

COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a
COUNCIL DECISION

empowering the Commission to borrow under the New Community Instrument to
stabilize the level of debt outstanding for the purpose of promoting
investment within the Community

(presented by the Commission)

EXPLANATORY MEMORANDUM

The New Community Instrument (NCI) is a financial facility created in 1978 ⁽¹⁾ empowering the Commission ⁽²⁾ to borrow in the name of the European Economic Community and to re-lend the funds in order to promote investment in the Community. The success of the first experiment encouraged the use of the NCI, which has been renewed five times (including two special aid operations to help with reconstruction after natural disasters). The total volume of the NCI reached nearly 6,000 million ECU ⁽³⁾ in 1987.

1. THE BASIS

The Single European Act, referring to the "other financial instruments" alongside the EIB, made clear that the Community's financial capability is one component of the Community's institutional balance. In that sense, the existence of the Community alongside the EIB is above all an institutional necessity. Indeed,

- a) the Community as such has a vital role row to play, both as guide and as promoter, in the unity and the development of Europe. To this end, it has the obligation - which it cannot renonce - of, first, setting the priorities and degrees of urgency from the point of view of the Community's interest, especially in the economic field, and, secondly, of deciding among the Community measures which these priorities require;
- b) to carry out this fondamental task, the NCI is the appropriate instrument which is indispensable for the Community's purposes. Indeed by contrast with the other financial instruments which exist, the NCI can be adapted to whatever objectives are given priority in Community policies.

⁽¹⁾ The NCI decision is based on article 235 of the EEC Treaty, which authorises the adoption of appropriate measures to achieve Community objectives where these have not been provided for elsewhere in the Treaty.

⁽²⁾ Council Decision 78/870/EEC

⁽³⁾ Com(88)438 final, 28.07.1988, on the use made of the NCI.

No doubt the most important role of the NCI is thus that of signalling to the market (and even to the authorities) the priorities and degrees of urgency of Community policies, with a view to bringing about a leverage effect; the very strong demand for NCI credit is a proof in itself of its success. Moreover, the NCI IV set up a marker which incited the EIB to adopt new guidelines and techniques : it was in fact the Commission proposals which opened the way to permitting the EIB to set out, in a "parallel action" on its own resources, to finance investment projects of small and medium sized enterprises.

Furthermore, having regard to the excellent guarantees which underlie NCI loans, these operations are virtually risk free and thus involve no budgetary cost.

It is important to indicate, in this context, that the European Parliament has unceasingly supported the Commission's proposals concerning the NCI, so much so that it is now the Parliament itself which requests further NCI action.

2. THE OBJECTIVES OF THE NEW NCI ACTION

In the context of the new NCI, the general priority would again be SMEs. For several years one of the priority objectives of the Community has been the encouragement of the creation and development of small and medium sized enterprises, as well as the improvement of their financial environment. The development of such enterprises will help to spread the spirit of enterprise and to foster investment capable of creating employment.

Putting at the disposal of SMEs credit conditions comparable to those available to the Community will help to overcome their relative disadvantage compared with large firms. It also gives them the possibility of building up their equity capital. It is in this spirit that the NCI IV was allocated entirely to SMEs.

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The first of the more specific objectives which the Commission intend to pursue is the safeguarding of rural areas. This priority comes within a package of Community actions : the regulation on the reform of the structural Funds (1) includes among its objectives the development of rural areas.

As regards rural development (2) we are in a period of important changes bringing about a significant decline in the relative importance of agriculture in rural areas, in terms of employment, of contributions to the regional product or of the protection of the environment. In the near future, this situation may well be aggravated by the effects of the reform of the CAP, intended to bring about certain adjustments in Community agriculture.

Community action is therefore necessary in order to :

- promote the diversification of rural economies and
- pursue the protection of the environment.

It is important, in particular, to promote the development of an economic fabric with a view to the creation and/or the stabilization of employment in rural areas by bringing financial help to the investments of SMEs - including individual entrepreneurs and co-operatives.

All activities not of a strictly agricultural nature would be eligible under the NCI - including services and all agro-industrial, agro-commercial, para-agricultural or other activity complementary to agriculture (3). On the other hand agricultural production would be excluded except in so far as it concerned products in which the Community is not self-sufficient or investments of a truly agricultural nature carried out by young farmers.

(1) Council Regulation EEC 2052/88

(2) Com(88)501 final : The future of rural areas.

(3) Including forestry

particular importance. This is especially true in certain regions where the return of the population, the modernization of agriculture and the diversification of the activity and the style of life, pose serious environment problems. In this connexion, NCI finance would be available in parallel with other Community actions for projects of SMEs having a content favorable to the environment.

From the geographical point of view, the NCI should be applicable in all the rural areas of the Community.

As regard high technology and innovation, the second of the more specific objectives, the contribution of the NIC to SMEs, independently of the location of the investment, is envisaged at the level of the incorporation and the application of new technologies and material in the investment projects of SMEs. These technologies would cover a wide range of materials and products. In particular, the financing of specific applications of research results would be eligible.

Educational and training costs would be accepted as intangible investments.

This action, which would be complementary to that undertaken in the context of the BRITE and EURAM programmes, would fit into the logic of the Single Act which provides, in Title VI, for the development of technology, given that this remains a major challenge for Europe.

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The action envisaged must fit into a suitable time-scale. This is clear both from the Commission communication to the Council on the "Future of Rural Areas" and from the action already taken by the Community towards the reform of the structural Funds, which fits into a package of measures lasting from three to five years. Moreover, as regards high technology, the average life of research projects is four years. In consequence, an NCI action designed to accompany such measures should have a long life, especially as, in a rural context, the leverage effect on markets may prove to be slow.

3. METHOD

Borrowing

For the Community's financial capability to carry out its basically political task (by contrast with that of the EIB) of signalling Community priorities, and in order to maintain a permanent institutional balance, it must keep up a continuous and stable presence in the markets. This means abandoning the traditional formula of successive authorizations, in favour of a method under which the Commission would be empowered to carry out new borrowing and lending operations within the limit of repayments of existing debt; this would represent new borrowing of 500 to 1.000 million ECU per year. The effect would be to convert the NCI into a "revolving fund", with the Commission being automatically empowered to borrow and re-lend up to the limit set by the amount of debt outstanding, currently around 5.8 billion ECU.

The recurrent nature of operations under the new method will help to raise the Community's profile in the markets and ensure that its calls, coming regularly and for roughly the same amount each time, are well received. This will foster the growth of a regular clientele and hence keep down issue costs. Moreover the proposed revolving method offers the advantage of clarity, in that the total debt is capped - successive tranches no longer being cumutable. At the same time it avoids the appearance of gaps, such as that which has emerged at the present time with the rapid exhaustion of the NCI IV, leaving an unsatisfied demand while awaiting a new authorisation.

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After three years, the Commission will review the working of the system; fresh priorities could also be set on that occasion.

Loans

Given that the investments in question are of modest size, the loans of the new authorization could be granted by the well tried method of global loans. This allows, not only to distribute the resources available to a large number of enterprises, but also to cut out the risk of default, in view of the excellent guarantees provided by the intermediaries.

The techniques of financial engineering should be used as a way of supporting projects more efficiently. One could envisage, amongst other possibilities, to :

- a) promote the transformation of global loans into equity in the context of high technology and innovation;
- b) couple the NCI with a mechanism to give repayments which increase over time;
- c) improve the guarantee conditions for these investments; this would mean, for example, close collaboration with guarantee organizations;
- d) include the possibility of making loans, in appropriate circumstances, at floating rates;
- e) encourage the finance of projects through risk-capital operations by using an appropriate combination of equity and long term loans.

To increase the efficiency of the instrument, the NCI - and particularly the "rural" NCI - will be closely associated with the other Community instruments, especially the structural Funds and the EIB.

Proposal for a Council Decision empowering the Commission to borrow under the New Community Instrument to stabilize the level of debt outstanding for the purpose of promoting investment within the Community

COM(88) 661 final

(Submitted by the Commission on 2 December 1988)

(88/C 335/05)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee

Whereas the Community's investment financing facilities should continue to operate, with a view to correcting structural shortcomings in the production system so as to increase investment and thereby stabilize employment;

Whereas loan applications already approved by the Commission account for over 87 % of the borrowing authorized by the Council in Decision 87/182/EEC⁽¹⁾ and over 97 % of the cumulative total of all authorizations to date;

Whereas the Commission should therefore be empowered to borrow amounts enabling it to maintain the level of debt outstanding under the New Community Instrument at its present level of ECU 5 865 million;

Whereas action under the New Community Instrument, as last defined by Decision 87/182/EEC, should for the next three years continue to be concentrated in favour of small and medium-sized enterprises;

Whereas such action will help to achieve the Community's objectives regarding the reversal of the exodus from rural areas and concerning the development of these areas;

Whereas it is vital in order to strengthen the Community's technological base and industrial competitiveness to encourage the innovative capacity of undertakings;

Whereas investment by small and medium-sized undertakings involving the application of new technologies and innovation has features which raise special financing problems;

Whereas special financing arrangements should consequently be provided for to deal with such problems, in particular by extending the financing base and by encouraging the supply of equity funding;

Whereas the European Investment Bank (hereinafter referred to as the 'Bank') has stated that it is willing to contribute to the implementation of this measure, and to take responsibility for managing the cash holdings for carrying out the lending operations, it being understood that the discharge and audit procedures shall be those provided for in the Bank's Statute in respect of all its operations;

Whereas the Treaty establishing the European Economic Community has not provided the necessary powers for a Community action in this field needed to attain, in the course of the operation of the common market, one of the objectives of the Community,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission shall be empowered to borrow, on behalf of the European Economic Community under the New Community Instrument, amounts enabling it to maintain the level of debt outstanding under this facility at ECU 5 865 million in principal, having regard to the flow of repayments of principal on existing borrowings.

Article 2

The proceeds of the borrowings referred to in Article 1 shall be on-lent to finance investment projects that contribute to the structural adjustment and the competitiveness of the Community; for a period of three years following the entry into force of the present decision, such projects shall be directed towards the application of new technologies and innovation or the stabilization of employment in rural areas; thereafter the Commission shall determine the priorities to be applied.

These projects, to be carried out in Community territory, must, where appropriate, be such that they serve the Community's priority objectives relating to the financing of investment by small and medium-sized undertakings.

⁽¹⁾ OJ No L 71, 14. 3. 1987, p. 34.

Article 3

The Commission shall decide whether or not projects are eligible in accordance with the following priorities and guidelines:

- the investment projects of small and medium-sized enterprises in industry and other productive sectors, in particular with a view to the application of new technologies and innovation (including renewable sources of energy) shall be eligible; the projects of small enterprises shall have priority;
- the investment projects of small and medium-sized enterprises in rural areas, aimed at safeguarding the environment or stabilizing employment likely to be lost in agricultural activities, shall be eligible;
- projects and their implementation shall comply with the provisions of the Treaty and of secondary legislation, in particular provisions relating to competition, and with the rules and requirements of the relevant Community policies.

Article 4

Loans shall for the first three years generally be granted through the agency of financial intermediaries. In certain limited cases, however, they may be made directly to the recipients.

Whatever the procedure for granting loans, capital and interest payments may be deferred. Loans may also be used to finance intangible assets such as patents, licences, know-how, and research and development expenditure directly linked to the investment concerned.

Where they are granted through the agency of a financial intermediary, that intermediary may, with the agreement of the Bank, pass the loan on to undertakings either in the form of a loan or in the form of equity capital. In both cases, the intermediary shall be responsible for the service of the loan and associated risk.

Article 5

Lending terms as regards the reimbursements of the principal and the rate and payment of interest shall be those applied by the Bank, in accordance with its Statute in respect of loans from its own resources, and shall be fixed in such a way that, overall, they cover the costs and expenses incurred in concluding and performing both the borrowing and the lending side of the transactions.

Article 6

The terms of borrowings shall be negotiated by the Commission in the best interests of the Community, having regard to the conditions on capital markets and in accordance with the constraints imposed by the duration and other financial aspects of the loans to be granted. The borrowed funds shall be entrusted to the Bank, which shall manage them in the manner agreed with the Commission under the terms of the existing cooperation agreement.

Borrowing and lending operations shall be expressed in the same monetary units, and to ensure adequate coverage the Commission may carry out 'swap' operations provided that there is no resultant exchange or interest rate risk for the Community.

Where borrowings are expressed, payable or reimbursable in the currency of a Member State, they may be concluded only with the agreement of the competent authorities of that State.

Article 7

A mandate shall be given to the Bank to grant and administer loans in pursuance of this Decision. The Bank shall carry out transactions under this mandate on behalf of the Community, whilst exercising the same diligence as for the operations carried out with its own resources.

The Commission shall decide, in accordance with Article 3, whether projects are eligible. Where the Commission gives a favourable decision, the Bank shall decide whether and on what terms to grant the loans, in accordance with its usual criteria and with the procedures laid down in its Statute and in the cooperation agreement.

Loan procedure as provided for in this Decision shall be as follows:

- loan applications shall be transmitted simultaneously to the Commission and to the Bank by the primary borrower,
- the Commission and the Bank shall sign the loan contracts with the primary borrower, viz the financial intermediary in the case of a global loan, or the beneficiary in the case of a direct loan,
- the Bank shall inform the Commission of the allocation of the loans.

Article 8

The Commission shall annually inform the European Parliament and the Council of capital receipts and payments resulting from borrowing and lending trans-

actions. To this end the Bank shall forward to the Commission any data required for the European Parliament and the Council to be fully informed.

Article 9

Three years after the entry into force of the present decision the Council shall examine, on the basis of a report by the Commission and after consulting the European Parliament, whether the objectives and priorities of the New Community Instrument should be changed.

Article 10

The financial control and audit of the Commission's accounts shall be carried out in accordance with the Financial Regulation applicable to the general budget of the European Communities and with Article 206 of the Treaty instituting the European Economic Community.

The lending transactions and management of cash holdings shall be covered by the discharge and audit procedures provided for in the Bank's Statute in respect of all its operations.