FOURTH COMMITTEE: RESTRICTIVE BUSINESS PRACTICES

SUB-COMMITTEE A

SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at the Capitol, Havana, Cuba, on 29 December 1947 at 10.30 a.m.

The Sub-Committee received the report of the Ad Hoc Committee (document E/CONF.2/C.4/A/W.4) and considered the proposed changes submitted in connection with Article 44.

The Sub-Committee unanimously agreed to accept the recommendation of the Ad Hoc Committee to substitute the words "among a number of countries" for the words "between two or more countries" in sub-paragraph (c) of paragraph 2, Article 44. It was also unanimously agreed by the Sub-Committee to add the word "trading" before the word "enterprise" at the beginning of sub-paragraph (b) of paragraph 4, Article 44, with the proviso that explanations of the reasons for these changes be included in the report of the Sub-Committee to the Fourth Committee.

The next item discussed was the proposal to add the following paragraph to Article 44, and to delete Article 51:

"Any business practices described in this Article, insofar as they are specifically subjected to control by the provisions of Chapter IV and VI or any other Chapter of this Charter, shall not be subject to the procedures of this Chapter."

The delegate of Norway, supported by the delegates of Mexico and the United Kingdom wished to change the word "procedures" in the last line of the proposed text to the word "provisions". Their general position was that as the text now read, the provisions of Chapter V could be interpreted as applying to business practices which were specifically subjected to control by the provisions of other Chapters of the Charter, and that this could lead to a conflict where such practices were covered by two Chapters in the Charter.

The delegate of Canada, however, was of the opinion that although the procedures of Chapter V would not apply, nevertheless the general provisions concerning the obligations of members to refrain from restrictive business practices should be taken into consideration.

The Chairman referred the proposed text of paragraph 5 back to the Ad Hoc Committee with instructions to find a compromise draft.