Introduction

1. The Committee on Trade and Development held its thirty-first session on 12-13 April 1976, under the Chairmanship of Mr. I.S. Chadha (India).

2. In his introductory remarks, the Chairman said that while the major thrust of work in GATT was presently concerned with the multilateral trade negotiations, it was nonetheless important that the Committee should continue fulfilling the mandate given to it, in accordance with the provisions of Part IV, more so when the interests of developing countries in the field of commercial policy were receiving far-reaching consideration in GATT as well as in other international fora. Since the time available for the meeting was limited, the focus of discussion could be expected to relate to the question of the application of Part IV, although the Committee would, no doubt, address itself to other items on its agenda.

3. The agenda (GATT/ATR/1266) which was adopted by the Committee, contained three items, namely, review of the implementation of Part IV, review of developments in the multilateral trade negotiations and consideration of the question of the application of Part IV in the light of the objectives it is intended to serve.

Review of the implementation of Part IV

4. For consideration of this item, the Committee had before it document CQI.TD/W/241, which contained information available to the Secretariat on actions taken by governments since the last session with respect to commercial policy measures of interest in relation to Part IV as well as a summary of certain developments in other international organizations considered to be of relevance to Part IV. In this connexion, a number of delegations provided details of recent measures adopted by their governments.
5. The representative of Japan informed the Committee that his Government had reduced n.m.n. tariff rates for ten items including scoured flax (54.01-1) and scoured rami (54.02-1) for the fiscal year 1976. The representative of the United States said that his Government had announced the suspension of duties on imports of natural graphite until 30 June 1978. The representative of the United States also provided information on the background and objectives of the Generalized System of Preferences introduced by his Government on 1 January 1976, details of which had been circulated to contracting parties in document L/4299 and Add.1.

6. A number of delegations from developing countries, while appreciative of measures adopted by developed countries in relation to Part IV, nonetheless expressed serious concern over the continued maintenance of restrictions and the imposition of new restrictive measures by some developed countries affecting products of export interest to developing countries, and urged that the commitment provisions of Part IV be fully observed. One of these delegations expressed the hope that the discriminatory element affecting his country in the GSP schemes of certain donor countries would be eliminated at the earliest possible date.

Review of developments in the multilateral trade negotiations

7. The Committee took note of developments in the multilateral trade negotiations on the basis of a secretariat background note COM.TD/W/240 and Add.1, which contained a summary of developments in the negotiations covering the period following the last meeting of the Trade Negotiations Committee in December 1975.

Application of Part IV

8. In introducing this item, the Chairman recalled that at the last session of the Committee, some preliminary comments were offered on the question of the application of Part IV in the light of the objectives it is intended to serve. Some delegations had felt that, having regard to the consideration that was to be given to improvements in the international framework for the conduct of world trade as provided for in paragraph 9 of the Tokyo Declaration, it would be appropriate for the Committee to start giving thought to possible ways by which Part IV and other parts of the General Agreement could be improved so as to make them more responsive to the needs of developing countries. The exchange of views which took place at that meeting is recorded at paragraphs 9-12 of the Committee's report (L/4252).

9. To facilitate consideration of this question, the secretariat had been asked by the Committee to prepare a background note containing information on the experience of contracting parties with respect to the application of Part IV as well as a
summary of the specific observations and suggestions which had been made with respect to a review and possible amendment of the provisions of Part IV. The note was issued as document COM.TD/V/239.

10. The Chairman suggested that, in giving preliminary consideration to this agenda item, without commitment on the part of any delegation, members of the Committee might take stock of past experience with respect to the application of Part IV to see how its provisions had been operating in relation to the concerns and preoccupations of developing countries; take note of suggestions that had been made for improvements or amendments, including proposals for the inclusion of provisions in Part IV that were made when the text was drafted but which at that point in time had failed to secure general acceptance; and examine what might be said in regard to the purposes served by Part IV, the rôle played by it and its effectiveness as an instrument for meeting the trade problems of developing countries within the framework of GATT, as well as the feasibility and scope for further improvement. Such an exchange of views would, in his view, provide a useful background for the discussion of any proposals for improvements in the framework for the conduct of international trade, in so far as problems of more particular interest to developing countries were concerned, when such proposals were eventually taken up in the framework of the multilateral trade negotiations.

Experience with the application of Part IV

11. In relation to the experience of contracting parties with the application of Part IV, delegations from developing countries expressed the view that Part IV had not been implemented in the manner they had envisaged. In this connexion they referred, inter alia, to the continued maintenance of import restrictions by developed countries on many products of interest to developing countries and to the imposition of new restrictions, which they considered to be contrary to Part IV, particularly the "standstill" provision. Some of these delegations said that, although the exemption in certain instances of products of interest to developing countries from emergency action taken for balance-of-payments reasons showed that such a course was feasible, developed countries generally had not exempted developing countries from the scope of new barriers to trade, despite the provisions of Article XXXVII:3(c). Furthermore, little had been done to make the General Agreement more responsive to the changing needs of developing countries since the addition of Part IV.

12. Delegations from some developed countries expressed the view that GATT had been able to evolve substantially in a pragmatic way to meet the changing conditions and needs of contracting parties including the developing countries. In particular, they pointed to the implementation of the Generalized System of Preferences and the preferential arrangements among developing countries, which had been major advances towards meeting the needs and aspirations of developing
countries. Some delegations from developed countries recognized the possibility that on occasion the provisions of Part IV might have been interpreted in a rather too restrictive manner. They felt that some of the concerns of developing countries could be met by a more flexible implementation of the existing provisions. Reference was also made by some of these delegations to the work of the GATT/UNCTAD International Trade Centre and to the important contribution of GATT in helping to maintain, during the recent period of recession, an open trading system, which was crucial to the trade of both developed and developing countries.

Discussion on proposals made for improvements

13. In the discussion on the ways in which Part IV and other parts of the General Agreement could be improved, delegations from developing countries highlighted a number of areas which, in their view, deserved priority attention. They also stated that in general all the proposals which had been made earlier and summarized in document COM.TD/W/239, including those in Section IV of the paper dealing with proposals made at the time of the drafting of Part IV but not incorporated into its text, should still be considered as alive and subjects for positive consideration. These delegations stated that in their view the reform of Part IV and other relevant parts of the General Agreement was important in establishing more equitable trade relations between developed and developing countries and in fulfilling the commitments contained in the Tokyo Declaration as well as those made in other international fora, including the Seventh Special Session of the United Nations General Assembly. They also considered that reform was desirable in view of changes in international economic relations which had occurred since Part IV was added to the General Agreement. These delegations said that they were not seeking a complete overhaul of the GATT, but review of and improvements in certain specific areas.

14. Some delegations of developed countries, in providing preliminary comments, stated that in certain areas of concern to developing countries, actual practice in GATT had advanced more rapidly than had the legal framework and it might be that in some of these areas, it could be demonstrated that attention could be usefully given to the framework itself.

15. Among the specific points highlighted by delegations of developing countries was the question of the commitment provisions embodied in Article XXXVII. While recognizing that developed countries might require some flexibility in areas where their vital interests were affected, these delegations were of the view that the existing qualifying language in Article XXXVII had been shown by experience to negate much of the value of the provisions concerned and that ways and means of ensuring that the obligations assumed under Part IV were made more binding and precise, needed to be explored. In order to further facilitate the fulfilment
of the provisions of Part IV, it was suggested that the reasons for the non-utilization of the consultation provisions under Article XXXVII:2 might be examined with a view to determining whether and to what extent the procedures for use of such provisions adopted at the sixteenth session of the Committee, needed to be modified and/or improved. In connexion with these consultation provisions the representative of one developed country stated that, in his view, effective surveillance of the implementation of Article XXXVII could only be undertaken on the basis of notifications of problems and issues by developing countries.

16. Delegations from some developing countries proposed that the GSP and preferences among developing countries should be legally recognized in the General Agreement and should not require the granting of waivers for their implementation. They noted that certain departures from the most-favoured-nation provisions of Article I were already recognized in the General Agreement, as for instance under Article XXIV. Moreover, attention should be given to the related aspect of ensuring increased security of preferential access for developing countries. In this connexion, delegations from some developed countries stated that any suggestions for modifications to Article I, which was the cornerstone of the General Agreement, could only be approached on the basis of the most careful and serious consideration of all the relevant issues involved. Some of these delegations considered that, in this respect, attention should be given to an examination of the practical advantages that would result from the legal formalization of preferential schemes already in operation and benefiting developing countries. One such delegation was of the view that attempts to amend Article I to take account of the proposals made could raise new problems and issues, such as the possible need to define precisely which contracting parties could be entitled to the benefits resulting from such an amendment. Some delegations of developed countries stated that, although they intended to extend the duration of their preference schemes beyond the initial ten-year period, preferences should not be considered a permanent feature of the trading system and that, in this connexion, the dynamic element in the concept of development needed to be recognized. They also stated that while they appreciated the concern of developing countries about increased security of preferential access, attempts to provide a permanent legal basis for preferences could make donor countries reluctant to make further improvements to their schemes.

17. Some delegations from developing countries suggested that attention should be given to improving and making more precise the language of Part IV in respect of the concept of non-reciprocality, as in their view, the existing formulation had been shown to be subject to varying interpretations, some of which tended to negate the concept itself. It was suggested by some of these delegations that a more positive and fruitful approach to the question than that currently embodied in Part IV might be to ask developed countries to make concessions without requiring developing countries to make reciprocal contributions, while also
calling on developing countries to make contributions which were not inconsistent with their trade and development needs. Reference was also made by one of these delegations to the need to give attention to the application of the principle of non-reciprocity in cases of renegotiation of concessions. Some delegations of developed countries stated that, in their opinion, experience had shown that the application of the principle of non-reciprocity needed to be considered on an individual country basis since situations with respect to individual developing countries and products varied greatly; it was difficult to envisage any legal formulation which would give developing countries greater benefit than the present one, despite its possible lack of precision.

18. Some delegations of developing countries suggested that the concept of differentiated, special and more favourable treatment for developing countries should be incorporated into the General Agreement as a guiding factor in trade relations between developed and developing countries, especially as this basic principle had been accepted by Ministers in the Tokyo Declaration. In addition to the question of preferences, reference was made, in this connexion, to differentiated treatment in relation to quantitative restrictions, the erection of new barriers to trade by developed countries, safeguard actions, subsidies and countervailing duties, the elaboration of codes, such as the one on standards and the code on anti-dumping duties, government procurement and measures for balance-of-payments reasons, and to special and priority treatment in the field of tropical products.

19. Among other specific areas of possible reform referred to by delegations from developing countries, were those relating to provisions for the use, in cases of balance-of-payments difficulties, of import surcharges, import deposits or other devices which, in their view, were more neutral in their effect than the measures currently permissible under the General Agreement. It was also suggested that the existing provisions in the General Agreement relating to commodities might be suitably amended to provide scope for action leading to the revalorization of the prices of commodities exported by developing countries.

20. In connexion with the proposal for differentiated treatment for developing countries when a developed country takes measures to safeguard its balance-of-payments, the representative of one developed country said that if a country could afford to discriminate when taking such measures, it would be difficult to understand how it could justify taking such measures in the first place.

Procedural matters

21. On the question of procedures to be followed for considering the reform of Part IV and other parts of the General Agreement, delegations from some developing countries recalled the proposal that had been made at the last meeting of the Trade Negotiations Committee for the setting up of a group to consider improvements in the international framework for the conduct of world trade, particularly with respect to trade between developed and developing countries and differentiated and more favourable treatment to be adopted in such trade. These delegations urged that such a group should be established at the next session of the Trade Negotiations Committee.
22. Some delegations of developing countries stressed that it was not possible to consider changes to certain parts of the General Agreement in isolation from other parts. It was noted that since some of the issues that had been raised in the discussions were already under consideration in certain MTN Groups or their Sub-Groups, to avoid unnecessary duplication, the proposed group might initially focus on co-ordinating relevant work and taking up those aspects which were not already under consideration. In this connexion, mention was made of the questions of "standstill", the degree of commitment in the provisions of Part IV, preferences including security of preferential access, non-reciprocity, and the general issue of differentiated and more favourable treatment for developing countries as some of the matters that might be taken up in the proposed group. The representative of one developing country suggested that the Committee on Trade and Development might explore the possibility of reactivating the Group of Three which might be requested to examine and recommend possibilities for improvements to the legal framework for the conduct of international trade, taking into account the interests of developing countries.

23. Some delegations from developed countries expressed doubts about the timing and appropriateness of establishing a "framework" group at the next session of the TNC. In their view, reform of the existing trading framework should arise out of the need to implement agreed solutions to practical problems and not out of the application of abstract principles. In this connexion, they believed that it might be desirable to wait for further progress in the work of the various MTN Groups and their Sub-Groups which were negotiating on matters related to the reform of the trading framework, before considering the establishment of such a group. It was suggested that the introduction of a large new area into the MTN could lead to a dispersion of effort which could have an inhibitive effect on overall progress in the multilateral trade negotiations. Some other delegations from developed countries said they would prefer to leave the question of the setting up of the proposed group to the Trade Negotiations Committee which was the appropriate body for taking a decision on the matter.

24. The Committee agreed to authorize its Chairman to transmit to the Chairman of the Trade Negotiations Committee the secretariat note on the application of Part IV (COM.TD/1/239) and the note on proceedings of the present session of the Committee, with the suggestion that these documents be brought to the attention of the TNC. As a number of delegations had indicated that they would wish to come back to certain of the points discussed, and to provide an opportunity for further reflection on the various issues summarized in COM.TD/1/239 as well as the preliminary comments and suggestions made by delegations, it was agreed that the Committee might revert to this subject at a later meeting.

Next meeting of the Committee

25. In addition to reverting to the question of the application of Part IV, the Committee, at its next meeting, might be expected, inter alia, to conduct its regular review of Part IV and take up developments in the multilateral trade negotiations and related matters of interest to the Committee. The date of the next meeting would be determined by the Chairman in consultation with delegations and the secretariat.