

**United Nations
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FOURTH COMMITTEE: RESTRICTIVE BUSINESS PRACTICES

SUB-COMMITTEE A

SUMMARY RECORD OF SEVENTEENTH MEETING

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

The Ad Hoc Committee submitted a new compromise draft for paragraph 5 of Article 44, but discussion of this draft was postponed to allow the delegations more time to study its provisions.

The following revised paragraph 2 of Article 45 (now paragraph 1 of Article 45A) was tentatively adopted by the Sub-Committee, pending a further recommendation of the Ad Hoc Committee on whether to delete or to retain the words "(whether engaged in by private or public commercial enterprises)":

"A complaint may be presented in writing to the Organization by
any affected Member on its own behalf or any Member on behalf of any
affected person, enterprise or organization within that Member's
jurisdiction may present a written complaint to the Organization
that in any particular instance a practice exists (whether engaged
in by private or public commercial enterprises) which has or is
about to have the effect described in paragraph 1 of Article 44.
Provided that in the case of (a) complaints against a single public
commercial enterprise acting independently of any other enterprise
such complaints may be presented only by a Member on its own behalf
and only after the Member has resorted to the procedure under
paragraph 1 of this Article in Article 45".

The addition of the following text at the end of paragraph 8 of Article 45 (now paragraph 7, Article 45 A) was approved by the Sub-Committee:

"Provided that if the Organization finds that the practices
concerned have the effect and are as described in Article 44 and have
been specifically required by law, the provisions in paragraphs 7, 8,
9 and 10 of this Article shall not apply, and the complaining Member
shall have further recourse only in accordance with the procedures
provided in Chapter VIII or other relevant provisions of this Charter".

/The Sub-Committee

The Sub-Committee approved the following revised paragraph 1 of Article 47:

"1. Each Member shall take all possible measures by legislation or otherwise, in accordance with its constitution or system of law and economic organization, to ensure within its jurisdiction that private and public commercial enterprises do not engage in practices which have the effect and are as described in Article 44, and in addition it shall assist the Organization in preventing these practices [such assistance to be given in accordance with the Member's system of law and economic organization]

The final change approved by the Sub-Committee at this meeting was the substitution of the words "and shall afford" for the words "with a view to affording" in paragraph 2 of Article 50.
