RESTRICTED

WORLD TRADE ORGANIZATION

**WT/DSB/M/6**

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**DISPUTE SETTLEMENT BODY**
**19 July 1995**

MINUTES OF MEETING

Held in the Centre William Rappard
on 19 July 1995

Chairman: Mr. Donald Kenyon (Australia)

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## 1. Rules of Conduct

Mr. Armstrong (New Zealand), Chairman of the Informal Group on the Rules of Conduct, said that further progress had been made in the negotiation of Rules of Conduct for the DSU. Since

his last report on 10 April[1], the open-ended Informal Group had met five times. He had also continued to consult delegations individually in order to try to bridge differences. All participants had made very considerable efforts to reach a consensus on an issue which appeared to be extremely sensitive and at the same time important, since its purpose was to reinforce and strengthen the DSU. In his view the main unresolved issues were the following: (i) the obligations under the rules of conduct, violation of which might lead to disqualification; (ii) the stringency of a deterrent against parties withholding information; (iii) the rôle of the parties to the dispute in the decision-making process for disqualification; (iv) the applicability of the rules to the Textile Monitoring Body. He was grateful to all Members for their perseverance and hard work. He intended to continue to work in a thorough and expeditious way to seek to resolve these outstanding issues and hoped that the Informal Group might soon reach a consensus on them.

The representative of the United States expressed his delegation's disappointment that the work on this issue had not been concluded at this stage. The United States appreciated the work done by Mr. Armstrong and the Informal Group. Rules of Conduct would help to strengthen the confidence in the dispute settlement process and its impartiality and fairness. The United States along with other delegations was committed to reach agreement on such rules that would build confidence in the DSU.

The Chairman shared the concerns expressed by the United States that finding a solution to this matter was taking longer than it was thought. He hoped that this issue would be resolved as soon as possible.

2. European Communities - Trade description of scallops
   - Request by Canada for the establishment of a panel (WT/DS7/7 and WT/DS7/7/Corr.1)

The Chairman drew attention to the communication from Canada contained in WT/DS7/7 and WT/DS7/7/Corr.1 concerning its request for the establishment of a panel.

The representative of Canada said her country regretted that it had been unable to resolve its access problems related to the French labelling regulation on scallops. Canada had made numerous efforts to reach a solution, including consultations under both the GATT and the WTO. Her Government believed that the French measure was inconsistent with the European Communities' obligations under the WTO, including Article 2 of the Agreement on Technical Barriers to Trade (TBT) and Articles I and III of the GATT 1994. Canada and the European Communities held consultations on 19 June 1995 without success. While Canada appreciated receiving on 17 July 1995 the Communities' responses to the questions addressed to them prior to consultations, the responses did not contain anything which could lead Canada to believe that a settlement was possible and that further consultations would result in a mutually satisfactory solution. Consequently, Canada requested the establishment of a panel at the present meeting.

The representative of the European Communities said that the Community deplored the position taken by Canada at the present meeting. The Community had provided quite complete information concerning this matter and felt that this should have enabled the continuation of consultations with the view to arriving at an amicable understanding. The Community deplored the situation even more because it seemed that in a certain way Canada had speculated about the result of the consultations when requesting within the period of consultations provided for in Article 4:7 of the DSU the inscription of this item on the Agenda which seemed against the spirit of the DSU. However, given the urgent

[1] WT/DSB/M/3

need expressed by Canada the Community would not oppose the establishment of a panel at the present meeting.

The representative of the United States said that he supported the substance of Canada's complaint in WT/DS7/7 and would not stand in the way of the establishment of a panel. Indeed, the United States had an interest in participating as a third-party in this dispute. However, the procedure followed by Canada in respect of its request caused significant concern. Specifically, Canada had submitted its request for establishment of a panel prior to the expiration of the sixty-day consultation period provided for in Article 4:7 of the DSU. The request had been based on the prediction that "further consultations are not likely to be productive". The United States believed that basing a request on this type of prediction diminished the rights of the other consulting party, particularly if the other party to the consultations had a different view of whether consultations could potentially settle the dispute. In the United States' view, Canada prejudged the outcome of consultations. Article 4:7 of the DSU provided a procedure that would permit a request for the establishment of a panel during the sixty-day consultation period. Canada's request had been made, if not acted upon, during that sixty-day consultation period and thus, could have been handled consistent with the procedure provided in Article 4:7 of the DSU. Although the European Communities had raised concerns about Canada's submission of this request and its prediction on the likelihood of success of further consultations, it had not blocked Canada's request for the establishment of a panel. However, the United States' decision not to prevent the establishment of a panel in this situation did not constitute acceptance of the practice of circulating a request for the establishment of a panel prior to the expiration of the sixty-day consultation period.

The representative of Australia wished to reserve its third-party right to participate in the panel.

The representative of Peru said his delegation participated in consultations between Canada and the European Communities on this matter. Unfortunately the consultations did not lead to the results that all hoped, and therefore Peru supported the request by Canada, and wished to reserve its third-party rights to participate in the panel.

The representative of Canada said that her delegation noted the United States' comments with regard to Canada's request for the establishment of a panel. Canada wished to point out that the circumstances surrounding this particular dispute were unique since the 61st day following the request for consultations was the day of the DSB meeting. A similar situation would also occur whenever the sixty-day period for consultations expired during the ten-day period prior to a scheduled DSB meeting. Canada had requested that this matter be placed on the Agenda for practical reasons. Its approach in this matter was in accordance with both the spirit and the letter of the DSU. It was to facilitate the "prompt settlement"of disputes which was deemed "essential to the effective functioning of the WTO". Canada had chosen the most practical approach to address the unique timing circumstances of this dispute. In light of the United States' comments, it might be useful at a later date to have a discussion on this procedural aspect.

The representatives of Japan and Iceland supported the request by Canada for the establishment of a panel and in light of their substantial trade interest in this matter they wished to reserve their third-party rights under Article 10 of the DSU.

The Dispute Settlement Body took note of the statements and agreed to establish a panel with standard terms of reference in accordance with the provisions of Article 6 of the DSU.

3. Proposed nominations for the indicative list of governmental and non-governmental panelists

The Chairman recalled that this matter had been discussed in informal consultations on 15 and 24 March 1995 and at the DSB meeting on 29 March 1995. In this context, Members had been invited to review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) by 31 July 1995, and submit nominations for the indicative list by mid-June 1995. At its meeting on 31 May 1995 the DSB had approved the proposals concerning the administration of the indicative list contained in document WT/DSB/W/6. It had also been agreed that the indicative list be constituted in mid-June 1995. To date twenty-five proposed nominations had been received by the Secretariat from eight Members. Not all of them however had been made in the form prescribed in WT/DSB/W/6 which in its paragraph 4 stated that: "the basic information required for the indicative list could be best collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updatable and readily available to Members and the Secretariat." He urged Members to submit their nominations in the form stipulated in WT/DSB/W/6 as soon as possible in order for the indicative list to be constituted. A list containing proposed nominations submitted in accordance with the prescribed form was available upon request from the Secretariat - Council Division. As he had already indicated at the Informal Meeting of Heads of Delegations on 6 July 1995, mid-June 1995 was the target for constituting the indicative list and not a final deadline for submitting nominations. Members might at any time, as provided for in Article 8:4, "suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of sectors or subject matters of the covered agreements, and those names shall be added to the list upon the approval by the DSB."

With regard to the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9), he reminded Members that in document WT/DSB/W/6, paragraph 6 stated that "names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date Summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list". Thus far, only two names contained in the 1984 GATT Roster had been resubmitted to the Secretariat and one name had been removed from the Roster. He urged Members, should they wish names of their nationals under the 1984 GATT Roster to be carried forward to the indicative list, to resubmit those names together with up-to-date summary curricula vitae to the Secretariat as soon as possible.

The Dispute Settlement Body took note of the statement.

4. Standing Appellate Body

The Chairman said that while he believed some progress was being made in resolving outstanding problems still faced by the "Committee of Six", he was not yet in a position to submit a proposal to the DSB on appointments to the Appellate Body which would be in accord with the guidelines and the expectations of Members. Since beginning the task of selecting seven persons to serve on the Appellate Body the "Committee of Six" had completed two important processes. During the month of May 1995 it had met with fifty-four delegations to obtain their views on the persons on the list made available on 25 April 1995, best qualified for appointment to the Appellate Body in accordance with the guidelines laid down in the DSU and WT/DSB/1. Those guidelines called for persons of the highest calibre with demonstrated expertise in law, international trade, and the subject matter of covered agreements. They also called for the Appellate Body membership which would be "broadly representative" of the membership in the WTO, reflect different legal systems and would take into account other factors such as different geographical areas and levels of development. During the second

half of May 1995 and the first part of June 1995, the "Committee of Six" had met with all of the persons whose names were on the list of suggested appointees to the Appellate Body. As a result, the "Committee of Six" had been able to identify potential persons of the highest calibre which would provide an Appellate Body of seven members fully consistent with all aspects of the guidelines contained in the DSU and WT/DSB/1. Since the Informal Meeting of the Heads of Delegations on 6 July 1995, the "Committee of Six" had been working on resolving outstanding problems. However, it was not yet in a position to make a recommendation to the DSB on appointments to the Appellate Body consistent with all aspects of the guidelines in the DSU and WT/DSB/1. He remained convinced of the need to work towards a decision by the end of July 1995. A responsible approach to the work of the "Committee of Six", required a decision on appointments in sufficient time to allow the Appellate Body appointees to divest themselves of any activities which might not be consistent with their responsibilities under the DSU, and following formal appointment, to be given sufficient time to draw up the working procedure of the Appellate Body before being required to hear the first appeal.

The representative of Malaysia, speaking on behalf of ASEAN countries, said that he was encouraged by the progress made thus far by the "Committee of Six", and urged it to ensure the establishment of a fair, equitable and, most important, a credible Appellate Body. The guidelines contained in the DSU and WT/DSB/1 were agreeable to ASEAN countries and should be followed. The Appellate Body was a very important instrument of the multilateral trading system -- the guardian of the system -- and therefore it should reflect the justice and equity that many small trading nations wished.

The representative of Argentina expressed his country's support for the principles and objectives outlined by the Chairman concerning the selection process. However, Argentina was concerned whether it could be possible to have all necessary elements for a proposal which would be strictly in accordance with the guidelines set out and carefully weighted by Members in the very short time remaining. There were several practical reasons which required, as pointed out by the Chairman, a decision on this matter during July 1995. However, political reasons more than practical ones could affect the very credibility of the Appellate Body which was one of the cornerstones of the WTO. Argentina therefore supported the work of the "Committee of Six", and urged it to submit the proposal concerning the composition of the Appellate Body to the DSB for consideration.

The representative of Australia said that his country was encouraged by the progress of the "Committee of Six" as described by the Chairman. Australia's position concerning the composition of the standing Appellate Body had not changed since the Informal Meeting of Heads of Delegations on 6 July 1995. However, like others, Australia was becoming increasingly disturbed by the time-lag in completing the process which was after all vital for the credibility of the dispute settlement system. Australia supported the statement by Argentina concerning the need to determine all the elements required for a proposal on the composition of the Appellate Body very shortly. The longer the selection process would be the more speculation tended to be made about the proposal. The DSU was clear that the Appellate Body membership should be "broadly representative" of the membership in the WTO. Australia considered that it was very important in this early stage that there should be no weighting in favour of any one group that might prejudice the credibility and standing of what would be after all the supreme Appeal Body. Australia believed that an Appellate Body balanced in favour of any one group would have symbolic as well as real effects which would prove very negative for the dispute settlement system and that this would, in the end, benefit none of its Members.

The representative of Colombia, speaking on behalf of Latin American and Caribbean countries, said that since the last report made by the Chairman on 6 July 1995 the situation had not fundamentally changed. The problems and difficulties outlined by the Chairman on that occasion seemed to persist and this was a source of concern. The Latin American and Caribbean countries wished to reiterate the importance of the principle of "broad representation" both in regard to geographical regions and

legal systems. While they respected the aspirations of Members including those which had a certain predominance they could not accept excessive ambitions which would lead to a sort of control or dominant position in the Appellate Body, destroying thus its balance and the guarantee of objectivity and impartiality.

The representative of Hong Kong said that although he had hoped that the composition of the standing Appellate Body would be announced by the Chairman at the present meeting he welcomed the progress made since 6 July 1995. He emphasized that it was important to follow the agreed guidelines -- members of the Appellate Body needed to be people of recognized authority -- and to ensure that the outcome would be acceptable to all. However, Members had time constraints. Hong Kong fully supported that all efforts should be made to settle this matter before the end of July 1995.

The representative of India said that, like previous speakers, he had also expected that the Chairman would make a recommendation to the DSB concerning the composition of the Appellate Body at the present meeting. He recalled that on 6 July 1995 India had clearly expressed its point of view on this matter. The guidelines available in the DSU and in WT/DSB/1 were clear and it would not be desirable at this stage to alter them. India shared the view expressed by the previous speakers that there was a need to ensure that the appointments to the Appellate Body be completed as quickly as possible and, in any case, before 31 July 1995. As mentioned by the Chairman, some of the selected persons might have to divest themselves from other activities inconsistent with their job as Appellate Body members. It was also necessary to have sufficient time for the Appellate Body members to draw up their working procedures. The "Committee of Six" was trying hard to resolve the outstanding problems and it should continue and intensify its efforts. A delay on a final decision concerning a substantive matter was understandable but this delay related to a selection of persons. He agreed with Australia that the delay led to speculation which sometimes resulted in suspicion and this could make the whole process more complicated and difficult. The guidelines available in the DSU and in WT/DSB/1 were very clear and stressed the importance of ensuring merit and integrity, and recognized that the composition of the Appellate Body should be broadly representative of the WTO membership taking into account geographical and balanced representation from developed and developing countries. He noted that there were still outstanding problems. India therefore asked all Members who could contribute to solving these outstanding problems to do so in a spirit of goodwill and cooperation so that by 31 July 1995 final recommendations could be submitted to the DSB for consideration.

The representative of Korea emphasized that, at present, common sense was the most important element in reaching a decision on this important issue. The Chairman outlined very sensible criteria for the selection of the members of the Appellate Body. He supported Chairman's approach to hear the views of as many delegations as possible and identifying common denominators of their opinion to reach consensus on this matter. An important element to consider among others was also a broad representation of developed and less-developed countries.

The representative of Nigeria, speaking on behalf of the African Group, noted with satisfaction the progress on the selection of the Appellate Body made thus far. Nigeria was encouraged that the selection process appeared to proceed in the right direction, but regretted that the "Committee of Six" was unable to make a recommendation to the DSB at the present meeting. He re-emphasized that the selection exercise should be in full accord with the established criteria contained in the DSU and WT/DSB/1. These criteria, particularly a selection on the basis of expertise, geographic equilibrium, confidence in the members and their impartiality were best guarantees for the smooth functioning of the system. The African Group expressed the hope that the selection process should be speedily and satisfactorily concluded before the Summer break.

The representative of Brazil said that his delegation shared the views expressed by the previous speakers on this matter. Brazil welcomed the progress but regretted that a conclusion had not been

reached on this matter at the present meeting. Drawing up of working procedures and the need for the Appellate Body members to divest themselves from any activities which might not be consistent with their responsibilities under the DSU should be taken into consideration and therefore the timetable set out by the Chairman seemed adequate. The guidelines should be associated with expectations: i.e., the equitable distribution in terms of geography and diverse economic and legal systems and credibility should be taken into account.

The representative of Chile said that it was very important for the credibility of the Appellate Body to follow the established guidelines for the selection of its members and that this process should be concluded before 31 July 1995.

The representative of Canada said that her delegation, like others, was very encouraged by the progress described by the Chairman but was extremely disappointed and dismayed that the "Committee of Six" was not in a position to submit the final recommendation at the present meeting. On 6 July 1995 Canada had been encouraged by the Chairman's report and the resounding support from all Members with regard to his approach. The fact that the Committee was basing its choice on the previously agreed criteria set out by the Members had been unanimously supported. Delegations had stressed the need for diversity. In addition, Canada and others had urged the "Committee of Six" to continue to use that criteria and not introduce any other factors into the decision-making process. It was essential that the Appellate Body was seen to be broadly representative of Members, that the most qualified individuals were selected, and that the decision not become politicised. Full respect of the guidelines would be essential in order to ensure the credibility of the institution in general and the Appellate Body in particular. In addition, there were some very real operational concerns to be taken into account. Members should not deceive themselves into believing that the Appellate Body would be immediately operational upon choosing the persons who would serve on it. The individuals chosen would invariably have some personal and professional matters that they would have to attend to prior to assuming their functions as a member of the Appellate Body. One could not expect an individual to alter his professional life without having some reasonable interim period to make the necessary adjustments. In addition, prior to hearing its first case, the Appellate Body would have to decide upon its working procedures as called for in the DSU. In the recent past, Members have had a lot of experience in the area of drafting procedures and all were aware of how long this process could take. There would also be logistic, administrative and staffing issues that would have to be addressed by the Appellate Body. There were already cases in the dispute settlement system and Members must ensure that there was an operational Appellate Body to deal with them when they reached that stage. Not having the Appellate Body fully operational in a short time-frame would undermine the credibility of the institution, not to say of its Members. Canada was concerned that not announcing the composition of the Appellate Body shortly would create extremely negative consequences and therefore it supported and encouraged the efforts of the Chairman to provide the DSB with a recommendation by the end of July 1995.

The representative of Switzerland said that on 6 July 1995 when the Chairman had reported on the situation concerning the composition of the Appellate Body his delegation felt that the selection process was evolving normally. However, the target date had approached and Members were risking again a slippage in the deadline. He therefore supported Canada's call for urgency concerning this matter. Switzerland had real concerns that the selection process was not quasi-automatic since this could raise some doubts about the future independence of the Appellate Body. During the first phase of the selection process Switzerland was following the guidelines serving as a basis for the selection process and a guarantee for a credible and impartial Appellate Body. In the final stage, however, some Members seemed to have second thoughts. He was astonished that the "Committee of Six" hesitated, at this stage, to propose seven persons on the basis of the established selection criteria. The dispute settlement system was a central element in providing security and predictability to the multilateral trading system. In this context, he underlined that the DSU and the Appellate Body were keystones of the

dispute settlement mechanism and the WTO-structure was going to collapse if these building blocks were faulty. Independence and impartiality of the Appellate Body as well as its credibility were a precondition for the functioning of the quasi automatic dispute settlement system under the DSU and nobody could afford laxity in this area. The credibility of the dispute settlement could only be assured if all Members showed high political wisdom and did not give in to short term interests. The delight at a first victory might soon turn into mixed feelings after the first rulings of the Appellate Body, if one had not based the selection on the established objective criteria. The credibility of the Appellate Body Members at the international level was essential for the multilateral trading system. Without such credibility there would be no long-term credibility at the national level.

The representative of Uruguay noted that the proposal concerning the selection of the Appellate Body members would be submitted to the DSB at the end of July 1995, and that all Members were unanimously in favour of the guidelines recalled by the Chairman. Uruguay was concerned that this process was taking a lot of time and taking more time would only have a negative influence and would not be favourable for the credibility of the system. He hoped that the work concerning this process would soon be concluded and that the Chairman would be able to present its proposal to the DSB.

The representative of New Zealand said that his country fully supported the criteria contained in the DSU and WT/DSB/1 for the selection of the Appellate Body members. Both DSU and WT/DSB/1 were clear that the selection process had to focus on securing persons of the highest calibre capable of resolving issues of law covered by panel reports and legal interpretations developed by panels. He recalled the importance of other agreed criteria, for example, that the Appellate Body membership be broadly representative of the membership in the WTO. The points made by Switzerland were very pertinent to this issue. Appellate Body was the keystone of the dispute settlement mechanism and there could be nothing more important. Similarly, its independence and impartiality were vital. It was important to have the Appellate Body members selected and formally appointed soon. Thereafter, they would have to draw up working procedures prior to hearing a first appeal. As mentioned by the previous speakers, the process of drawing up working procedures would take time. This was an important task which could not be rushed, and for that reason as well as for the wider credibility of the WTO it was important that one should reach a decision on this matter as soon as possible.

The representative of Mexico said that her delegation was glad that the "Committee of Six" had already identified possible candidates for the Appellate Body which would be in conformity with the guidelines contained in the DSU and WT/DSB/1. Mexico, however, was concerned that the conclusion of this work was being slowed down by a number of problems that the "Committee of Six" was facing. Members should cooperate in the selection process to be carried out in accordance with the above-mentioned guidelines to ensure the appropriate diversity of legal systems and the credibility of the Appellate Body so that the "Committee of Six" could submit a proposal as soon as possible.

The representative of Egypt said that her delegation had made its position quite clear at the informal meeting of the Heads of Delegations on 6 July 1995. She supported statements made by the previous speakers and the report by the Chairman particularly with regard to the following: (i) full adherence to the strict application of the established guidelines contained in the DSU and WT/DSB/1; (ii) the importance of the geographical balance and diversity of the legal systems; and (iii) guaranteeing of a fair and impartial dispute settlement mechanism. Egypt was firmly against any kind of dominance or permanence of any representation in the Appellate Body and hoped that it would be possible to have clear and fair results before the Summer break.

The representative of the European Communities confirmed the Communities' constructive support to reach a solution in finding seven members of the Appellate Body. The Community would make all possible efforts to arrive at an agreement which respected balances already determined and which had to be respected in the membership of the Appellate Body.

The representative of the United States said that his country supported the guidelines contained in the DSU and WT/DSB/1 and urged the "Committee of Six" to take whatever time was necessary to develop a consensus on the nominations.

The Chairman thanked Members for their statements and said that he shared disappointment expressed by the speakers that it was not possible to submit a proposal concerning the selection of the Appellate Body members to the DSB for adoption at the present meeting. He was encouraged by the support and confidence expressed by the Members. In particular, by the clear message that the outcome to this matter had to be one which was completely consistent with all aspects of the guidelines contained in the DSU and WT/DSB/1. He was also encouraged that Members shared the concerns of the "Committee of Six" about timing and the importance of getting this task finish quickly. He was struck by the comments made by some delegations that the longer this process continued unsettled the more the danger of speculation and of politicizing this process. He was concerned that a number of Members were clearly expressing impatience that this issue was proving to be more difficult to resolve than they hoped. He stressed that the "Committee of Six" would continue to work very hard during the month of July 1995 towards a quick decision, and for this purpose he would hold a further meeting of the DSB at the end of July 1995.

The Dispute Settlement Body took note of the statements.

5. Article XXII:1 consultations with the United States on auto and auto parts issues
   - Statement by Japan

The representative of Japan, speaking under "Other Business", said that his Government would no longer pursue the dispute settlement procedures initiated in the request for consultations with the United States contained in WT/DS6/1, dated 17 May 1995.

The representative of the United States welcomed Japan's statement as well as the statements made at the meetings of the Council for Trade in Goods[2] and of the General Council[3] on 3 and 11 July 1995 respectively concerning the comprehensive resolution of the dispute on auto and auto parts. Since both Governments had reached this mutually acceptable solution neither would pursue dispute settlement procedures and consultations under Article XXII of the GATT 1994 requested in WT/DS6/1 or pursuant to the pre-filing notification from the United States contained in WT/INF/1, dated 10 May 1995.

6. Malaysia - Prohibition of imports of polyethylene and polypropylene
   - Withdrawal of the complaint by Singapore under Article XXIII of the GATT 1994

The representative of Singapore, speaking under "Other Business", recalled that on 10 January 1995, his Government had requested Malaysia to enter into consultations pursuant to Article XXIII:1 of the GATT 1994 and Article 4.3 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) regarding the prohibition of imports of polyethylene (PE) and polypropylene (PP) instituted and maintained by the Malaysian Government under the Customs (Prohibition of Imports) (Amendment) (No.5) Order 1994 dated 16 March 1994 which came into force

[2]G/C/M/4.

[3]WT/GC/COM/3

on 7 April 1994. At the DSB meeting on 29 March[4], Singapore had requested that a panel be established at the DSB meeting on 10 April to examine Malaysia's Import prohibitions on PE and PP. Subsequent to the meeting on 29 March, Malaysia had notified the WTO in document WT/DS1/3, dated 31 March 1995, and the Committee on Import Licensing Procedures in document G/LIC/N/2/MYS/1, dated 5 April 1995, that it had modified the import restrictions on PE and PP into an automatic import licensing procedure for the purpose of statistical date collection with effect from 23 March 1995. In view of these developments, at the meeting on 10 April[5] Singapore had deferred its request for the establishment of a panel, pending further consultations with Malaysia on the details of the modified administrative procedures relating to the automatic import licensing scheme and feedback from the Singapore companies. At the present meeting, he was pleased to announce that his Government had decided to withdraw its complaint under Article XXIII of the GATT 1994 completely. Singapore had received the necessary clarification from Malaysia on its revised automatic licensing scheme under its Customs (Prohibition of Imports) (Amendment) (No. 5) Order 1994 in full conformity with GATT/WTO and the Agreement on Import Licensing Procedures.

The representative of Malaysia thanked Singapore for its statement and welcomed the decision of Singapore's authorities concerning the withdrawal of its complaint under Article XXIII of the GATT 1994. Malaysia appreciated the cooperative spirit and understanding of Singapore's delegation in coming to an amicable solution on this matter.

The Chairman thanked Singapore and Malaysia for their statements and said that it was important that at this stage when DSB practices were being established Members considered the need to register formally not only the initiation of disputes but also the settlement and resolution thereof.

The Dispute Settlement Body took note of the statements.

7. European Communities - Trade description of scallops
   - Statement by Peru

The representative of Peru, speaking under "Other Business", said that his Government had requested consultations with the European Communities concerning the French Government Order NOR MERP9300051A and its subsequent amendments which regulated the trade description of scallops. A copy of this request had been sent to the DSB, the Council for Trade in Goods and the Committee on Technical Barriers to Trade. The request was made pursuant to Article XXII:1 of the GATT 1994 and Article 14.1 of the Agreement on Technical Barriers to Trade and Article 4 of the DSU[6]. Peru considered that the above-mentioned French Government Order unilaterally and artificially changed the trade description of foreign scallops thereby refusing the use of the denomination "Coquilles St. Jacques" for the Peruvian scallops whose scientific name was "Argopecten Purpuratus". This change caused trade injury to Peru's fishing enterprises. Peru hoped that consultations with the European Communities on this matter would arrive at a positive result.

The Dispute Settlement Body took note of the statement.

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[4]WT/DSB/M/2

[5]WT/DSB/M/3

[6]This request was subsequently circulated in WT/DS12/1

8. European Communities - duties on imports of cereals
- Statement by Canada

The representative of Canada speaking under "Other Business", drew attention to Canada's communication containing a request for consultations with the European Communities in WT/DS9/1, dated 30 June 1995, with regard to duties on imports of cereals which had been circulated on 10 July 1995. This request for consultations had been notified to the DSB, the Council for Trade in Goods, the Committee on Customs Valuation, the Committee on Agriculture, and the Committee on Market Access. She informed the DSB that Canada had already met the European Communities in the context of these consultations on 18 July 1995.

The representative of the United States said that his Government had also requested consultations with the European Communities pursuant to Article XXIII:1 of the GATT 1994 concerning duties on imports of grains, including wheat, corn, barley and rice[7].

The representative of Argentina said that his country was following closely Canada's consultations with the European Communities because it had noted the Community's lack of will to comply with its Uruguay Round commitments with regard to other products to which a similar method to the one under Canada's complaint applied. Argentina shared the concerns expressed both by Canada and the US and reserved its right with regard to this matter.

The representative of Australia registered her country's trade interest in this issue as an exporter as well as Australia's wider interest in the full implementation of the WTO commitments under the Uruguay Round in the area of agriculture.

The Dispute Settlement Body took note of the statements.

9. Expiration of time-periods in the DSU

The Chairman, speaking under "Other Business", recalled that a number of delegations had raised the problem of how to deal with situations where a legal time-period under the provisions of the DSB expired on a holiday or on a WTO non-working day. He had spoken to delegations which had approached him on this matter and had carried out consultations with the Secretariat. He had not convened any informal consultations with delegations on this matter since it appeared that a practical solution could easily be found by reaching an understanding that, if a time-period expired on a WTO non-working day, any communication or action to be taken before the expiration of such a time-period would be accepted on the first subsequent WTO working day. It was understood, however, that apart from the actions which might be taken in accordance with the proposed procedures, the time-periods themselves would not be affected. A proposal concerning the expiration of time-periods, prepared under his responsibility, would be circulated to Members as a working document for consideration in the next few days.[8] The proposed procedure might be reviewed in the light of experience. He then invited delegations to contact him or the Secretariat should they have any questions concerning this proposal. If any delegations saw a problem in this approach he would convene informal consultations in order to examine the matter further. If there were no comments he would propose that the DSB agree on this procedure at its next meeting.

[7]This request was subsequently circulated in WT/DS13/1

[8]Subsequently circulated in WT/DSB/W/10 and Add.1.

The Dispute Settlement Body took note of the statement.

10. Notification of requests for consultations

The Chairman, speaking under "Other Business", recalled that Article 4:4 of the DSU stated that "all… requests for consultations shall be notified to the DSB and the relevant Councils and Committees by the member that requests consultations." The Secretariat had been receiving such requests, addressed not only to the DSB but also to three or four other relevant bodies of the WTO. In order to simplify their own work he invited delegations to send one single text of their notifications to the Secretariat (Council Division), and simply specify in that text, the other relevant Councils or Committees to which they wished the notification to be addressed. The Secretariat would then distribute it to the specified relevant bodies.

The Dispute Settlement Body agreed to the proposal by the Chairman.