Opening the discussion on the Application of Article XXXV to Japan, in plenary session on 17 November, Mr. Toru Haguiwara, Japan, said that the item on the agenda - the question of Article XXXV - concerned only Japan, and that item was not only of utmost importance to his Government, but also was of very special significance to him personally.

Mr. Haguiwara said he had had to do with the GATT for almost nine years. This meant that his relations with the General Agreement had lasted as long as his personal friendship with the Chairman, which started in Berne.

In 1951 he attended for the first time a session of the CONTRACTING PARTIES as an observer for Japan. He still remembered that there were objections to his participating in the session even as an observer. Eight years had elapsed since, and Japan acceded to the GATT on a provisional basis in 1953 and on a final basis in 1955. At that time fourteen contracting parties invoked Article XXXV against Japan. Since then, India and Brazil, much to Japan's satisfaction, had kindly agreed to cease applying Article XXXV to Japan. But as a result of the fact that new countries had achieved independence and had acquired the right to continue applying Article XXXV, the number of contracting parties which invoked that Article was still fourteen. The problems which arise to these newly independent countries are those of economic development and the diversification of their domestic economies, together with the protection of their infant industries. He viewed with considerable sympathy the concerns of those countries, but it seemed to him that their problems could appropriately be solved within the framework of Article XVIII which gives them considerable freedom of action, in fact much more freedom than the former provisions of the Agreement once did. He was of the opinion that the study of the action which had already been taken or which might be taken under Article XVIII would enable these countries to realize that they need not reserve the liberty to invoke Article XXXV in order to take discriminatory action against one industrialized contracting party.

Mr. Haguiwara said that it seemed that the hard-core problem as far as Article XXXV was concerned was the fact that it is being invoked by certain more industrialized countries. Each of these countries probably has its own reasons, he said. But, generally speaking, it seemed that they are labouring under some kind of fear lest their domestic markets might be disrupted as a result of mass imports of certain categories of Japanese goods. He was convinced that such fears are unfounded, as Japan's five-year association with GATT clearly showed. In fact, Japan's relations with those countries which
have ceased invoking Article XXXV had been very satisfactory on the whole. To take the example of Japan's relations with the United States and Canada, neither of which had resorted to Article XXXV or applied quantitative restrictions under Articles XII and XIV: these countries had from time to time experienced difficulties resulting from sudden increases in imports of some Japanese goods. During the last five years the United States had twice invoked Article XIX against Japan in connexion with relatively unimportant goods. With these two exceptions all such cases had been settled to the satisfaction of both parties through consultation and in some cases by voluntary export controls imposed by Japan.

This system of self-imposed controls, though all kinds of criticism might be levied against it, had usually yielded satisfactory results and had provided an effective means to carry out the policy of his Government for an orderly expansion of trade, he said. In any case, Japan's experience with countries which have fully applied the General Agreement in their trade relations with Japan seemed to prove in the most convincing manner that any possible difficulties which in fact arise only from time to time and in respect of certain goods can be solved under the General Agreement, provided both parties show some restraint and mutual understanding. It seemed that by refusing completely to apply the General Agreement in order to resolve rather marginal cases was very much like using a sledge-hammer to crack a walnut.

Mr. Haguiwara said that if the CONTRACTING PARTIES deem it appropriate to study the general question of a sudden increase in imports of any particular product from a given country, his delegation would be happy to participate in such a study and to provide all the results of their experience. He would like however to stress that efforts to solve Japan's problems should not be delayed by this general study.

His Government intended to make further efforts within the next few months and to speed up consultation with each of the fourteen countries concerned in order to reach agreement so that these countries should cease applying Article XXXV to their trade with Japan.

In this connexion, Mr. Haguiwara gave an assurance that his Government had received considerable comfort and encouragement from the statements made by many distinguished Ministerial representatives in the early stages of the session. Mr. Fujiyama, Minister for Foreign Trade of Japan, had asked him to express the appreciation of his Government for the statements made by his distinguished colleagues of Ghana, Malaya, Australia and many other countries and for the encouragement they had received from the distinguished representatives of many countries which have not invoked Article XXXV, such as the United States, India, Ceylon, Pakistan, Indonesia, Brazil, Denmark, Peru and Czechoslovakia, to mention only a few of them.
Mr. Haguiwara said that, while the contacts that his delegation had had with a number of other delegations since the last session and during this meeting had not made it possible to achieve the concrete results that he would have liked to announce today, nevertheless he did not feel discouraged.

This was the reason why he would like to ask the Chairman to maintain this item on the agenda for the next session so that the Japanese delegation could report on the progress made in the meantime and possibly request the CONTRACTING PARTIES to examine the problem under paragraph 2 of Article XXXV.

Mr. W.T.M. Beale, United States, said that he wished to stress the position taken by Mr. Douglas Dillon regarding equal treatment for Japan. This view, he said, had been strengthened by his impressions of the Japanese economy since he had been here, and he hoped that other contracting parties had been similarly impressed. He noted with satisfaction that governments applying Article XXXV were seriously considering their positions and urged them to withdraw the application as early as possible.

Mr. J.H. Warren, Canada, said that his Government welcomed the growth of trade between Canada and Japan. Although certain problems had arisen they had been resolved by friendly consultation. He would welcome it if other contracting parties not giving full GATT treatment to Japan would reconsider their positions, and he said that the problem of Japanese exports would be easier to deal with if world markets were opened to Japanese goods. He hoped that all governments now applying Article XXXV would withdraw the application without delay.

Mr. H. Klein, Federal Republic of Germany, said that the Federal Republic had full understanding of the problems of Japan in connexion with Article XXXV. He repeated what his delegation had said at previous sessions, namely that this was a general problem requiring a general solution leading to equal conditions of commerce between Japan and all contracting parties. Germany, he said, was much interested in studies of problems arising from imports of Japanese goods and the Federal Republic would continue to examine with Japan ways and means of dealing with such problems. He noted that in some cases Germany had found it wise to import Japanese goods and that this had a stimulating effect on technical progress in certain German industries.

Mr. K.S. Aboagye, Ghana, regretted that it was necessary for his country to reserve the right to maintain the application of Article XXXV. Nevertheless, he said, Japanese goods are admitted into Ghana at most-favoured-nation rates and Ghana maintains a liberal policy in the allocation of funds for Japanese imports. He hoped that, as a result of recent bilateral talks, progress would be made towards disinvoking Article XXXV.

Mr. M. de la Fuente Locker, Peru, said he fully supported the United States and Canada in their plea to governments to give up invoking Article XXXV and he hoped that all restrictive measures against Japan would be withdrawn as soon as possible.
Mr. W. Hughes, United Kingdom, said that his Government had made it clear in 1955 when Japan became a contracting party that their aim was to maintain a high level of trade between Japan and the sterling area and that it was hoped to apply GATT eventually to the trade of Japan with the United Kingdom and her colonies. He noted that since 1955 United Kingdom imports from Japan had increased by 50 per cent. He said that imports of Japanese goods into the colonies were admitted almost without restriction and that, in practice, the development of Japanese trade with the United Kingdom and the colonies does not compare unfavourably with Japanese trade developments elsewhere. He said that the United Kingdom Government recognized the importance and urgency which the Japanese Government attached to the application of GATT between the United Kingdom and Japan. As agreed at the recent talks between Mr. Kishi and Mr. MacMillan, the subject, he said, is being further studied in connexion with other problems to be solved in connexion with the United Kingdom-Japan Commercial Treaty now being negotiated.

Mr. R.C. Macfarlane, Rhodesia and Nyasaland, said that his Government was prepared to negotiate arrangements for increased trade with Japan, and although recent discussions had been inconclusive he hoped to report more favourably at the next session.

Dr. W.P.H. van Oorschot, Kingdom of the Netherlands, speaking on behalf of the Benelux countries, said that an investigation held in the three countries revealed fundamental difficulties which could only be solved in co-operation with Japan, and possibly with the CONTRACTING PARTIES and subject to deliberations among the EEC partners. These problems are not limited to trade relations between Japan and Benelux countries but have a much wider scope - problems that could only be solved through multilateral consultation in due time. He said that, however, the Benelux countries did not intend to wait until a general solution was found in GATT but would like to convert the present arrangements into mutual agreements which could promote trade between Benelux and Japan. Dr. van Oorschot said that the trade of Japan with Benelux countries has developed favourably and shows that Japanese exports to Benelux steadily increase whereas Japanese imports from Benelux decrease in the same proportion. He wondered whether Benelux goods would be obtainable in Japanese shops in the same way as Japanese goods are displayed in Dutch shops. In conclusion he said that the resort to Article XXXV by the Benelux countries was not as disturbing as it seems to be, but that a speedy solution on a multilateral basis would be advisable. The plan for the future was to continue discussions with a view to arriving at a solution which may satisfy Japan, the European Community, the CONTRACTING PARTIES and also the three Benelux partners.

Mr. Touch Kim, Cambodia, said that his Minister had stated that this question would be settled during negotiations for a trade agreement with Japan. His delegation, he said, was now empowered to negotiate for such an agreement with Japan. This indicated the intention of Cambodia to develop trade mutually with Japan. He hoped for satisfactory results.
Mr. Sujak bin Rahiman, Federation of Malaya, said that the matter was receiving his Government's serious attention. A few months ago preliminary trade talks were held between his country and Japan and during these talks the question was raised by the Japanese delegation. During the talks he understood that it was the stigma arising from the application of Article XXXV rather than the existence of discrimination which was the main cause of Japan's anxiety. The final trade talks would be held early next year and this question would again be discussed. He was confident that a satisfactory conclusion would be reached at that time.

Mr. M.J. Moriarty, New Zealand, referred to the statement of intention in the recent trade agreement between New Zealand and Japan, to examine the application of Article XXXV, during the three years ending in September 1961. New Zealand, he said, would be ready to enter into discussion at the appropriate time. Under the trade agreement full most-favoured-nation treatment was accorded to Japan, New Zealand did not discriminate against Japan in any way and had not had to ask Japan to limit exports voluntarily or otherwise.

Mr. Andre Philip, France, said that cases where countries had renounced the application of Article XXXV to Japan were very few. France, he said, was unable to disinvoke the application. Nevertheless France wished to strengthen her commercial ties with Japan in this connexion. The recent list of liberalized imports covers imports from Japan and includes important items. The maintenance of Article XXXV, he said, is related to a general problem, namely the serious risk to certain industries from sudden increases in imports. France was seeking the means for an orderly, regular way of stepping up trade with Japan, not a disorderly way which only involves a sliding back towards further restrictions. The problem, he said, is not "black or white", not Article XXXV or the normal GATT rules. It would be better to deal with it in a different way. The present session would be fruitful insofar as it would allow them to find a new and realistic approach for the benefit of Japan and all contracting parties.

Mr. Chadli Thmani, Tunisia, said that his Government would examine most carefully any multilateral or bilateral steps towards increasing trade with Japan.

Mr. G.P. Phillips, Australia, said that he had nothing to add to the position as outlined by Sir John Crawford during the Ministerial discussions. The Treaty of Commerce of July 1957 had led to an expansion of trade for Japan and Australia. The Treaty had removed discrimination against Japanese imports and Japan was free to compete in the Australian market with other countries receiving most-favoured-nation treatment. Japan, under her commitments in the Treaty had moved towards most-favoured-nation treatment for Australian exports. Although GATT was not being applied between the two countries, each country was being guided by the fundamental principles of GATT particularly the concept of effective reciprocal most-favoured-nation treatment. In accordance with the terms of the Treaty, Australia and Japan would before July 1960 be exploring the possibility and examining the basis of applying GATT between them.
Mr. N. Hadju Vassiliou, Greece, said that the thesis put forward by the Netherlands delegate was to the point and he agreed with the distinction between the legal and commercial points of view. Greece, he said, had never discriminated against Japanese imports and had promoted them in so far as import possibilities existed. However he expected understanding from Japan so far as Greek exports are concerned, particularly as shipbuilding on behalf of Greece was of importance to the Japanese balance of payments. He stressed that relations between Greece and Japan should not be judged only by trade but also by other aspects, such as shipbuilding.

Mr. L.K. Jha, India, said that the existence of Article XXXV between Japan and a number of contracting parties was not only of concern to them, but of common concern to all contracting parties. This arises, he said, not merely because of the fund of goodwill towards Japan, but because the concrete problem of removing the application of Article XXXV is likely to be reduced the more the number of countries disinvoke Article XXXV. He was conscious of the difficulties and apprehensions; India had them when she still applied Article XXXV. India's experience, he said, was that when she ceased to apply Article XXXV she did not face any problem which could not be dealt with within the GATT framework; i.e., India could live without discrimination. He was heartened by the statements of countries giving de facto GATT treatment to Japan in spite of applying Article XXXV. He agreed with the French delegate that these problems are transitory and he hoped that the process of transition would be as short and smooth as possible.

In conclusion, the Chairman, Mr. F. Garcia Oldini, said that while the debate had shown the difficulties and complexities of the problem it had also shown the existence of a will and determination to find a solution. In general the speakers all tended towards the search for a solution that would be practical, legal and in any event final. It was clear from the debate that there had been a change in the atmosphere and it was a change for the better. In the spirit of "being by no means discouraged" he would include the matter in the agenda of the sixteenth session.