After para. 3 insert new paragraph -

"3(A) The representative of Australia expressed the view that the Working Party was not concerned with the situation in the EEC when sugar prices are high. Rather, it was when prices were low that the EEC system of export subsidies operated in such a way as to be a source of prejudice to the trade of Contracting Parties. The Working Party was holding these discussions with the EEC to determine what measures would be taken to change the EEC's system so as to remove the prejudice, or the threat of prejudice, when world sugar prices were such that subsidies once again became payable on EEC sugar exports."

Delete para. 10, insert the following new paragraph -

"10. In responding to the point made by the EEC representative that the only obligation on the EEC under Article XVI:1 was to discuss the possibility of limiting subsidisation, the Australian representative drew attention to the fact that the wording of paragraph 1 of Article XVI viz:

"The Contracting Party granting the subsidy shall, upon request, discuss with the other Contracting Party or Parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidisation" was essentially the same as in the United States (1945) Draft (Article 25) and in the Havana Charter. In discussions on the wording at the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment ("London Report" October-November 1946 - EPCT/1-34) it is recorded that:
"(a) In general, the intention of Article 25 of the United States draft charter is to give members, whose interests are prejudiced by subsidisation, the right to full international consideration of their case, to oblige subsidising members to participate in such consideration and to provide for limiting subsidisation so that its prejudical effects may be reduced"

"(c) In view of the fact that export subsidies are recognised as being more likely to distort trade than so-called "domestic subsidies", the Article looks toward the early elimination of the former in most cases, but merely to the limitation of the latter. Nevertheless, it is emphasised that the Article envisages gradual rather than sudden modification of subsidies in cases where such modification calls for substantial economic and social adjustment in the territories of affected members" and

"(d) (II) The word "limiting" in the last sentence of paragraph (I) of the revision is used in a broad sense to indicate maintaining the subsidisation at as low a level as possible, and the gradual reduction in subsidisation over a period of time where this is appropriate." 

After new para. 10 insert the following new paragraphs -

"10(A) The Working Party's attention was also drawn to document L/627 of 24 April 1957 relating to a complaint by Denmark under Article XVI:1 about subsidised egg exports from the United Kingdom. Denmark, supported by the Netherlands, Belgium, Germany and Sweden contended that the United Kingdom was obliged under Article XVI to take action "with a view to limiting the effects of the subsidisation". The United Kingdom accepted that it did have such an obligation and the complaint was satisfactorily resolved with further reference to the Contracting Parties.

10(B) The Working Party was clearly of the view, therefore, that the intention of the final sentence of paragraph 1 of Article XVI
is to obtain a statement from the subsidising Contracting Party of what action it intends taking to remove the serious prejudice or the threat of prejudice.

10(C) The representatives of Australia, Brazil, Cuba, Argentina and New Zealand noted that the statements made by the EEC did not include any reference to actual measures that the EEC intended to take to limit its subsidisation of sugar exports and thus remove the prejudice found to exist by the Panels. In order to provide a more structured framework for the next meeting of the Working Party, the Secretariat prepared a checklist of points as a basis for the Working Party's consideration of its sugar exports. The representatives of Australia, Brazil, Cuba and the United States also tabled series of specific questions designed to address the fundamental issues. This combined list of questions is in Annex ]."

Delete existing para 12 and substitute the following -

"12. The representative of Australia expressed concern at the nature of the EEC's response. He stated that the Community's report to the Council (L/5032) set out a number of "new developments since the 1976-1978 period examined by the Panel" which had been advised to Australia during the bilateral discussions. The Australian report (L/5031) made it quite clear that the views expressed by the Commission in the bilateral discussions on modification to the EEC sugar regime "would not remove the serious prejudice and threat of prejudice that its system had been found to cause". It was after consideration of those two reports (and bearing in mind debates in the Council) that the Council had set up the Working Party. The EEC's response (as in Spec(81)5) was essentially the same as the advice it gave in the bilateral discussions. If the EEC's "reply" were considered unsatisfactory then, it remained so now."
After para 12 insert the following new paragraphs -

"12(A) The EEC's offer to co-operate with other exporters to achieve greater market transparency and more objectivity in determining world prices did nothing to solve the basic problems of the EEC's sugar regime and the threat to international trade which it had caused, and would continue to cause.

12(B) The representative of Australia circulated a paper prepared by his Delegation (Annex ) which attempted to compare the EEC's response with the list of 24 questions put by the Working Party at its first meeting (Document ). Only 7 questions appeared to have been answered. His Delegation also wished to comment on certain other statements included in the EEC's response and these were set out in Attachment B (of Annex ). The representatives of Argentina, Brazil, Colombia, Cuba, The Dominican Republic and Nicaragua shared the views expressed by the Australian delegation."

Delete existing para 15 and substitute the following -

"15. The representatives of Australia and Brazil expressed the view that the co-responsibility scheme outlined by the EEC representative, was essentially irrelevant to the issue. They noted that the proposal shifted a greater financial burden for subsidization onto producers. However, this in itself would do nothing to eliminate the prejudice caused by EEC subsidization to the trade of other sugar exporters. In other words, they considered that the scheme would not result in limiting the subsidization either as regards the amount of Community sugar to be exported with a subsidy, or the amount of the export subsidy itself. It was not the source of financing the subsidization that was important, according to the representative of Australia, but rather its nature and extent. In his assessment, the proposed increase in production levies would not act as a disincentive to EEC production bearing in mind, for example, that in 1977/1978 and 1978/1979 B quota sugar production and C sugar production expanded
greatly despite the apparently high incidence of the levy on B quota at the time. He stated that the proposed scheme would provide more funds available to finance EEC export subsidies. The representative of Australia also pointed out that in any event there was no certainty that the EEC Council would approve the present Commission proposal as described.

Delete existing para 16 and substitute the following -

"16. The representatives of Australia and Brazil did not accept the EEC position that ACP sugar was a separate issue. The Working Party, in their view, should be concerned with all Community exports and all subsidization provided for such exports. The Australian representative agreed with the comments of the representative of Brazil who questioned the benefit to ACP countries of their sugar exports to the EEC, when in fact the EEC's exports were sold on world markets at depressed prices. Most ACP sugar went to the United Kingdom and was refined and consumed there. It was other EEC countries which benefitted from being able to produce, the equivalent of ACP imports. The term "ACP re-exports" as regularly used by the EEC representative was completely misleading."

Delete para 19 and substitute the following -

"19. The representative of Australia noted that the Commission proposal for new EEC sugar market regulations contained draft provisions which would enable the EEC to limit sugar production if the EEC acceded to the International Sugar Agreement, 1977 (ISA). However, it was still uncertain whether the proposal would be approved and implemented or whether the EEC would join the ISA, and even whether the ISA would continue after 1982."
Delete para 20 and substitute the following -

"20. A number of Delegations expressed an interest in pursuing further the EEC offer to co-operate on price data in order to seek ways of making the world market more transparent and determining offer prices more objectively. They noted, however, while this offer was laudable, it did nothing to touch on the basic structure of the EEC's sugar regime which was what had given rise to the prejudice and threat of prejudice."

Delete para 22 and substitute the following -

"22. The Australian representative expressed the view that in the discussions, the EEC had produced no meaningful possibilities of limiting the EEC's subsidies on sugar exports. The contention that shifting a little more of the burden of financing export refunds to production levies would limit the subsidisation was unacceptable because it was irrelevant. It was the nature and extent, rather than the source, of subsidisation that was relevant to the issue being considered by the Working Party. The Community regime for both production and subsidies available remained an open-ended one, and continued to constitute a threat of prejudice in terms of Article XVI:1. The representatives of Brazil and Cuba also felt that apart from an offer to cooperate with other sugar exporting countries about the determination of market prices, the EEC representative had not come forward with any real means of limiting its subsidisation on exports of sugar and that there remained a prejudice or threat of prejudice in terms of Article XVI:1."

Delete paras. 23 and 24 and substitute the following -

"23. CONCLUSIONS

The Working Party came to the following conclusions:

1. In the discussions, the EEC did not advance any meaningful possibilities of limiting the subsidisation.
2. The EEC regime for both production and subsidies available continues as an open-ended one and consequently remains a source of uncertainty in world sugar markets and continues to constitute a threat of prejudice in terms of paragrapha 1 of Article XVI.

3. The continued operation of the regime will be in violation of the EEC Member States' obligations under the General Agreement.