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SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT.

ANNOTATED AGENDA

PREPARED BY THE SECRETARIAT, FOR DISCUSSION
OF CHAPTER VI (ARTICLES 39 - 45 INCL.)
OF THE DRAFT CHARTER.

This Agenda should be read in conjunction with the Report of the Drafting Committee (E/PC/T/34) called "D.C. Report" below. It incorporates proposals put forward by Delegations in the Drafting Committee as noted in the commentary of the D.C. Report and proposals reported to the Secretariat by Delegations by Tuesday, May 27th. (See E/PC/T/Del./24 and 31; E/PC/T/W.54; E/PC/T/W.117; E/PC/T/W.118; E/PC/T/W.120; E/PC/T/W.122; E/PC/T/W.126; E/PC/T/W.130; E/PC/T/W.131).

CHAPTER VI. RESTRICTIVE BUSINESS PRACTICES*

General Notes.

1. The reservation against the exclusion of services mentioned in the D. C. Report, (page 34 under "General Comments", item (a)), was made by the delegates for Brazil, Chile, Cuba and India. This reservation had been stated in the First Session in the following manner (cf. E/PC/T/C.III/W.5):

"1. The Brazilian, Chilean and Cuban Delegations suggested that the provisions of this Chapter be extended to cover services.

The Indian Delegation has stated that this Chapter will have no meaning for India if the question of restrictive business practices relating to services such as shipping, insurance and banking is excluded."

2. The Czechoslovak Delegation has expressed its adherence to this reservation (cf. E/PC/T/W/117).

3. The opinion that services fall under the terms of reference of the Preparatory Committee, mentioned in the D.C. Report, (page 34 under "General Comments", item (a), 2nd sentence), was voiced by the delegate for Cuba.

* Where possible underlining has been used to indicate proposed additions, and square brackets to indicate proposed deletions.

4. The reservation regarding compulsory registration of restrictive business practices, mentioned in the D.C. Report, (page 34 under "General Comments"; item (b)), was made by the delegates of Brazil and Chile and seconded by the Delegation of Czechoslovakia, who re-affirmed this reservation in Document E/PC/T/W.117. This reservation had been stated in the First Session in the following manner: (cf. E/PC/T/C.III/W.5.

"2. The Brazilian and Chilean Delegations suggested that consideration should be given to the possibility of establishing some form of procedure for the registration with the International Trade Organization of international combinations, agreements or other arrangements as defined in Article 39, paragraph 2 (a). The Brazilian Delegation feels, moreover, that some degree of publicity should be given to the results of such a procedure."

Article 39 - Policy towards Restrictive Business Practices.

Paragraph 1

1. The suggestion regarding the reference to economic development, mentioned in the D.C. Report, (page 34 under paragraph 1), was made by the delegate of Brazil.

2. The Canadian Delegation proposes the following revision of this paragraph (cf. E/PC/T/W.126):

"1. Members shall take appropriate measures, individually or through the Organization or in both ways, to prevent business practices affecting international trade which restrain competition whenever such practices

(a) limit access to markets, or foster monopolistic control or otherwise restrain competition in international trade whenever such practices; and

(b) have or are about to have harmful effects on the expansion of production and or trade and the maintenance in all countries of high levels of real income or impair interfere with the realization of any of the purposes of the Organization as set forth in Article 1; and

[(a)] (c) They are engaged in or are made effective by one or more public or private commercial enterprises or by a combination, agreement or other arrangement between commercial enterprises, whether between private commercial enterprises, between public commercial enterprises, (i.e., trading agencies of governments or enterprises in which there is effective public control), or between private and public commercial enterprises; and if such commercial enterprises, individually or collectively, possess effective control of substantially control or influence trade among a number of two or more countries in one or more products."

3. The Delegation of Belgium proposes the following revision of this paragraph (cf. E/PC/T/W.130):

"1. Members shall take ... to prevent the continuance or the recurrence of business practices ... whenever such practices have harmful effects on the expansion of production... as set forth in Article 1, achievement of the purposes of the Charter, as set forth in Article 1.

Paragraph 2.

1. The inclusion of the words "in accordance with etc.", mentioned in the D.C. Report (c.f. page 34, under paragraph 2) was made on the motion of the delegate of France.
2. The reservation in regard to the insertion of the words "public or", mentioned in the D.C. Report (cf. page 34, paragraph 2 (a), item (v) last sentence), was made by the delegate of the United Kingdom.
3. The reservations regarding the inclusion of public commercial enterprises mentioned in the D.C. Report, (cf. page 34 under paragraph 2 (a), item (c)), were made by the delegates of Brazil and China.
4. The reservation that the change in this paragraph constitutes a substantive amendment, mentioned in the D.C. Report, (cf. page 34 under paragraph 2 (a), item (d)), was made by the delegate of Chile.
5. The Delegation of the United States of America proposes the following revision of this paragraph (cf. E/PC/T/W.122) :

"2. Without limiting the generality of paragraph 1 of this Article, the practices listed in paragraph 3 below shall be subject to investigation in accordance with the procedure with respect to/regarding complaints provided by the relevant Articles/ in this Chapter / if the Organization considers them to have or to be/ in order that the Organization may determine, in any particular instance, whether such practices have or are about to have any of the / harmful/ effects / enumerated/ described in paragraph 1 of this Article, whenever"

6. The Delegation of Canada, suggesting to reverse the present sequence of paragraphs 2 and 3, proposes the following revision of the present paragraph 2 (cf. E/PC/T/W.126) :

"2. 3. Without limiting the generality of paragraph 1 of this Article, the practices listed in paragraph 3 below/ Any practices which are alleged, under Article 40, to be as described in paragraphs 1 and 2 of this Article shall be subject to investigation, in accordance with the procedure / with respect to/ regarding complaints provided /by the relevant Articles of/ for in this Chapter, /if the Organization considers them to have or to be about to have any of the harmful effects enumerated/ in order that the Organization may determine, in any particular instance, whether these or related practices are as described in /paragraph 1 of/ this Article /, whenever/."

Paragraph 2 (a) and 2 (b).

Delete these sub-paragraphs, which are incorporated in paragraph 1 (c), of the Canadian revision."

7. The Delegation of Czechoslovakia proposes the deletion of the words "or to be about to have" in line 7 of the present text of this paragraph (cf. E/PC/T/W/118).

8. The Delegation of Belgium proposes the insertion of the following new clause after sub-paragraph (b) of this paragraph (cf. E/PC/T/W.130) :

"Nevertheless, the practices enumerated in paragraph 3, sub-paragraphs (e), (f) and (g) shall be presumed to have the harmful effects described in Article 1, unless proof to the contrary is furnished in any specific case".

9. The Delegation of Brazil proposes the addition of the following clause (cf. E/PC/T/W. 54):

"The international combinations, agreements or other arrangements between enterprises referred to in Article 39, sub-paragraph 2 (a) shall, unless previously registered with the International Trade Organisation, be presumed to have harmful effects. Registration of such combinations, agreements or other arrangements shall be accorded some degree of publicity, due regard being paid to the legitimate interests of the enterprises concerned".

Paragraph 3.

1. The Delegation of Canada, renumbering this paragraph as paragraph 2, (cf. above) proposes the following revision (cf. E/PC/T/W.126) :

"/3./ 2. The practices referred to in paragraph [2] 1 (a) [are as follows/ shall include the following :

- (a) . . .
- (b) . . .
- (c) . . .
- (d) . . .
- (e) . . .
- (f) . . . "

2. Sub-paragraph (c) The Delegation of Belgium proposes the following revision of sub-paragraph (c) of this paragraph (cf. E/PC/T/W.130) :

"(c) Discriminating against particular enterprises [whether by boycott or otherwise]"

3. Sub-paragraph (e) The Delegation of the United States of America proposes the following rewording of sub-paragraph (e) (cf. E/PC/T/W.122):

"3(e) [Suppressing/ Agreeing with others to prevent the application or development of technology whether patented or unpatented; and "

4. Sub-paragraph (e) The Delegation of Belgium proposes to substitute the words "and boycotting particular enterprises" for the present text of sub-paragraph (e) (cf. E/PC/T/W.130).

5. Sub-paragraph (f) The Delegation of the United States of America proposes to revise the wording of sub-paragraph (f) as follows (cf. E/PC/T/W.122) :

"3(f) Extending the use of rights under patents, trade marks or copyrights, granted by Members to matters which they determine not to be properly within the scope of /authorized grants/ such grants or to products or conditions of production, use, or sale which they determine /are/ not to be the immediate subjects of /the authorized grant/ such grants."

6. Sub-paragraph (f). The Delegation of Belgium proposes deletion of the present text of sub-paragraph (f) and insertion in its place of the present text of sub-paragraph (e). (cf. E/PC/T/W.130).

7. Sub-paragraph (f). The reservation regarding the technical character of sub-paragraph (f), mentioned in the D.C. Report, (p.35, item (b) under paragraph 3(f)), was made by the delegate of the Netherlands.

Article 40 - Procedure with respect to complaints and conferences.

General Notes:

1. The reservation mentioned in the D.C. Report (page 35, under General Comments, item (a)) was made by the delegate for the Netherlands.

2. The rearrangement and partial re-draft of Article 40, referred to in the D.C. Report (page 35 under General Comments, item (b)), was introduced by the delegate for Australia, who proposed the following text (cf. E/PC/T/C.6/W.45):

"Article 40

/Members agree that the Organization shall (a) 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 particular practices exist which have or are about to have the effect described in paragraph 1 of Article 39./

1. Any Member which considers that any particular practices exist which have or are about to have the effects described in paragraph 1 of Article 39 may request the Organization to arrange a conference and the Organization may request particular Members to participate in such a conference.

/ (b) consider each written complaint submitted by any Member or submitted with the authorization of a Member by any affected person, organization or business entity within that Member's jurisdiction, claiming that particular practices exist which have or are about to have the effect described in paragraph 1 of Article 39, and prescribe the minimum information to be included in such complaints./

2. Any Member so with the authorization of a Member any affected person, organization or business entity within that Member's jurisdiction may complain to the Organization that particular practices exist which have or are about to have the effects described in paragraph 1 of Article 39. The Organization shall prescribe the minimum information to be included in such complaints.

/ (c) consider, and request each Member concerned to furnish

such information as the Organization may deem necessary, including, for example, information or data from commercial enterprises within its jurisdiction and then determine whether further investigation is justified.]

3. The Organization shall consider any such complaint, shall consider, and request each Member concerned to furnish, such information as the Organization may deem necessary, and shall determine whether further investigation is justified.

NOTE: The following amendments are based on the London text.

4. [d. If it is considered.] If the Organization in accordance with paragraph 3 determines that further investigation is justified it shall

(a) notify all Members of [each such] the complaint, request the complainant or any Member to provide such information relevant to the complaint as [it] the Organization may deem necessary; and conduct or arrange for hearings, at which any Member and the parties alleged to have been engaged in the practice [will have] shall be given opportunity to be heard;

(b) [e. review] After reviewing all information available [and same to its findings] determine whether the practices [in question] exist and whether they have had or are about to have [have the effect] the effects described in paragraph 1 of Article 39;

(c) [f. report] transmit to all Members [the findings reached and the information on which such findings are based] its determination together with a full report on the reasons therefor;

(d) [if it finds] if it determines that the practices have had, or are about to have, the effects described in paragraph 1 of Article 39 request each Member concerned to take every possible action to prevent the occurrence, continuance or recurrence of the practices and [at its discretion] if it considers it desirable recommend to the Members concerned remedial measures to be carried out in accordance with their respective laws and procedures;

[g] Request all Members concerned to report fully the action they have taken to achieve these results.]

(e) [h] prepare and publish, as [expeditiously] soon as possible [after inquiries have been completed] a full report [s] on [all complaints] each complaint dealt with under [sub-paragraph d] this paragraph [showing fully the findings reached, the information on which such findings are based and the action which Members concerned have been recommended to take] containing the determination made, the reasons therefore and any recommendations made to Members; provided that [publication of such reports or of any portion thereof may be withheld if it deems this course justified] the Organization [i] may if it deems it desirable withhold from publication the whole or any part of such report;

provided also that the Organization

and (ii) shall not if a Member so requests disclose to any person confidential information furnished by that Member which would materially damage the legitimate business interests of a commercial enterprise; and

(f) [i report] transmit to all Members and if it deems it desirable publish [make public if it is deemed desirable] a report setting forth the action [which has been] taken by the Member concerned [to achieve the results described in sub-paragraph f] in response to requests or recommendations made under sub paragraph (d)."

NOTE: As a consequence Article 42 (5) would be amended by deleting the words "as requested by the Organization under sub-paragraph (g) of Article 40."

3. The Delegation of the United States of America proposes the following re-arrangement and re-draft of this Article (cf. E/PC/T/W.122):

"Article 40: Procedure with Respect to Complaints and
Conferences"

1. The Organization shall (a) arrange, if it considers such action to be justified, for particular Members to take part in a conference/consultation requested by any Member which considers that any practices exist which have or are about to have the effect described in paragraph 1 of Article 39.

(b) 2. The Organization shall prescribe [the] minimum information to be included in complaints claiming that particular practices exist and have or are about to have the effect described in paragraph 1 of Article 39.

(b) (c) 3. In order to decide whether an investigation of a complaint is justified, the Organization shall consider each written complaint submitted by any Member or submitted with the authorization of a Member by any affected person, organization or business entity within that Member's jurisdiction [claiming that particular practices exist and have or are about to have the effect described in paragraph 1 of Article 39]; if the Organization deems that further information is necessary before such decision can be reached, it shall request each Member concerned to furnish [such information as the Organization may deem necessary] supplementary information, including for example information [or data] from commercial enterprises within [its] the jurisdiction of the Members concerned; review all relevant information; and [then determine] decide whether an investigation is justified.

(d) 4. If [it considers that] the Organization decides that an [further] investigation is justified, it shall notify all Members of [each such] the complaint, request the complainant or any Member to provide such additional information relevant to the complaint as the Organization may deem necessary, and shall conduct or arrange for hearings on the complaint. [Provided that any Member and the] Any Member as well as the parties alleged to have engaged in or to have been affected by the practice complained of shall [have the] be afforded reasonable opportunity to be heard at such hearings.

5. The Organization shall review all information available and determine whether the practices in question have or are about to have the effect described in paragraph 1 of Article 39.

6. The Organization shall report fully to all Members its determination and the reasons therefor.

2. (a) 7. If [it] the Organization [finds] determines that the practices in question have had or are about to have the effect described in paragraph 1 of Article 39, it shall request each Member concerned to take every possible action to prevent the continuance or recurrence of [the] such practices, and may recommend to the Members concerned specific remedial measures to be carried out in accordance with their respective laws and procedures.

2. (b) 8. The Organization shall request all Members concerned to report fully on the action they have taken [to achieve these results] to prevent the continuance or recurrence of the practices in question.

2. (c) 9. [prepare and publish] As soon as possible after its enquiries concerning any complaint dealt with under [paragraph 1 (d)] paragraphs 3 to 6 have been provisionally or finally closed, the Organization shall prepare and publish [reports on all complaints...] a report showing fully [its] the decisions, [findings] determinations or other conclusions reached, the reasons therefor and any action [which the Organization has] recommended to the Members concerned [; Provided]. However, [(i) publication of such reports or any portion thereof may be withheld if it deems this course justified; and (ii)] the Organization shall not, if a Member so requests, disclose confidential information furnished by that Member which would materially damage the legitimate business interests of a commercial enterprise.

2. (d) 10. The Organization shall report to all Members and make public [if it deems desirable, the action] actions which [has] have been taken by the Members concerned [to realize the purposes described in paragraph 2 (a)] to prevent the continuance or recurrence of the practices in question.

4. The Delegation of Czechoslovakia has stated its opinion that the Charter should not exclude the possibility of taking a case to the International Court of Justice after final decision of the Organization about a complaint under Article 40 (cf. E/PC/T/W/117).

Paragraph 1.

1. Sub-paragraph (a)

The Delegation of Canada proposes to revise this sub-paragraph by substituting the word "as" for the words "which have or are about to have the effect" in lines 5 and 6, and by deleting the words "paragraph 1 of" in line 6 of the New York text. (cf. E/PC/T/W.126, p. 4).

2. Sub-paragraph (b) The reformulation of sub-paragraph (b), mentioned in the specific comments of the D.C. Report (page 35) was proposed by the Delegations of France and the United Kingdom. The Delegation of the United Kingdom has re-affirmed its reservation against the formulation of the Drafting Committee (cf. E/PC/T/W.131).
3. Sub-paragraph (b) The Canadian Delegation proposes to revise this sub-paragraph by substituting the word "as" for the words "which have or are about to have the effect" in lines 6 and 7, and by deleting the words "paragraph 1 of" in line 7 of the New York Text. (cf. E/PC/T/W.126, page 4).
4. Sub-paragraph (c) The Canadian Delegation proposes to insert in line 3 of the New York Text a comma after the word "necessary" and to delete the comma after the word "including". (cf. E/PC/T/W.126, page 4).
5. Sub-paragraph (e) The Belgian Delegation proposes the deletion of the words "or are about to have" in line 3 of the New York Text (cf. E/PC/T/W.130). The Canadian Delegation proposes substitution of the words "are as" for the words "or are about to have" in the same place, and deletion of the words "paragraph 1 of" in line 4 (cf. E/PC/T/W.126, page 4).

Paragraph 2.

1. Sub-paragraph (a) The Canadian Delegation proposes to substitute the words "are as" for the words "have had /or are about to have/ the effect" in lines 3 and 4 and to delete the words "paragraph 1 of" in line 4 of the New York Text (cf. E/PC/T/W.126, page 4).
2. Sub-paragraph (a) The Belgian Delegation proposes to substitute the word "conclusion" for the word "determination" in lines 1 and 2, to delete the words "/or are about to have/" in lines 3 and 4, and to insert the words "of the misuse" after the word "recurrence" in line 7 of the New York Text (cf. E/PC/T/W.130).
3. Sub-paragraph (c) The Belgian Delegation proposes to delete the words "decisions, findings or other" in line 5 of the New York Text. (cf. E/PC/T/W.130).

Article 41 - Studies relating to Restrictive Business Practices.

The Delegation of the United States of America proposes the following revision of this Article (cf. E/PC/T/W.122).

Paragraph 1.

"Article 41: Studies Relating to Restrictive Business Practices.

1. The Organization /may/ is authorised
 - (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 /specialized agency brought into

relationship with the United Nations/ intergovernmental organization, relating to

- (i) types of restrictive business practices in 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;
- (b) to request information from Members in connection with such studies."

Paragraph 2.

"2. The Organization may

- (a) make recommendations to Members concerning such conventions, laws and procedures as are relevant to their obligations under this Chapter; and
- (b) arrange for conferences of Members for purposes of general consultation on/ discussion of any matters relating to restrictive business practices."

Article 42 - Obligations of Members

GENERAL NOTE.

The Delegation of the United States of America proposes the following re-arrangement and re-formulation of this Article (cf. E/PC/T/W.122, pages 11 seq):

"Article 42: Obligations of Members.

1. In order to implement the preceding Articles of this Chapter/ Each Member shall take all possible steps by legislation or otherwise to forbid and prevent /ensure/, within its jurisdiction, /that private and public commercial enterprises within its jurisdiction do not engage in/ practices by private or public commercial enterprises which have the effect described in paragraph 1 of Article 39, and /generally/ shall assist other Members and the Organization in preventing /practices which have the effect described in paragraph 1 of Article 39/ such practices, these measures to be taken in accordance with /the particular/ the Member's system of law and economic organization /of the country concerned/
2. Each Member shall establish procedures /to deal with/ for authorizing complaints, conducting investigations // and preparing information and reports requested by the Organization.

3. Each Member shall furnish to the Organization, as promptly as possible and to the fullest extent practicable, such information as is requested by the Organization /under paragraphs 1 (c), (d) and 2(b) of Article 40 and under paragraph 1(a) of Article 41/ for its consideration and its investigation of complaints and for its conduct of studies, provided that /the/ any member
 - (a) may withhold confidential information relating to its national security;
 - (b) on proper notification to the Organization, may withhold information which is not essential to the Organization /in/undertaking an adequate investigation and which, if disclosed, would materially 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.
4. Each Member shall take fullest account of the Organization's determinations, requests and recommendations made /under paragraph 2(a) of Article 40/ on the basis of its investigations and determine and initiate appropriate action in accordance with /its/ the Member's system of law and economic organization to prevent within its jurisdiction the continuance or recurrence of any practices which the Organization finds to have had the effect described in paragraph 1 of Article 39.
5. Each Member shall report, as requested by the Organization, /under paragraph 2(b) of Article 40, the/ any action taken, independently or in concert with other Members, to implement recommendations made by the Organization /under paragraph 2(a) of Article 40/, and /in cases in which/ when no action /is/ has been taken, /to/ explain to the Organization the reasons therefor and discuss the matter further with the Organization if requested to do so.
6. Take part in consultations and conferences upon the request of the Organization. /In accordance with paragraph 1(a) of Article 40 and paragraph 2(b) of Article 41./"

Paragraph 1.

1. Sub-paragraph (a) The Delegation of Canada proposes the following changes in the New York Text of this Sub-paragraph (cf. E/PC/T/W.126).

In lines 4 and 5, delete the words "which have the effect".

In line 5, delete the words "paragraph 1 of".

In line 9, substitute "determine" for "determined".

In lines 13 and 14, substitute the words "finds are as" for the words "find to have had /or to be about to have/ the effect".

In line 15, delete the words "paragraph 1 of".

2. Sub-paragraph (b) The Delegation of Belgium proposes the following changes in the New York text of this sub-paragraph (cf. E/PC/T/W.130):

For "determinations" substitute "conclusions", in line 2.

After the word "recurrence" add the words "of the misuse", in line 7.

Delete the words ["or to be about to have"] in lines 8 and 9.

Paragraph 2

1. Sub-paragraph (a) The Canadian Delegation proposes the following changes in this sub-paragraph (cf. E/PC/T/W.126, page 5):

In line 5, substitute the words "are as" for the words "have the effect".

In lines 5 and 6, delete the words "paragraph 1 of".

2. Sub-paragraph (b) The Canadian Delegation proposes the following changes in this sub-paragraph (cf. E/PC/T/W.126, page 5):

In line 4, substitute the words "are as" for the words "have the effect".

In line 5, delete the words "paragraph 1 of".

3. Sub-paragraph (c) The Delegations of Belgium and Czechoslovakia propose the following change in (ii) of this sub-paragraph (cf. E/PC/T/W.120 and E/PC/T/W.130):

Delete the words "which is not essential to the organization in undertaking an adequate investigation", in lines 2, 3 and 4.

4. Sub-paragraph (c) The three Delegations who recorded a reservation against insertion of the words "which is not essential..... adequate investigation and", (cf. D.C. Report page 37, item (b) under paragraph 2 (c) (ii)), were the delegates of Belgium, France and Luxembourg.
5. Sub-paragraph (d) The Delegation of Canada proposes to substitute the words "inform the Organization of" for the words "explain to the Organization" in line 7 of the New York Text (cf. E/PC/T/W.126, page 5).
6. Sub-paragraph (e) The Delegate who reserved his position against insertion of the reference to A:40, (cf. D.C. Report, page 37 under paragraph 2(e)), was the Delegate of the United Kingdom.

Article 43 - Supplementary enforcement arrangements.

No observations.

Article 44 - Continued effectiveness of domestic measures against restrictive business practices.

No observations.

Article 45 - Exceptions to the Provisions of this Chapter

GENERAL NOTES

1. The Delegation of the United Kingdom proposes the following revision of this Article (cf. E/PC/T/W.131):

"Exceptions to Provisions of this Chapter

1. Subject to any inter-governmental conventions or arrangements which may hereafter be concluded pursuant to Article 61 (c), the undertakings expressed in Chapter VI shall not apply to:

- (a) Inter-governmental commodity agreements meeting the requirements of Chapter VII;
- (b) the international agreements excepted in Article 59; or
- (c) agreements or understandings concerning railway transportation, aviation, shipping and telecommunication or other services.

2. Notwithstanding the foregoing, the Organization may in its discretion make recommendations to Members and to appropriate international agencies concerning any features of the agreements referred to in paragraph 1 (b) of this Article which may have the effect described in paragraph 1 of Article 39."

2. The Delegation of Australia proposed in the Drafting Committee the following re-arrangement and revision of this Article (cf. E/PC/T/C.6/W.45);

".....(b) the international agreements excepted in Article 59 provided that [(2) notwithstanding the foregoing/ the Organization may [at its discretion/ make recommendations to Members and to appropriate inter-governmental organizations concerning any features of [agreements referred to in sub-paragraph (1) (b)] such agreements which [may] it considers have the effects described in paragraph (1) of Article 39."

Paragraph 1

The reformulation of paragraph 1(c) of Article 40 of the United States Draft Charter, which Article corresponds to Article 45 of the New York Text, was proposed by the Delegation of Chile (cf. D.C. Report, page 37)

Paragraph 2

The Delegation of Canada proposes the following changes in the New York text of this paragraph (cf. E/PC/T/W.126, page 5):

In lines 6 and 7, substitute the words "appear to the Organization to be practices as" for the words "may have the effect".

In line 7, delete the words "paragraph 1 of".