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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 November 1981

relating to a proceeding under Article 85 of the EEC Treaty

(IV/29.236 — Sopelem-Vickers)

(Only the English and French texts are authentic)

(81/1066/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 85 thereof,

Having regard to Council Regulation No 17 of 6 February 1962 ⁽¹⁾, and in particular Articles 4, 6 and 8 thereof,

Having regard to Decision 78/251/EEC of 21 December 1977 ⁽²⁾ by which the Commission granted an exemption pursuant to Article 85 (3), for the period up to 26 February 1981, to three contracts (hereinafter referred to as 'the Agreement') concluded on 17 April 1975 between the Société d'optique, précision, électronique et mécanique (Sopelem) SA, Paris ('Sopelem'), Vickers Ltd, London ('Vickers'), and Microscopes Nachet SA, Paris ('Nachet'),

Having regard to the application for renewal of that exemption filed by the said undertakings on 27 October 1980,

Having regard to the publication of a summary of the Agreement, as required by Article 19 (3) of Regulation No 17, in *Official Journal of the European Communities* No C 223 of 3 September 1981, page 3,

Having regard to the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions delivered pursuant to Article 10 of Regulation No 17 on 13 October 1981,

I

Whereas the relevant facts are as follows:

1. The Agreement relates to technical cooperation and the exchange of expertise in research and development in the field of microscopy. Its main objective is to enable the parties to it to achieve technical developments in sophisticated microscopes and very advanced technology.

The parties to the Agreement are all large manufacturers of a wide range of high-technology products to whom microscopes are of only minor importance. Competition in microscopes within the common market is intense, and the parties have a very limited market share.

The technical cooperation involved takes the form of coordination of activities through regular contact between the parties and through the exchange of expertise and know-how in the field while each of the parties freely carries on its own research,

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No L 70, 13. 3. 1978, p. 47.

development and manufacturing activities. Some degree of component standardization is also provided for, allowing mutual interchangeability of parts in individual instruments, together with specialized division of production aimed at avoiding irrational duplication. Although the Agreement originally provided otherwise, each party distributes its own goods in the common market, except that Vickers distributes Sopelem/Nachet microscopes in the United Kingdom and Ireland, and Nachet distributes Vickers microscopes in France. Cooperation between the parties has not been extended to other fields of activity during the validity of the Agreement.

Further details may be obtained by referring to the recitals in the preamble to Decision 78/251/EEC.

2. The parties to the Agreement have justified their application for a prolongation of the exemption by the need for them to continue their technical cooperation in order to be able to meet constantly increasing competition. Their cooperation is already well-established and has already produced positive results even though it has only been in operation for a relatively short period.

3. The parties have submitted the annual reports required by Article 3 of the Decision in the development cooperation between them under the Agreement. The Commission draws the following conclusions from these reports:

- (a) technical cooperation, based on the regular exchange of the know-how acquired in each party's individual research and development activities, has consisted mainly of the reciprocal use of microscope accessories and parts; this allows longer production runs, and thus somewhat reduced costs. The parties have recently decided, within the framework of the Agreement, to further intensify their joint development programme;
- (b) during the period in which the Agreement has been applied the parties have not increased their respective market shares, even on their home markets. Their main competitors continue to be Japanese and German manufacturers;
- (c) on the distribution side it has been decided that each of the parties should resume its freedom to sell its own products and to choose its distributors in all Community countries, except in France, where Nachet is sole distributor of Vickers

products, and in the United Kingdom and Ireland, where Vickers is sole distributor of Sopelem/Nachet products;

- (d) cooperation between the parties has not been extended to other fields of activity.

4. The Commission has received no observations from third parties following publication of the notice required by Article 19(3) of Regulation No 17.

II

5. Decision 78/251/EEC may be renewed pursuant to Article 8(2) of Regulation No 17, as the requirements of Article 85(3) continue to be satisfied.

6. Technical cooperation and cooperation in research and development remain a necessary means for the undertakings concerned to maintain a more comprehensive range of instruments, to avoid unnecessarily increasing production costs of their microscopes and to compete more energetically against large and economically strong manufacturers in other countries. None of the parties could alone secure these advantages, from which consumers will ultimately benefit. The joint distribution system has been changed, substantially reducing its restrictive effects. To derive the fullest benefit from the technical cooperation between them, however, the parties must use one of their number as distributor in the country in which it is better established. The restrictions on competition contained in the current version of the Agreement are thus indispensable to the attainment of the objectives of the Agreement.

7. During the period in which the Agreement has applied the parties' combined share of the market in question in the Community as a whole has remained very limited and the presence of a large number of larger and economically stronger manufacturers rules out the possibility of eliminating competition in respect of a substantial part of the products in question.

8. The operation of Decision 78/251/EEC has shown that the obligations attached to it are sufficient to allow the Commission properly to assess whether the cooperation which the Agreement establishes between the undertakings remains compatible with the competition rules of the EEC Treaty.

9. That Decision should consequently be renewed, for a 10-year period extending to 26 February 1991, and the same obligations should be attached to it,

HAS ADOPTED THIS DECISION:

Article 1

The exemption pursuant to Article 85 (3) of the Treaty establishing the European Economic Community, granted by the Commission by Decision 78/251/EEC, of the Agreement of 17 April 1975 between the Société d'optique, précision, électronique et mécanique (Sopelem) SA, Vickers Ltd, and Microscopes Nachet SA, is hereby renewed for the period 27 February 1981 to 26 February 1991.

Article 2

The undertakings named in Article 1 shall every second year before the end of March send a report to the Commission covering the preceding period. The first of these reports shall be submitted before the end of March 1983 and shall cover the period from 27 February 1981. The reports shall contain detailed information about:

- (a) the practical results in respect of the parties' cooperation and exchange of expertise in research and development of the instruments covered by the Agreement;

- (b) the developments in the production, sales and market shares of each of the parties in each of the Member States of the EEC for each of those instruments;
- (c) the development of trade in those instruments between the Member States, in particular in those Member States where prior to the Agreement the sales of the parties had been minimal;
- (d) price movements, in particular the prices charged by the parties for the instruments covered by the Agreement;
- (e) any changes in the nature of the Agreement on extension of the parties' cooperation to other fields of activity.

Article 3

This Decision is addressed to the following undertakings:

- Société d'optique, précision, électronique et mécanique (Sopelem) SA, Paris,
- Vickers Ltd, London,
- Microscopes Nachet SA, Paris.

Done at Brussels, 26 November 1981.

For the Commission
Frans ANDRIESEN
Member of the Commission

COMMISSION DECISION

of 3 December 1981

on applications for reimbursement and the payment of advances in respect of the development of agricultural advisory services in Italy

(Only the Italian text is authentic)

(81/1067/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 270/79 of 6 February 1979 on the development of agricultural advisory services in Italy ⁽¹⁾, and in particular Article 12 (5) thereof,

Whereas applications for reimbursement and applications for payment of advances to be submitted by Italy to the Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), must contain certain details permitting examination of the conformity of the expenditure with the provisions of Regulation (EEC) No 270/79 and of the Italian programme approved pursuant to Article 4 (3) of the said Regulation;

Whereas, to permit effective control, Italy must keep the supporting documents available for inspection by the Commission for a period of three years from the payment of the last reimbursement;

Whereas, to enable use to be made of the possibility of advances being paid by the Commission, the relevant rules and procedures should be laid down;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Committee of the European Agricultural Guidance and Guarantee Fund,

HAS ADOPTED THIS DECISION:

Article 1

1. Reimbursement applications as referred to in Article 12 (1) of Regulation (EEC) No 270/79 shall be as set out in Annexes I and II.

2. Italy shall forward to the Commission, together with the first application for reimbursement, copies

of the national implementing provisions, administrative instructions and forms or any other documents relating to the administrative implementation of the measure.

Article 2

Italy shall keep at the Commission's disposal, for three years after the payment of the final reimbursement, all the supporting documents or certified copies of such documents in its possession on the basis of which the aid measures provided for in Regulation (EEC) No 270/79 have been decided upon.

Article 3

Applications for advances on expenditure eligible for aid from the Guidance Section of the European Agricultural Guidance and Guarantee Fund, as referred to in Article 12 (2) of Regulation (EEC) No 270/79 shall be as set out in Annexes III and IV.

Article 4

1. Advances paid by the Guidance Section of the European Agricultural Guidance and Guarantee Fund, may amount to a maximum of 80 % of the total Community contribution to the financing of estimated expenditure for the reference year.

2. Advances which have not been used during the year in respect of which they have been paid shall be deducted from the advance payable for the following year.

Article 5

Before the end of each year for which advances have been paid Italy shall submit a report on the progress of operations during the first 10 months of the year, in accordance with Annex V.

⁽¹⁾ OJ No L 38, 14. 2. 1979, p. 6.

Advances for the following year shall not be paid until the abovementioned report has been submitted to the Commission.

Article 7

This Decision is addressed to the Italian Republic.

Done at Brussels, 3 December 1981.

Article 6

Payment applications as referred to in Article 12 (3) of Regulation (EEC) No 270/79 must be as set out in Annexes VI to VIII.

For the Commission

Poul DALSGER

Member of the Commission

ANNEX I

**APPLICATION FOR REIMBURSEMENT OF EXPENDITURE INCURRED IN 19..
FOR THE TRAINING OF AGRICULTURAL ADVISERS UNDER REGULATION (EEC)
No 270/79 ON THE DEVELOPMENT OF AGRICULTURAL ADVISORY SERVICES IN
ITALY**

Article 11 (1)

SUMMARY TABLE

1	2	3	4	5	6
Type of measure	Expenditure incurred by Italy	Contribution requested	Advances already paid by the EAGGF	Community contri- bution reimbursed by Italy	Balance payable
	(Lire)	(Lire)	(Lire)	(Lire)	(Lire)
Specialized training of teachers					
Running of the inter- regional body					
Running of the inter- regional body, including the centres					
Course attendance allowances					
Total					

*ANNEX II A***APPLICATION FOR REIMBURSEMENT OF EXPENDITURE INCURRED IN 19.. FOR
THE SPECIALIZED TRAINING OF TEACHERS****Article 11 1 (a) (150 000)**

1	2	3	4
Name and address of training centre	Number of teachers hav- ing attended specialized training courses	Expenditure incurred by Italy (Lire)	Contribution requested (Lire)
First year			
Second year			
Total			

*ANNEX II B***APPLICATION FOR REIMBURSEMENT OF EXPENDITURE INCURRED IN 19 ...
FOR THE RUNNING EXPENSES OF THE INTER-REGIONAL BODY****Article 11 (1) (a) (50 000)**

Expenditure by Italy					Contribution requested
on the Executive Board	on consultative groups	on the Secretariat	on miscellaneous expenses	Total	
(Lire)	(Lire)	(Lire)	(Lire)	(Lire)	(Lire)
1	2	3	4	5	6
First year					
Second year					
Total					

1	2	3	4
Name and address of training centre	Number of persons having completed a training course (Lire)	Expenditure incurred by Italy (Lire)	Contribution requested (Lire)
Total			

**REIMBURSEMENT BY ITALY OF THE COMMUNITY CONTRIBUTION TOWARDS
THE ATTENDANCE ALLOWANCE GRANTED FOR ADVISERS WHO HAVE NOT
COMPLETED THREE YEARS OF SERVICE**

Administrative unit	Name of the advisory service	Number of advisers concerned	Community contribution reimbursed
Total			

- the expenditure in respect of which the Community contribution is requested was incurred in the implementation of the outline plan on agricultural advisory services approved by Commission Decision 81/234/EEC of 23 March 1981,
- the teaching staff have received specialized training enabling them to teach the subjects listed in Article 7 (1) of Regulation (EEC) No 270/79,
- the centres have the teaching staff referred to in Article 5 (2) of the abovementioned Regulation,
- the candidates admitted to the training courses for agricultural advisers meet the qualification and professional experience conditions laid down in Article 6 of the abovementioned Regulation,
- the training provided satisfies the conditions laid down in Article 7 (1) and (2) of the abovementioned Regulation,
- the contribution requested toward expenditure on the course attendance allowance does not exceed 2 000 units of account per student,
- the recipients have been informed of the Community contribution in an appropriate manner.

Stamp and signature of the competent authority

ANNEX III**APPLICATION FOR PAYMENT OF AN ADVANCE FOR 19... UNDER REGULATION
(EEC) No 270/79 ON THE DEVELOPMENT OF AGRICULTURAL ADVISORY
SERVICES IN ITALY****Article 11 (1)****SUMMARY TABLE**

1	2	3	4
Type of measure	Estimated expenditure to be met by Italy	Estimated contribution to be requested from the EAGGF (Lire)	Advance requested (Lire)
Specialized training of teachers			
Running of the inter- regional body			
Running of the inter- regional body, including the centres			
Course attendance allowances			
Total			

ANNEX IV A**APPLICATION FOR AN ADVANCE FOR 19... FOR THE SPECIALIZED TRAINING
OF TEACHERS****Article 11 (1) (a) (150 000)**

1	2	3	4	5
Name and address of the training centre	Number of persons expected to attend a spe- cialized training course	Estimated expenditure to be met by Italy (Lire)	Estimated contribution to be requested from the EAGGF (Lire)	Advance requested (Lire)
First year				
Second year				
Total				

It is hereby confirmed that:

- the appropriations required for the national financial contribution are available and will be paid during the year for which the advances are requested,
- the estimated costs referred to in column 3 correspond to the expenditure to be met during the year for which the advances are requested,
- the advances will be made available for the measure in question during the year for which the advances are requested,
- those concerned will be informed in an appropriate manner when the advance is paid of the percentage of the appropriations originating from Community funds. (A memorandum on the procedure laid down for that purpose is enclosed with this application.)

Stamp and signature of the competent authority

*ANNEX IV B***APPLICATION FOR PAYMENT OF AN ADVANCE FOR 19.. FOR THE RUNNING
EXPENSES OF THE INTER-REGIONAL BODY****Article 11 (1) (a) (50 000)**

1	2	3
Estimated expenditure to be met by Italy	Estimated contribution to be requested from the EAGGF	Advance requested
(Lire)	(Lire)	(Lit)
First year		
Second year		

It is hereby confirmed that:

- the appropriations required for the national financial contribution are available and will be paid during the year for which the advance is requested,
- the estimated costs specified in column 1 correspond to the expenditure to be met during the year for which the advances are requested,
- the advances will be made available to the inter-regional body during the year for which the advances are requested,
- those concerned will be informed in an appropriate manner when the advance is paid of the percentage of the appropriations originating from Community funds. (A memorandum on the procedure for that purpose is enclosed with this application.)

Stamp and signature of the competent authority

APPLICATION FOR PAYMENT OF AN ADVANCE FOR 19... FOR THE RUNNING EXPENSES OF THE INTER-REGIONAL BODY, INCLUDING THE CENTRES

Article 11 (1) (b), first indent

[illegible]

It is hereby confirmed that:

- the appropriations required for the national financial contribution are available and will be paid during the year for which the advances are requested,
- the estimated costs referred to in columns 2 and 3 correspond to the expenditure to be met during the year for which the advances are requested,
- the advances will be made available to the centres and the inter-regional body during the year for which the advances are requested,
- those concerned will be informed in an appropriate manner when the advance is paid of the percentage of the appropriations originating from Community funds. (A memorandum on the procedure laid down for that purpose is enclosed with this application.)

Stamp and signature of the competent authority

**APPLICATION FOR PAYMENT OF AN ADVANCE FOR 19.. FOR ATTENDANCE
ALLOWANCES IN RESPECT OF TRAINING COURSES FOR AGRICULTURAL
ADVISERS**

1	2	3	4	5
Name and address of the training centre	Number of persons expected to attend a training course	Estimated expenditure to be effected by Italy (Lire)	Estimated contribution to be requested from the EAGGF (Lire)	Advance requested (Lire)
Total				

- the appropriations required for the national financial contribution are available and will be paid during the year for which the advances are requested,
- the estimated costs referred to in column 3 correspond to the expenditure to be met during the year for which the advances are requested,,
- the advances will be made available to those concerned during the year for which the advances are requested,
- those concerned will be informed in an appropriate manner when the advance is paid of the percentage of the appropriations originating from Community funds. (A memorandum on the procedure laid down for that purpose is enclosed with this application.)

Stamp and signature of the competent authority

ANNEX V

REPORT CONCERNING THE USE OF THE ADVANCES PAID FOR 19... UNDER
REGULATION (EEC) No 270/79

(month to)

1	2	3	4	5	6	7	8	9
Type of measure	Expected number of participants (⁽¹⁾)	Actual number of participants (⁽²⁾)	% (⁽⁶⁾)	Estimated expenditure (Lire) (⁽³⁾)	Actual expenditure (Lire) (⁽²⁾)	% (⁽⁶⁾)	Advances received (Lire) (⁽⁴⁾)	Advances paid (Lire) (⁽⁵⁾)
Specialized training of teachers								
Running of the inter-regional body								
Running of the inter-regional body, including the centres								
Course attendance allowances								
Total								

(1) Figures given in column 2 of Annex IV A and IV D.

(2) During the first 10 months.

(3) Figures given in column 2 of Annex III.

(4) Advances received from the EAGGF.

(5) Advances paid to the recipients bearing the financial burden of the measures.

(6) If the percentage is less than 70 %, give explanation on a separate sheet.

*ANNEX VI***LIST OF TRAINING CENTRES FOR AGRICULTURAL ADVISERS DESIGNATED AND
APPROVED BY THE MEMBER STATE**

Name and address of the training centre	Date and reference number of the approval

ANNEX VII**APPLICATION FOR REIMBURSEMENT OF EXPENDITURE INCURRED IN 19.. FOR
THE EMPLOYMENT OF AGRICULTURAL ADVISERS UNDER REGULATION (EEC)
No 270/79 ON THE DEVELOPMENT OF AGRICULTURAL ADVISORY SERVICES IN
ITALY****Article 11 (3)****SUMMARY TABLE**

Regions to which agricultural advisers have been posted	Number of agricultural advisers employed	Cost of employment borne by Italy (Lire)	Reimbursement requested (Lire)
Mezzogiorno			
Other regions			
Total			

ANNEX VIII A

**APPLICATION FOR REIMBURSEMENT OF EXPENDITURE INCURRED IN 19.. FOR
THE EMPLOYMENT OF AGRICULTURAL ADVISERS UNDER REGULATION (EEC)
No 270/79 ON THE DEVELOPMENT OF AGRICULTURAL ADVISORY SERVICES IN
ITALY**

ADVISERS POSTED TO THE MEZZOGIORNO

1	2	3	4	5
Administrative unit	Number of advisers employed	Name of the advisory service	Employment costs borne by Italy (Lire)	Reimbursement requested (Lire)
Expenditure relating to the first year of service of the advisers				
Expenditure relating to the second year of service of the advisers				
Expenditure relating to the third year of service of the advisers				
Expenditure relating to the fourth year of service of the advisers				
Expenditure relating to the fifth year of service of the advisers				
Expenditure relating to the sixth year of service of the advisers				
Total				

ANNEX VIII B

**APPLICATION FOR REIMBURSEMENT OF EXPENDITURE INCURRED IN 19..
FOR THE EMPLOYMENT OF AGRICULTURAL ADVISERS UNDER REGULATION
(EEC) No 270/79 ON THE DEVELOPMENT OF AGRICULTURAL ADVISORY
SERVICES BY ITALY**

ADVISERS POSTED TO REGIONS OTHER THAN THE MEZZOGIORNO

1	2	3	4	5
Administrative unit	Number of advisers employed ⁽¹⁾	Name of the advisory service	Employment costs borne by Italy (Lire)	Reimbursement requested (Lire)
Expenditure relating to the first year of service of the advisers				
Expenditure relating to the second year of service of the advisers				
Expenditure relating to the third year of service of the advisers				
Expenditure relating to the fourth year of service of the advisers				
Expenditure relating to the fifth year of service of the advisers				
Expenditure relating to the sixth year of service of the advisers				
Total				
Deductions ⁽²⁾				
Net total				

⁽¹⁾ A list giving, for each adviser covered by this reimbursement application, his name, the period of service and the name of the advisory service employing him, must be available to the Commission and must be forwarded to it on request.

⁽²⁾ Deductions to be made where advisers in respect of whom reimbursement of expenditure for the preceding year has been obtained for a complete year of service have ceased their employment before the end of the year in question. The amount of the deduction is calculated in proportion to the length of the period for which the advisers have no longer been employed.

It is hereby confirmed that:

- the activities of the advisers are wholly devoted to the provision of agricultural advice, to the exclusion of any administrative or other tasks unrelated to this purpose,
- at least 60 % of the agricultural advisers trained are employed in the Mezzogiorno,
- the agricultural advisers are paid directly or indirectly by the public authorities and are employed by advisory services under annual plans for the implementation of programmes or measures for the balanced development of agriculture in the priority areas,
- the maximum remuneration for which reimbursement is requested does not exceed 10 000 units of account per adviser,
- EAGGF aid is requested for a maximum period of six years' service of the agricultural adviser,
- the reimbursement application relates to the premiums for advisers employed at 1 January,
- the recipients have been informed in an appropriate manner of the Community contribution.

Stamp and signature of the competent authority

COMMISSION OPINION

of 10 December 1981

on the draft Convention on bankruptcy, winding-up, arrangements, compositions and similar proceedings

(81/1068/EEC)

I

1. Following an agreement between the Council and the Commission, the draft Convention on bankruptcy, winding-up, arrangements, compositions and similar proceedings was drawn up by a Working Party composed of experts from the Member States and the Commission of the European Communities. It is supplementary to the Convention signed in Brussels on 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, known as the 'General Convention' ⁽¹⁾, and to the Convention dated 9 October 1978 whereby Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland acceded to the General Convention ⁽²⁾.

2. Like the General Convention, which expressly excludes bankruptcy, winding-up, arrangements, compositions and analogous proceedings from its own scope of application (Article 1, point 2 of the second paragraph), the draft EEC Convention is also based on Article 220 of the EEC Treaty. A first version of the draft was prepared as long ago as 1970 and was forwarded to the Governments of the Member States for their opinion. Since then three new Member States have acceded to the Community. The Working Party was enlarged and work began again. The present draft is the result of these labours. The 'draft Bankruptcy Convention', as it is called, was transmitted to the President of the Council on 23 June 1980. The Governments of the Member States and the Commission are now required to give their opinion on it.

3. The draft Bankruptcy Convention applies not only to bankruptcy and winding-up proceedings properly so called which lead to cessation of the debtor's trading activities and to distribution of realized assets among the creditors, but also to proceedings whose object is to avoid a declaration of bankruptcy or winding-up and permit the debtor to be rehabilitated. The purpose of the draft is to improve the position of the creditor in the common market. To achieve this objective it provides that a decision taken in a Contracting State to open any of the proceedings to which the text applies has effect *ipso jure* in the other Contracting States. Thus all the debtor's property in the European Communities is

immediately attached and he no longer has power of disposal over it. The bankruptcy takes effect *vis-à-vis* third parties from the eighth day following publication of the Decision in the *Official Journal of the European Communities*. Also, in Contracting States other than that in which the bankruptcy has been opened, no other bankruptcy, winding-up, arrangement, composition or similar proceedings may be commenced. Similarly, individual proceedings against the debtor can no longer be commenced and those already begun must be suspended.

4. In order to apply the principles of unity and universality of the bankruptcy — in the present opinion the word 'bankruptcy' covers all the proceedings to which the draft Convention applies — and avoid duplication of proceedings, it is necessary to lay down, *inter alia*, uniform rules to regulate the international jurisdiction of the courts. The draft stipulates that the only courts which have jurisdiction to open a bankruptcy are those of the Contracting State in which the debtor's centre of administration is situated. Where the centre of administration is situated outside the Community the only courts which have jurisdiction are those of the Contracting States in which the debtor has an establishment. The internal law of the State in which the bankruptcy has been opened determines the procedure to be followed and, as a rule, the effects of the bankruptcy, including especially its effects as against third parties. The basic rule that the *lex fori* applies is subject to certain exceptions which are provided for in special rules of conflict of laws set out in the draft. Prominent among such rules are those determining the effects of the bankruptcy on property which is subject to registration, on rights which are subject to registration, on contracts of employment and on contracts for the sale of immovable property. Other conflict rules in the draft deal with the subject-matter, extent and ranking of secured rights and of special rights of preference.

5. The draft Bankruptcy Convention contains provisions covering its interpretation by the Court of Justice. It also contains final provisions which are similar to those in the General Convention. It will not enter into force until it has been ratified by all the Contracting States and will then take its place alongside the other Community conventions. It will supplement the General Convention, as mentioned above, and will in turn be supplemented, where it fails to resolve certain problems relating to the

⁽¹⁾ OJ No 304, 30. 10. 1978, pp. 77 *et seq.*

⁽²⁾ OJ No L 304, 30. 10. 1978, pp. 1 *et seq.*

applicable law, by the Convention of 19 June 1980 on the law applicable to contractual obligations ⁽¹⁾.

II

6. The draft excludes from its scope the bankruptcy and winding-up of insurance undertakings until such time as the Directive harmonizing national laws on the subject has entered into force and in so far as that Directive does not provide otherwise (Article 1 (3)). Direct insurance undertakings (indemnity insurance and life assurance) are excluded for the time being because, if authorization is withdrawn on grounds of insolvency, special proceedings must be instituted which are rather of an administrative nature or are designed to avoid bankruptcy, primarily with a view to affording uniform protection for insurance creditors. The Commission hopes to be able to submit the relevant proposal for a Directive to the Council in the near future in order that the two instruments may be coordinated to best advantage.

7. On the other hand, the draft Convention does not exclude from its scope the bankruptcy of credit institutions, which are also subject to control by public authorities via an authorization procedure. While, however, the withdrawal of authorization does not in all cases entail the institution of proceedings similar to those of bankruptcy, the public authorities in all Member States take measures to safeguard the interests of depositors. The same objective is pursued by the proposal for a Directive currently being prepared by the Commission, which seeks to coordinate the role played by bank supervisory authorities and the detailed rules for cooperation between them in applying those measures. In these circumstances, and in view of the similarities between the two sectors, a solution similar to that adopted for insurance undertakings should be adopted for credit institutions, and Article 1 should be expanded by the insertion of a fourth paragraph as follows:

'4. The Convention shall not apply to credit institutions until the Directive to coordinate the role of bank supervisory authorities in the proceedings referred to in Article I (a) and (b) of the Protocol and cooperation between them in implementing measures to safeguard the interests of the creditors of credit institutions has taken effect.'

In matters relating to the winding-up of credit institutions, as in other areas, the Commission's freedom to take action in the future must be preserved. For this reason, as in Article 20 of the Convention of 19 June 1980 on the law applicable to contractual obligations, the following provision should be adopted:

'This Convention shall not affect the application of provisions which are or will be contained in acts of the institutions of the European Communities or in national laws harmonized in implementation of such acts.'

8. The draft Bankruptcy Convention includes in its scope the compulsory winding-up proceedings which are available in Ireland and in the United Kingdom. A problem arises here in connection with the General Convention. The English language text of the consolidated version dated 9 October 1978 excludes from its scope 'proceedings relating to the winding-up of insolvent companies or other legal persons' only. The General Convention thus continues to apply to compulsory winding-up proceedings in the rare cases where it is instituted not on grounds of insolvency but for other reasons. The present version of the draft Bankruptcy Convention (Protocol to the draft, Article I (a)) does not differentiate between the various circumstances in which proceedings may be opened, but includes all of them. Article I of the Protocol should therefore be amended in order to prevent any misunderstanding that might arise on account of the existence of two conflicting provisions. Article I should specify that in the case of Ireland and the United Kingdom the compulsory winding-up proceedings referred to are limited to cases of insolvency. This is all the more essential since Article 57 of the General Convention provides that 'This Convention shall not affect any conventions to which the Contracting States are or will be parties and which, in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments'. The bankruptcy Convention could in the light of that provision be regarded as a *lex specialis vis-à-vis* the General Convention and thus apply to all forms of compulsory winding-up.

9. Whilst in the interests of centralization the exclusive jurisdiction of the courts of the State in which a bankruptcy is opened is extended so that their jurisdiction applies, *inter alia*, to actions concerning the liability incurred in consequence of their direction or management by persons who have directed or managed the affairs of a firm, company or legal person which has been declared bankrupt (Article 11 (a)), judgments delivered in such matters will not be recognized and enforced in the other Contracting States under the arrangements applicable to judgments in bankruptcy, that is to say 'without any special procedure being required' (Article 56).

⁽¹⁾ OJ No L 266, 9. 10. 1980, p. 1.

Article 67 provides that they are to be recognized and enforced in accordance with the rules of the General Convention, thus removing any doubt as to the Convention that is to apply to the recognition and enforcement of judgments which have been delivered as a result of an action to make good a deficiency (*action en comblement de passif*), provided for in Article 99 of the French Law of 13 July 1967. There was some questioning as to whether these actions constitute one of the 'analogous proceedings' excluded by Article 1, second paragraph, point 2, from the scope of the General Convention. The Commission takes the view that judgments given in such cases are not covered by bankruptcy law within the meaning of the draft Convention, since they arise from actions whose primary aim is to establish whether the person who directed or managed the affairs of the firm or company is liable, and what damage was suffered. Such actions are not applications for the opening of a bankruptcy or winding-up, or for an arrangement, composition or analogous proceeding with a view to satisfying creditors collectively. The fact that these actions are filed in a court which has jurisdiction to adjudicate on the bankruptcy of a firm or company is understandable from the point of view of procedure, but it does not alter the legal nature of the application, even if the burden of proof is reversed ⁽¹⁾.

10. Advertisement of the bankruptcy throughout the Community is the responsibility of the liquidator, who undertakes publication, in the *Official Journal of the European Communities*, of the judgment opening the bankruptcy and of certain other Decisions (Article 26). The draft Convention does not specify who is to pay the costs of printing and translating advertisements. Since the Decisions in question affect the general body of creditors, the costs incurred must be borne by them.

11. More than one liquidator is permitted only if the law of the State in which the bankruptcy has been opened so permits (Article 29 (3)). The Convention should state that the law of each Contracting State is to provide for the possibility of having more than one liquidator. A liquidator who is obliged to realise assets in more than one Contracting State and distribute the proceeds among the preferential creditors in accordance with Section VI of Title IV will only be able to comply with the many different regulations in the States concerned if he can call upon colleagues who have experience of the various national regulations. In order to avoid

any misunderstanding the draft Convention should also state that the liquidator is empowered to act in third countries in cases where the debtor has assets situated there, provided, of course, that the law of those States permits him to operate in their territory.

12. In civil and commercial matters, creditors in respect of debts which arose before the opening of the bankruptcy — in particular employees — are entitled, in relation to assets situated in each Contracting State, to the rights of preference or where appropriate, the rights against the general body of creditors which the law of that State attaches to those debts. On the other hand, public authorities, government departments and other public agencies are entitled only in their own State to a right of preference for debts which arose before the opening of the bankruptcy, particularly in matters of taxation and social security.

13. The draft Convention leaves unresolved the question whether tax and similar debts arising after the bankruptcy may, like other debts of the general body of creditors, be satisfied out of assets situated in each of the Contracting States or only out of assets situated in their own State (Article 44 (1) and (3)).

It would be consistent to treat them in the same way as the other debts of the general body of creditors since they are incurred with a view to continuing the business of the debtor, which will benefit the general body of creditors.

14. In proceedings for avoiding bankruptcy, to which the draft Convention also applies, extensions of time for payment or compounding of debts are granted to the debtor. Article 54 provides that in Contracting States, other than that in which the proceeding has been opened, such measures are invalid as against the creditors in respect of debts incurred on behalf of the general body of creditors and also as against preferential creditors and creditors whose debts are secured by a charge over property. This provision constitutes an exception to the principles of unity and universality of the bankruptcy, on the one hand, and of equality of creditors, on the other. The argument that the proceedings in this case are not bankruptcy proceedings *stricto sensu* but preventive proceedings does not justify this exception. On the contrary, that argument tends in favour of applying both those principles, for this would contribute to avoiding bankruptcy proceedings and thus operate for the benefit of all the creditors. Article 54 should therefore be deleted.

⁽¹⁾ For a contrary view see the Court of Justice's judgment of 22 February 1979 in Case 133/78, H. Gourdain/F. Nadler. [1979] ECR 733.

15. Articles 70 to 74 of the draft Convention make provision for it to be interpreted by the Court of Justice of the European Communities. In contrast to the position under the General Convention, the jurisdiction of the Court is provided for in the text of the draft Convention itself and not in a separate protocol. The draft Convention contains provisions similar to those in the Protocol of 3 June 1971 ⁽¹⁾, notably regarding references for preliminary rulings and references in order to clarify the law. The procedure for referring questions for a preliminary ruling is derived from Article 177 of the Treaty but differs from it in some respects: thus the courts which are empowered to refer questions to the Court are expressly designated, courts of first instance being excluded, and Supreme Courts are required to refer matters only if they consider that a preliminary ruling on a question of interpretation is necessary.

The Commission regrets the lack of alignment with Article 177 of the EEC Treaty. It must be accepted, however, that the arguments put forward in support of the exceptions contained in the Protocol of 3 June 1971, namely preventing the Court of Justice from becoming overburdened with references and avoiding an increase in the number of proceedings instituted merely to gain time, are also to a certain extent valid in the case of the draft Bankruptcy Convention ⁽²⁾. It may happen that in the course of bankruptcy proceedings there will be questions of interpretation touching the Bankruptcy Convention and also the General Convention. This will be the case especially in relation to actions arising out of the bankruptcy, where the problem of jurisdiction is resolved by reference to the Bankruptcy Convention and the problems concerning recognition and enforcement are resolved by the General Convention. For these reasons, the two Conventions should be interpreted on the basis of identical provisions.

16. Annex I to the draft Bankruptcy Convention contains uniform rules dealing with proof of the spouse's claim to property (Article 1), set-off (Article 2) and the question whether clauses containing a reservation of title are valid as against the creditors of the buyer (Article 3 of the Uniform Law in conjunction with Article 41 of the draft). These

Articles should be embodied in the draft Convention itself, like other provisions designed to standardize national laws which already appear there (for example, Article 62). Article 81 would then be superfluous in so far as it requires States to incorporate the Uniform Law in their legislation.

17. The draft Convention contains a number of variants of the provision on the recognition of simple reservation of title clauses in the event of the bankruptcy of the buyer (Article 41 in conjunction with Article 3 of the Uniform Law, Annex I). Reservation of title in its various forms is one of the most important legal instruments for ensuring that the seller receives payment. The circumstances in which reservation of title is also to be effective *vis-à-vis* the creditors of the buyer in intra-Community trade should be specified for all cases and not only for the case where the buyer is declared bankrupt. For this reason a Directive containing more extensive rules than those in Article 41 would be preferable. The draft Convention could confine itself to requiring Contracting States to recognize simple reservation of title clauses in relation to the object sold, and guaranteeing payment of the price in the event of bankruptcy of the buyer, provided the clauses are stipulated before delivery.

18. Paragraph 2 of the Joint Declaration annexed to the draft Convention refers to the need to remove discrepancies existing between the Bankruptcy Convention and the conventions previously entered into with non-member States. Paragraph 3 of the Declaration stresses the need to organize, in cooperation with the Court of Justice, an exchange of information on judgments given by the courts of Contracting States. The Commission believes that both these steps must be taken if the Convention is to be implemented to best effect. The brackets surrounding the two provisions should therefore be removed.

III

19. The work of unifying bankruptcy proceedings, now begun in the draft Convention, should be supported by the harmonization of certain rules. The requirements for the opening of a bankruptcy should be aligned. Otherwise the question whether a bankruptcy is to be opened or not will depend on whether the centre of administration is situated in this or that Contracting State. The same will apply to the reorganization procedures which have been established in recent years. In this situation credi-

⁽¹⁾ Protocol of 3 June 1971 conferring jurisdiction on the Court of Justice for the interpretation of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, OJ No L 304, 30. 10. 1978, p. 97.

⁽²⁾ Report by J. Jenard on the Protocol, OJ No C 59, 5. 3. 1979, pp. 68 and 69.

tors, and especially employees, run the risk of being treated differently depending on the State where the procedure is opened.

20. There are also major differences between the laws of the Member States concerning the duration of the suspect period, that is to say the period prior to the opening of the bankruptcy during which the acts of the debtor, if they are to be held void, must have been executed. Under certain legal systems the suspect period commences on the cessation of payments, which is established by the courts in respect of each bankruptcy. Other legal systems fix the suspect period for certain acts of the debtor uniformly, calculating its duration backwards from the date of opening of the bankruptcy. The calculation of the duration of the suspect period and the establishment of acts of the debtor which are void, or may be declared void, affect the amount of assets available for the general body of creditors and, consequently, the amount distributed to each creditor. Article 18 states that the law of the State in which the bankruptcy has been opened determines the procedure to be followed in all Contracting States.

Creditors may be affected financially by the differences between the legal systems. National provisions governing the suspect period should therefore be harmonized to ensure that creditors are treated on an equal footing, that no surprises are sprung on them and that, in cases where the debtor's centre of administration is outside the Community but he has establishments in different Member States, 'forum shopping' is eliminated.

IV

On the basis of the foregoing considerations the Commission, having regard to the Treaty establishing the European Economic Community, and in particular the second indent of Article 155 thereof, hereby formulates the following opinion:

- (a) the Commission considers that in pursuance of the fourth indent of Article 220 of the Treaty establishing the European Economic Community, the Member States should sign and ratify at the earliest opportunity the Convention on bankruptcy, winding-up, arrangements, compositions and similar proceedings. It emphasises that the Convention will permit creditors, and especially employees, to attach by means of a single proceeding all of the debtor's property situated in the different Member States, and that it is desirable that they should be able to do so;

(b) the Commission considers it necessary:

- to delete Article 54, which restricts the effects of extensions of time granted for payment or compounding of debts under reorganization procedures (see point 14 hereof),
- to delete the three Articles contained in the Uniform Law and to incorporate the first two in the draft Convention itself and delete that part of Article 81 which provides for those Articles to be incorporated in national legislation (see point 16 hereof),
- to remove the brackets in the Joint Declaration (see point 18 hereof).

The Commission considers that an amendment should be made to:

- Article 1 by adding a fourth paragraph suspending application of the Convention to credit institutions until a Council Directive on the role of bank supervisory authorities takes effect (see point 7 hereof),
- Article 29 (3) so that each Contracting State will make provision for more than one liquidator (see point 11 hereof),
- Article I (a) of the attached Protocol by narrowing down the reference to compulsory winding-up proceedings in Ireland and the United Kingdom (see point 8 hereof).

The Commission considers that the following solutions should be adopted concerning the variants contained in the draft Convention:

- there should be inserted in Article 41 a provision limited to the recognition of 'simple' reservation of title clauses which are stipulated before delivery (see point 17 hereof),
- in Article 44 (1) and (3) provision should be made to the effect that fiscal and similar debts arising after the opening of the bankruptcy may be satisfied out of property situated in each Contracting State (see point 13 hereof).

The Commission considers further:

- that judgments relating to the liability of persons who have directed or managed the affairs of a firm or company in respect of which a bankruptcy has been opened, referred to in Article 11, must be recognized

and enforced in accordance with the General Convention (see point 9 hereof),

- that the cost of advertisement in the *Official Journal of the European Communities*, referred to in Article 26, must be borne by the general body of creditors (see point 10 hereof).

Lastly, the Commission considers it desirable to insert a new Article confirming that subsequent Community law will take precedence over the Convention (see point 7 hereof);

(c) this opinion is addressed to the Member States.

Done at Brussels, 10 December 1981.

For the Commission
Karl-Heinz NARJES
Member of the Commission

COMMISSION DECISION

of 22 December 1981

amending the Commission Decisions of 31 December 1980, 26 January 1981 and 18 March 1981 granting financial assistance within the framework of the supplementary measures established in favour of the United Kingdom (Wales, north-west of England, north of England, Scotland, south-west of England, Yorkshire and Humberside and Northern Ireland)

(Only the English text is authentic)

(81/1069/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2744/80 of 27 October 1980 establishing supplementary measures in favour of the United Kingdom ⁽¹⁾,

Whereas, in accordance with Article 4 of Regulation (EEC) No 2744/80, the United Kingdom has submitted special programmes for Wales, the north-west of England, the north of England, Scotland, the south-west of England, Yorkshire and Humberside and Northern Ireland;

Whereas, by Commission Decisions 81/25/EEC ⁽²⁾ and 81/26/EEC ⁽³⁾ of 31 December 1980, 81/80/EEC ⁽⁴⁾ and 81/81/EEC ⁽⁵⁾ of 26 January 1981 and 81/197/EEC ⁽⁶⁾, 81/198/EEC ⁽⁷⁾, 81/199/EEC ⁽⁸⁾, 81/200/EEC ⁽⁹⁾ and 81/201/EEC ⁽¹⁰⁾ of 18 March 1981, financial assistance was granted to sub-programmes forming part of these special programmes;

Whereas, in accordance with Article 6 (2) of the said Regulation, the United Kingdom has submitted a report on the progress made in carrying out the special programmes and the payments made with respect to them in the financial year ending on 31 March 1981;

Whereas, as the condition stipulated in Article 2 (c) of Council Regulation (EEC) No 1172/76 setting up

a financial mechanism ⁽¹¹⁾, as amended by Regulation (EEC) No 2743/80 ⁽¹²⁾, has not been met, the entire amount initially provided for in this respect should be entered under the heading of the supplementary measures;

Whereas the latest details submitted concerning the payments made by the United Kingdom authorities and the additional appropriations now to be disposed of under the heading of the supplementary measures require an amendment of the said Decisions;

Whereas the amount of the Community's financial assistance must be re-determined;

Whereas the details of this re-determined assistance are set out in this Decision;

Whereas all the conditions set out in the said Regulation (EEC) No 2744/80 for granting financial assistance are met;

Whereas the measures provided for by this Decision are in accordance with the opinion of the Committee set up under Article 7 (1) of the said Regulation,

HAS ADOPTED THIS DECISION:

Article 1

Regarding Wales:

(a) Article 1 of Commission Decision 81/80/EEC is hereby replaced by the following:

⁽¹⁾ OJ No L 284, 29. 10. 1980, p. 4.
⁽²⁾ OJ No L 44, 17. 2. 1981, p. 20.
⁽³⁾ OJ No L 44, 17. 2. 1981, p. 22.
⁽⁴⁾ OJ No L 57, 4. 3. 1981, p. 31.
⁽⁵⁾ OJ No L 57, 4. 3. 1981, p. 32.
⁽⁶⁾ OJ No L 96, 8. 4. 1981, p. 28.
⁽⁷⁾ OJ No L 96, 8. 4. 1981, p. 30.
⁽⁸⁾ OJ No L 96, 8. 4. 1981, p. 33.
⁽⁹⁾ OJ No L 96, 8. 4. 1981, p. 35.
⁽¹⁰⁾ OJ No L 96, 8. 4. 1981, p. 37.

⁽¹¹⁾ OJ No L 131, 20. 5. 1976, p. 7.
⁽¹²⁾ OJ No L 284, 29. 10. 1980, p. 1.

'Financial assistance amounting to 115.098 million ECU, which is in addition to the sum of 92.1 million ECU already granted to sub-programmes under Decision 81/25/EEC, is

hereby granted to the same sub-programmes provided in the special programme for Wales'.

(b) The Annex to Commission Decision 81/25/EEC is hereby replaced by the following:

'ANNEX

SPECIAL PROGRAMME FOR WALES

1. SUB-PROGRAMME: ROADS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

146.967 million ECU

Other Community financial contributions granted (1):

— ERDF

—

— EIB

—

Spending authorities: Welsh Office

Grant decision:

50 %

73.484 million ECU

2. SUB-PROGRAMME: RAILWAYS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

25.683 million ECU

Other Community financial contributions granted (1):

— ERDF

1 %

— EIB

—

Spending authorities: British Rail

Grant decision:

50 %

12.842 million ECU

3. SUB-PROGRAMME: WATER AND SEWERAGE

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

55.112 million ECU

Other Community financial contributions granted (1):

— ERDF

30 %

— EIB

11 %

Spending authorities: Welsh Water Authority

Grant decision:

30 %

16.533 million ECU

4. SUB-PROGRAMME: ADVANCE FACTORIES

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

111.473 million ECU

Other Community financial contributions granted ⁽¹⁾:

— ERDF	30 %
— EIB	—

Spending authorities: Welsh Development Agency
Development Board for Rural Wales

Grant decision: 20 %
22·294 million ECU

5. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 164·089 million ECU

Other Community financial contributions granted ⁽¹⁾:

— ERDF	0·3 %
— EIB	—

Spending authorities: Post Office

Grant decision: 50 %
82·045 million ECU

- ⁽¹⁾ The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special programme expenditures, even when these expenditures cover partly these investments.

Article 2

Regarding north-west England:

- (a) Article 1 of Commission Decision 81/81/EEC is hereby replaced by the following:

'Financial assistance amounting to 141·844 million ECU, which is in addition to the sum of 101·4 million ECU already granted to sub-programmes under Decision 81/26/EEC, is hereby granted to the same sub-programmes provided for in the special programme for the north-west of England.'

- (b) The Annex to Commission Decision 81/26/EEC is hereby replaced by the following:

*'ANNEX***SPECIAL PROGRAMME FOR THE NORTH-WEST OF ENGLAND**

1. SUB-PROGRAMME: ROADS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 97·383 million ECU

Other Community financial contributions granted ⁽¹⁾:

— ERDF	—
— EIB	—

Spending authorities: Department of Transport

Grant decision:

50 %

48·692 million ECU

2. SUB-PROGRAMME: RAILWAYS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

60·998 million ECU

Other Community financial contributions granted⁽¹⁾:

— ERDF

—

— EIB

—

Spending authorities: British Rail

Grant decision:

50 %

30·499 million ECU

3. SUB-PROGRAMME: WATER AND SEWERAGE

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

146·253 million ECU

Other Community financial contributions granted⁽¹⁾:

— ERDF

1 %

— EIB

18 %

Spending authorities: North West Water Authority

Grant decision:

30 %

43·876 million ECU

4. SUB-PROGRAMME: ADVANCE FACTORIES

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

7·847 million ECU

Other Community financial contributions granted⁽¹⁾:

— ERDF

1 %

— EIB

—

Spending authorities: English Industrial Estates Corporation

Grant decision:

20 %

1·569 million ECU

5. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

237·216 million ECU

Other Community financial contributions granted⁽¹⁾:

— ERDF

0·5 %

— EIB

—

Spending authorities: Post Office

Grant decision:

50 %

118·608 million ECU

- (¹) The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special programme expenditures, even when these expenditures cover partly these investments.

Article 3

Regarding north England:

- (a) The first paragraph of Article 1 of Commission Decision 81/197/EEC is hereby replaced by the following:

'Financial assistance of 145·626 million ECU is hereby granted to the sub-programmes forming part of the special programme for the north of England which are set out in the Annex hereto.'

- (b) The Annex to the said Decision is hereby replaced by the following:

ANNEX

SPECIAL PROGRAMME FOR THE NORTH OF ENGLAND

1. SUB-PROGRAMME: ROADS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

60·700 million ECU

Other Community financial contributions granted (¹):

— ERDF

—

— EIB

—

Spending authority: Department of Transport

Grant decision:

50 %

30·350 million ECU

2. SUB-PROGRAMME: RAILWAYS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:

35·316 million ECU

Other Community financial contributions granted (¹):

— ERDF

—

— EIB

—

Spending authority: British Rail

Grant decision:

50 %

17·658 million ECU

3. SUB-PROGRAMME: WATER AND SEWERAGE

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 123·057 million ECU

Other Community financial contributions granted⁽¹⁾:

— ERDF 12 %

— EIB 24 %

Spending authorities: Northumbrian Water Authority &
North-West Water Authority

Grant decision: 30 %
36·917 million ECU

4. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 121·401 million ECU

Other Community financial contributions granted⁽¹⁾:

— ERDF 4 %

— EIB —

Spending authority: Post Office

Grant decision: 50 %
60·701 million ECU

⁽¹⁾ The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special programme expenditures, even when these expenditures cover partly these investments.

Article 4

Regarding Scotland:

- (a) The first paragraph of Article 1 of Commission Decision 81/198/EEC is hereby replaced by the following:

‘Financial assistance of 232·999 million ECU is hereby granted to the sub-programmes forming part of the special programme for Scotland which are set out in the Annex hereto.’

- (b) The Annex to the said Decision is hereby replaced by the following:

ANNEX

SPECIAL PROGRAMME FOR SCOTLAND

1. SUB-PROGRAMME: ROADS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 133·909 million ECU

Other Community financial contributions granted (1):

— ERDF	3 %
— EIB	—

Spending authority: Scottish Development Department

<i>Grant decision:</i>	50 %
	66·955 million ECU

2. SUB-PROGRAMME: RAILWAYS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:	88·476 million ECU
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Other Community financial contributions granted (1):

— ERDF	—
— EIB	—

Spending authority: British Rail

<i>Grant decision:</i>	50 %
	44·238 million ECU

3. SUB-PROGRAMME: ADVANCE FACTORIES

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:	65·667 million ECU
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Other Community financial contributions granted (1):

— ERDF	0·1 %
— EIB	—

Spending authority: Scottish Development Agency — Highlands and Islands Development Board

<i>Grant decision:</i>	20 %
	13·133 million ECU

4. SUB-PROGRAMME: LAND RECLAMATION

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:	32·925 million ECU
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Other Community financial contributions granted (1):

— ERDF	—
— EIB	—

Spending authority: Scottish Development Agency

<i>Grant decision:</i>	20 %
	6·585 million ECU

5. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981:	204·175 million ECU
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Other Community financial contributions granted (1):

— ERDF	0.3 %
— EIB	—

Spending authority: Post Office

Grant decision: 50 %
102.088 million ECU

- (1) The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special expenditure, even when these expenditures cover partly these investments.'

Article 5

Regarding south-west England:

- (a) The first paragraph of Article 1 of Commission Decision 81/199/EEC is hereby replaced by the following:

'Financial assistance of 41.313 million ECU is hereby granted to the sub-programmes forming part of the special programme for the south-west of England which are set out in the Annex hereto.'

- (b) The Annex to the said Decision is hereby replaced by the following:

*'ANNEX***SPECIAL PROGRAMME FOR THE SOUTH-WEST OF ENGLAND****1. SUB-PROGRAMME: RAILWAYS**

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 13.427 million ECU

Other Community financial contributions granted (1):

— ERDF	—
— EIB	—

Spending authority: British Rail

Grant decision: 50 %
6.714 million ECU

2. SUB-PROGRAMME: WATER AND SEWERAGE

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 32.557 million ECU

Other Community financial contributions granted (1):

— ERDF	10 %
— EIB	19 %

Spending authority: South-West Water Authority

Grant decision: 30 %
9.767 million ECU

3. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 49·664 million ECU

Other Community financial contributions granted (1):

— ERDF —

— EIB —

Spending authority: Post Office

Grant decision:

50 %

24·832 million ECU

- (1) The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special programme expenditures, even when these expenditures cover partly these investments.

Article 6

Regarding Yorkshire and Humberside:

- (a) The first paragraph of Article 1 of Commission Decision 81/200/EEC is hereby replaced by the following:

'Financial assistance of 219·793 million ECU is hereby granted to the sub-programmes forming part of the special programme for Yorkshire and Humberside which are set out in the Annex hereto.'

- (b) The Annex to the said Decision is hereby replaced by the following:

'ANNEX

SPECIAL PROGRAMME FOR YORKSHIRE AND HUMBERSIDE

1. SUB-PROGRAMME: ROADS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 34·397 million ECU

Other Community financial contributions granted (1):

— ERDF —

— EIB —

Spending authority: Department of Transport

Grant decision:

50 %

17·199 million ECU

2. SUB-PROGRAMME: RAILWAYS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 71·921 million ECU

Other Community financial contributions granted (1):

— ERDF	1 %
— EIB	0.2 %

Spending authority: British Rail

<i>Grant decision:</i>	50 %
	35.961 million ECU

3. SUB-PROGRAMME: WATER AND SEWERAGE

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 138.508 million ECU

Other Community financial contributions granted (1):

— ERDF	4 %
— EIB	13 %

Spending authority: Yorkshire Water Authority

<i>Grant decision:</i>	30 %
	41.552 million ECU

4. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 250.161 million ECU

Other Community financial contributions granted (1):

— ERDF	—
— EIB	—

Spending authority: Post Office

<i>Grant decision:</i>	50 %
	125.081 million ECU

- (1) The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special programme expenditures, even when these expenditures cover partly these investments.

Article 7

Regarding Northern Ireland:

- (a) The first paragraph of Article 1 of Commission Decision 81/201/EEC is hereby replaced by the following:

'Financial assistance of 165.950 million ECU is hereby granted to the sub-programmes forming part of the special programme for Northern Ireland which are set out in the Annex hereto'.

- (b) The Annex to the said Decision is hereby replaced by the following:

'ANNEX**SPECIAL PROGRAMME FOR NORTHERN IRELAND****1. SUB-PROGRAMME: ROADS**

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 77·439 million ECU

Other Community financial contributions granted (1):

— ERDF 4 %

— EIB 12 %

Spending authority: Department of Environment (Northern Ireland)

Grant decision: 60 %
46·463 million ECU

2. SUB-PROGRAMME: RAILWAYS

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 3·494 million ECU

Other Community financial contributions granted (1):

— ERDF —

— EIB —

Spending authority: Northern Ireland Railways

Grant decision: 60 %
2·097 million ECU

3. SUB-PROGRAMME: WATER AND SEWERAGE

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 49·848 million ECU

Other Community financial contributions granted (1):

— ERDF —

— EIB —

Spending authority: Department of Environment (Northern Ireland)

Grant decision: 40 %
19·939 million ECU

4. SUB-PROGRAMME: ADVANCE FACTORIES

Payments made by the United Kingdom spending authorities
from 1 April 1980 to 31 March 1981: 23·360 million ECU

Other Community financial contributions granted (1):

— ERDF —

— EIB —

Spending authority: Department of Commerce (Northern Ireland)

Grant decision: 20 %
4·672 million ECU

5. SUB-PROGRAMME: LAND RECLAMATION

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981: 2·207 million ECU

Other Community financial contributions granted ⁽¹⁾:

— ERDF —
— EIB —

Spending authority: Department of Commerce (Northern Ireland)

Grant decision: 20 %
0·441 million ECU

6. SUB-PROGRAMME: TELECOMMUNICATIONS

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981: 99·328 million ECU

Other Community financial contributions granted ⁽¹⁾:

— ERDF 5 %
— EIB 20 %

Spending authority: Post Office

Grant decision: 60 %
59·597 million ECU

7. SUB-PROGRAMME: HOUSING

Payments made by the United Kingdom spending authorities from 1 April 1980 to 31 March 1981: 163·708 million ECU

Other Community financial contributions granted ⁽¹⁾:

— ERDF —
— EIB —

Spending authority: Northern Ireland Housing Executive

Grant decision: 20 %
32·741 million ECU

⁽¹⁾ The figures for ERDF contributions relate to commitments and those for EIB loans to the whole of the loan contract. For this reason there is no way of establishing a perfect relationship between these amounts which can relate to investments made very often over a period of more than one year and the annual United Kingdom special programme expenditures, even when these expenditures cover partly these investments.

Article 8

This Decision is addressed to the United Kingdom.

Done at Brussels, 22 December 1981.

For the Commission
Christopher TUGENDHAT
Vice-President

COMMISSION DECISION**of 22 December 1981****granting financial assistance within the framework of the supplementary measures
established in favour of the United Kingdom (road investment)****(Only the English text is authentic)****(81/1070/EEC)**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the Euro-
pean Economic Community,

Having regard to Council Regulation (EEC)
No 2744/80 of 27 October 1980 establishing supple-
mentary measures in favour of the United King-
dom ⁽¹⁾,

Whereas, in accordance with Article 4 of the said
Regulation (EEC) No 2744/80, the United King-
dom has submitted a special programme for road
investment in various regions in the United King-
dom (Doc. XVI/364-Final/80);

Whereas the whole of this special programme,
which, by reason of its nature as a general road
investment programme, it is inappropriate to subdi-
vide by region, is eligible under Article 3 of the said
Regulation and entitled to be taken into considera-
tion for a Community financial contribution;

Whereas the amount of this financial contribution
should be fixed at 181.461 million ECU (which
represent 59.22 % of the payments made by the
United Kingdom authorities in the financial year
1 April 1980 to 31 March 1981);

Whereas all the conditions set out in the said Regu-
lation for granting financial assistance to this pro-
gramme are met;

Whereas the Committee set up under Article 7 (1) of
the said Regulation has not delivered an opinion
within the time limit fixed,

HAS ADOPTED THIS DECISION:

Article 1

Financial assistance of 181.461 million ECU is
hereby granted to the special programme of road
investment in the United Kingdom.

Article 2

This Decision is addressed to the United Kingdom.

Done at Brussels, 22 December 1981.

For the Commission
Christopher TUGENDHAT
Vice-President

⁽¹⁾ OJ No L 284, 29. 10. 1980, p. 4.