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cc PS/Mr Scott (L&B) M
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 PS/Dr Mahwinney (L&B) M
 PS/PUS (L&B) M
 PS/Mr Bloomfield M ✓ 3/6
 Mr Fell DED M
 Mr Burns
 Mr Stephens M
 Mr Elliott M
 Mr Bell
 Mr S Hewitt M
 Mr McConnell M

MACBRIDE PRINCIPLES

In my minute of 5 March I reported that we were actively considering raising with the Irish in the Intergovernmental Conference the question of the MacBride Principles. We have now discussed this with DED, the FCO and the Secretariat. There is general agreement that the matter should be raised with the Irish.

2. The attitude of Mr Haughey's government is difficult to predict. On the one hand, Fianna Fail have indicated approval for the Principles in the past, and we have been informally reminded of this by the Irish side of the Secretariat. Against that, however, we can weigh John Hume's recent public opposition in the US to the Principles, the strong distaste for them within the US Administration, and the influence that we can hope to bring to bear through the Conference, particularly if we can persuade the Irish of our commitment to firm, early legislative action on foot of the Equality of Employment Opportunity Consultation Paper. Consequently, although there may be some initial reluctance on the Irish side to be seen to be supporting us over the Principles, there are clear means that we can use to apply pressure to them, particularly in the light of their interest in employment equality and the linkage that exists between the two subjects. The initial official level contacts through the Secretariat have indicated that the Irish would probably find some difficulty in being seen to oppose the Principles as such. This suggests that we should concentrate on seeking Irish support in pointing to the difficulties posed by embodying the Principles in legislation enforced from the US, rather than support in opposition to the contents of the Principles themselves.

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3. In his briefing for the Secretary of State's meeting with Mr Lenihan on 6 April, Mr Bell will be suggesting that the Secretary of State gives notice that at the next meeting of the Intergovernmental Conference, and in the context of discussion of employment equality, the Secretary of State will wish to discuss the MacBride Principles. If the Secretary of State agrees, we think it would be helpful to pass to the Irish through the Secretariat a short note on the matter that would encourage an informed discussion to take place and make it more difficult for the Irish at the Conference to claim that they had not had a chance properly to consider the matter. I attach a draft note. If the Secretary of State is content, and if nothing transpires at the meeting with Mr Lenihan to prompt us to change tack, Mr Elliott will arrange for the note to be passed to the Irish next week.

J. Bell

11 D CHESTERTON
2 April 1987
(Signed in Mr Chesterton's absence)

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PAPER TO BE PUT TO THE IRISH ON MACBRIDE PRINCIPLES

The MacBride Principles

The "MacBride Principles" are being promoted in the United States primarily by the Irish National Caucus (INC) and Comptroller Goldin of New York City. They have been incorporated in legislation in Massachusetts and New York, and draft legislation is before various legislatures, including those in California, Connecticut, Florida and New Jersey. The legislation varies in form but in general requires companies with plant in Northern Ireland to adopt the "MacBride Principles" or run the risk of disinvestment. It also provides for the states to monitor adherence to the Principles. There is also legislation before the US Congress, which would require US citizens carrying on business in Northern Ireland to adhere to the MacBride Principles, and would put restrictions on all imports produced in Northern Ireland by companies which did not adhere to the MacBride Principles. This would inter alia be contrary to GATT and in particular the standstill agreement made in Uruguay. There have also been attempts to compel corporations with investments in Northern Ireland to follow the Principles by shareholder resolutions, but as yet none of these has succeeded.

Their Damaging Effect on Northern Ireland

The British Government is committed to the eradication of discrimination, and the promotion of equal opportunity in employment. But it has consistently opposed the MacBride Principles on the grounds that, if implemented, they would not further those policy goals, but are more likely to result in US disinvestment and create additional unemployment damaging to the interests of both communities in Northern Ireland. Its reasons for believing this are threefold:

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First, the Principles are cast in general terms and there is great uncertainty as to how they will be interpreted. Some (nos 1, 7 and 8) could be interpreted in a way that requires employers to break Northern Ireland law in the form of the Fair Employment Act. If the Principles are passed into State law, the States are unlikely to have either the capacity or the inclination to monitor effectively or to make reasoned judgements on compliance with the Principles. They may well take their line from the INC and other groups whose underlying aim may be to cause embarrassment to the British Government by disrupting investment rather than to reduce discrimination in employment. Employers will be unable to be sure whether perfectly reasonable employment practices will be acceptable as compliance with the Principles and will fear continual probing of those practices by US-based groups. This uncertainty, and the possibility of a heavy administrative burden from responding to monitoring requests from a multiplicity of sources, may deter and will certainly not encourage prospective investors from establishing plants in Northern Ireland and could prompt investors already there to consider moving to other locations where these problems will not exist. The fundamental danger of the MacBride Principles, therefore, is that they will breed an uncertainty about compliance and enforcement that will result in reduced US investment in Northern Ireland and reduced job opportunities for Catholics and Protestants alike. Diminishing job opportunities make it all the more difficult to achieve the equality of employment opportunity that MNC seeks. There is growing evidence of uneasiness among existing US companies located in Northern Ireland about the MacBride campaign.

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Second, two of the Principles put unduly onerous requirements on employers. No 2 (security at work and travel to and from work) is impracticable; no company can guarantee security to and from work in any country, let alone in the circumstances of Northern Ireland. And while we agree with the spirit of No 3 (banning political or religious symbols) the proposal does not address the practicalities of the problem.

Third, the MacBride Principles are unnecessary. There is already the Fair Employment Act, which has made discrimination in employment illegal. Under this Act the Fair Employment Agency (FEA) has made significant advances. But more has to be done. To that end the British Government is intent on taking further action as reflected in the Consultative Paper "Equality of Opportunity in Employment in Northern Ireland" which was published last September and which the Irish Government has broadly welcomed. That represents in our view a more effective avenue for progress than the MacBride Principles. Northern Ireland's problems must be tackled on the ground by the responsible authorities, in particular mainly HMG and the FEA, rather than from the USA.

SDLP and Responsible Irish American Opposition

As the Irish Government knows, Mr John Hume has recently taken issue with the MacBride campaign which he judges detrimental to the objective of equality of opportunity in Northern Ireland. The US administration and senior members of the Friends of Ireland share these views.

The Need for Concerted Action

The British Government would welcome the full co-operation of the Irish Government in combatting moves towards legislation embodying the Principles in the US, both in Congress and in State legislatures where many Irish-Americans look to the Irish Government for a responsible lead. We hope in consequence to discuss tactics both between posts in the US and through the Secretariat. We would also welcome an explicit public statement by the Irish Government in the United States that legislation embodying the MacBride Principles is not the way to achieve equality of opportunity, since uncertainty as to how they are to be interpreted could deter investment and reduce job opportunities in both communities in Northern Ireland. In making this request, the British Government would not expect the Irish Government to be constrained in supporting further moves towards employment equality or in putting forward views and proposals through the Intergovernmental Conference on improvements in the safeguards against discrimination in employment and, in particular, on the proposals contained in the Consultative Paper "Equality of Equal Opportunity in Employment in Northern Ireland" published last September. But we regard the MacBride Principles as a serious and immediate threat to both communities which must be effectively countered.