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PUBLICATION OF A STATEMENT
MADE BY CANADA IN THE
UNITED NATIONS GENERAL ASSEMBLY
ON THE UNCTAD
GUIDELINES ON RESTRICTIVE BUSINESS PRACTICES

-- The Department of External Affairs released today the text of a statement delivered in the United Nations General Assembly by J. R. Morden, Minister and Deputy Permanent Representative of Canada to the United Nations in New York. The statement was made on the occasion of the adoption on December 5, 1980 of the Set of Multi-laterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices that had been negotiated earlier this year within UNCTAD (United Nations Conference on Trade and Development).

The Canadian Government fully supports the Set of Multilateral Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. Indeed, my Government played a leading role in drafting the Principles and Rules and it is conscious of the negative effect that restrictive business practices can have on the development of countries, particularly those dependent on only a few export commodities for their foreign exchange earnings. It is also aware that restrictive business practices can impinge on the sovereignty of nations, undermine the policies of governments and reduce the benefits that international trade can bring to all countries and particularly to the developing countries. The guidelines agreed to in Geneva earlier this year clearly recognize these concerns and should contribute to the control of such abuses. It is perhaps worth adding that the code will be helpful to business. It will add a degree of certainty and uniformity that can only provide a secure atmosphere for companies operating in the international arena.

The Canadian Government views the agreed Principles and Rules as a set of voluntary guidelines designed to enhance the economic development of all states in practical terms and the Canadian Government notes that these guidelines are not designed to limit the ability of states to promote such economic development. Indeed, the guidelines do not provide a blanket condemnation of all restrictive business practices and recognize that in some circumstances such practices should not be proscribed. For example, paragraph 9 of Section B (ii) provides that the Principles and Rules "shall not apply to intergovernmental agreements nor to restrictive business practices directly caused by such agreements". Paragraph 6 of Section C (ii) excepts from the application of these Principles and Rules restrictive business practices that have their origin in the policies of states. Again, at paragraph 7 of Section C (iii), a further exception is recognized in acknowledging that certain restrictive business practices may be legitimate when they contribute to the development policies of developing countries.

The Canadian Government notes that the agreed guidelines do not contain a section on jurisdiction nor do they address problems in the control of restrictive business practices that sometimes arise when one country seeks to apply its own laws extraterritorially to the field of foreign commerce. It is my government's view that this Set of Principles and Rules does not recognize as a basis for assertion of jurisdiction that it is sufficient that the foreign commerce of a state be affected. My Government believes that all attempts to control international restrictive business practices should recognize the universally accepted principles of national sovereignty and international comity and should respect the rights of all nations to implement

measures that they deem appropriate in the context of their national development. The Government of Canada, therefore, does not consider that the Principles and Rules expand the bases of jurisdiction currently recognized by international law.

I conclude by once again stating that Canada welcomes the Principles and Rules and considers that the code will make a valuable contribution to the control of restrictive business practices in limiting the undesirable activities of companies which may restrict international trade and undermine the sovereign right of states, and particularly of developing states, to determine their own paths for economic development."