General Policy Towards Restrictive Business Practices

1. Each Member shall take appropriate measures and shall co-operate with the Organization, to prevent, on the part of private or public commercial enterprises, business practices affecting international trade which restrain competition, limit access to markets, or foster monopolistic control, whenever such practices have harmful effects on the expansion of production or trade and interfere with the achievement of any of the other objectives set forth in Article 1.

2. Without limiting the generality of paragraph 1 of this Article, and in order that the Organization may decide in a particular instance whether certain practices have or are about to have any of the effects described in paragraph 1 of this Article, the Members agree that complaints regarding any of the practices listed in paragraph 3 of this Article shall be subject to investigation in accordance with the procedure regarding complaints provided in Articles 45A and 47, whenever:
   (a) such a complaint is presented to the Organization; and
   (b) the practices are engaged in or are made effective by one or more private or public commercial enterprises or by a combination, agreement or other arrangement between commercial enterprises, whether between private commercial enterprises, between public commercial enterprises, or between private and public commercial enterprises; and
   (c) such commercial enterprises, individually or collectively, possess effective control of trade among a number of countries in one or more products.

3. The practices referred to in paragraph 2 of this Article are the following:
   (a) fixing prices, terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product;
   (b) excluding enterprises from any territorial market or field of business activity, allocating or dividing any territorial market or field.
or field or field of business activity, allocating customers, or fixing sales quotas or purchase quotas;
(c) discriminating against particular enterprises;
(d) limiting production or fixing production quotas;
(e) preventing by agreement the development or application of technology or invention whether patented or unpatented;
(f) extending the use of rights under patents, trade marks or copyrights granted by any Member, to matters which are determined by its system of law not to be within the scope of such grants, or to products or conditions of production, use or sale which are similarly determined not to be the subjects of such grants;
(g) any similar practices which the Organization by a majority of two-thirds of the Members present and voting may from time to time decide are restrictive business practices.

Article 45
Procedure with Respect to Consultations
Any affected Member which considers that in any particular instance a practice exists (whether engaged in by private or public commercial enterprises) which has or is about to have the effect described in paragraph 1 of Article 44 may consult other Members directly or request the Organization to arrange for consultation with particular Members with a view to reaching mutually satisfactory conclusions. If requested by the Member and if it considers such action to be justified, the Organization shall arrange for and assist in such consultation. Action under this Article shall be without prejudice to the procedure provided for in Article 45A.

Article 45A
Procedure with Respect to Investigation
1. Any affected Member on its own behalf or any Member on behalf of any affected person, enterprise or organization within that Member's jurisdiction, may in accordance with paragraphs 2 and 3 or Article 44 present a written complaint to the Organization that in any particular instance a practice exists (whether engaged in by private or public commercial enterprises) which has or is about to have the effect described in paragraph 1 of Article 44. PROVIDED that in the case of complaints against a single public commercial enterprise acting independently of any other enterprise, such complaints may be presented only by a Member on its own behalf and only after the Member has resorted to the procedure in Article 45.
2. The Organization shall prescribe the minimum information to be included in complaints. The information shall give substantial indication of the nature and
nature and harmful effects of the practices.

3. The Organization shall consider each complaint presented in accordance with paragraph 1 of this Article. If the Organization deems it appropriate it shall request Members concerned to furnish supplementary information, for example, information from commercial enterprises within their jurisdiction. After reviewing the relevant information the Organization shall decide whether an investigation is justified.

4. If the Organization decides that an investigation is justified, it shall inform all Members of the complaint, request any Member to furnish such additional information relevant to the complaint as the Organization may deem necessary, and shall conduct or arrange for hearings on the complaint. Any Member, and any person, enterprise or organization on whose behalf the complaint has been made, as well as the commercial enterprises alleged to have engaged in the practice complained of, shall be afforded reasonable opportunity to be heard.

5. The Organization shall review all information available and decide whether the conditions specified in paragraphs 2 and 3 of Article 44 are present and the practices in question have had, have or are about to have the effect described in paragraph 1 of that Article.

6. The Organization shall inform all Members of its decision and the reasons therefor.

7. If the Organization decides that in any particular case the conditions specified in paragraphs 2 and 3 of Article 44 are present and that the practices in question have had, have or are about to have the effect described in paragraph 1 of that Article, it shall request each Member concerned to take every possible remedial action, and may also recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures.

8. The Organization may request any Member concerned to report fully on the remedial action it has taken in any particular case.

9. As soon as possible after its proceedings in respect of any complaint under this Article have been provisionally or finally closed, the Organization shall prepare and publish a report showing fully the decisions reached, the reasons therefor and any measures recommended to the Members concerned. The Organization shall not, if a Member so requests, disclose confidential information furnished by that Member, which if disclosed would substantially damage the legitimate business interests of a commercial enterprise.

10. The Organization shall report to all Members and make public the remedial action which has been taken by the Members concerned in any particular case.
Article 46

Studies Relating to Restrictive Business Practices

1. The Organization is authorized:
   (a) to conduct studies, either on its own initiative or at the request of any Member or of any organ of the United Nations or of any other inter-governmental organization relating to
      (i) general aspects of restrictive business practices affecting international trade; and
      (ii) conventions, laws and procedures concerning, for example, incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade marks, copyrights, patents and the exchange and development of technology insofar as they are relevant to restrictive business practices affecting international trade; and
      (iii) the registration of restrictive business agreements and other arrangements affecting international trade; and
   (b) to request information from Members in connection with such studies.

2. The Organization is authorized
   (a) to make recommendations to Members concerning such conventions, laws and procedures as are relevant to their obligations under this Chapter, and
   (b) to arrange for conferences of Members to discuss any matters relating to restrictive business practices affecting international trade.

Article 47

Obligations of Members

1. Each Member shall take all possible measures by legislation or otherwise, in accordance with its constitution or system of law and economic organization, to ensure, within its jurisdiction, that private and public commercial enterprises do not engage in practices which are as specified in paragraphs 2 and 3 of Article 44 and have the effect described in paragraph 1 of that Article; and shall assist the Organization in preventing these practices.

2. Each Member shall make adequate arrangements for presenting complaints, conducting investigations, and preparing information and reports requested by the Organization.
3. Each Member shall furnish to the Organization, as promptly and as fully as possible, such information as is requested by the Organization for its consideration and investigation of complaints and for its conduct of studies under this Chapter; PROVIDED that any Member on notification to the Organization, may withhold information which the Member considers is not essential to the Organization in conducting an adequate investigation and which, if disclosed, would substantially damage the legitimate business interests of a commercial enterprise. In notifying the Organization that it is withholding information pursuant to this clause, the Member shall indicate the general character of the information withheld, and the reasons why it considers it not essential.

4. Each Member shall take full account of each request, decision and recommendation of the Organization under Article 45A and, in accordance with its constitution or system of law and economic organization, take in the particular case the action it considers appropriate having regard to its obligations under this Chapter.

5. Each Member shall report fully any action taken, independently or in concert with other Members, to comply with request and carry out recommendations of the Organization and, when no action has been taken, inform the Organization of the reasons therefore and discuss the matter further with the Organization if requested to do so.

6. Each Member shall, at the request of the Organization, take part in consultations and conferences provided for in this Chapter with a view to reaching mutually satisfactory conclusions.

Article 48

Co-operative Remedial Arrangements

1. Members may co-operate with each other for the purpose of making more effective within their respective jurisdictions any remedial measures taken in furtherance of the objectives of this Chapter and consistent with their obligations under other parts of this Charter.

2. Members shall keep the Organization informed of any decision to participate in any such co-operative action and of any measures taken.

Article 49

Domestic Measures Against Restrictive Business Practices

No act or omission to act on the part of the Organization shall preclude any Member from enforcing any national statute or decree directed towards preventing monopoly or restraint of trade.

Article 50

Special Procedures with Respect to Services

1. The Members recognize that certain services, such as transportation,
telecommunications, insurance and the commercial services of banks are substantial elements of international trade and that any restrictive business practices by enterprises engaged in these activities in international trade may have harmful effects similar to those indicated in paragraph 1 of Article 44. Such practices shall be dealt with in accordance with the following paragraphs of this Article:

2. If any Member considers that there exist restrictive business practices in relation to a service referred to in paragraph 1 of this Article which have or are about to have such harmful effects, and that its interests are thereby seriously prejudiced, the Member may submit a written statement explaining the situation to the Member or Members the private or public enterprises of which are engaged in the services in question. The Member or Members concerned shall give sympathetic consideration to the statement and to such proposals as may be made and shall afford adequate opportunities for consultation, with a view to effecting a satisfactory adjustment.

3. If no adjustment can be effected in accordance with the provisions of paragraph 2 of this Article, and if the matter is referred to the Organization, it shall be transferred to the appropriate inter-governmental organization if one exists, with such observations as the Organization may wish to make. If no such inter-governmental organization exists, Members may ask the Organization, under Article 69 (c) to make recommendations for, and promote international agreement on, measures designed to remedy the particular situation so far as it comes within the scope of this Charter.

4. The Organization shall, in accordance with paragraph 2 of Article 84, co-operate with inter-governmental organizations in connection with restrictive business practices affecting any field coming within the scope of this Charter and those organizations shall be entitled to consult the Organization, to seek advice, and to ask that a study of a particular problem be made.

**Article 51**

**Interpretation and Definition**

1. The provisions of this Chapter shall be construed with due regard for the rights and obligations of Members set forth elsewhere in this Charter and shall not therefore be so interpreted as to prevent the adoption and enforcement of any measures insofar as they are specifically permitted under other Chapters of this Charter. The Organization may however make recommendations to Members or to any appropriate inter-governmental organization concerning any features of these measures which may have the effect described in paragraph 1 of Article 44.

2. For the purpose of this Chapter

/(a) the term
(a) the term "business practice" shall not be so construed as to include an individual contract concluded between two parties as seller and buyer, lessor and lessee, or principal and agent, provided, that such contract is not used to restrain competition, limit access to markets or foster monopolistic control;

(b) the term "public commercial enterprises" means:

(i) agencies of governments insofar as they are engaged in trade, and

(ii) trading enterprises mainly or wholly owned by public authority, PROVIDED the Member concerned declare that for the purpose of this Chapter it has effective control over or assumes responsibility for the enterprises.

(c) the term "private commercial enterprises" means all commercial enterprises other than public commercial enterprises;

(d) the terms "decide" and "decision" as used in Articles 44, 45A (except in paragraphs 3 and 4) and 47 do not determine the obligations of Members, but mean only that the Organization arrives at or reaches a conclusion.