United Nations
CONFERENCE ON
TRADE AND EMPLOYMENT

Nations Unies
CONFERENCE DU
COMMERCE ET DE L'EMPLOI

FOURTH COMMITTEE: RESTRICTIVE BUSINESS PRACTICES

DRAFT CHARTER

MEXICO: PROPOSED AMENDMENTS

Article 44
1. Subject to the provisions of paragraph 4 of this Article, each Member shall take appropriate measures individually or through the Organization or in both ways, to prevent business practices affecting international trade (whether engaged in by private or public commercial enterprises) 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 it may be decided 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, subject to the provisions of paragraph 1 of this Article, be subject to investigation in accordance with the procedure regarding complaints provided in Articles 45 and 47, whenever

(a) Unaltered.

(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) Unaltered.

3. Unaltered.
(a) Unaltered.
(b) Unaltered.
(c) Unaltered.
(d) Unaltered.
(e) Unaltered.

(f) Unaltered.
(f) Unaltered.

(g) Any similar practices which the Organization may, subject to the provisions of paragraph 4, from time to time decide are restrictive business practices.

4. In this Chapter the term "public commercial enterprises" means
(a) Trading agencies of governments, and
(b) Enterprises mainly or wholly owned by public authority and over which there is effective control by public authority, including control of engagement in a practice listed in paragraph 3 of this Article.

The term "private commercial enterprises" means all other commercial enterprises.

"For the purposes of this Chapter, the term 'monopolistic practices' shall be understood to mean practices adopted or attempted by private enterprises or by combinations of private enterprises, whether of producers, buyers or sellers. The term shall not include State enterprises or enterprises of social interest or of interest to the State operating under legal provisions of Member countries. Nor shall this Chapter be regarded as including such of the practices as are referred to therein which are authorized by the constitutional or basic legislation in force in Member countries and by enactments based on such legislation."

Article 45

1. The Organization shall arrange, if it considers such action to be justified on the basis of information submitted by the Members concerned, for particular Members to take part in a consultation requested by 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. The Members invited to take part in a consultation shall be chosen in equal number from each group proposed for this purpose by the parties affected by the dispute.

2. A complaint may be presented in writing to the Organization by any affected Member on its own behalf or by any Member on behalf of any affected person, enterprise or organization within that Member's jurisdiction; provided that in the case of a complaint against a single public commercial enterprise acting independently, such complaint may be presented only by a Member on its own behalf and only after the Member has resorted to the procedure under paragraph 1 of this Article.

3. Unaltered.
"3. Unaltered.

"4. The Organization shall consider each complaint presented in accordance with paragraph 2 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, after hearing the opinion of the Members referred to in the final part of paragraph 1 of this Article, shall form an opinion as to whether an investigation is justified.

"5. If the Organization decides, in accordance with the foregoing paragraph, it is considered that an investigation is justified, it shall notify 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.

"6. The Organization shall review all information available and make recommendations based on the opinions presented by the Members referred to in paragraph 1 as to whether the practices in question have had, have or are about to have the effect described in paragraph 1 of Article 44.

"7. The Organization shall notify all Members of the recommendations referred to in the previous paragraph and the reasons therefor.

"8. If it is found in any particular case, other than those excluded in paragraph 4 of Article 44, the practices complained of have had, have or are about to have the effect described in paragraph 1 of the above-mentioned Article 44, the Organization shall request each Member declared to be responsible to take every possible remedial action, and may also recommend to such Members remedial measures to be carried out in accordance with their respective laws and procedures.

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

"10. Unaltered.

"11. Unaltered.

/Article 47
Article 47

"1. Each Member shall take all possible measures by legislation or otherwise consistent with their standing legislation, within its jurisdiction, that private and public commercial enterprises do not in the future engage in practices which have the effect described in paragraph 1 of Article 44, subject to the provisions of paragraph 4 of Article 44, and in addition it shall assist the Organization in preventing these practices, such assistance to be given in accordance with the Member's system of law and economic organization."

"2. Unaltered.

"3. Unaltered.

"4. Unaltered.

"5. Unaltered.

"6. Unaltered.

Article 48
Delete.

Article 50
Delete.

Article 51

"1. Unaltered.

(a) Inter-governmental commodity agreements meeting the requirements of Chapter VI; and

(b) Unaltered.

(c) Practices engaged in by Central Banks for the purpose of regulating credit and monetary circulation; and

(d) Governmental measures connected with the provision of the services referred to in the previous Article."