CONSIDERATION BY THE CONTRACTING PARTIES OF THE EUROPEAN COMMON MARKET

1. The Treaty establishing a Common Market between the six "Messina" countries will be submitted to the CONTRACTING PARTIES soon after it has been signed. It will be submitted in accordance with the terms of paragraph 7(a) of Article XXIV. It is the intention of the six countries, or at least of the most important of these countries, to proceed rapidly with ratification of the Treaty. As soon as the process of ratification has started, the governments will undoubtedly come under very heavy pressure to give interpretations of the Treaty which while bringing comfort to domestic interests, may very well be contrary to the sort of interpretations and assurances which it will be hoped might result from consideration of the Treaty in the GATT. There is, therefore, a strong case for the GATT action being taken as quickly as possible. On the other hand the Treaty will be a complicated document and whilst some contracting parties have managed to keep in close touch with the six countries through diplomatic channels, there are others who have not had this advantage. In any case, all contracting parties, even those who have been able to follow to some extent the evolution of the Treaty, will want to have an opportunity to examine it carefully before undertaking discussions in the GATT. There is, therefore, a clear conflict of interest which makes it difficult to agree on the timing for the Special Session. After careful consideration I have come to the conclusion that despite the risks involved, it will be necessary to allow a fairly substantial interval between the signing and publication of the Treaty and the holding of the Special Session. Our latest information is to the effect that the Treaty is expected to be signed on or about 15 March and that we may expect to have copies of the Treaty in both English and French within a few days thereafter. On this basis I would suggest that the Special Session should begin immediately after Easter, that is to say on 23 April. It is difficult to forecast how long such a session is likely to take, but having regard to the complexity and importance of the subject matter, I think it is only prudent to anticipate a meeting lasting some three weeks.

2. In order to facilitate and perhaps to shorten the work of the Special Session, it is desirable that there should be some preparatory work, although for the reasons I have outlined above it may be difficult for governments even to participate effectively in the preparatory work and whatever can be done will have to be entrusted to the secretariat. In view of the desirability of some
preparation and also because of the complexity and importance of the whole matter, I have decided that it will be desirable for the Intersessional Committee to meet immediately after the signature of the Treaty in order to reach final decisions as to the timing and arrangements for the Special Session, and also to consider what preparatory work should be undertaken by the secretariat. Obviously it is impossible to predict precisely the date of the signature of the Treaty and therefore it is not possible to fix a firm date for the Intersessional Committee meeting, but I am proposing to put contracting parties on notice to hold themselves ready for such a meeting around the middle of March, and a convening notice will be sent as soon as a firm date can be set.

3. I pass now to the substance of the GATT discussion. The Treaty will be submitted under the provisions of paragraph 7(a) of Article XXIV. It will immediately become apparent that the Treaty constitutes an Interim Agreement leading to the formation of a Customs Union and therefore the CONTRACTING PARTIES will deal with it under sub-paragraph (b) of paragraph 7. In this examination three separate groups of issues will present themselves: (A) whether the period of time for bringing about the Customs Union is a reasonable one, (B) whether the Treaty is likely to result in the formation of a Customs Union within that period, and (C) whether in other respects the Treaty fully complies with paragraphs 5 to 9 of Article XXIV.

4. It seems unnecessary to comment on questions A and B, although in respect of the latter the CONTRACTING PARTIES will no doubt wish to examine the time schedule and the provisions for ensuring that the time schedule will, in fact, be observed and the programme carried through to completion. The most difficult issues arise under heading C. Although no complete text of the Treaty is yet available it is clear that there are a number of points on which questions will arise as to the conformity of what is proposed with the requirements of paragraphs 5 to 9 of Article XXIV. Moreover, many difficult and complicated questions are not finally dealt with in the Treaty, but it is provided that the ultimate solution will be decided upon by the institutions of the Common Market. It would therefore be very difficult to say at the time when the CONTRACTING PARTIES consider the matter, what the final solutions are likely to be and therefore whether they will be in conformity with Article XXIV. The discussions in the GATT will, therefore, turn very largely on what interpretations and assurances the six countries will be prepared to give in order to meet the interests and viewpoints of the other contracting parties to the GATT. If there are clear inconsistencies between the Treaty and Article XXIV, it would be possible for the CONTRACTING PARTIES to make recommendations to the six countries to modify these parts of the Treaty. In fact, however, I am confident that the six countries would take the position that it was impossible to make any modifications in the Treaty and in view of the political importance of the whole matter I am sure that the other contracting parties would not take the extreme measure of insisting upon recommendations or upon the abandonment of the Treaty if these recommendations were not complied with.
5. I would hope, however, that insofar as there were apparent inconsistencies between the Treaty and the GATT, and if there are differences of interpretation, the process should be one of negotiation designed to bring the Treaty, through interpretation and through assurances as to the method of application, as closely as possible into conformity with the requirements of Article XXIV. This would open the way to action under paragraph 10 of Article XXIV since any apparent divergencies or differences would, through negotiation, have been brought to a point where they could be regarded as comparatively minor or formal deviations from the provisions of paragraphs 5 to 9 of Article XXIV which would prevent the proposals from "leading to the formation of a customs union ... in the sense of this Article". In other words a decision could be taken which would satisfy the proviso contained in paragraph 10 of Article XXIV. The decision would presumably embody agreed interpretations, assurances and procedures.

6. Another question will arise if the Treaty provides for the association of some of the overseas territories of the member countries with the Common Market. In the form in which the association has been proposed it would fall outside the scope of Article XXIV and this part of the scheme would have to be dealt with separately, probably under paragraph 5 of Article XXV.

7. The foregoing deals only with the Common Market. As a result of the recent meeting of the OEEC Council, discussions are to continue on a proposal to associate other European countries with the Common Market through a free-trade area. These discussions will clearly not be completed in time for the proposal to be submitted to the GATT at the same time as the Common Market. It may, however, be that some contracting parties will wish that some consideration be given at the Special Session to the relationship between the two projects.