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PRIME MINISTER

Copied to :-
Trade : Pt 2
Public Purchasing
Policy.

Computer Procurement Policy
(E(80) 134)

BACKGROUND

The present policy of giving preference to ICL computers ends this year. From January 1981 we will be obliged, by the GATT Code on public purchasing and the EC Public Supplies Directive, to offer for international competitive tendering all civil procurement of computers by Central Government where the contract is worth more than £90,000. The main exceptions from the EC Code are the Ministry of Defence's operational and weapons systems, and procurement by the nationalised industries and the universities.

2. In E(80) 134 the Secretary of State for Industry makes proposals for operating within this new framework in a way which will give the maximum support to British industry - that is, in line with the more general procurement policies discussed in his other paper (E(80) 136). The Lord President, who is responsible for the Central Computer and Telecommunications Agency (CCTA), has commented on these proposals in his letter of 24th November to the Secretary of State. He is particularly concerned about the danger of breaking international agreements and with the proposals for inter-departmental machinery to oversee the new policy.

3. The Secretary of State for Industry's general line is that the EC and GATT Codes are fairly widely drawn and we should be no less quick on our feet than our competitors in interpreting them in the interests of our own manufacturers. The aim will no longer be to help ICL in particular but all British manufacturers in the computer and information technology business. The emphasis should be on helping United Kingdom owned companies, although help should also be given to equipment manufactured in the United Kingdom by multi-nationals (paragraph 2(e)). Other proposals and problems are similar to those which will have been discussed under the first item on the agenda on procurement policy generally - for example, forging links with potential suppliers, and reconciling support for British manufacturers with the value for money criterion.



CONFIDENTIAL

4. The Secretary of State further proposes - in his paragraph 5(b) - the establishment of new central machinery for reviewing the forward requirements of Departments and other public sector bodies and generally overseeing the new regime. It is suggested, in paragraph 3 of Annex C, that the main change involved here would be that the Department of Industry would be associated with the discussion of requirements which already takes place between Departments and the CCTA. The Secretary of State does not make clear whether he is suggesting that the Department of Industry, rather than the CCTA, should chair this new group.

✓ — 5. In his letter of 24th November the Lord President says that he is willing to set up a consultative body chaired by the CCTA to discuss emerging technical developments and the best way of preparing United Kingdom Suppliers to meet future needs. He would ensure that the Department of Industry was brought in at a very early stage over major projects which raise important industrial issues. But he does not want unnecessary bureaucratic machinery and he does not want the Department of Industry crawling over each and every computer procurement.

6. The Lord President's second reservation is over what he calls the DOI's "cavalier attitude to the breaking of international agreements". He is particularly concerned that the Law Officers should satisfy themselves on the general criteria and that they should be involved in due course, where necessary, in consideration of particular cases. Where decisions involved a real risk of legal action over the breach of international obligations he would want them brought to Ministers for decision. In general this must be right. In particular where there is a risk of legal action, the advantages of going ahead with the particular procurement decision at issue must be weighed against the risk that there could be repercussions to our general commercial disadvantage.

HANDLING

7. After the Secretary of State for Industry has introduced his paper, you will wish to invite the Lord President to comment. The major users, and in particular the Chancellor of the Exchequer, the Secretary of State for Defence and the Secretary of State for Social Services - will also wish to speak. In view of the points raised by the Lord President the Attorney General has been invited to attend.



CONFIDENTIAL

8. In discussion you will wish to consider the general approach in paragraph 2 and the six specific recommendations in paragraph 5 of E(80) 134. The main reservations are likely to be those raised by the Lord President.

9. On the question of the machinery to oversee the new policy, the proposals in the second paragraph of the Lord President's letter seem right. There is currently no love lost between the DOI and the CCTA (as was clear in the discussions over the PAYE computer). The CCTA are, however, responsible for computer procurements, and they should chair the proposed committee. They must however ensure that DOI are brought in at an early stage in the major decisions, as the Lord President proposes.

10. Particular cases, and how they can be reconciled with our international obligations, will have to be looked at as they come up and legal advice taken as necessary. In the meantime the Committee is likely to agree that the CCTA and the Department of Industry should, as is proposed, complete the work of drawing up by the end of this year the guidelines which will be used, and that they should take legal advice as necessary.

CONCLUSIONS

11. In summing up you will wish to record conclusions:-

- (i) Endorsing the guiding principles and specific recommendations in paragraphs 2 and 5 of the Secretary of State for Industry's paper.
- (ii) Ruling on whether the implementation of the policy should be overseen by a new group and whether the CCTA should be in the chair.
- (iii) Requiring the Lord President and the Secretary of State for Industry to arrange for the CCTA and the Department of Industry, in consultation with other Departments and with the Law Officers, to complete by the end of the year the more detailed work on drawing up the framework for the new policy.

(Robert Armstrong)

26th November 1980



Civil Service Department
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The Rt Hon Sir Keith Joseph, Bt, MP
Secretary of State for Industry
Ashdown House
123 Victoria Street
LONDON SW1E 6RB

24 November 1980

Dear Keith,

COMPUTER PROCUREMENT POLICY

I very much agree with the main objectives which you have set out in E(80)134; we must use our public purchasing policy to support the British computer industry to the fullest extent compatible with our international obligations and the reasonable interests of the taxpayer. You may rest assured that you will get full co-operation from here to that end.

I have however two major reservations about your paper. First, the process of procuring computers is already cumbersome and lengthy. The CCTA is trying to reduce it; we really must not gum it up further with any more bureaucratic machinery than is absolutely essential. I am certainly ready to set up a consultative body, chaired by the CCTA, to discuss emerging technical developments and the best way of preparing UK suppliers to meet our future needs; and I will ensure that the Department of Industry is brought in at a very early stage over major projects which raise important industrial issues. But the CCTA carries out over 100 new computer procurements each year, and the decisions on the smaller of them have now been delegated to the user departments. I would not think it right to revoke these delegations or put the responsibilities of my Department into commission while each and every project is crawled over by an interdepartmental committee (as suggested in paragraph 5b of your paper), with the delays and extra staffing needs which that would produce.

Secondly, I am worried by the paper's cavalier attitude to the breaking of international agreements. It is one thing to make robust use of the exceptions under the rules; I am sure we should do that wherever the legal advice is that we stand a reasonable chance of getting away with it. It is something else altogether simply and flagrantly to break the law. We shall need legal advice

CONFIDENTIAL

about the practicability under the Treaty of Rome of the proposal in paragraph 7 of Annex C (which in other respects I support). And when it comes to the procurements in paragraph 9 which fall fairly and squarely under the rules requiring competitive tender, no official of mine is going to break our legal obligations without my express authority. I agree with the proposal in paragraph 8 that officials should draw up initial policy guidance to purchasing bodies; this should include criteria for identifying the special cases which should be referred to Ministers for decision. But these criteria should themselves be brought back to us for approval, and any decisions which involve a real risk of legal action against us are ones on which we must seek the Law Officers' advice. We may well decide to take the risk - but at least we should do so with our eyes open.

We must remember in all this that we shall not be acting in private. We have already been put on notice informally that the international computer companies will be watching keenly for our first breach of the rules. We shall be asked questions in Parliament. The PAC or the Select Committee on the Treasury and Civil Service will doubtless want to probe both our general policy and our actions over particular projects. I believe that a clear and open policy of supporting our own industry wherever we properly can will command general support. But shuffling and nefarious attempts at concealment would land us in endless trouble.

I am sending copies of this letter to the Prime Minister, our other colleagues on E Committee, the Foreign and Commonwealth Secretary, the Attorney General and (as large computer users) the Secretaries of State for Defence, Social Services, Education and Science, Scotland, Wales, Northern Ireland, the Minister of Transport, and to Sir Robert Armstrong.

Yours ever
Christie

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22 NOV 1955

