FOURTH COMMITTEE: RESTRICTIVE BUSINESS PRACTICES

SUB-COMMITTEE A

SUMMARY RECORD OF THE EIGHTEENTH AND NINETEENTH MEETINGS

Held at the Capitol, Havana, Cuba,
on 31 December 1947 at 10.30 a.m. and 4.00 p.m.

The Sub-Committee, after careful consideration approved the following explanatory statement which is intended to clarify and define the meaning of the words "decide" and "decision" as they are used in Chapter V:

"The words 'decide' and 'decision' ('constate' and 'constatation' in the French text) as used in Articles 44, 45A (except in paragraphs 3 and 4) and 47 relate to conclusions by the Organization whether or not particular practices have had, have or are about to have the harmful effects described in paragraph 1 of Article 44, and do not prescribe the obligations of Members. Members' obligations regarding these 'decisions' are set out in the relevant paragraphs of Article 47. Therefore, such 'decisions' (or 'constatations') are not to be construed as binding the legislative, executive or judicial activities of Member States".

The delegate of Argentina, supported by the representative of Mexico, proposed that this statement be inserted as part of the text of Chapter V, preferably as a new paragraph 7 to Article 47, or at least as a footnote to the Chapter.

The Sub-Committee agreed that the explanatory statement should be included as part of the report of the Sub-Committee to the Fourth Committee. However, since several of the delegations were not ready to present their views on the Argentine proposal to insert a footnote into the text of the Charter, this matter was postponed for future consideration.

The delegation of Canada submitted a new draft text which he proposed adding as paragraph 11 in the new Article 45A.

The Sub-Committee examined this draft, several other drafts presented by the Ad Hoc Committee, and a proposal made by the United States delegation, but reached no conclusion and postponed consideration of this subject until the next meeting.