In September 1955, Japan acceded to the General Agreement and at that time a number of contracting parties invoked Article XXXV, thereby refraining from undertaking GATT obligations towards Japan. Consultations between Japan and the governments concerned were initiated and at each session since that time the Government of Japan has reported on the situation.

At the present time there are fourteen contracting parties which invoke Article XXXV, namely: Australia, Austria, Belgium, Cuba, France, Ghana, Haiti, Luxembourg, Malaya, Kingdom of the Netherlands, New Zealand, Federation of Rhodesia and Nyasaland, Union of South Africa, United Kingdom.

In the course of his opening remarks, Mr. Ichiro Kawasaki, Japan, said that one of the fundamental objects of GATT is to bring about freer international trade among the Contracting Parties by mutually granting non-discriminatory treatment and sharing in the benefits resulting from the lowering of tariff barriers and other obstacles to international trade. In GATT, he said, the benefits resulting from free international competition are taken for granted; namely, the rationalization of industries, the increase of real consumers' income and the resulting higher standard of living in the countries concerned.

Mr. Kawasaki said that this principle is also fully exemplified in the Haberler Report, which says in effect that it is not fair to place an efficient producer at a disadvantage. This is true not only of primary producing countries but also of manufacturing countries. In this connexion the Japanese delegation heartily agreed with the Minister of Trade of India when he said: "We have, in our thinking on the subject, always made a distinction between competition from a country whose costs of production are low, and competition which is based on unfair commercial practices. We consider that the former, whether it is due to cheap labour or to more efficient machinery or more economic production of raw materials, is a form of fair competition against which no discriminatory measures can be taken."

Mr. Kawasaki said that the Japanese Government considered that it should not be denied its right to compete in the world market under fair conditions in order to sustain and expand its national economy. He knew for a fact that certain countries are still apprehensive about Japanese imports and that the application of Article XXXV by those countries was largely motivated by this apprehension. Many countries, he said, are still obsessed by the spectre of pre-war Japanese competition. The Japanese Government, however, was convinced that such apprehension is grossly exaggerated. Any misgiving will MORE
automatically be resolved when it is recognized that both the Japanese Government and industry have for several years co-operated to operate a system of "orderly marketing" which voluntarily limits the abrupt expansion of exports to many markets. The fact that since Japan's accession to GATT no serious question has arisen between Japan and those contracting parties which had not invoked Article XXXV bore witness to the effectiveness of Japan's effort. In his view there was no problem which was not susceptible to solution by mutual understanding and consultation.

Mr. Kawasaki then referred to the withdrawal of the application of Article XXXV by India earlier this Session (Press Release GATT/399, page 5) and expressed his Government's deep appreciation of the action taken. On the other hand, he regretted to note the statement made by the delegate of Ghana (Press Release GATT/404, page 3), to the effect that the adverse trade balance of Ghana with Japan, coupled with the fact that Ghana was in the course of economic development, made it difficult for that country to repeal the application of Article XXXV. He hoped the Government of Ghana would reconsider its position.

Mr. Kawasaki said that another indication of the orderly marketing system adopted by Japan was the signing of a trade agreement between Japan and New Zealand in September 1958, whereby "the two governments shall, so far as practicable ... base their commercial relations upon the provisions of GATT in respect of matters not covered by this Agreement". It was also agreed that the two governments would enter into discussion within three years to explore the possibility of applying GATT between the two countries. He also referred to the similar agreement between Japan and Australia, which became effective in July 1958. He noted that trade that had been carried out for over a year on a non-discriminatory basis had been satisfactory to both parties; trade had steadily expanded and there had not been a single instance which would have necessitated Australia's specific discrimination against Japanese products in order to protect Australian industry. He hoped both Australia and New Zealand would take steps to withdraw application of Article XXXV at an early date. His Government believed that various provisions of GATT, other than Article XXXV, provide ample basis for the solution of any problem arising with regard to Japanese imports.

After asking that this item be placed on the agenda of the next annual session, Mr. Kawasaki said that it was his sincere hope that the slow but gradual bilateral approach now being employed, which seems to be moving towards a solution of the problem, would make still further progress.

Mr. Frank Thebaud, Haiti, stated that his Government is prepared to give the question, as it stands now, the serious consideration which it deserves. The question is, in fact, under study, he said.

Mr. T.S. Bell, Federation of Rhodesia and Nyasaland, said that although his Government was applying Article XXXV, they would like to expand their trade with Japan. Steps had been taken towards the negotiation of a trade agreement with Japan but the negotiations had been deferred at the request of Japan.
Mr. M. Schwarzmann, Canada, said that it was seriously disappointing that so many contracting parties were still applying Article XXXV towards Japan; it was never intended that this Article should be used in an extensive, generalized manner. It was also important that trade relations among all GATT countries should be strengthened. Canada, he said, was one of the first to give Japan full most-favoured-nation treatment and to support Japan's accession to GATT, and his Government was aware and appreciative of Japan's effort to develop their trade in an orderly, stable manner. He expressed pleasure at the announcement by the Government of India and hoped that other countries would follow suit.

Mr. W.T.M. Beale, United States, expressed continuing concern that so many governments had resorted to Article XXXV. He was particularly glad to hear the Indian decision and he hoped that other governments would do the same. The experience of informal, bilateral discussions on this problem had been most gratifying and he hoped they would continue and that other countries would follow the example.

Mr. Sujak Bin Rahiman, Federation of Malaya, said that his Government, when it became a contracting party a year ago, had taken over the obligation regarding Article XXXV, previously exercised by the United Kingdom. In the first year of independence there had been many priority problems to tackle and it had not yet been possible to look into their position vis-à-vis Japan. However, this did not affect Malaya's trade with Japan unfavourably in any way. Because of the nature of the Malayan customs tariff, Japan enjoys most-favoured-nation treatment in all aspects of her trade with Malaya. He said that Japan-Malayan trade had increased nearly threefold between 1953 and 1957 and he hoped it would continue to increase.

Mr. M.H.E.A. Baig, Pakistan, said that his Government had always felt that the widespread resort to Article XXXV raised important issues. He was happy to note the withdrawal by India but, apart from Australia and New Zealand, he felt that bilateral negotiations had not yet produced substantial results.

Dr. W.P.H. van Oorschot, Kingdom of the Netherlands, regretted that his Government had not been able to modify its position. He assured the Japanese representative that the matter was under constant study.

Mr. Marcel Spreutels, Belgium, said that this position of his Government was similar to that of the Netherlands. The authorities were considering the question and it was not possible to take a definite stand at the present time.

Mr. de Lacharrière, France, said there had been no modification in the situation regarding Article XXXV. He pointed out, however, that a year ago France and Japan entered into a commercial agreement under which Japan benefits from minimum rates of tariff duties on a number of products. Negotiations for the renewal of the agreement would be undertaken. The French authorities, he said, were studying the application of Article XXXV.

Mr. C.W. Jardine, United Kingdom, said that his delegation regretted that they could not make any substantial addition to the statement they made at the
Twelfth Session. The United Kingdom, he said, had not reached the position in which she could disinvoke the application of Article XXXV in relation to Japan. He hoped that trade relations with Japan and Japan's trading relations with the rest of the world would develop in such a way as to enable the United Kingdom and her Colonies eventually to reach such a position. Meanwhile, the United Kingdom gave Japan most-favoured-nation treatment in tariffs, and quotas were mutually agreed. He mentioned that imports of canned salmon into the United Kingdom from Japan had recently been liberalized, a measure of which Japan had already been able to take some advantage.

Mr. E. Treu, Austria, said that his Government was not, under prevailing circumstances, in a position to modify its position regarding the application of Article XXXV. Nevertheless, Austria had not ceased to apply to Japan the minimum tariff which is applied to all GATT members.

Mr. A.T. Valladão, Brazil, associated his delegation with the other delegations which had expressed the wish to find a solution as soon as possible to the continued application of Article XXXV to Japan. He said it was important to bear in mind the aims of GATT and to find a method of reconciling the present situation with those aims. When countries as important as Japan were prevented from enjoying full GATT rights, the aims of GATT were being impaired.

Mr. N.J.D. Hammond, Ghana, said that since achieving independence, his Government had not had much time to review their application of Article XXXV to Japan. In fact, Ghana only reserved the right to invoke this Article and at present had no intention of doing so. He noted that Japan occupies second place among countries from which Ghana imports. The whole matter, he said, was under study in Accra and he would report to his Government the points raised in the debate.

The Chairman, Mr. L.K. Jha, said that a general desire had been expressed in favour of removing the applications of Article XXXV towards Japan. One country, India, had already done so, and many others had indicated that, in fact, they are applying their most-favoured-nation tariff rates towards Japan. He felt that what was holding back progress was an element of caution. He had no doubt, however, that further direct bilateral discussions would lead to further progress. It was agreed that the matter should be brought up again at the next annual session.

Finally, the delegate of Japan said that the number of delegations which had taken part in the debate was a vital proof of the general interest in this matter. He thanked those delegations which had made friendly suggestions, especially the delegation of Haiti.