

## FAIR EMPLOYMENT: (CURRENT) - POINTS TO MAKE

1. **Government Policy** - Government committed to equality of opportunity and fair employment.
2. **Current Arrangements** - Religious/political discrimination in employment is illegal (Fair Employment (NI) Act 1976). Independent statutory body (FEA) charged with investigation of complaints/employment practices and promotion of equality opportunity. Findings are enforceable through the Courts.
  - Government Contracts awarded to NI firms only if on FEA Register of Equal Opportunity Employers (over 9,250 employers on Register).
3. **Resources** - Agency budget doubled since 1986 (from £383,000 to £760,000 for 88/89).
  - Staff complement now 32 compared with 16 in 1986 (again up 100%).
4. **Progress** - Evidence of progress from FEA investigations eg. NI Civil Service, NI Housing Executive, Fire Authority.
  - Evidence of improvement in managerial and supervision categories. In 1971 would have needed Catholic managers in large establishments to have increased by 300% to equal Protestants rate: by 1981 deficit was 80%.
  - Occupational profile of Catholics aged under 35 more like their Protestant counterparts.
  - Catholics have increased in areas such as personnel and industrial relations managers, economists and statisticians, professionals in science, engineering and technology.
  - Five out of 9 Chief Executives of public boards dealing with health, hospitals, social welfare, education, youth services and public libraries are Catholics.



- But Catholic unemployment rate still twice that of Protestants. Continuing problem of inequality of opportunity: discrimination (less overt: more indirect). But historical social and geographical overlay. HMG commitment to remedial action.

5. Future of  
Fair  
Employment  
Agency

- New FE legislation will extend and develop the FEA's work -not change direction. No wish to lose commitment/expertise of staff in new arrangements. (See separate briefing on new arrangements.)



## CURRENT FAIR EMPLOYMENT ARRANGEMENTS

### Background Note

1. Existing fair employment arrangements date from the 1976 Fair Employment (NI) Act. The FEA (with members drawn from all sections of the community) investigates individual complaints and employment practices generally and seeks to promote equality of opportunity in employment. It can enforce its findings through the Courts.
2. Agency investigations span the public and private sectors though the greater impact has been in the public sector (eg NICS, Housing Executive, Health and Social Service Boards etc). Investigations of employment practice have been carried out in 70 organisations and are underway in a further 36. Of 694 individual complaints received, investigations have been completed in 414. 52 findings of discrimination and 362 of no discrimination were made while 170 complaints were withdrawn. Some 9,300 public and private sector bodies have signed the Agency's Declaration of Principle.

### 3. FAIR EMPLOYMENT AGENCY : APPOINTMENTS

The Agency has 12 members, including the Chairman. Of the other 11 members 3 are nominated by NIC/ICTU, 3 by CBI/NICCI and 5 are nominated independently by the Department. The usual term of office is 3 years. However, given the proposed changes to the FEA, Ministers agreed in mid-1987 that the Chairman's appointment should be limited to 2 years and that all other appointments should be limited in the same way. The 2-year appointment was consistent with our public statements regarding the timetable for the proposed legislation to effect changes to the Agency. As a result all terms of office will end on 31 August 1989.

### 4. RESOURCES

Agency resources have been boosted significantly in recent years. The 1988/89 provision of £760,000 is double that in 1986/87 (£383,000).



## MacBRIDE CAMPAIGN - POINTS TO MAKE

### 1. GOVERNMENT POLICY

The Government recognises that there is a problem and is totally committed to equality of opportunity. Religious discrimination is illegal in Northern Ireland and HMG's proposals are more radical than the MacBride Principles. [See separate brief on new fair employment legislative proposals.]

### 2. US INTEREST

Can understand US concerns about fair employment and why MacBride Principles may seem attractive to people of good faith in USA. HMG shares objective of fair employment.

### 3. CAMPAIGN IS DETRIMENTAL TO INVESTMENT

The campaign of shareholder resolutions, State legislation (requiring monitoring and reporting to multiple interests), threatened disinvestment and product boycotts, will cause corporate HQs to query if investment in NI (possibly only a small part of their worldwide investment) is worth the trouble at home. Potential investors must be expected to look to other locations where they can expect fewer "political" complications.

### 3. CAMPAIGN IS NEGATIVE

There is no attempt by the MacBride lobby in the US to attract new industry to areas of high unemployment in NI. Unemployment is currently (January 1988) running at 17.9% and the considerable efforts of the MacBride lobby could be put to much more constructive use in positively encouraging new investment in the Province.

### 4. WIDE RANGING OPPOSITION TO CAMPAIGN

Relevant opposition to MacBride campaign:

- (i) US Government: where requested by a State, the State Department has written to urge them not to enact MacBride Bills.



- (ii) SDLP/John Hume: critical of effect on the ground in NI in terms of discouraging investment and jobs.
- (iii) Trade Unions: Irish Congress of Trade Unions rejected a pro-MacBride resolution and prefers its own proposals and the strengthening of NI law.
- (iv) Fair Employment Agency: critical of impact on US employers and the job creation essential to progress.

5. CAMPAIGN IS NOT JUST ABOUT FAIR EMPLOYMENT

The Government understands US concerns about fair employment and why the MacBride Principles may seem attractive to people of good faith in the USA and indeed many supporters of the MacBride campaign are well intentioned with genuine interest in fair employment - HMG shares their objective of fair employment. However some of the key players are hostile to Northern Ireland and NORaid (PIRA's registered "agent" in US) is closely associated with the campaign. In NI only Sinn Fein supports the campaign - all other NI political parties are opposed.

FOR DEFENSIVE USE

6. ROI VIEW

Taoiseach's view is that Principles are acceptable. But within framework of Anglo-Irish Agreement the fair employment proposals being addressed are those of the British Government which are more radical and comprehensive than the MacBride Principles.

7. CONFLICT WITH NI LAW

FEA (and State Department) view is that adherence to some of the Principles (which appear to envisage reverse discrimination) could be a contravention of domestic law. Companies have similar advice. Would obviously put the US companies in very difficult position.



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MacBRIDE CAMPAIGN

1. BACKGROUND

The MacBride Principles (Annex A) were first drafted in late 1984/early 1985 by the Irish National Caucus. New York City Comptroller Goldin's office was also involved in the drafting at a later stage. They were modelled on the Sullivan Principles and were named after Sean MacBride, a former Chief of Staff of the IRA, former Irish Minister and diplomat and winner of both the Nobel and Lenin Peace Prizes. The campaign in the United States to have US companies with plants in Northern Ireland subscribe to the MacBride Principles dates from that period.

The campaign has taken a number of forms. These have included Resolutions at company shareholders' meetings, letters to companies and threatened boycotts, all pressing the companies to adopt the MacBride Principles. A particularly insidious form has been the attempt to introduce bills into State legislatures which would require that State funds, such as retirement funds for public employees such as police, firefighters, teachers etc, should not be invested in US companies operating in Northern Ireland unless those companies subscribe to the MacBride Principles. The State authorities are required to monitor the activities of such companies and to withdraw investment from companies not subscribing to MacBride.

2. HMG STRATEGY

From the perspective of the American State legislator, the MacBride Principles are fairly innocuous and early efforts to counter the campaign by arguing the detail of the Principles met with little or no success. Americans are well used to the concept of affirmative action in their own business dealings and there are in the United States many schemes which actively support minority owned businesses through special financial arrangements or requirements for Government contractors to place a certain percentage of sub-contract work with minority owned firms. The counter efforts therefore have more recently been directed towards the nature of the campaign itself, pointing to the negative motivation underlying the campaign and the "hassle" effect of legislation which would require companies to be answerable to a whole variety of State Agencies and monitoring arrangements, and trying to stress the potential damage that such legislation could have on existing, and future, US investment in Northern Ireland.

In trying to persuade State legislators that MacBride is unhelpful we are faced, however, with the realities of American grass roots politics. In many of the States where MacBride is an issue, there is a significant Irish American community who tend to have an idealistic view of Ireland and issues relating to Northern Ireland. Against this backdrop, a vote for MacBride cannot harm a legislator's standing in his constituency, but a vote against carries with it the threat of arousing the ire of the Irish-American community whose votes he may need at the next election. We therefore have to persuade legislators that there are wider issues involved and that HMG is actively tackling the issues of discrimination and equality of opportunity in a more direct and meaningful way.

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In presenting HMG's case in the United States the Secretary of State used as his jumping off point the background to the NI Civil Rights movement, which had been motivated by concern about discrimination in four areas of life in Northern Ireland - housing, voting rights, public sector employment and private sector employment. He referred to the Government's successful track record in tackling the first three and described the existing arrangements for dealing with discrimination in the fourth area.

This led on to an outline of HMG's initiative to improve on present arrangements, in particular the Consultative Document of September 1986 and the Guide to Effective Practice in September 1987, explaining that the FEA would be taking the Guide into account immediately in its assessments. He referred to Government's future plans to follow-up the Guide with legislation which would impose more stringent requirements and permit tougher sanctions on employers in respect of their employment practices.

Finally, he drew out the distinction between the laudable aim of achieving fair employment - which was HMG's objective and declared purpose of the Principles - and the potentially damaging effect of the campaign on employment opportunities. He stressed the line, already taken by John Hume, that those who genuinely wished to contribute to providing equal opportunity in Northern Ireland should encourage investment in areas of high unemployment. The latest policy statement on MacBride is attached at Annex B.

In general, the problems of inequality of opportunity are not connected with US companies which, on the whole, have a good record. In the opinion of Bob Cooper, Chairman of the FEA, the extent to which existing American companies can bring about further improvements in the position of Catholics in Northern Ireland is minimal. The need is clearly for new investment to create new jobs for both sections of the community, a fact which is ignored by the MacBride proponents.

3. Key players in the MacBride lobby in the US

The main proponents of MacBride are:

- (a) Fair Employment Trust, an NI based organisation whose executive secretary, Oliver Kearney, is a regular witness at State hearings on MacBride legislation. The Trust is essentially a Nationalist, press-orientated pressure group that has strong links with Comptroller Goldin (and presumably other MacBride proponents in the US). Mr Kearney was dismissed from his post as Secretary of the retail Licensed Trade Federation following his appearance in California at a State hearing. Apparently the Federation considered Mr Kearney to be in breach of an agreement not to act as a spokesman for any other organisation. His dismissal has generated strong reaction among the MacBride lobby who see HMG's hand in it. In fact the matter is simply between Mr Kearney and his former employer.
- (b) Irish National Caucus (INC) headed by Father Sean McManus, a Roman Catholic priest originally from NI.
- (c) Irish Northern Aid Committee (NORAI) which is the registered agent of the Provisional IRA in the US.

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- (d) Ancient Order of Hibernians.
- (e) Harrison Goldin in his capacity as Comptroller of New York City backed by his Director of Social Responsibility and former aide Patrick Doherty.
- (f) Sister Regina Murphy of the Interfaith Centre for Corporate Responsibility (ICCR).
- (g) Irish American Unity Conference.
- (h) American Ireland Political Education Committee (patron the late Sean MacBride).
- (i) Ken Livingstone MP.

4. Current position on MacBride legislation in US

- (a) We have seen our first victories in State legislatures with the withdrawal of the MacBride Bill in California in January 1988, although a resolution has recently been tabled there; the significant defeat of the MacBride Bill in New Hampshire in February where the vote on the floor of the House was 273 to 55, and the defeat through a Governor's veto of a Bill in Maine.
- (b) MacBride legislation has been passed in five States - Connecticut, Massachusetts, Rhode Island, New York and New Jersey. Those enactments seek to enforce the MacBride Principles by requiring various State agencies who have funds invested in US companies doing business in NI to monitor those companies for compliance with the Principles and for State funds to be withdrawn from such investments if they are found not to be complying with the Principles or not to be signatories to the Principles. The second round of monitoring (by the State of New York) is under way with the issuing of a 17 page questionnaire to relevant companies.
- (c) MacBride Bills are currently before the legislatures of eight States - Florida, Illinois, Maryland, Michigan, Minnesota, Ohio, Pennsylvania and Vermont. To date hearings have been held in Illinois (unlikely to make a recommendation before April), Maryland (where we are cautiously optimistic), Michigan (a visit by State Senators is expected before the next hearing), Minnesota (outcome not yet known), Ohio (unlikely to pass all its stages this year), Pennsylvania (Bills stalled in Committee) and Vermont (hopeful that the vote will be against MacBride). Efforts are being made to push Bills in Congress (the D'Amato/Fish Bills, currently stalled) and a Bill has been introduced in the District of Columbia.
- (d) We also expect MacBride activity in the coming months in Washington, Wisconsin and Georgia.
- (e) Some cities - Cleveland, Detroit, New York, Philadelphia, Rochester, St Paul and Wilmington - have similar legislation or resolutions.

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5. MacBride and the Presidential Elections

The US Department of State has advised that the MacBride campaign is gathering considerable momentum and could provide a platform for anti-British propaganda during the 1988 election campaign. Support for the Principles is being canvassed with presidential candidates. Governor Michael Dukakis (D), has endorsed the Principles and the Rev Jesse Jackson (D) has said that as President he would sign them into law. Vice President Bush has stated that job discrimination should cease but did not think that the Principles alone would solve the problem.

8. US companies in Northern Ireland

Many of the 24 US companies (employing over 10,000 people) in NI have been the target of shareholder resolutions requiring the companies to adopt the MacBride Principles. The Ford Motor Company has been threatened with a product boycott by both the Irish National Caucus and the Ancient Order of Hibernians and both GM and American Brands (Gallahers) have also received particular attention. Companies have been resisting shareholder resolutions but are obviously concerned about the pressure. The Ford decision to survey its NI workforce (and liaise with Comptroller Goldin and the AOH on the outcome) reflects the level of concern.

Seventeen companies have had resolutions filed for the 1988 AGMs: AVX, American Brands, American Home Products, Baker Hughes, Ball, Boeing, Data Design, Du Pont, Ford, Fruehauf, General Motors, Interface Flooring, Lockheed, Oneida, TRW, United Technologies and VF. The American Home Products resolution asks the company to appoint a review committee to conduct an in-depth review of its NI operation. Ford is asked to arrange for independent monitoring of its new code of practice. Three other resolutions ask for reports on company operations. Boeing and Lockheed are described as NI sub-contractors although it is believed that Lockheed has no sub-contracts with Shorts at present, but has an association with GEC who have a turbine plant at Larne.

The resolutions have been moved by a variety of organisations including:

New York City Employees Retirement Fund  
New York State Common Retirement Fund  
New York State Teachers' Retirement System  
New York City Teachers' Retirement System  
New York City's Police Retirement Fund  
Interfaith Centre for Corporate Responsibility  
The State of Connecticut.

To date, no company has adopted the MacBride Principles.

7. Visits of interested parties to Northern Ireland

A number of legislators and other interested parties have visited, or plan to visit, Northern Ireland during 1988. In January Senator Kerry, Maine, (escorted by a member of the American Ireland Political Education Committee) and US Senator Frank Lautenberg, New Jersey (sponsored by the Irish American Unity Conference) visited the Province. Also in January

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Congressmen Donnelly, Dwyer, Williams and Coyne and US Ambassador to Ireland, Margaret Heckler visited under the auspices of the Congressional Friends of Ireland.

A number of Michigan State Senators are expected to visit in June.

8. ROI and MacBride

In Mr Haughey's view, the Principles are acceptable and he has also referred to attempts within Anglo-Irish relations to secure progress on fair employment. The Irish Government has welcomed the British Government's proposals and has indicated (Mr Lenihan) that they could "supersede" the MacBride Principles. [He also used the word "subsume" which is not accurate: the new legislation will underline the irrelevance of the principles rather than incorporating them. HMG's proposals are more comprehensive and far reaching.]

9. Conflict with NI law

The legality of the Principles is a matter of dispute, with the MacBride lobby claiming that they can be given effect within NI law and the FEA, the State Department and US companies considering that a number of the Principles are likely to confuse and bring US companies into conflict with NI law. [DO NOT DIVULGE: our own legal advice is that it depends on the action taken]. Government practice has been to refer to the views of the FEA on this aspect: the FEA is the relevant statutory authority. Ultimately only NI courts could decide the issue.

10. Ford Motor Company

The Company published a report at the end of 1987 on their employment practices at their Belfast plant. This showed an overall Catholic representation of 38.4%, broadly in line with the catchment area. However there was some imbalance in favour of Protestants at senior management and clerical level, the latter being the basis for rejection of the Ford report by the INC. The Company has developed its own fair employment code which, although modelled on MacBride, avoids the associated legal and operational problems of MacBride.

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## WHAT'S WRONG WITH THE MACBRIDE PRINCIPLES?

1. The British Government is committed to equality of opportunity in employment and therefore shares the underlying fair employment aim of the MacBride Principles. But the British Government believes that the campaign to force US companies to adopt the MacBride Principles is based on a grave misunderstanding of the campaign's effects in Northern Ireland.
2. Unemployment in Northern Ireland is now about 18%. Catholics are twice as likely to be unemployed as Protestants. The British Government is already committed to introducing tougher legislation but tougher employment laws alone will not provide an immediate or complete remedy to past or present disadvantage. New jobs are desperately needed to complement the Government's tough but fair approach to equality of opportunity in employment. Threats of disinvestment, stockholder resolutions, product boycotts and troublesome legislation with attendant political hassle are part and parcel of the MacBride campaign. They undermine Northern Ireland's position as a location for American investment and damage the Northern Ireland economy. Northern Ireland needs jobs more than multinational corporations need Northern Ireland. The result of the MacBride campaign is to obstruct the achievement of fair employment in practice.
3. This is not only the British Government's view. John Hume (Leader of the Social Democratic and Labour Party in Northern Ireland, which speaks for the majority of the Catholic community and an elected Member of the UK and European Parliaments) said on 24 September 1987:

"My advice to our friends in the United States was and is, if you really want to help us, then encourage investment in areas of high unemployment in Northern Ireland. That is a positive thing to do. The effect of the MacBride Principles campaign, whether people like to admit it or not, is to stop investment coming in and that is bad for us".

4. In fact the MacBride Principles have been overtaken by the Government's own proposals. These are a great deal more radical and comprehensive than the MacBride Principles. They will provide a better basis for securing fair employment without destroying jobs. Specific advice to employers in the Government's Guide to Effective Practice will be reinforced in new legislation. This approach is better than pious generalities which disregard reality or which confuse employers. (For example, the second MacBride Principle -- security for minority employees not only at work but travelling to or from work -- is not within the power of any employer to ensure. And the Fair Employment Agency,

/which ...



which is the regulatory body in Northern Ireland, has indicated that Principles 1, 7 and 8, which smack of preferential individual treatment depending on religious belief, are at best divisive and at worst illegal). Employment on merit without regard to religion is the law in Northern Ireland.

5. The only political party in Northern Ireland to support the campaign for the MacBride Principles is Sinn Fein, the political wing of the terrorist IRA. The IRA's registered agents in the United States -- NORAILD\*-- are at the forefront of the MacBride campaign in North America. The IRA have clearly shown that they have no interest in improving economic conditions in Northern Ireland. They, and their agents, demean the sincerely held views of those supporters of the MacBride Principles who genuinely seek fair employment.
6. Northern Ireland is not South Africa. In Northern Ireland discrimination is illegal: in South Africa, discrimination is official Government policy. Any analogy between the MacBride and the Sullivan Principles is both false and offensive.
7. The British Government welcomes constructive help in tackling the problem of inequality of opportunity in the workplace. More progress is needed, and the Government is committed to achieving this. If the energy put into advancing the MacBride Principles was put into promoting new US investment in Northern Ireland, particularly in areas of high unemployment, the objective of radically reducing the unemployment imbalance between the communities in Northern Ireland would be more speedily attained.
8. The vast majority of people in Northern Ireland (Catholics and Protestants alike) want to live and work in peace together. It is they who are penalised by legislation or other pressure on companies in support of the MacBride Principles. It is their interests which should be paramount.

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\*Irish Northern Aid Committee.

January 1988



## The MacBride Principles for Northern Ireland

The full text of the MacBride Principles is reproduced below. Also below, in italics, is the amplification to the principles issued by Dr MacBride in 1986.

In light of decreasing employment opportunities in Northern Ireland and on a global scale, and in order to guarantee equal access to regional employment the undersigned propose the following equal opportunity/affirmative action principles:

1. Increasing the representation of individuals from under-represented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs.

*A workforce that is severely unbalanced may indicate prima facie that full equality of opportunity is not being afforded all segments of the community in Northern Ireland. Each signatory to the MacBride Principles must make every reasonable lawful effort to increase the representation of under-represented religious groups at all levels of its operations in Northern Ireland.*

2. Adequate security for the protection of minority employees both at the workplace and while travelling to and from work.

*While total security can be guaranteed nowhere today in Northern Ireland, each signatory to the MacBride Principles must make reasonable good faith efforts to protect workers against intimidation and physical abuse at the workplace. Signatories must also make reasonable good faith efforts to ensure that applicants are not deterred from seeking employment because of fear for their personal safety at the workplace or while travelling to and from work.*

3. The banning of provocative religious or political emblems from the workplace.

*Each signatory to the MacBride Principles must make reasonable good faith efforts to prevent the display of provocative sectarian emblems at their plants in Northern Ireland.*

4. All job openings should be publicly advertised and special recruitment efforts should be made to attract applicants from under-represented religious groups.

*Signatories to the MacBride Principles must exert special efforts to attract employment applications from the sectarian community that is substantially under-represented in the workforce. This should not be construed to imply a diminution of opportunity for other applicants.*

5. Layoff, recall, and termination procedures should not in practice, favour particular religious groupings.

*Each signatory of the MacBride Principles must make reasonable good faith efforts to*

*ensure that layoff, recall and termination procedures do not penalize a particular religious group disproportionately. Layoff and termination practices that involve seniority solely can result in discrimination against a particular religious group if the bulk of employees with greatest seniority are disproportionately from another religious group.*

6. The abolition of job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

*Signatories to the MacBride Principles must make reasonable good faith efforts to abolish all differential employment criteria whose effect is discrimination on the basis of religion. For example, job reservations and apprenticeship regulations that favour relatives of current or former employees can, in practice, promote religious discrimination if the company's workforce has historically been disproportionately drawn from another religious group.*

7. The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

*This does not imply that such programs should not be open to all members of the workforce equally.*

8. The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.

*This section does not imply that such procedures should not apply to all employees equally.*

9. The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

*In addition to the above, each signatory to the MacBride Principles is required to report annually to an independent monitoring agency on its progress in the implementation of these principles.*

Sean MacBride – Dublin, Ireland

Dr John Robb – Ballymoney, Northern Ireland

Inez McCormack – Belfast, Northern Ireland

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