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**ON**  
**TRADE AND EMPLOYMENT**

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SECOND COMMITTEE: ECONOMIC DEVELOPMENT

DRAFT CHARTER

MEXICO: PROPOSED AMENDMENTS

Article 9

Delete the following:

"... through measures consistent with the other provisions of this Charter."

Article 10

Add two new paragraphs, as follows:

"3. The Members recognize the desirability of making such internal regulations as are necessary to direct the maximum volume of investment into productive activities, thus avoiding the diversion of the savings and resources at their disposal into speculative activities.

"4. In order to perform the functions referred to in paragraphs 1 and 2 of this Article and the other functions envisaged for promoting the development of the underdeveloped countries, the Organization shall have a Committee for Economic Development which shall operate in accordance with the provisions of Article 80-B."

(The delegation of Mexico has proposed a text for Article 80-B in an amendment submitted separately and the Committee for Economic Development has been included in Article 70 as one of the organs of the Organization.)

Article 11

Amend as follows:

"1. Progressive industrial and general economic development requires, among other things, adequate supplies of capital funds, materials, modern equipment and technology, and technical and managerial skills. The Members shall make every effort necessary to ensure that the underdeveloped countries are able to obtain on equitable terms the facilities required for their economic development.

Delete paragraphs 2, 3 and 4 of the present text and insert the following:

"2. In order to assure just and equitable treatment for investments, the Organization may make recommendations with a view to securing a statement of principles as to the conduct, practices and treatment of foreign investment.

/"3. If

"3. If circumstances exist which prevent a Member country from enjoying equitable participation in the exploitation of its natural resources, the Member country may apply the necessary corrective measures, including the organization of joint enterprises in which national capital is predominant.

"4. In accordance with Article 10, every facility shall be given to the Committee for Economic Development established under Article 80-B in the performance of its functions."

Article 12

Delete the present text and insert the following:

Article 12

International Investment for Economic

Development

"1. The Members recognize that, with appropriate safeguards, including measures adequate to ensure that foreign investment is not used as a basis for interference in the internal affairs or national policies of Members, international investment, both public and private, can be of great value in promoting economic development and consequent social progress. They recognize that such development would be facilitated if Members were to afford, for international investments acceptable to them, reasonable opportunities upon equitable terms to the nationals of other Members and security for existing and future investments. Accordingly, they agree to provide, consistent with the limitations of their own legislation, the widest security for existing investments and opportunities for such investments as may be made in the future.

"2. Any national of a Member country emigrating to a country other than his country of origin or investing his capital in such country is obliged to respect the laws of the country to which he emigrates or in which he invests his capital, and if any difficulties arise shall have recourse to the facilities for his protection established in that legislation. The Members undertake not to afford diplomatic protection to any of their nationals who expressly and voluntarily renounce such protection. Nor shall protection be granted where one or a group of their nations has made investments in a foreign country through:

(a) a juridical person having assumed the nationality of that country, or

(b) an intermediary who either is or claims to be a national of the country in which the investment is made, no matter what the interests the intermediary may claim to represent, when the subterfuge has been adopted with the purpose of evading regulations which in any way restrict or impose requirements on the participation of aliens in

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specified activities.

"3. The Members recognize that foreign investment should be made in a way which not only secures profits for the investors but takes into account the sound and balanced economic development of the countries receiving such investment. They also recognize that investment should preferably be directed towards activities which assist in correcting the adverse trade balances or increase the transfer capacity of such countries. To this end the movement of capital and the reinvestment of profits and sinking funds shall be encouraged by appropriate measures, including fiscal agreements between the countries concerned.

"4. The Members shall promote co-operation between their nationals and foreign enterprises or investors with a view to stimulating economic development in cases in which they deem such co-operation appropriate."

Article 13

Amend paragraphs 2, 3, 4 and 5 as follows:

"2. (a) If a Member, in the interest of its programme of economic development or reconstruction, considers it desirable to adopt any non-discriminatory measure which would conflict with any provision of Chapter IV or any obligation which the Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, the Member, on adopting such a measure, shall so notify the Organization and shall transmit to the Organization a statement of the considerations in support of the measure adopted.

"(b) The Organization shall transmit such statement to all other Members and any Member which considers that its trade will be substantially affected by the measure adopted shall transmit its views to the Organization within such period as shall be prescribed by the Organization.

"(c) The Organization shall then promptly examine the considerations in support of the measure adopted to determine whether it concurs in it, with or without modification, and shall in its examination have regard to the considerations presented by the applicant Member, its stage of economic development or reconstruction and the provisions of this Charter, to the views presented by Members which may be substantially affected and to the effect which the measure adopted, with or without modification, is likely to have on international trade.

"3. (a) If, as a result of its examination, pursuant to paragraph 2 (c) of this Article, the Organization concurs in principle in a measure adopted, which would be inconsistent with any obligation that the  
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applicant Member has assumed through negotiations with any other Member or Members pursuant to Chapter IV, or which would tend to nullify or impair the benefit to such other Member or Members, the Organization shall sponsor and assist in negotiations between the applicant Member and the other Member or Members which would be substantially affected, with a view to obtaining substantial agreement. The Organization shall establish and communicate to the Members concerned a time schedule for such negotiations."

"4. (a) If, as a result of its examination pursuant to paragraph 2 (c) of this Article, the Organization concurs in any measure adopted, with or without modification, other than those provided for in paragraph 3 (a) of this Article, which would be inconsistent with any provision of Chapter IV, the Organization may release the applicant Member from any obligation under such provision, subject to such limitations as the Organization may impose.

"(b) If, having regard to the provisions of paragraph 2 (c), it is established in the course of such examination that the measure adopted is unlikely to be more restrictive of international trade than any other practicable and reasonable measure permitted under this Charter which could be imposed without undue difficulty and that it is the one most suitable for the purpose, having regard to the economic of the industry or the branch of agriculture concerned and to the current economic conditions of the applicant Member, the Organization shall concur in the measure adopted and grant release from such obligations as may be required to make the measure effective.

"5. (a) In the case of measures referred to in paragraph 3 of this Article, the Organization shall at the earliest opportunity but ordinarily within fifteen days after receipt of the statement referred to in paragraph 2 (a) of this Article, advise the applicant Member of the date by which the Organization will notify it whether or not it concurs in principle in the measure adopted, with or without modification.

"(b) If the Organization shall definitely decide that the measure adopted is not the procedure most suitable for achieving the purpose proposed by the Member, it shall make suggestions regarding the measures which may be taken in place of the measure adopted and shall grant the Member reasonable time in which to make such change. If the Member does not comply with the recommendations of the Organization within the time prescribed, its case shall be considered in accordance with Article 89 and the other relevant articles of this Charter."

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