unless the Countries agree otherwise. Special meetings of the Joint Committee may be convened, within 30 days upon the request of either Country.

Article 14

Sub-Committees

The following Sub-Committees shall be established on the date of entry into force of this Agreement:

(a) Sub-Committee on Trade in Goods;
(b) Sub-Committee on Rules of Origin;
(c) Sub-Committee on Customs Procedures;

(d) Sub-Committee on Technical Regulations, Standards and Conformity Assessment Procedures;
(e) Sub-Committee on Sanitary and Phytosanitary Measures;
(f) Sub-Committee on Investment;
(g) Sub-Committee on Trade in Services;
(h) Sub-Committee on Intellectual Property;
(i) Sub-Committee on Improvement of Business Environment; and
(j) Sub-Committee on Co-operation.

Article 15

Communications

Communications between the Countries on any matter relating to this Agreement shall be facilitated through the following contact points:

(a) in the case of Japan, the Ministry of Foreign Affairs of Japan; and
(b) in the case of Malaysia, the Ministry of Foreign Affairs of Malaysia.

Chapter 2

Trade in Goods

Article 16

Definitions

For the purposes of this Chapter:

(a) the term "bilateral safeguard measure" means a bilateral safeguard measure provided for in paragraph 1 of Article 23;
(b) the term "customs duty" means any customs or import duty and a charge of any kind, imposed in connection with the importation of a good, but does not include any:

(i) charge equivalent to an internal tax imposed consistently with the provisions of paragraph 2 of Article III of the GATT 1994, in respect of the like goods or, directly competitive or substitutable goods of the Country or in respect of goods from which the imported goods have been manufactured or produced in whole or in part;
(ii) anti-dumping or countervailing duty applied pursuant to a Country's law and applied

consistently with the provisions of Article VI of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, as may be amended, and the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement, as may be amended; or

(iii) fees or other charges commensurate with the cost of services rendered;

(c) the term “customs value of goods” means the value of goods for the purposes of levying ad valorem customs duties on imported goods;

(d) the term “domestic industry” means the producers as a whole of the like or directly competitive goods operating in the territory of a Country, or those whose collective output of the like or directly competitive goods constitutes a major proportion of the total domestic production of those goods;

(e) the term “export subsidies” means export subsidies listed in Article 9 of the Agreement on Agriculture in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Chapter as “the Agreement on Agriculture”);

(f) the term “originating goods” means goods which qualify as originating goods under the provisions of Chapter 3;

(g) the term “provisional bilateral safeguard measure” means a provisional bilateral safeguard measure provided for in subparagraph 9(a) of Article 23;

(h) the term “serious injury” means a significant overall impairment in the position of a domestic industry; and

(i) the term “threat of serious injury” means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent.

Article 17
Classification of Goods

The classification of goods in trade between the Countries shall be in conformity with the Harmonized System.

Article 18
National Treatment

Each Country shall accord national treatment to the goods of the other Country in accordance with Article III of the GATT 1994.

Article 19
Elimination of Customs Duties

1. Except as otherwise provided for in this Agreement, each Country shall eliminate or reduce its customs duties

on originating goods of the other Country in accordance with its Schedule in Annex 1.

2. Except as otherwise provided for in this Agreement, neither Country shall increase any customs duty on originating goods of the other Country from the rate to be applied in accordance with its Schedule in Annex 1.

3. On the request of either Country, the Countries shall negotiate on issues such as improving market access conditions on originating goods designated for negotiation in the Schedule in Annex 1, in accordance with the terms and conditions set out in such Schedule.

Article 20
Customs Valuation

For the purposes of determining the customs value of goods traded between the Countries, provisions of Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Agreement as "the Agreement on Customs Valuation"), shall apply *mutatis mutandis*.

Article 21
Export Subsidy

Neither Country shall in accordance with the Agreement on Agriculture introduce or maintain any export subsidies on any agricultural good which is listed in Annex 1 to the Agreement on Agriculture.

Article 22
Non-tariff Measures

Except as otherwise provided for in this Agreement, each Country shall not introduce or maintain any non-tariff measures on the importation of any good of the other Country or on the exportation or sale for export of any good destined for the other Country which are inconsistent with its obligations under the WTO Agreement.

Article 23
Bilateral Safeguard Measures

1. Subject to the provisions of this Article, if an originating good of the other Country, as a result of the elimination or reduction of a customs duty in accordance with Article 19, is being imported into the territory of a Country in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that the imports of that originating good constitute a substantial cause of serious injury, or threat thereof, to a domestic industry of the latter Country, the latter Country may, as a bilateral safeguard measure, to the minimum extent necessary to prevent or remedy the serious injury and to facilitate adjustment:

(a) suspend the further reduction of any rate of customs duty on the originating good provided for in this Chapter; or

(b) increase the rate of customs duty on the

originating good to a level not to exceed the lesser of:
(i) the most-favoured-nation applied rate of customs duty in effect at the time when the bilateral safeguard measure set out in this paragraph is taken; and
(ii) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement.

2. Each Country shall not apply bilateral safeguard measures on an originating good imported up to the limit of quota quantities granted under tariff rate quotas applied in accordance with its Schedule in Annex 1.
3. (a) A Country may take a bilateral safeguard measure only after an investigation has been carried out by the competent authorities of that Country in accordance with the same procedures as those provided for in Article 3 and paragraph 2 of Article 4 of the Agreement on Safeguards in Annex 1A to the WTO Agreement, as may be amended (hereinafter referred to in this Chapter as "the Agreement on Safeguards").
(b) The investigation referred to in subparagraph (a) shall in all cases be completed within one year following its date of initiation.
4. The following conditions and limitations shall apply with regard to a bilateral safeguard measure:
(a) A Country shall immediately deliver a written notice to the other Country upon:
(i) initiating an investigation referred to in subparagraph 3(a) of this Article relating to serious injury, or threat thereof, and the reasons for it; and
(ii) taking a decision to apply or extend a bilateral safeguard measure.
(b) The Country making the written notice referred to in subparagraph (a) shall provide the other Country with all pertinent information, which shall include:
(i) in the written notice referred to in subparagraph (a)(i), the reason for the initiation of the investigation, a precise description of an originating good subject to the investigation and its subheading or a more detailed level of the Harmonized System, the period subject to the investigation and the date of initiation of the investigation; and

(ii) in the written notice referred to in subparagraph (a)(ii), evidence of serious injury or threat thereof caused by the increased imports of the originating good, a precise description of the originating good subject to the proposed bilateral safeguard measure and its subheading or a more detailed level of the Harmonized System, a precise description of the bilateral safeguard measure, the proposed date of its introduction and its expected duration.

(c) A Country proposing to apply or extend a bilateral safeguard measure shall provide adequate opportunity for prior consultations with the other Country with a view to reviewing the information arising from the investigation referred to in subparagraph 3(a) of this Article, exchanging views on the bilateral safeguard measure and reaching an agreement on compensation set out in paragraph 5 of this Article.

(d) No bilateral safeguard measure shall be maintained except to the extent and for such time as may be necessary to prevent or remedy serious injury and to facilitate adjustment, provided that such time shall not exceed a period of four years. However, in very exceptional circumstances, a bilateral safeguard measure may be maintained for up to a total maximum period of five years. In order to facilitate adjustment in a situation where the expected duration of a bilateral safeguard measure is over one year, the Country maintaining the bilateral safeguard measure shall progressively liberalise the bilateral safeguard measure at regular intervals during the period of application.

(e) No bilateral safeguard measure shall be applied again to the import of a particular originating good which has been subject to such a bilateral safeguard measure, for a period of time equal to the duration of the previous bilateral safeguard measure or one year, whichever is longer.

(f) Upon the termination of a bilateral safeguard measure, the rate of customs duty shall be the rate which would have been in effect but for the bilateral safeguard measure.

5. (a) A Country proposing to apply or extend a bilateral safeguard measure shall provide to the other Country mutually agreed adequate means of trade compensation in the form of concessions of customs duties whose levels are substantially equivalent to the value of the additional customs duties expected to result from the bilateral safeguard measure.

(b) If the Countries are unable to agree on the compensation within 30 days after the commencement of the consultation pursuant to subparagraph 4(c) of this Article, the Country against whose originating good the bilateral safeguard measure is taken shall be free to suspend the application of concessions of customs duties under this Agreement, which are substantially equivalent to the bilateral safeguard measure.

(c) The right of suspension provided for in subparagraph (b) shall not be exercised for the first 18 months that a bilateral safeguard measure is in effect, provided that the bilateral safeguard measure has been taken as a result of an absolute increase in imports and that such a bilateral safeguard measure conforms to the provisions of this Article. The Country exercising the right of suspension may suspend the application of concessions of customs duties only for the minimum period necessary to achieve the substantially equivalent effects and only while the bilateral safeguard measure is maintained.

6. Nothing in this Chapter shall prevent a Country from applying safeguard measures to an originating good in accordance with:

(a) Article XIX of the GATT 1994 and the Agreement on Safeguards; or

(b) Article 5 of the Agreement on Agriculture.

7. Each Country shall ensure the consistent, impartial and reasonable administration of its laws and regulations relating to the bilateral safeguard measure.

8. Each Country shall adopt or maintain equitable, timely, transparent and effective procedures relating to bilateral safeguard measure.

9. (a) In critical circumstances, where delay would cause damage which it would be difficult to repair, a Country may take a provisional bilateral safeguard measure, which shall take the form of the measure set out in subparagraph 1(a) or (b) of this Article pursuant to a preliminary determination that there is clear evidence that increased imports of an originating good have caused or are threatening to cause serious injury to a domestic industry.

(b) The Country shall deliver a written notice to the other Country prior to applying a provisional bilateral safeguard measure. Consultations between the Countries on the application of the provisional bilateral safeguard measure shall be initiated immediately after the provisional bilateral safeguard measure is taken.

(c) The duration of the provisional bilateral safeguard measure shall not exceed 200 days. During that period, the pertinent requirements of paragraph 3 of this Article shall be met. The duration of the provisional bilateral safeguard measure shall be counted as a part of the period referred to in subparagraph 4(d) of this Article.

(d) Paragraph 2, subparagraph 4(f) and paragraphs 7 and 8 of this Article shall be applied *mutatis mutandis* to the provisional bilateral safeguard measure. The customs duty imposed as a result of the provisional bilateral safeguard measure shall be refunded if the subsequent investigation referred to in subparagraph 3(a) of this Article does not determine that increased imports of the originating good have caused or threatened to cause serious injury to a domestic industry.

10. Written notice referred to in subparagraph 4(a) and subparagraph 9(b) of this Article and any other communication between the Countries shall be done in the English language.

11. The Countries shall review the provisions of this Article, if necessary, after 10 years of the date of entry into force of this Agreement.

Article 24
Restrictions to Safeguard the Balance of Payments

1. Nothing in this Chapter shall be construed to prevent a Country from taking any measure for balance-of-payments purposes. A Country taking such measure shall do so in accordance with the conditions established under Article XII and Section B of Article XVIII of the GATT 1994 and the Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement.

2. Nothing in this Chapter shall preclude the use by a Country of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund, as may be amended.

Article 25
Sub-Committee on Trade in Goods

1. For the purposes of the effective implementation and operation of this Chapter, the functions of the Sub-Committee on Trade in Goods (hereinafter referred to in this Article as “the Sub-Committee”) established in accordance with Article 14 shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) discussing any issues related to this Chapter;

(c) reporting the findings and the outcome of discussions of the Sub-Committee to the Joint Committee; and

(d) carrying out other functions as may be delegated by the Joint Committee in accordance with Article 13.

2. The Sub-Committee shall meet at such venues and times as may be agreed by the Countries.

3. The Sub-Committee shall be:

(a) composed of representatives of the Governments; and

(b) co-chaired by officials of the Governments.

Article 26

Co-operation in the Field of Automotive Industry

The Countries shall co-operate, with the participation of their respective automotive industries, to further enhance competitiveness of the automotive industry in Malaysia.

Chapter 3

Rules of Origin

Article 27

Definitions

For the purposes of this Chapter:

(a) the term “competent governmental authority” means the authority of each Country that is responsible for the issuing of the certificate of origin or for the designation of the certification entities or bodies. In the case of Japan, the Ministry of Economy, Trade and Industry, and in the case of Malaysia, the Ministry of International Trade and Industry;

(b) the term “customs authority” means the authority that, according to the legislation of each Country or a third State, is responsible for the administration and enforcement of its customs laws and regulations. In the case of Japan, the Ministry of Finance, and in the case of Malaysia, the Royal Malaysian Customs of the Ministry of Finance;

(c) the term “exporter” means a person located in the territory of an exporting Country who exports a good from the territory of the exporting Country;

(d) the terms “factory ships of the Country” and “vessels of the Country” respectively mean factory ships and vessels:

(i) which are registered in the Country;

(ii) which sail under the flag of the Country;

(iii) which are owned to an extent of at least 51 percent by nationals of the Country, or by a juridical person with its head office in the territory of the Country, of which the representatives, chairman of the board of directors, and the majority of the members of such board are nationals of the Country, and of which at least 51 percent of the