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Conformément au règlement (CEE, Euratom) n° 354/83 du Conseil du 1er février 1983 concernant l'ouverture au public des archives historiques de la Communauté économique européenne et de la Communauté européenne de l'énergie atomique (JO L 43 du 15.2.1983, p. 1), tel que modifié par le règlement (CE, Euratom) n° 1700/2003 du 22 septembre 2003 (JO L 243 du 27.9.2003, p. 1), ce dossier est ouvert au public. Le cas échéant, les documents classifiés présents dans ce dossier ont été déclassifiés conformément à l'article 5 dudit règlement.

In accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1), as amended by Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 (OJ L 243, 27.9.2003, p. 1), this file is open to the public. Where necessary, classified documents in this file have been declassified in conformity with Article 5 of the aforementioned regulation.

In Übereinstimmung mit der Verordnung (EWG, Euratom) Nr. 354/83 des Rates vom 1. Februar 1983 über die Freigabe der historischen Archive der Europäischen Wirtschaftsgemeinschaft und der Europäischen Atomgemeinschaft (ABl. L 43 vom 15.2.1983, S. 1), geändert durch die Verordnung (EG, Euratom) Nr. 1700/2003 vom 22. September 2003 (ABl. L 243 vom 27.9.2003, S. 1), ist diese Datei der Öffentlichkeit zugänglich. Soweit erforderlich, wurden die Verschlussachen in dieser Datei in Übereinstimmung mit Artikel 5 der genannten Verordnung freigegeben.

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(85) 166 final

Brussels, 12 April 1985

Communication from the Commission to the Council

Participation of the Community in the Review Conference on the
UNCTAD Set of Multilaterally Agreed Equitable Principles and
Rules for the Control of Restrictive Business Practices



COM(85) 166 final

Participation of the Community in the Review Conference on the UNCTAD Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

A Review Conference on the Set of Principles is scheduled for 4-15 November 1985 under United Nations General Assembly resolution 35/63.

Proposals for amendments to the Set of Principles will be on the agenda of the 4th session of the Intergovernmental Group of Experts (IGE) in Geneva on 22-30 April 1985. The Group will also discuss the rules of procedure for the Review Conference. Draft rules of procedure have been circulated by the UNCTAD Secretariat (see Annex I). Rule 1 provides that participation in the Conference shall be open to Regional Groupings of States which have competence in the area of restrictive business practices and which have accepted the Set of Principles. It is specified, however, that participation does not confer on such regional groupings the right to vote. Rule 33 provides that only States participating in the Conference shall have the right to vote.

These arrangements would not allow the Community to participate on an equal footing to Member States. This would be a similar situation to that prevailing within the IGE, with which the Community and its Member States, supported by Group B, have repeatedly voiced their dissatisfaction. The Community proposes to respond to the latest communication from Group D to the Trade and Development Board on this subject (see Annex 2).

For the purposes of the draft rules of procedure for the Conference, the Community is deemed to have accepted resolution 35/63. This being so, it demands that an addition be made to Rule 33 of the draft rules of procedure reading as follows :

"Regional Groupings of States, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member

States which have accepted the Set of Principles and Rules. Such organizations shall not exercise their right to vote if their Member States exercise theirs, and vice versa."

This clarification is a legal and political consequence of the equivalent status conferred by section B (ii) (8) of the Set of Principles.

The Commission considers that unless the rules of procedure allow the Community to play a full part in the work of the Conference, it should limit its participation in the meeting to the role of a passive observer. By continuing to acquiesce in a situation of contributing actively to the work on an ad hoc basis as an observer, the Community would be bowing to the interpretation expounded by Group D.

The Commission therefore requests the Council's authority to negotiate for the Community when the rules of procedure for the Review Conference are drawn up a status allowing it to play a full part in the Conference in keeping with the responsibilities it has in the area of restrictive business practices. The Member States and the Commission should adopt a common position on this matter in the discussions at the forthcoming meeting of the IGE.



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United Nations Conference on Trade and Development

TRADE AND DEVELOPMENT BOARD
Intergovernmental Group of Experts
on Restrictive Business Practices
Fourth session
Geneva, 22 April 1985
Item 3 (c) of the provisional agenda

PREPARATIONS FOR THE UNITED NATIONS CONFERENCE TO REVIEW ALL
ASPECTS OF THE SET OF MULTILATERALLY AGREED EQUITABLE
PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS
PRACTICES: PROVISIONAL RULES OF PROCEDURE OF THE CONFERENCE

Draft provisional rules of procedure of the Conference

Prepared by the UNCTAD secretariat

The following sets out a suggested text prepared by the UNCTAD secretariat of the rules of procedure for the United Nations Conference to Review all Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

DRAFT PROVISIONAL RULES OF PROCEDURE OF THE CONFERENCE

Chapter I

REPRESENTATION AND CREDENTIALS

Participation

Rule 1

Participation in the Conference shall be open to:

- (a) All States,
- (b) Namibia, represented by the United Nations Council for Namibia,
- (c) Regional Groupings of States which have competence in the area of restrictive business practices and have accepted the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, */ and
- (d) Other participants referred to in operative paragraph 4 of General Assembly resolution 33/153 of 20 December 1978.

Composition of delegations

Rule 2

Each delegation participating in the Conference shall consist of a head of delegation, and not more than two other accredited representatives, and such alternate representatives and advisers as may be required.

Alternates and advisers

Rule 3

The head of the delegation may designate an alternate representative or an adviser to act as a representative.

Submission of credentials

Rule 4

The credentials of representatives of States and the names of alternate representatives and advisers shall be submitted to the Secretary-General of UNCTAD, if possible not later than one week before the date fixed for the opening

*/ Reference to Regional Groupings of States in this rule is based on the definition contained in section B, paragraph 8, of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. The draft rule does not confer on such regional groupings the right to vote.

day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, even though these amendments have not been circulated, or have only been circulated the same day.

Decisions on competence

Rule 28

Subject to rule 19, any motion calling for a decision on the competence of the Conference to consider any matter, or to adopt a proposal, or an amendment submitted to it, shall be put to the vote before the matter is considered or a vote is taken on the proposal or amendment in question.

Withdrawal of proposals and motions

Rule 29

A proposal or a motion may be withdrawn by its sponsor, at any time before voting on it has commenced, provided that it has not been amended by decision of the Conference. A proposal or a motion thus withdrawn may be reintroduced by any representative with its original priority, provided he does so promptly and it has not been substantially changed.

Consideration of programme budget implications

Rule 30

Before the Conference takes a decision or makes a recommendation, the implementation of which might have programme budget implications for the United Nations, it shall receive and consider a report from the secretariat on such implications.

Reconsideration of proposals

Rule 31

When a proposal has been adopted or rejected, it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on the motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be put to the vote immediately.

Consensus

Rule 32

1. The Conference shall endeavour to ensure that all its substantive decisions are taken by consensus.
2. Notwithstanding any measures that may be taken in compliance with paragraph 1, a proposal before the Conference shall be voted on if a representative so requests.

Voting rights

Rule 33

Each State participating in the Conference shall have one vote.

PROJET DE

Communication des Communautés européennes concernant la participation de la Communauté économique européenne aux travaux du Groupe intergouvernemental d'experts des pratiques commerciales restrictives

A la demande du coordinateur du Groupe D a été diffusé aux membres du Conseil une communication concernant la participation de la Communauté économique européenne aux travaux du Groupe intergouvernemental d'experts sur les pratiques commerciales restrictives (Doc. TD/B.1031 du 4 décembre 1984).

Les arguments développés dans cette communication indiquent que le Groupe D estime qu'il est conforme au texte de l'Ensemble de principes et de règles équitables d'étendre l'application de ces règles aux organisations régionales sans leur donner pour autant le droit de participer pleinement aux travaux du Groupe intergouvernemental d'experts. Le Groupe D estime par conséquent qu'il n'y a pas lieu de modifier la pratique actuelle.

A l'égard de cette question la Communauté européenne a pris position à plusieurs reprises et notamment dans une communication diffusée au Conseil en date du 21 septembre 1984 (Doc. TD/B.1025). Une participation en tant que participant/observateur, qui résulte de l'application des règles de procédures des grandes commissions du Conseil sans qu'elles aient été adaptées au cas particulier de l'Ensemble de principes et de règles équitables et de son mécanisme institutionnel, équivaut à nier son droit à exercer pleinement ses compétences en matière de pratiques commerciales restrictives.

La Communauté maintient qu'il n'est pas admissible de nier sa compétence au niveau du mécanisme institutionnel alors que l'on voudrait qu'elle assume ses responsabilités en ce qui concerne la mise en oeuvre de l'Ensemble de principes et de règles équitables.

Le texte de l'Ensemble de principes et de règles équitables étend, sans exception, leur application aux groupements régionaux d'Etats (paragraphe B), dans la mesure où ils ont compétence dans le domaine des pratiques commerciales restrictives. La Communauté a des compétences dans ces domaines et elle les exerce. D'ailleurs il ne semble pas exister à l'heure actuelle d'autres organisations d'intégration régionales dont les compétences en matière de surveillance et de réglementation de pratiques commerciales restrictives soient comparables à celles de la Communauté européenne. Aussi les travaux du Groupe intergouvernemental d'experts contiennent d'amples références à la politique de la Communauté européenne en matière de pratiques commerciales restrictives.

Dans ces conditions la Communauté européenne déclare que si elle est prête à être assimilée aux Etats pour l'application de l'Ensemble de pratiques et de règles équitables, elle ne peut l'être que dans la mesure où la même assimilation est aussi admise dans le fonctionnement du Groupe intergouvernemental d'experts.

Il ne lui paraît pas, en effet, concevable que soit maintenue l'incohérence actuelle qui donne la primauté à une règle de procédure sur les dispositions d'un engagement international.