



PM/79/77

PRIME MINISTER

Offshore Supplies Interest Relief Grant Scheme

1. You will recall that at the Ministerial Committee on Economic Strategy on 1 June (E(79)2nd Meeting, Item 6) we decided in response to the Commission's Decision on 2 May requiring us to abolish the Offshore Supplies Interest Relief Grants Scheme within two months to phase out the Scheme over a reasonable period, which was subsequently decided would be nine months expiring on 31 March 1980, with a three-months grace period thereafter for the registration of contracts after they have been placed. This was announced on 2 July and communicated to the Commission on the same day.

2. The Commission have, however, not been willing to accept that the phasing out of the Scheme over nine months is compatible with the terms of their 2 May Decision. The Attorney-General now advises (a copy of his letter of 31 August is enclosed) that the Commission's Decision probably has direct effect in UK law so that any payments we made after 2 July could be held to be illegal. Litigation could be initiated in the UK Courts by any aggrieved party. There could also be difficulties with the Public Accounts Committee. The Commission is due to meet again later this month and will almost certainly decide to take us to the European Court. They might not do so if we were willing to change the Scheme to pay grant on components from other EEC countries, but this is unacceptable on cost/benefit grounds. It is the considered legal view we have no prospect of winning our case if the matter goes to the Court.

3. The Sub-Committee on European Questions of the Defence and Overseas Policy Committee met on 4 September to consider how we should react to this situation. We decided, despite the weakness of our legal position, to make one further attempt to persuade the Commission to be accommodating. Sir Donald Maitland is being instructed to explore with Roy Jenkins whether if we offered to abandon the three-month grace period the Commission might be

/ willing

Why received decision? - Was this advice not before we made the decision? Further I do not understand the justification of the A.C. advice. Could we have challenged the decision? What would we have done to keep very fresh - measure - do have - 2 - the Commission?



willing to vary the terms of their earlier Decision or at least to interpret their earlier Decision as compatible with the nine-month phasing out period. If the advice is that this would not be acceptable to the Commission and that they would intend to take us to Court, we see no alternative but to bring the Scheme to an end forthwith. This would not be well received by the industry and would obviously conflict with our earlier wish not to let it appear that the Government's hand was being forced by the Commission. But the legal position leaves us no choice and there would be no virtue, especially when we want the Commission's help on the budget issue, in unnecessarily antagonising them by flouting what they apparently feel is their duty under the Treaty. In view of the legal uncertainty the Secretary of State for Energy has already warned the oil companies and no claims for grant have been admitted since 2 July, so it will not come as a surprise to them.

4. I am sending copies of this minute to the members of OD(E), the Secretary of State for Energy and to Sir John Hunt.

C

(CARRINGTON)

Foreign and Commonwealth Office
7 September 1979

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Murray

10 DOWNING STREET

From the Private Secretary

10 September 1979

~~B/F 14/9/79~~

OFFSHORE SUPPLIES INTEREST RELIEF GRANT SCHEME

The Prime Minister has seen the Foreign and Commonwealth Secretary's minute of 7 September on this subject.

The Prime Minister has asked why the Attorney General's advice was not available before the meeting of the Ministerial Committee on Economic Strategy on 1 June. She has also asked for more background to the first sub-paragraph of the Attorney-General's advice: does it mean that HMG could have challenged the decision at some point? Finally, the Prime Minister has asked for advice as to the course we should follow in order to bring very great pressure to bear on the Commission in order to get them to vary the terms of their earlier decision or to interpret it in a more helpful way.

I am sending copies of this letter to the Private Secretaries to the members of OD(E), Bill Burroughs (Department of Energy) and to Martin Vile (Cabinet Office).

M. O'D. B. ALEXANDER

G. G. H. Walden Esq
Foreign and Commonwealth Office.

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