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PREPARATORY COMMITTEE OF THE INTERNATIONAL CONFERENCE ON TRADE
AND EMPLOYMENT

MEMORANDUM

Submitted by the Belgian, French and Netherlands
Delegations relating to the settlement of disputes
which might arise out of the working of the ITO. ⑨

(Article 54, paragraph 4, and Article 76, paragraph
2 of the American Suggested Charter)

The Belgian, French and Netherlands Delegations consider that the
International Trade and Employment Organization will only be able to
achieve its aims if all Members have full confidence in it and, in
particular, feel convinced that disputes arising from the application
of the Charter will be settled with perfect equity.

Therefore it seems essential for the future of the ITO that
any Member exposed to serious injury by reason of decisions of the
Organization should be entitled to appeal to an independent tribunal,
where impartial judges, free from any political bias, will pronounce
final judgement.

Failing such right of appeal, there would be a danger of
conditions of tension arising within the Organization, which could only
be resolved by the withdrawal of the Members who considered themselves
injured.

Far from impeding the working of the Organization or threatening
its prestige, the possibility of appeal to an international high tribunal,
enjoying sufficient authority to discourage any rash or unjustified
appeal, would be a safeguard for the ITO itself and one of the
essentials of co-operation between all Members.

Committee has already recognized the significance of these
observations:

1. When, during the preliminary discussions on the powers of the Commissions, several Delegates were unwilling to accord the latter the right of judging in the first instance disputes between Member states.

2. When the Committee proposed to amend Article 76 of the Suggested Charter with a view to providing for recourse to arbitration and the right of appeal to the International Court of Justice against decisions of the Conference.

However, it would seem that the present text might well give rise to difficulties of interpretation. Therefore the three Delegations are of the opinion that it would be advisable to re-draft the new Article 76 so as to specify that:

(a) Any dispute between Members of the Organization shall be submitted in the first instance to the Executive Board, which may either give a ruling, or, with the agreement of both parties, refer the dispute to arbitration.

(b) Appeal to the Conference may be made against any decision of the Executive Board.

(c) Appeal to the International Court of Justice against any decision or recommendation of the Conference detrimental to the interests of a Member, may be made at the request of the Member concerned.

As it is clear that the settlement of disputes of a commercial and economic character postulates the existence of a specialised tribunal with suitably qualified judges, the three Delegations request the Conference on Trade and Employment to recommend to the United Nations the setting up within the International Court of Justice of an Economic Chamber to hear and determine disputes arising out of the application of the Charter of the International Trade Organization, and, to this end, to recommend

an increase in the number of judges by enlisting the services of persons with the requisite experience.

Having made these proposals, the three Delegations suggest that this Memorandum be annexed to the Report of Committee V, to be submitted to the Preparatory Committee in Plenary Session.
