marketing Laws

The representative of Austria mentioned that in the further liberalization lists issued by Austria since the last consultation, the following processed products made of agricultural raw materials had been liberalized.
The representative of Austria stated that in view of the small domestic production, Austria had no objection to importing table grapes but had certain serious technical difficulties which had delayed the liberalization of this item. However, significant imports were admitted on a global quota basis. He explained that the Austrian authorities feared that the table grapes imported at a lower duty might be diverted for wine making. The representative of Italy said that he believed Austria's misgivings were not based on any actual experience, and he explained that grapes in Italy were graded and that prices varied accordingly. The Austrian representative explained, however, that even Italian table grapes were sometimes cheaper than Austrian wine grapes. The representative of Austria indicated that it was the intention of his Government to liberalize this item at some stage but such liberalization would have to be done on an experimental basis. The danger that table grapes would be diverted to wine was not peculiar to Austria, moreover, as the Council of Europe was currently preparing a convention for the marketing of wine which would not permit the pressing of table grapes into wine. The Italian representative hoped that on this matter the Austrian authorities would contact the Italian National Foreign Trade Institute.

The United States representative requested full liberalization of quality apples or a time schedule for increasing quotas until full liberalization is achieved. The representative of Austria indicated that this was a hard-core case for the time being as there were too many small producers to hope to make Austrian production competitive in the foreseeable future; he gave assurances, however, that liberalization would begin with the best grade apples. The representative of the United States pointed out that countries geographically distant from Austria found it difficult to supply apples in time to obtain entry under the global-quota régime. He noted that in spite of a decreasing domestic production in Austria, there had been no move toward liberalization of apples. The representatives of Australia and the United States asked whether the Austrian Government would consider altering the dates in order to facilitate imports from Australia and the United States for longer periods, particularly for high quality apples, in the off season. The United States requested that imports be freed beginning 1 December. The representative of Australia pointed out the seasonal difference in the production of
southern hemisphere apples, and asked for an extension of the free entry period until the end of July. The representative of Austria replied that he would convey these requests to his Government.

08.86B - Pears

The representative of Austria indicated that it was the intention of his Government to relax the restriction on pears from 1 January 1965, by freeing imports in the first half of the year, and for the second half the quantity imported would depend on the domestic crop. The representative of the United States noted that not much progress in liberalization had been made on this item in spite of the decrease in domestic production, and he indicated that since this item had a GATT concession rate, the restriction of imports in the peak season impairs a GATT concession already given. The representative of Austria replied that there had been an increase in imports from 1962 to 1963 and further progress was possible. The representative of Italy, pointing to his country's position, said that Italy had been concerned about a recent occasion when imports of pears into Austria were tied to Austrian export of potatoes. The representative of Austria stated that this measure had been in force in order to give an incentive to Austrian exports of potatoes, but that this system had been discontinued. The United States representative requested full liberalization of quality pears or a time schedule for increasing quotas until full liberalization is achieved.

11.08 - Starches, starch flour and inulin

The representative of Austria stated that the restriction was maintained to protect manufacturers using locally-grown potatoes in an area of the country where production of other crops was impracticable. He added also that in view of the danger of subsidization in other countries, Austria had been forced to restrict imports and that for this reason too liberalization was not envisaged in the near future. The United States representative pointed out that in such cases countervailing or anti-dumping duties could be used instead of the import restrictions. The representative of the United States stated that imports came mainly from countries with which Austria had bilateral agreements, such as Yugoslavia and Czechoslovakia, and were thus in fact discriminatory against other producers. The Austrian representative affirmed that imports from western countries outweighed those from bilateral sources. The representative of the United States indicated that the rates of tariff were rather high on this item and that they would appear to be sufficient to protect the industry; in fact, the high rates of duty on starch adversely affected the textile industry in Austria. In reply to this question the representative of Austria said that this problem was being considered by his Government, but it was difficult to take a decision which would have far-reaching effects, involve structural changes and affect people in a depressed area.

15.03 - Lard stearine, oleo stearine, lard oil, oleo margarine, not emulsified or mixed or prepared

The representative of Austria indicated that his authorities had now concluded that this item was not covered by the Marketing Law and they were studying the possibility of including it on the next liberalization list. The United States representative pointed out that there was no indication that there had been any imports in recent years.
20.02A and B - Peas and beans preserved otherwise than by vinegar or acetic acid

The representatives of the United States and Australia requested that consideration be given to early and complete liberalization of these items, and the United States particularly strongly pressed for an immediate increase in global quotas. The Austrian representative indicated that these items might be put on the "hard-core" list but that no final decision on this matter had been made.

20.07A - Thick juices of apples, pears and grapes

The representative of Austria indicated that this item was being considered for inclusion in the "hard-core" list. The representative of the United States pointed out that this was another case of impairment of a GATT concession. The representative of Austria mentioned that special arrangements might be considered for certain sub-items under this category.

20.07B - Juices of apples, pears and grapes

The Austrian representative indicated that this item was being considered for inclusion on the "hard-core" list. The United States representative noted that the imports amounted to only 10 per cent of domestic production and considered such restrictions overly protective to domestic producers.

22.05 - Wines of fresh grapes

The representative of Austria stated that this item was being considered for inclusion in the "hard-core" list. He said that local production was being improved by better methods of cultivation and rationalization. The United States noted that the increase of imports in 1963 to 516,000 hectolitres was due primarily to the entry of Rumania and Bulgaria as suppliers to the Austrian market. The representative of Austria affirmed that there were no bilateral quotas to Eastern countries and that there was no discrimination; the switch premium system was not applied to this item and the global quota was open to all.

22.06 - Vermouth and other wines flavoured with aromatic essences

This item was stated to be on the "hard-core" list, as the Austrian delegate explained that the production of vermouth was of substantial interest to producers in that it helped them to dispose of lower quality wines. The United States representative noted that this was a GATT concession item - a possible case of impairment of the concession.
24.01 - Unmanufactured tobacco

The representative of Austria stated that this position had been discussed at length in November; tobacco was a State-monopoly item which comes under Article XVII of the GATT. Imports were carried out by the State monopoly while rates of duty were applicable only to private importers. It was agreed that a reduction of duty would have no effect on commercial trade.

Marketing Law Items

04.02 - Milk and cream, preserved

The United States representative noted that Austrian policy on these products appears unduly restrictive, as no imports are being licensed, even though Austria's production of dried milk has increased to the point where it is now being exported. In fact, he said, with Austrian subsidization of milk, there is a near-certainty that the surpluses will continue to grow; a complete import embargo is being used to implement this policy. The United States is very aware of this kind of problem but has never maintained a complete embargo of any dairy product and is now in fact importing some Austrian dried milk, even though the United States industry is actively trying to develop markets for such products. The Austrian representative expressed a willingness to consider means to facilitate imports of certain types.

10.01 - Wheat and mixed wheat and rye

The Austrian representative stated that Austria's policy was non-discriminatory to any country offering the qualities of wheat which Austria wants. The Australian representative, supported by the United States, felt that this statement excluded countries which had only soft wheat to sell, and he felt that this policy was in effect one of complete self-sufficiency. The United States representative pointed out that in his own country complete embargoes were not maintained on agricultural produce, and an effort was being made to increase such quotas as the United States maintained, even at considerable cost to farmers. For example, meat prices are at a very low level just now in the United States, yet the solution has been agreements with Australia, New Zealand and Ireland to permit imports, rather than an embargo. The Austrian representative pointed out that Austria could not hope to compete with large-scale producers and hence required special measures to protect incomes of its producers. The United States representative suggested that some depressed-area problems faced in his country were not too different but that the United States had nevertheless refrained from the use of embargoes. To a question by the Australian representative on whether there might not be some hope for the future, the Austrian representative indicated one alternative might be variable levies, but the other countries considered that that would be no improvement. It was added, finally, that Austria's import requirements of quality wheat are declining, as Austrian agriculture is shifting increasingly into this production.
10.02 - Rye

The Austrian representative said that the situation in rye was much the same and noted that as rye is a bread grain in Austria its price is higher than in some countries and is supported by the Government. In answer to a question, he confirmed that production had been increasing, though he felt it had now levelled off somewhat. Rye is, moreover, a product of regions which are not suited to other crops. In answer to a question whether there is a policy of importing only from the East, the Austrian representative said there was no such policy and that the fact of imports from Eastern Germany and Rumania was rather a question of commercial considerations. He held out no hope for a more liberal licensing policy.

10.03 - Barley

Switch premiums, which had been discussed elsewhere, were noted by the United States representative as operating here against imports from the United States; the question was raised whether there might be hope of amelioration. The Austrian representative explained that a new system of regulating imports had been approved and will be put into effect under which importers assume the responsibility for establishing the quantity of imports to be asked for. The Board's responsibility, when this system is fully in effect, will be to assure participation of all normal importers on an equitable basis. Consulting countries expressed the view that, in the process of dividing imports among importers, something similar to a country allocation could result, since most firms have contacts with particular country sources; the Austrian representative maintained, however, that the purpose was to protect the commercial interests concerned, and to guard against speculative deals whereby a particular firm might monopolise control of imports. In answer to a question by the Australian representative, it was stated that malting barley imports are handled in the same way as feeding barley under the present tender system. The Austrian representative did not know whether malting barley would be handled in the future in the way contemplated for feeding barley.

10.04 - Oats

It was explained that a liberal licensing system is in effect but that there is little prospect for complete liberalization.

10.05 - Maize

The system which is being introduced for barley will be placed in effect for maize as well. Tenders do not designate countries of origin.
10.07 - Millet and durra

The United States representative called attention to the fact that this product has been subject to strict licensing and that bilateral quotas appear to play a large rôle. The Austrian representative pointed out that here, as in the case of oats, a liberal licensing system was in force.

11.02 - Cereal groats etc.

This basket classification was explained by the Austrian representative to contain a variety of products; Italy has been the principal supplier of the bulk products included. It had been found, however, that oat flakes were included in the basket, and since this is not a Marketing Law product, a global quota could perhaps be established on it. In answer to a question whether other prepared breakfast foods may be included, the Austrian representative indicated that this may be the case and that if countries cared to submit specifications, special consideration might be given to particular products.

15.02 - Tallow

The Austrian authorities have found, it was stated, that sheep and goat tallow, rendered, are not Marketing Law products and they would be prepared to consider establishing a global quota on this product. The Australian representative expressed interest in the news that this action is envisaged. On beef tallow, which was included in the original Marketing Law, it was stated that there was no hope of more liberal treatment.

15.03 - Lard stearine

(See discussion under Non-Marketing Law products)