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Communications on this subject should
be addressed to
The Legal Secretary
Attorney General's Chambers

ATTORNEY GENERAL'S CHAMBERS
LAW OFFICERS' DEPARTMENT
ROYAL COURTS OF JUSTICE
LONDON, W.C.2

12 July 1982

M Scholar Esq
10 Downing Street
LONDON S W 1

Dear Scholar

ICI AND NORTH SEA TAXATION

As arranged, I attach a note
setting out the views expressed by
the Attorney General at his conference
earlier today.

Yours sincerely
A. M. Susman

A M SUSMAN

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I.C.I. AND NORTH SEA TAXATION

Advice of the Attorney General given in conference on 12 July 1982.

The Attorney General was asked to advise whether Clause 129 of the Finance Bill 1982 was vulnerable to successful challenge under Article 92 of the EEC Treaty.

The Attorney General advised that if the formula for valuation laid down in Clause 129 was the best that could be done to achieve an arm's-length, market valuation, a court would not say that the Clause itself was contrary to Article 92 just because of the possibility that decisions thereunder might be more favourable to the taxpayer than they could otherwise be.

He said that following the expert advice which had been given to the Inland Revenue, the Bill provided fairly for valuation on the basis of arms'-length transactions. The question in the action brought by ICI arose out of commitments given to Shell and BP, the existence of which was already suspected by ICI and some components of which would become known in the course of the litigation. ICI contended that these commitments amounted to more favourable treatment than under arms'-length transactions. This question was so complex that the Government could only accept the expert advice that had been given to the effect that the purpose of the legislation would be effected, and if this advice were correct there would be no breach of Article 92. The Attorney General added that he always approached with caution any tax legislation which was designed to assist one or a small number of taxpayers.