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AND  
SOCIAL COUNCIL**

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ET SOCIAL**

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PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE  
ON TRADE AND EMPLOYMENT

COMMITTEE III

RESTRICTIVE BUSINESS PRACTICES

TENTATIVE REVISION BY SUB-COMMITTEE OF  
ARTICLES 34-39 OF THE UNITED STATES DRAFT CHARTER

Article 34. Policy Toward Restrictive Business Practices

1. Members agree to take appropriate measures, individually and through the organization to prevent in international trade, restrictive business practices which restrain competition, limit access to markets or foster monopolistic control whenever such practices have harmful effects on the expansion of production and trade and the maintenance in all countries of high levels of real income, or on any of the purposes of the organization as set forth in article I.
2. Without limiting the generality of paragraph 1, members agree that the practices listed in paragraph 3 below, when they are engaged in or are made effective by:
  - (a) an international combination, agreement or other arrangement among commercial enterprises, including such an arrangement among private commercial enterprises and public commercial enterprises (i.e., trading agencies of government or enterprises in which there is a government interest); or
  - (b) one or more commercial enterprises;

when such commercial enterprises, individually or collectively, possess effective control of international trade, in a particular area or general in one or more commodities, shall be subject to investigation, in accordance with the procedure provided by the subsequent Articles of this Chapter, if they appear to have or to be likely to have such harmful effects as are described in paragraph 1 of this Article.

3. The practices referred to in paragraph 2 are as follows:

- (a) fixing prices or terms or conditions to be observed in dealing with others in the purchase, sale or lease of any product (or service);
- (b) excluding enterprises from any territorial market or field of business activity, allocating or dividing any territorial market or field of business activity, allocating customers, or fixing sales or purchase quotas;
- (c) boycotting or discriminating against particular enterprises;
- (d) limiting production or fixing production quotas;
- (e) suppressing technology or invention, whether patented or unpatented;
- (f) extending the use of rights under patents, trade marks or copyrights to matters not properly within the scope, or to products or services which are not the immediate subjects of the authorized grant.

Article 35. Procedure with Respect to Complaints

Members agree that the organization shall:

I. Arrange, if it considers such action to be justified, for particular members to take part in a conference requested by any member who considers that any specific practices exist which have or are likely to have the effect described in paragraph 1 of Article 34.

2. Consider each written complaint which any member may submit, or which any persons or business entities or other organizations within the member's jurisdiction may submit with the permission of such member, that any practices have or are likely to have the effect described in paragraph 1 of Article 34. The organization shall prescribe the minimum information which should be included in each such complaint.
3. Call upon each member concerned to obtain statements in reply from the commercial enterprises within its jurisdiction which are affected, and such information from any member as the Organization may deem necessary; and then determine whether further investigation is justified.
4. If it is considered that further investigation is justified, notify all members of each such complaint; call upon the complainant or any member to provide such information relevant to the complaint as it may deem necessary; and conduct or arrange for hearings at which any member, and the parties alleged to have engaged in the practice, will have opportunity to be heard.
5. Review all information and come to its findings whether the practices in question have the effect described in paragraph 1 of Article 34.
6. Report to all members the findings reached and the information on which such findings are based; and, if it finds that the practices have had the effect described in paragraph 1 of Article 34, call upon each member concerned to take, in accordance with the member's laws and procedures, every possible action to prevent the continuance or recurrence of the practices and to effect the abrogation and termination of agreements or arrangements which provide for such practices.
7. Call upon all members concerned to report fully the action they have taken to achieve these results.

8. Prepare and publish, as expeditiously as possible after inquiries have been completed, reports on all complaints dealt with under paragraph 4 of this Article, showing fully the findings reached, the information on which such findings are based, and the action which members concerned have been called upon to take; provided, that publication of such reports may be withheld if it deems this course justified.
9. Report to all members, and make public if it is deemed desirable, the action which has been taken by the members concerned to achieve the results described in paragraph 6 of this Article.

Article 36: Studies Relating to Restrictive Business Practices

The organization shall be authorized to:

1. Conduct studies, either on its own initiative or at the request of any member, relating to
  - (a) types of restrictive business practices in international trade;
  - (b) conventions, laws and procedures such as those concerning incorporation, company registration, investments, securities, prices, markets, fair trade practices, trade marks, copyrights, patents and the exchange and development of technology, in so far as they are relevant to such types of restrictive business practices, and to request information from members in connection with such studies;
2. Make recommendations to members concerning such conventions, laws and procedures as are relevant to their obligations under this Convention;
3. Arrange conferences, when requested by members, for purposes of general consultation on any matters relating to restrictive business practices.

Article 37. Obligations of Members

In order to implement the preceding articles in this Chapter, each member undertakes to:

1. Take all possible steps, by legislation and otherwise:
  - (a) to ensure that private and public commercial enterprises within its jurisdiction do not engage in practices which have the effect described in paragraph 1 of Article 34; and
  - (b) to prevent the continuance or recurrence within its jurisdiction of any practices which the organization finds to have had such effect.
2. Establish procedures to deal with complaints, conduct investigations, prepare information and reports requested by the organization, and generally to assist in preventing practices which have the effect described in paragraph 1 of Article 34; these measures to be taken in accordance with the particular system of law and economic organisation of the member concerned.
3. Conduct such investigations as may be necessary and practicable to secure information called for by the organization or to prevent practices which have the effect described in paragraph 1 of Article 34.
4. Furnish to the organization, as promptly as possible and to the fullest extent feasible, such information as is called for by the organization under paragraphs 5, 6 and 7 of Article 35 and under paragraph 1 of Article 36; provided that confidential information affecting national security or production techniques may be withheld.
5. Report, as called for by the organization under paragraph 7 of Article 35, the action taken, independently or in concert with other members, to implement recommendations made by the organization under paragraph 6 of Article 35.

6. Take part in conferences upon the request of the organization in accordance with paragraph 3 of Article 36.

Article 38. Supplementary Enforcement Arrangements

1. Members may, by mutual accord, co-operate with each other in prohibitive, preventive or other measures for the purpose of making more effective any remedial order issued by a duly authorized agency of any member in furtherance of the objectives of this Chapter.

2. Members participating in such co-operative actions shall notify the organization.

Article 39. Continued Effectiveness of Domestic Measures against Restrictive Business Practices

Any act or failure to act on the part of the organization shall not preclude any member from enforcing any national statute or decree directed toward preventing monopoly or restraint of trade.