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PRIME MINISTER

MEETING WITH SIR AUSTIN BIDE - 12 OCTOBER

1. As background for your meeting with Sir Austin, you may wish to see the attached draft remit for a CPRS study of intellectual property. You will recall that John Sparrow wrote to you on 31 August to the effect that I would examine whether there was a role here for CPRS or ACARD (I favour the former, at least in the first instance, because of the complexity of Departmental interests).
2. Any study which started now would not be in time to help resolve pressing issues such as the United Kingdom's line at the Diplomatic Conference to revise the Paris Convention. However, if you are likely to agree to our study, this may influence how any actions resulting from the meeting with Sir Austin are followed up.
3. Even after our preliminary examination of the situation, it is clear that the channels of communication between industry and Government are ineffective. The substantial need of the pharmaceutical industry for protection through patents is a real one but at one extreme of the spectrum of British industry. Any study of intellectual property should try to assess where the balance of national interest rests and whether the existing system of protection can adequately deal with it.
4. I should stress that the draft remit has not yet been discussed with the Department of Trade or other Departments and you may yourself wish to see it changed as a result of the meeting with Sir Austin.
5. I am copying this minute and attachments to Lord Cockfield.

RBN.

ROBIN B NICHOLSON
Chief Scientist

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Draft Remit - Intellectual Property

As part of its work in the general area of the competitiveness of British industry and the exploitation of innovation, the CPRS is asked to examine:-

(i) Whether Government, by its own actions or by the framework that it provides, encourages an adequate awareness that intellectual property has value as a traded commodity;

(ii) the different approaches to the protection of intellectual property in our major trading competitors and elsewhere, and what features would best suit the United Kingdom;

(iii) whether British business enjoys advantages or disadvantages with respect to its competitors by virtue of the existing mechanisms, their operation, and the methods of Government policy formulation, for the protection of intellectual property at home and abroad;

(iv) the extent to which the present methods of protecting intellectual property are, on balance, a help or a hindrance

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to exploitation;

and to make recommendations.

Background Note - Intellectual Property

1. The future prosperity of the United Kingdom depends as much on the value of intellectual property (designs, software, and information generally) as it does on physical property (natural resources, buildings and machinery). The remit is intended to allow a report on the framework and climate within which intellectual property is recognised, protected and exploited. Thus the study will range wider than specific methods of protection such as the patent system. Without entering the debate about what general economic measures will best stimulate innovation, the study will consider whether our methods of dealing with intellectual property are well suited to exploitation.
2. Attitudes to intellectual property are very different from those relating to physical property. The first part of the remit, concerned with the awareness of the value of intellectual property as a traded commodity, will allow CPRS to consider attitudes within the legal system, the education system, business and Government. The extent to which the United Kingdom is organised to become aware of ideas developed abroad will also be studied.

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3. The second part of the remit, concerned with different approaches to the protection of intellectual property, will allow an appraisal of the practices and experience of other countries and hence conclusions about what may be best for the United Kingdom's interests. The likely impact of changes to the international order which registers and protects intellectual property will also be considered. These changes are being brought about by international agreement but also by unilateral domestic legislation, particularly in developing countries.

4. The extent to which British business is advantaged or disadvantaged in comparison with its trading competitors will be studied against the perspective established above. There could be two main aspects, concerned respectively with the establishment and definition of intellectual property rights and with the enforcement of those rights.

4.1 Whether the relevant public agencies and professional bodies are sufficiently responsive to changing external circumstances should be assessed, as should the adequacy of the policy-making mechanisms within Government. The Department of Trade has the lead but the stance taken by other Departments and the resources that they devote to this area should be considered, as should the strength of

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the United Kingdom's representation in international fora. Industry itself has a number of channels of representation which may or may not be adequate and coherent.

4.2 Questions about the enforcement side would concern the extent to which national laws are compatible and comprehensive and whether British policing, legal processes and traditions hamper enforcement. The ability of British businessmen to enforce their property rights abroad and whether useful channels of advice exist will also be considered.

5. Finally, given that the protection of intellectual property is mainly of value in so far as it encourages exploitation of ideas, the remit allows conclusions to be drawn on whether present methods are a help or a hindrance to exploitation. A wide range of industries, with very different markets and product lifetimes, currently attempt to operate under one system. Some attempt should be made to assess whether, on balance, more flexibility or new attitudes to protection would be beneficial.