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COUNCIL FOR TRADE IN GOODS
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MINUTES OF MEETING

Held in the Centre William Rappard
on 29 May 1995

Chairman: Mr. M. Endo (Japan)

<u>Subjects Discussed:</u>	<u>Page</u>
1. Dominican Republic - Renegotiation of Schedule XXIII - Report on consultations on the waiver request	2
2. Finalization of Schedules of Concessions on Goods (follow-up of the informal verification meeting of the Committee on Market Access on 24 April 1995)	2
3. Notification by Malaysia in pursuance of Article XVIII:C of GATT 1994 and the 1979 Decision on Safeguard Action for Development purposes - Report on consultations	3
4. Agreement on Preshipment Inspection - Progress report on the legal status of the Independent Review Entity under Article 4 of the Agreement	4
5. Japan - United States: Auto and Auto Parts Issues: United States Unilateral Measures	4
6. Japan's Automotive Barriers and Restrictive Practices	10
7. Canada: import regime for pasta	12
8. Enlargement of the EC: Negotiations under Article XXIV:6 of GATT 1994	13
9. Free trade agreements between Estonia, Latvia and Lithuania, and the European Communities	13
10. Information on the Cairns Group Ministerial Meeting in Manila on 26-27 May 1995	13

The Chairman welcomed delegations to the third meeting of the Council for Trade in Goods, which was convened by WTO/AIR/84. He noted that, in accordance with the agreement reached at the last meeting of the Council which took place on 3 April 1995, the following Organizations had been invited to this meeting of the Council, namely: UN, UNCTAD, IMF, World Bank, FAO, OECD, International Textiles and Clothing Bureau and World Customs Organization. He proposed in this regard that pending the adoption of criteria and conditions for observer status for International Intergovernmental Organizations in the WTO and unless a delegation raised an objection, those Organizations invited to this meeting of the Council for Trade in Goods be invited also to its next meeting.

The Council for Trade in Goods so **agreed**.

1. Dominican Republic - Renegotiation of Schedule XXIII
- Report on Consultations on the waiver request

1.1 The Chairman recalled that, at its last meeting, the Council had considered a communication from the Dominican Republic, circulated in document G/L/4, in which it had requested a waiver from its obligations under Article II of GATT 1994 for the renegotiation and transposition of its pre-Uruguay Round Schedule XXIII into the Harmonized System. The Council had also been informed at that time that further discussions were required regarding this request for a waiver, and had authorized him to undertake consultations on this matter. These consultations had been carried out and he reported that in light of the discussions held, the Dominican Republic had decided to withdraw its request for a waiver.

1.2 The Council for Trade in Goods **took note** of this information.

2. Finalization of Schedules of Concessions on Goods (follow-up of the informal verification meeting of the Committee on Market Access on 24 April 1995)

2.1 The Chairman stated that an informal meeting of the Committee on Market Access was held on 24 April 1995 with the purpose of verifying draft final schedules of concessions. He invited the Chairman of that Committee to report on the results of that meeting.

2.2 Mr. Saint-Jacques, the Chairman of the Committee on Market Access stated that the Committee had held an informal meeting on 24 April 1995 with the purpose of verifying and approving draft final Schedules on goods. These comprised Schedules from least-developed countries and countries which had become contracting parties to the GATT in the course of 1994 under Article XXVI:5(c) and to which the Decision by the General Council of 31 January 1995 on "Finalization of Negotiations on Schedules on Goods and Services" (WT/L/30) applied. Furthermore, the Committee had taken note of information that was provided by four countries on "other duties and charges".

2.3 At that meeting, the following fourteen Schedules from least-developed countries were deemed verified: Botswana, Burundi, Central African Republic, Guinea, Guinea Bissau, Haiti, Lesotho, Malawi, Maldives, Mozambique, Rwanda, Sierra Leone, Togo and Zaire. The schedules of Djibouti, Grenada and St. Kitts and Nevis which related to Schedules of countries which had become contracting parties in the course of 1994 under Article XXVI:5(c) had also been deemed verified at that meeting. It was furthermore agreed that the Schedules of Angola and Papua New Guinea could be deemed verified subject to the circulation, for the purposes of technical verification, of a revised version of those Schedules which incorporated the results of negotiations which had concluded prior to the meeting. Under this technical verification process, delegations would have a period of seven days from the date of circulation of the revised Schedules to verify that the results of the negotiations had been accurately

reflected in those Schedules or to submit comments if that was not the case. In the absence of any comments, the revised Schedules could be deemed verified. Angola's revised Schedule was circulated on 3 May 1995 and that of Papua New Guinea on 22 May 1995. No comments had been received on the Schedule of Angola within the stipulated time-period and the Schedule could be considered verified. With respect to the Schedule of Papua New Guinea, the time-period for comments expired on 29 May 1995. To date no comments had been received on that Schedule and he proposed, therefore, that if no comments were received by close-of-business on 29 May 1995, that this Schedule also be considered verified.

2.4 Four countries namely Cameroon, Côte d'Ivoire, Niger and Senegal had a delay until 15 April 1995 to provide detailed additional information on "other duties and charges". This information was provided and circulated and would be incorporated as annexes to the respective Schedules in the Protocol Supplementary to the Marrakesh Protocol.

2.5 The representative of the United States stated that his delegation did not object to forwarding the Schedules for approval to the General Council, but at the same time indicated that his delegation's approval of these Schedules was without prejudice to the resolution of certain procedural issues concerning the accession of countries under Article XII of the WTO Agreement. His delegation expected to have these procedural issues resolved through consultations before the countries whose Schedules that had been approved at this meeting could be considered to have completed the process of accession.

2.6 The Chairman proposed that the Council take note of the information provided and the statement made and submit to the General Council for approval the Schedules of Concessions on Goods of Angola, Botswana, Burundi, Central African Republic, Djibouti, Grenada, Guinea, Guinea Bissau, Haiti, Lesotho, Malawi, Maldives, Mozambique, Papua New Guinea, Rwanda, St. Kitts and Nevis, Sierra Leone, Togo and Zaire.

2.7 The Council for Trade in Goods so **agreed**.

2.8 The Chairman indicated his intention to report to this effect orally to the General Council which was meeting on 31 May 1995.

3. Notification by Malaysia in pursuance of Article XVIII:C of GATT 1994 and the 1979 Decision on Safeguard Action for Development purposes

- Report on consultations

3.1 The Chairman recalled that at its last meeting, the Council had requested him to hold informal consultations on the notification by Malaysia under Article XVIII:C, and the 1979 Decision on Safeguard Action for Development Purposes, of measures affecting its imports of polypropylene and polyethylene. He further recalled that at that meeting, he had informed the Council that Malaysia had proposed the introduction of an alternative measure to deal with its specific problem, but that he was awaiting further details with respect to the Malaysian proposal and would report to the Council more fully in due course. He had now received these further details and was in a position to report on the results of his consultations.

3.2 In the early part of April, through communications to the Dispute Settlement Body (WT/DS1/3) and to the Committee on Import Licensing (G/LIC/N/2/MYS/1), Malaysia had provided information on its new import licensing measures for polypropylene and polyethylene. The existing scheme was modified to one of automatic licensing, and was to be reviewed in April 1996.

3.3 It appeared that, in light of these recent developments, it was no longer necessary for consultations to be pursued on Malaysia's recourse to Article XVIII:C. Therefore, it was his understanding that Malaysia's notification under Article XVIII:C had become obsolete, thus being without any effect.

3.4 The representative of the United States stated that his delegation was pleased that Malaysia had eliminated the measure referred to in its notification and had implemented an automatic licensing system. His delegation agreed with the Chairman's characterization of the situation and would note further that the notification was now null and void with the elimination of the measure that was notified. Since Article XVIII referred to notification of a "specific measure", it was clear that the notification could not survive actions changing the nature of the "specific measure". As a result of Malaysia's action, his delegation trusted that further consultations would not be necessary.

3.5 The representative of the European Communities endorsed the position of the United States.

3.6 The Council for Trade in Goods **took note** of the statements made.

4. Agreement on Preshipment Inspection

- Progress report on the legal status of the Independent review entity under Article 4 of the Agreement

4.1 The Chairman stated that at its last meeting, the Council, had agreed that the Secretariat pursue its consultations with interested delegations and with the International Chamber of Commerce (ICC) and the International Federation of Inspection Agencies (IFIA) with a view to putting forward a solution to the questions of the status of the Independent Entity and the legal liabilities of the Independent Entity, its staff and panellists. The Council had also agreed to revert to this matter at its next meeting.

4.2 He had been informed by the Secretariat that a solution had been elaborated that met with the approval of most of the delegations participating in the consultations, as well as with the agreement of the ICC and the IFIA. However, the Secretariat was still awaiting a final response from two delegations, Japan and the United States.

4.3 The representative of the Japan stated that his delegation was not in a position to join in the consensus on this matter as instructions from the capital had not as yet been received. He hoped to receive a reply soon.

4.4 The representative of the United States stated that his delegation could join the consensus on the resolution of this question.

4.5 The Chairman urged Japan to inform the Secretariat as soon as possible of its final position with respect to this matter. He also proposed that the Council request the Secretariat, if and when it received a positive response from Japan, to prepare a working document outlining the proposed solution and to circulate it to all Members for comment before it was put to this Council for action.

4.6 The Council for Trade in Goods so **agreed**.

5. Japan - United States: Auto and Auto Parts Issues; United States Unilateral Measures

5.1 The Chairman stated that this item has been included in the agenda of this meeting at the request of Japan.

5.2 The representative of Japan stated that the framework discussions which had begun in July 1993 between Japan and the United States about automotive issues had not reached a conclusion. In response, the US had announced on 16 May 1995 unilateral measures based on Section 301 to pressure Japan into accepting unreasonable and WTO-inconsistent demands. The US had claimed a number of times that this dispute was only about market access, however, such claims could not hide the true nature of demands made by the US during the negotiations. The US had stated that it had made only reasonable requests to open the Japanese market. In fact, the US had rejected the various Japanese proposals to improve market access and sales opportunities once it became clear that neither the Japanese Government nor the Japanese private companies would agree that parts purchasing plans of those companies should be renewed and expanded.

5.3 Regarding the background of the negotiations, during the bilateral negotiations the US had repeatedly stressed three issues: (i) dealership, (ii) after-market deregulation, and (iii) expansion of parts purchasing plans. With respect to dealership issues, Japan had responded to all reasonable US requests, but the US seemed determined to seek guaranteed outcomes. Japan had rejected as unacceptable a US demand for a specific target as to the number of dealers to be handling foreign cars within a specific period of time. Whether called a "down payment" or some other euphemism, this rather obvious numerical target would ignore the dealers' business freedom, which they should enjoy in a market economy, to decide on the automobiles to offer. Dealers should have the freedom to offer only those brands of automobiles they believed they could sell. Some countries went so far as to allow legally-mandated exclusive dealerships, with explicit exemptions from anti-trust law. There was no legal requirement for exclusive dealerships in Japan, but as a practical matter and for business reasons, some dealers chose to work with a single manufacturer. Other dealers chose to handle multiple brands; it was the dealers' choice and it was important that they had their business freedom.

5.4 Japan had also rejected a US demand that Japanese automobile manufacturers should influence their dealers to offer competing foreign models through their network. In this connection, it should be noted that Japanese manufacturers had announced that their dealers were free to handle other brands; i.e. they had already implemented the US demand that manufacturers give an "it's OK" message (i.e. free to handle other brands as well as their brands). Furthermore, Japan had informed the US of the intention of Japanese companies to reaffirm the message. In the negotiations, however, despite such efforts on the part of Japanese companies, the US had insisted on more active intervention by Japanese manufacturers. In this connection, the question could be raised that, should IBM encourage its dealers in the US to handle Fujitsu computers, just because IBM had a distribution network which was already established? It was up to those foreign manufacturers to offer attractive models that dealers would be eager to handle.

5.5 On the second point on after-market deregulation, firstly, in Japan, the replacement of auto parts was in principle entirely free. Only 3.6 per cent of parts in the market for replacement parts was subject to regulation, and those parts that were subject to regulation were treated without discrimination whether they were domestic or foreign-made.

5.6 The demands from the US originally consisted of the following three points: (i) reduction of number of critical parts for compulsory disassembling repair, (ii) reduction of number of subjects for modification inspection, and (iii) relaxation of the requirements for garage certification. Procedurally, the US had made the negotiations even more difficult by introducing new requests very late in the negotiations, i.e. to authorize specialized garages for certain parts and to entrust private garages only with disassembly and periodical inspections.

5.7 With respect to deregulation of the aftermarket for auto parts, Japan had responded to all reasonable US requests, provided that they were within the scope and responsibility of the government and they would preserve strict safety standards. Japan had proposed the immediate elimination of some critical parts from the obligation of compulsory disassembling repair, and to establish a system for review of other parts taking into account both safety-related technical progress and claims from interested parties. Japan had also proposed significant liberalization of the modification inspection requirements, and of requirements for certified garages.

5.8 The only demand that Japan did not accept was to entrust private garages only with disassembling and periodical inspections, i.e. an action which would result in the complete separation of inspection services from repair services. The US had argued that this change would have no impact on safety, but the reality was quite different. It was apparent from experiences in certain states in the US, and from a recent study by the US General Accounting Office, that allowing private garages alone to conduct inspection service increased accident rates, resulting from the collapse of inspection systems due to poor inspection services. In the light of this situation, Japan had rejected this US proposal as undermining safety. The Japanese approach had actually achieved lower accident rates than the US approach. In addition, Japan had recently decided to introduce new deregulation policy measures which would allow government inspection service alone, without having it combined with repair service. Regardless of the consequence of the bilateral negotiations, Japan was determined to implement the above mentioned deregulations in the course of its three-year deregulation plan.

5.9 The major stumbling block was the third issue of expansion of parts-purchasing plans. Such demands to expand were unacceptable for several important reasons. First, such numerical targets, which effectively forced companies to set purchasing quotas, represented government intervention into private business management. Japan rejected such intervention which would lead to "managed trade" policies that violated free market principles. Repeated contacts by the US with Japanese auto manufacturers, despite the latter's repeated public statements that they did not want to expand their purchasing plans, amounted to de facto coercion. The reality of US intentions had become even more apparent now that the US was proposing to impose punitive 100 per cent tariffs if Japanese manufacturers did not give in to US demands to expand their "voluntary" parts purchasing plans.

5.10 Second, the US had claimed that it was acting for the benefit of all foreign parts. However, what the US had requested of Japanese automobile transplants in the United States was the expansion of "US-made" auto parts purchasing and not "foreign" auto parts purchasing. In this connection it should also be noted that Japanese automobile transplants in the US had bought US\$12.9 billion of US-made auto parts, whereas Japanese automobile manufacturers in Japan had imported US\$2.6 billion worth of auto parts from the US in the fiscal year 1993. As was clear from these figures, purchasing plans would result primarily in a significant increase of US auto parts purchased by Japanese transplants. Such a coerced purchasing plan would amount to a de facto local content requirement, discriminating against imported goods, and thus violating the national treatment principles of Article III of GATT 1994.

5.11 Third, many third countries had expressed strong concerns that numerical targets in a specified sector like auto parts would lead to favourable treatment for the United States at the expense of other countries. This fear of a de facto benefit for the US at the expense of other countries' products was even stronger now, with de facto coercion being combined with proposed punitive tariffs. Therefore any such requests for expansion of parts purchasing plans would lead to a violation of the m.f.n. principle. Because of the nature of the voluntary plans, this issue was not negotiable between the two governments.

5.12 Since the US had not obtained everything it had sought, it had announced various unilateral measures on 16 May 1995 based on Section 301 including a punitive tariff of 100 per cent on certain models of luxury cars from Japan. At the same time, the US had proposed the immediate withholding of liquidation on entries of luxury cars, which began to be implemented on 20 May 1995. The purpose of this "withholding" was to ensure that the US Customs Service did not make any final determination of duty liability, thus preserving the ability to impose the 100 per cent duties retroactively. These measures violated both the m.f.n. principle of Article I of GATT 1994 and the prohibition against exceeding bound rates set out in Article II of GATT 1994.

5.13 Even before the actual imposition of the proposed tariffs, the withholding of liquidation combined with the concrete threat of prohibitive tariffs had violated WTO obligations. These measures were discriminatory, since they applied only to Japan and created a strong disincentive against importing Japanese luxury cars. Indeed, that was the purpose of the measure, to immediately inflict pain on the Japanese manufacturers to pressure them into giving concessions. Finally, the US measures had violated Article 23 of the Dispute Settlement Understanding, which specifically prohibited such unilateral actions.

5.14 His delegation strongly believed that unilateral measures based on Section 301 undermined the multilateral trading system. If unilateral threats and measures worked, then the credibility of the WTO would seriously suffer. On the other hand, the US had announced its intention to file a case with the WTO regarding the "continuing discrimination against United States products in the market for automobiles and automotive parts in Japan".

5.15 The US had expressed a view that the above mentioned two-track approach could move along consistently. However, there was contradiction in this argument. On the one hand, based on Section 301, the US was resorting to unilateral measures inconsistent with the WTO Agreement; on the other hand, the US had announced that it would seek remedies under the WTO. The "sentence now, trial later" approach which was being used by the US ignored all fundamental notions of procedural fairness and logic.

5.16 With regard to the proposed complaint against Japan regarding market access, in his delegation's view, the US had distorted the facts concerning the Japanese auto and auto parts market. The US had looked at market shares of its products, and concluded that the market must be closed. The underlying economic and business reality was more complex. Japan wanted to point out some basic misunderstandings that the US kept repeating.

5.17 The US had claimed that the Big Three had introduced appropriate models to the market. Yet the Big Three had not introduced from their US operations even a single model in the under-2000 cc segment, which covered in fact 80 per cent of the market. The US kept repeating the fact that the Big Three had dozens of models, but those statistics referred to models from the Big Three's subsidiaries located in Europe and from a Japanese manufacturer Mazda in Japan with the Ford brand. Yet when the US quoted market share figures, it always used only US-based production. For the sake of consistency, the US should, when referring to market share, also take account of models from the Big Three's subsidiaries.

5.18 The problem that the US faced in the Japanese market was rather the lack of suitable models which would be welcomed by Japanese consumers. If and when suitable models were available, dealers would become interested, as the European car makers' experiences in Japan had shown. Indeed, in the market segment of over 3000 cc, the US Big Three had introduced 54 models, and captured 28.5 per cent of the market. This segment was where the Big Three chose to compete.

5.19 Japan did not share the US view that market share was an indicator of market accessibility. Would the US accept that the Japanese market was more open than the US market, given the fact that European-produced automobiles had 5.4 per cent of the Japanese market, but only 3.6 per cent of the US market according to latest available data?

5.20 The US had also kept insisting that "special relationships" prevented dealers from handling foreign vehicles. There were no legal restrictions on dealers' freedom to handle foreign cars or any brand they wished. Japan had noted that in many countries, it was a common business practice for most dealers to handle a single brand. When foreign manufacturers offered attractive models that appealed to the Japanese market, dealers would willingly handle those models.

5.21 Japan believed that this situation represented a "case of urgency", and that the two countries should start consultations under Article XXII:1 of GATT 1994 as soon as possible, before the situation worsened with the imposition of punitive tariffs. If unilateral threats and measures worked, other countries would begin to follow this example, and would begin to contemplate unilateral measures. The US had taken the position that this case was not a "case of urgency". This "hit and run" strategy could have a fatal impact on the multilateral trading system and totally undermine the credibility of the new dispute settlement mechanism.

5.22 In conclusion, he stated that on 26 May 1995, Ambassador Kantor had sent a letter to Minister Hashimoto. Japan thought that the contents were disappointing and misleading. In connection with the letter, the following press statement was issued from USTR:

5.23 "The USTR responded today to the request of the Japanese Government to resume negotiations to open the Japanese automotive market. The Japanese Government has indicated it is anxious to meet as soon as possible, and we have agreed to their request."

5.24 The Japanese position had been distorted in that statement. What Japan was seeking were consultations under Article XXII:1 of GATT 1994. In this connection, the US had proposed to have the consultations on 20-21 June 1995 in Washington, which went beyond the standard thirty-day period. Japan could not accept this proposal both in terms of the timing and the place, and sought consultations as soon as possible in Geneva. His government requested the support and participation of WTO Members to obtain an expeditious resolution of this situation in accordance with the WTO Agreement. This was not only for the sake of the parties concerned, but for the sake of the international community. In this connection, he reminded Members that Article 4:11 of the Dispute Settlement Understanding stipulated that the desire to join in the consultations should be notified within ten days of the date of the circulation of the request for consultations, i.e. by 31 May 1995.

5.25 The representative of the United States stated that his delegation had carefully reviewed Japan's request for consultations and the background paper circulated to delegations. While the United States strongly disagreed with Japan's views on United States' objectives in requesting that all WTO Members be provided fair access to the Japanese automotive markets and its account of United States' efforts to open that market, his delegation had agreed to consult with Japan and had proposed what was hoped would be an acceptable date for those consultations.

5.26 His delegation was seriously concerned, however, that WTO Members not lose sight of some basic facts that were relevant both to the statement that Japan had just made and to the next matter on the agenda: "Japan's automotive barriers and restrictive practices".

5.27 The United States had not yet imposed increased tariffs on imports of certain cars from Japan. This could be avoided if the Governments of Japan and the United States could reach a mutually satisfactory solution of the matter. His Government had not determined that Japan had violated its obligations under the WTO Agreements. The actions to date of the United States' government were fully consistent with the WTO Agreement. His delegation did not agree that consultations concerning the matters raised in Japan's request should be conducted within the short time-frame applicable to "cases of urgency." Indeed, the principal basis presented for requesting consultations, at this time, was Article XXIII:1(b) of GATT 1994 on non-violation, nullification and impairment and actions that Japan contended "would" violate WTO obligations when eventually implemented. His delegation was fully prepared to consult with Japan in response to this request, but the solution to the problem, lay in eliminating the barriers that existed to market access in Japan. Japan, however, appeared to be intent on arguing its case in other fora, such as the OECD. Such action was, in his delegation's view, inappropriate. If Japan intended to use the WTO dispute settlement process, his delegation believed that Japan should let that process work without attempting to subject that process to outside influences.

5.28 The representative of the European Communities stated that this item was included in the Council for Trade in Goods' agenda at the request of the delegation of Japan. However, this item was going to appear on 31 May 1995 on the agenda of both the Dispute Settlement Body and that of the General Council meeting. He was concerned that the statements might become repetitive.

5.29 The position of the European Community had been clearly expressed to all its partners, including Japan and the United States. This position was based on principles which had not varied in the course of the past years, and which were the very heart of the WTO and in particular of the dispute settlement provisions. These provisions, which had been negotiated, signed and ratified were, therefore, applicable to all Members and all Members had to respect both the letter and the spirit of those provisions. They prohibited any form of unilateral or discriminatory action because no one Member could be both a judge and party to the dispute. Trade disputes had to be dealt with under the provisions which had been drawn up within the framework of the WTO. As regarded the question of whether the announcement of the measures was to be considered on the same footing as the measures themselves, if such an announcement discouraged or halted the normal flow of trade, then the announcement of the measures could be prejudicial and was therefore unacceptable. In this regard, it was regrettable that the parties concerned could not agree on the principle of dealing with this item as rapidly as possible. While the Community did not approve of the method used by the United States, it could approve the objective sought. Regardless of the figures cited regarding the degree of penetration in the Japanese market by various countries, it should be noted that access to the Japanese market was still difficult. It was made particularly difficult because of rules, regulations and practices which had been very clearly set out in a number of Japanese studies and reports.

5.30 Regarding the complaint made by the United States under Article XXIII of GATT 1994, the Community felt that from a procedural point of view the method was good. As regarded the substance of the complaint, the Community would speak on that in light of the arguments to be put forward by the US. The Community would welcome an agreement between the two parties especially if such an agreement could be reached as quickly as possible, thus avoiding a situation where the overall climate of trade relations between these two major partners would deteriorate. Tensions between the US and Japan, as indeed tensions between any major partners in this Organization would not be to the benefit of anyone. However, any form of agreement between the US and Japan including what had been qualified at times as a voluntary agreement had to be fully transparent and non-discriminatory, and this Organization had to watch over this in an appropriate manner.

5.31 The representative of Australia stated that both Japan and the US were major trading partners of Australia, and as a result Australia had an interest in the smooth development of trade relations between them. Australia also had a commercial interest in the non-discriminatory trade liberalization of Japan's automobile and auto parts sector. His delegation wished to encourage further trade liberalization in this sector in a manner which would lead to genuine trade expansion rather than trade diversion and in a way which was strictly in accordance with the basic m.f.n. rule of the WTO. Australia, as a strong supporter, of the multilateral trading system and its rules therefore could not support unilateral trade sanctions which were not in conformity with the WTO including the WTO dispute settlement rules. Trade disputes should be resolved within the agreed rules of the WTO Dispute Settlement Understanding. This was central to the credibility and the viability of the multilateral trading system especially when it concerned disputes involving two such major trading partners as the United States and Japan. Australia therefore fully understood the request by Japan for Article XXII of GATT 1994 consultations in relation to the United States announcement of 16 May 1995 foreshadowing possible imposition of unilateral tariff increases against a range of Japanese motor vehicles. As indicated by the representative of the European Community, his delegation anticipated this issue now being pursued under the precise procedures of the WTO Dispute Settlement Understanding. It was also his delegation's hope that both Japan and the US could come to a rapid resolution of their dispute on this issue.

5.32 The representative of India stated that the agenda item involving the Governments of Japan and the United States was extremely important because of the serious implications it could have for the multilateral trading system. As previous speakers had stated, India was also opposed to unilateralism in any form. Apart from the questionable legality of unilateral action, India was rather concerned about the damage that unilateral action could cause to the multilateral trading system. His delegation believed that the Uruguay Round negotiations had led to a strengthened rule-based multilateral trading system with effective dispute settlement procedures. It would therefore be ironic if major trading nations resorted to unilateral trade measures rather than use the multilaterally agreed provisions and procedures available to them under the WTO. His delegation encouraged Japan and the United States to try to arrive at a mutually satisfactory solution which would be fully consistent with both the letter and the spirit of the WTO Agreement.

5.33 The representative of Indonesia on behalf of ASEAN countries, stated that this was an important case which had attracted international attention because it involved a dispute between two major economic powers. As WTO Members, ASEAN's interest in the case lay primarily in the need to ensure that the fundamental principle of multilateralism was preserved. ASEAN attached great importance to the WTO's objectives of resolving any dispute through the multilateral framework. ASEAN hoped that both parties would initially be able to find the mutually agreed solution through bilateral consultations within the WTO dispute settlement mechanism. Failing that, both parties should bring the dispute to the WTO for a solution. ASEAN also shared the concern already expressed on the use of unilateralism in this case.

5.34 The Council for Trade in Goods **took note** of the statements made.

6. Japan's Automotive Barriers and Restrictive Practices

6.1 The Chairman stated that this item had been included in the agenda of this meeting at the request of the United States.

6.2 The representative of the United States stated that on 10 May 1995, the United States had communicated to the Director-General its intention to invoke the WTO's dispute settlement mechanism

as part of the efforts to obtain effective market access for US and other countries' products into Japan's automobile and auto-parts market. The communication was circulated in document WT/INF/1.

6.3 The United States was committed to using the WTO to settle matters within its scope and was currently preparing a detailed, thorough case to be submitted for consideration to the WTO.

6.4 Looking at the conditions prevailing in the Japanese market, his authorities saw policies and practices which had barred effective market access for these products for more than 35 years. While the practices may have changed over the years, they have had the same effect. In 1953, imports accounted for 60 per cent of the total Japanese auto market. By 1960, that share had fallen to 1 per cent. Japanese automobiles held a 24 per cent market share in the United States. The share of major US manufacturers in the Japanese market was around 1.5 per cent. All of the European manufacturers combined had only a 2.8 per cent market share in Japan, and sales were actually lower now than they were in 1990. With respect to these statistics, it was clear that there was disagreement with the representative of Japan regarding the degree of market penetration.

6.5 In auto parts, the foreign share of the US market was 32.5 per cent. The entire foreign share of the Japanese market was only 2.6 per cent. US auto parts producers were globally competitive but - because of barriers - had been unable to enter the Japanese market. The US had a US\$5.1 billion surplus with the world in automotive parts but a US\$12.8 billion deficit with Japan. Nearly 80 per cent of US car dealerships sold both imported and domestically-made vehicles. In Japan, only 7 per cent of dealers offered Japanese and American cars side by side. Because of Japan's closed market and the lack of competition, prices for automobiles and auto parts far exceeded prices in the United States. An alternator that cost US\$120 in the US cost US\$600 in Japan. Shock absorbers that cost US\$228 in the US cost US\$605 in Japan. Even automobiles manufactured in Japan were more highly priced in Japan than in the US. For example, an Acura LS sold for US\$43,200 in the US but for US\$52,560 in Japan; a Lexus LS 400 cost US\$66,834 in Japan and only US\$51,200 in the US.

6.6 This was not just a bilateral US-Japan problem. Japan's barriers affected all foreign manufacturers. In fact, the European Business Council had observed that if the Japanese market were opened, EU producers could achieve a 10 per cent market share - rather than the 2.8 per cent they had achieved in 1994. Similarly, the Director of the Tokyo office of the European Automobile Manufacturing Associations had stated that: "the European motor vehicle manufacturers were convinced that without further deregulation of the market, and improved access to dealer networks, it would not be possible to achieve much greater market penetration for the Europeans".

6.7 With respect to the history of the bilateral negotiations, in July 1993, Japan had agreed to deal with the major automotive issues of concern to the United States and other countries, including increased purchases of original equipment parts. The Framework Agreement stated Japan's commitment to "the objective of achieving significantly expanded sales opportunities to result in a significant expansion of purchases of foreign parts by Japanese firms in Japan and through their transplants, as well as removing problems which affect market access and encouraging imports of foreign autos and auto parts in Japan".

6.8 For twenty months, the United States had made good faith efforts to open the Japanese market, which were not successful.

6.9 The United States was seeking from Japan to expand market opportunities in the Japanese market, and to ensure that foreign auto manufacturers could sell their cars in Japan through quality dealerships. This would be at the choice of the dealer: the United States was not asking that any dealer be required

to sell foreign cars. Japan was also being asked to adopt pro competitive policies and to deregulate its market. The United States was seeking access for all competitive foreign firms into the Japanese market, not a guaranteed market share. The United States was not asking for numerical targets, nor was it suggesting that any Japanese business be forced to buy from foreign auto parts suppliers. The United States was seeking market opportunities for competitive products from the United States and any other country, and asking that Japan ensured that its markets operate in a transparent and genuinely competitive fashion. In fact, the effects of Japanese practices were clear - Japan's market did not reflect market forces that had been present for years. Through its negotiations with Japan, the United States was seeking to change this situation which it believed both discriminated against foreign suppliers of autos and auto parts to the Japanese market and more broadly adversely affected the international trading system.

6.10 As a final point, in 1985, when the United States dollar was at a historic high against European currencies the United States had a US\$20 billion trade deficit with the European Community. Two years later in 1987 when the dollar had depreciated in value relative to the European currencies, the United States had a US\$21 billion trade surplus with the European Community. In two years time without the removal of any foreign barriers in the EC the trade balance had shifted by US\$40 billion. Last month with the Yen at a historic high, Japan announced its largest ever trade surplus with the United States.

6.11 The representative of Japan stated that certain interesting points had been made by the representative of the United States which his delegation would be willing to examine. However, he hoped that the United States delegation would agree to consultations which were being requested under Article XXII of GATT 1994. On the point regarding tariff levels, he pointed out that since 1978 Japan had been introducing zero per cent tariff levels. The withdrawal of liquidation was causing damage and already US\$70 million worth of imports had been affected. Concerning the increase in imports to the Japanese market, a paper presenting interesting data would be available following the meeting. But nevertheless, he wished to add that in 1994 the sales of imported cars in Japan had increased by 42% compared to the previous year, and the Big Three sales recorded a 77% increase compared with the previous year's figure. In reference to the point raised on the OECD, he had been involved in the communiqué process, which was done in a neutral manner. However, there was a phrase used in the original OECD communiqué, which at the insistence of the United States was removed. In fact 24 of the OECD member states had wished to retain it but in a spirit of compromise it was agreed that the phrase would be deleted.

6.12 The Council for Trade in Goods **took note** of the statements made.

7. Canada: import regime for pasta

7.1 The representative of the European Communities speaking under "Other Business" recalled that this matter had already been referred to the 1947 GATT Council in 1994. At the time the Community had managed to safeguard a relatively liberal import régime in Canada. However, it had come to the attention of his authorities that the Canadian Wheat Board had revoked as from 27 April 1995 the "special blanket import licences" for pasta products, therefore imposing licensing requirements on all imports of pasta. As of 27 April 1995 licences would only be granted to importers who were retailers. This measure would stop all pasta imports, as only around 3 per cent of pasta was imported to Canada by retailers.

7.2 He had wished to draw the attention of the Canadian authorities to this recent measure which introduced a major obstacle to access to the Canadian market for pasta exports. He urged the Canadian

authorities to give careful consideration to the problems that had been raised regarding Community pasta exports to Canada.

7.3 The representative of Canada stated that he had taken note of the points made by the representative of the European Communities and would report this matter back to his authorities.

7.4 The Council for Trade in Goods **took note** of the statements made.

8. Enlargement of the EC: Negotiations under Article XXIV:6 of GATT 1994

8.1 The representative of the European Communities under "Other Business" drew attention of the Council to its communication of 19 May 1995 circulated in document WT/L/67 which concerned the extension of the rights held by WTO Members under GATT 1994 for negotiations concerning enlargement of the EC under Article XXIV:6. The Community had now decided to extend the deadline regarding these rights to 31 December 1995.

8.2 The Council for Trade in Goods **took note** of the statement made.

9. Free trade agreements between Estonia, Latvia and Lithuania and the European Communities

9.1 The representative of the European Community speaking under "Other Business" informed the Council that the Community had recently concluded free trade agreements with Estonia, Latvia and Lithuania and would soon be notifying these agreements under Article XXIV of the GATT 1994. These agreements had entered into force on 1 January 1995.

9.2 The Council for Trade in Goods **took note** of the information provided.

10. Information on the Cairns Group Ministerial Meeting in Manila on 26-27 May 1995

10.1 The representative of Australia speaking under "Other Business" informed the Council that the Cairns Group had held its fifteenth Ministerial Meeting in Manila, Philippines on 26-27 May 1995. Observer delegations from South Africa and Paraguay had also attended the meeting. Ministers had welcomed for the first time the participation, in its Ministerial meeting, of the Director-General of the WTO, Mr. Ruggiero.

10.2 At this meeting, the Cairns Group of Ministers had reiterated their determination to continue to work together to achieve a global system of agricultural trade free of distortions and consistent with market principles. They had stressed the importance they placed on the role of the Committees on Agriculture and Sanitary and Phytosanitary Measures in ensuring that the Uruguay Round outcomes on agriculture were fully implemented and respected and had recognized that significant work and attention would need to be paid to these issues among the Cairns countries working together in Geneva in the coming four months.

10.3 The Cairns Group of Ministers had also called upon the major agricultural producing and importing countries to ensure that changes they may make to domestic programs introduced subsequent to the conclusion of the Uruguay Round negotiations should be fully consistent with the commitments and with the reform direction charted in the Uruguay Round Agreement on Agriculture.

10.4 Looking ahead to the further liberalization of trade in agriculture on a fully multilateral basis, the Cairns Group of Ministers had noted the built-in agenda in the Marrakesh Protocol for future negotiations on further liberalizing agriculture trade. The Ministers had expressed their determination to begin negotiations again as soon as possible. They had also expressed their support for any broadly based agreement to accelerate the Uruguay Round outcomes on agriculture. The Ministers had noted that the first WTO biennial Ministerial meeting would take place in Singapore in the final weeks of 1996 and that this meeting would provide the first opportunity to review the future trade negotiating agenda. Against this background, the Cairns Group of Ministers had committed themselves to consider over the next twelve months how the Uruguay Round outcome on agriculture might best be built upon through further negotiations on the reduction of support and liberalization of trade policies. The Ministers had undertaken to place this issue on the agenda for further consideration of a set of future negotiating goals at the next meeting which would take place in the first half of 1996 in Colombia.

10.5 The Cairns Group of Ministers had stressed that in the development of any future broadly based multilateral agenda for further trade negotiations including the acceleration of Uruguay Round outcomes, agriculture must be an integral part of those negotiations. A request would be made to the Secretariat to circulate the full communiqué as a WTO document.

10.6 The Council for Trade in Goods took note of the information provided.