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BRIEF NO 9

FAIR EMPLOYMENT

1. Fair employment issues centre substantially on equality of opportunity as between Roman Catholics and Protestants. The subject is particularly topical because of continuing significant imbalance (adverse to Roman Catholics) in rates of unemployment and long-term unemployment, as confirmed by Government Statistics (published in July 1985), and pressure in the United States by the Irish National Caucus/NORAIID to influence US investment in Northern Ireland.

PRESENT ARRANGEMENTS

2. The Fair Employment (Northern Ireland) Act 1976 makes discrimination on the grounds of political opinion or religious belief unlawful and provides for the establishment of a Fair Employment Agency (FEA) to implement a range of anti-discrimination measures. Details of the Agency's powers, functions, membership etc are given in the Annex.

UNITED STATES INTEREST

3. US companies with NI plants are being pressurised to adopt what are called the MacBride Principles - a set of demands for the introduction of practices and procedures relating to employment, recruitment, promotion etc which are ostensibly designed to improve the prospects of the minority community in Northern Ireland. The Principles named after Sean MacBride, a Nobel Peace Laureat, are advanced by the Irish National Caucus and others, notably Comptroller Goldin of New York. The pressure is through shareholder resolutions and state legislation limiting state investment in US companies doing business in Northern Ireland to

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those which adopt the MacBride Principles. Legislation has recently been passed in New York State and proposals have also been tabled in at least seven other state legislatures. The campaign also gives adverse publicity to the employment position at Shorts which is heavily dependent on both the US Air Force and Boeing for orders. The UK Government has resisted the MacBride Principles because, by placing unreasonable burdens on US firms, they discourage investment in Northern Ireland; they undermine the role of the FEA; and depending on the manner of implementation, could bring companies into conflict with NI law (though legal opinion is divided in this respect).

PROPOSED CHANGES

4. Government proposals for a more consistent, comprehensive and effective approach to fair employment in Northern Ireland are dealt with in a separate brief.

ANGLO-IRISH DIMENSION

5. The Fair Employment Agency is specifically named in the Anglo-Irish Agreement as one of the bodies in respect of which the Irish Government may put forward views and proposals on role and composition.

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ANNEX

FAIR EMPLOYMENT LEGISLATION

1. The Fair Employment (Northern Ireland) Act 1976 implemented the recommendations of the Report (published in 1973) of the Van Straubenzee Working Party on Religious Discrimination in Employment. There is no equivalent legislation in Great Britain (although there is an analogy with the Race Relations Act which only applies in Great Britain). The objective of the Act is to promote equality of opportunity as between persons of different religious beliefs and to work for the elimination of discrimination which is unlawful by virtue of this Act. The Act established a Fair Employment Agency which has powers to investigate employment and occupational practices in order to determine whether they afford equality of opportunity, and, where they do not, to have the offending practices remedied, where possible by agreement, but if necessary through the issue of legally enforceable directions. There is no provision in the Act for the Agency to be subject to direction by the Government or any other body in the discharge of its functions.

FUNCTIONS AND POWERS

2. The Agency's functions and powers are detailed in the Act. The most important of these are:-

(i) PROMOTION OF EQUALITY OF OPPORTUNITY

The Agency is charged with promoting equality of opportunity in employment and may undertake this by the provision of advice, training courses, research etc.

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(ii) INVESTIGATIONS OF EMPLOYMENT PRACTICES AND PATTERNS

The Agency is empowered to investigate the employment practices of organisations in both the public and private sectors and to seek remedies (legally enforceable if necessary) where there is discrimination or lack of equality of opportunity.

(iii) INVESTIGATIONS OF INDIVIDUAL COMPLAINTS

Any person who considers that he has suffered from unlawful discrimination may make a complaint to the Fair Employment Agency which it is obliged to investigate. Agency rulings are enforceable through the Courts.

(iv) DECLARATION OF PRINCIPLE AND INTENT AND THE REGISTER OF EQUAL OPPORTUNITY EMPLOYERS.

The Agency has a duty to encourage all employers and vocational organisations to subscribe to a "Declaration of Principle and Intent" committing signatories to the principle of equality of opportunity. The signing of the Declaration is voluntary, and whilst most major firms and public bodies are signatories there are some notable exceptions. In the private sector Michelin Tyre PLC of Ballymena has not signed. In the public sector, only 9 of the 26 District Councils have signed and of the 5 Education and Library Boards, one, namely the Northern Eastern Board, has not signed.

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MEMBERSHIP

3. The Agency consists of a Chairman (Mr Bob Cooper) and up to eleven other members appointed by the Head of the Department of Economic Development. These are drawn from all sections of the community and include employer and trade union representatives.

FINANCE

4. The FEA's 1986/87 budget is £364,000 an increase of 26% over its 1985/86 provision of £288,000. The additional finance followed representations by the FEA and was seen as a measure of Government's commitment to the promotion of fair employment without regard to religion.

NATIONAL SECURITY, PUBLIC SAFETY, PUBLIC ORDER

5. Under Section 42 of the Fair Employment Act the Secretary of State is empowered to issue a Certificate removing the Act's protection from a named individual, where this is necessary for the purpose of safeguarding national security or protecting public safety or public order. There are strict criteria governing the issue of a Certificate. Use of this provision has given rise to occasional controversy.

PUBLIC PERCEPTION OF THE FEA

6. The Agency and its Chairman, Mr Bob Cooper, maintain a fairly high profile and are subject to attacks from all political parties. Protestant politicians consider that the Agency is stirring up trouble, whereas Catholic politicians feel that it has insufficient teeth. The CBI has in the past expressed the view that the Agency does not do enough to counter or correct the adverse publicity which may follow an FEA investigation into

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its member companies. The governing body of the Trade Union movement in Northern Ireland (NIC/ICTU) strongly supports equality of opportunity and in July 1986 passed a conference resolution calling for more resources for the Fair Employment Agency and the Equal Opportunities Commission and called on Government to make the Declaration of Principle and Intent a more effective instrument for promoting equality of opportunity.

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