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CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

THE KHARG

Memorandum by the Secretary of State for Foreign and Commonwealth Affairs

1. In my minute of 7 November to the Prime Minister about the possible release of the US hostages, I mentioned the problem of the Iranian supply vessel, the Kharg. There are complex political and legal difficulties surrounding the early release of the Kharg. These are set out in detail in a report prepared by officials (which is being circulated separately).

2. Unless maintenance work on the vessel is put in hand soon, it will deteriorate. Although the ship is Iranian property and we have informed them that we accept no legal responsibility for it, Iran will certainly argue that since we prevented export, we must accept responsibility for the ship's deterioration. We shall thus face a dispute which could have serious implications for the eventual resumption of normal political and trading relations with Iran.

3. There are three courses open to us:

(1) To grant an immediate export licence for the Kharg

There are serious political and legal objections

to this course. If we were to release the Kharg while the Iran/Iraq war continues, we would prejudice our impartiality in this dispute. It is also likely that there would be strong complaints from the Americans if an export licence were granted before the US hostages were released. The US is already concerned that sanctions against Iran should not slacken before this happens and, if present negotiations over the hostages were to break down or be prolonged, the Americans might tend to put some of the blame on us.

(2) Maintenance of the Kharg from Government funds

This could not be done without Iranian consent, if we are to avoid assuming responsibility for the vessel. Nevertheless, in inter-departmental discussion, officials of all interested Departments have stressed the desirability of avoiding the deterioration of the Kharg so as to prevent a serious impediment arising to our future relations, and in particular our trade and defence sales prospects, with Iran. But no Department is prepared to provide the necessary funds from their existing budget, and the Central Contingencies Fund for 1980-81 has already been exhausted. Moreover, whatever disclaimer we might make, it is unlikely that any expenditure on the Kharg would subsequently be repaid by the Iranians, even if they had signified acquiescence in our taking action.

(3) Taking no further action and allowing the Kharg to deteriorate

We have no legal responsibility for the vessel or for its maintenance, and we have so informed the Iranians. We could strengthen this position by sending a further note informing the Iranians of

the likely deterioration of the vessel unless they made arrangements for routine maintenance, and re-affirming that HMG have no liability of any kind in this matter. Our strong legal position would not, however, prevent the Iranians from arguing that we should pay to make good the deterioration of the vessel. The problem in our relations with Iran will not, therefore, be avoided.

4. I believe that we must reject the immediate release of the Kharg for the reasons given in paragraph 3(1) above. I cannot find the money from my Department's vote to maintain the ship until release is possible. Unless therefore one of my colleagues is prepared to take on the financial responsibility involved, there is presumably no option but to allow the vessel to deteriorate. This could provoke a dispute with the Iranians that could spill over into other aspects of our relations. But this is a risk I believe we must accept.

5. Unless I hear to the contrary, I shall assume my colleagues agree that this is the best course.

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Foreign and Commonwealth Office

22 December 1980