

SECOND SESSION OF THE PREPARATORY COMMITTEE OF THE
UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENTAMENDMENT SUBMITTED BY THE AUSTRALIAN DELEGATIONArticle 81 (Document E/PC/T/159)

The Australian Delegation proposes the deletion of the final sentence of paragraph 1 of Article 81 reading as follows:-

"Notwithstanding the provisions of paragraph 1 of Article 92 the Conference may amend the provisions of this Charter to conform to any such agreement provided such amendments do not involve new obligations on the part of Members."

Comment

The sentence in Article 81 which is referred to, permits the Conference, by simple majority, to amend the Charter where the amendment does not involve new obligations upon Members. Since the removal of an obligation of other Members could have the same effect on a particular Member as the imposition of a new obligation upon it, the drafting is defective, and for that reason should at least be consistent with Article 92 paragraph 1, where only obligations not involving a "change" in the obligations of Members shall immediately become effective when approved by the Conference.

The Australian delegation prefers, however, the deletion of the sentence in paragraph 1 of Article 81 for the following reasons:-

- (a) it is possible that a draft agreement between ITO and the United Nations might propose changes in the functions or activities of ITO which, even though not involving a change in the obligations of Members, represented an important departure from the understandings upon which Members entered the Organization;
- (b) any such departure should require the consent of a large majority of the Members;
- (c) for these reasons, it seems desirable that amendments to the ITO Constitution necessary for the implementation of any agreement with the United Nations should be treated under paragraph 1 of Article 92, in the same way as all other amendments, and require the voting majority specified in that Article.