

DRAFT CHARTER

OBSERVATIONS AND RESERVATIONS SUBMITTED BY THE
DELEGATION OF ECUADOR

Chapter V - Restricted Business Practices

In Ecuador the Government has been obliged, during the past few years, to establish a State agency which, although independent, is one of the ancillary departments of the Ministry of Economy. The purpose of the Directorate-General of Food, as it is called, is to avoid speculation on foodstuffs of vital importance to the people of Ecuador, and to keep down prices. The agency has power at any time to enter the market and make direct purchases or imports, when prices on the domestic market make such action advisable in order to adjust retail prices to those prevailing on the international market, thus eliminating the excessive profit margins imposed by food traders when any foodstuffs are in short supply. Under the law and in accordance with the practice usual in such cases, imports made by this agency are exempted from the payment of customs import duties, and the other charges levied on similar articles introduced by Ecuadorian traders. It cannot be denied that this, if not a monopoly, is a privilege justified by the purpose which the agency is designed to serve and might be considered as a breach of the provisions of paragraph 1 of Article 44 of the Charter.

It should also be noted that under the provisions of the Municipal Government Law in Ecuador, municipalities are required to undertake social welfare work, including the establishment of food shops, which also enjoy the advantage of full exemption and freedom from customs duties and other charges. These activities are such a fundamental feature of our particular State organization that we hope that the memorandum we are submitting may serve as the basis of an explanatory amendment. If however, this should not be accepted by the other countries participating in the Conference, we must now enter a reservation on this matter on behalf of our Government in connection with the provisions of Article 44.

As regards monopoly, and particularly in connection with the provisions of Article 49 of the Charter, it must be stated that in Ecuador, as in almost all countries, the production, importation and sale of salt, alcohol
/and tobacco

and tobacco are State monopolies, constituting one of the most important items of revenue in our national budget. We therefore, consider, that the maintenance of such monopolies is vital to our fiscal system and that the fact that such articles are traditionally the subject of monopolies in almost all countries excludes them from the provisions of the Charter. Should this not be the case, however, we request that an appropriate amendment be introduced. If this be accepted, we would gladly undertake to draft it. If our proposal is not accepted, we must enter a reservation on behalf of our Government on this point also.

Under Ecuadorian legislation, the telecommunications and postal service have, since Ecuador became a State, been State services, although in specific cases private undertakings, such as the cable companies, have been allowed to undertake such services under special contract and in return for such compensation as the Government deemed appropriate. We could not, therefore, accept an interpretation of the scope of Article 50 of the Charter depriving the State of Ecuador of the right which it now has, and has always had, to control and own the telecommunications service, and consequently to retain it as a State monopoly. While the attitude of our Government must be one of reserve, the extension to other private undertakings or companies of privileges similar to those which are granted or may be granted to the telecommunications service might, perhaps, be acceptable.