



DEPARTMENT OF ECONOMIC DEVELOPMENT
NETHERLEIGH
MASSEY AVENUE
BELFAST BT4 2JP
Telephone 63244

DAVID FELL
Permanent Secretary

PSDED 294/87

27 March 1987

Sir Philip Foreman CBE DL
Chairman and Managing Director
Short Brothers Plc
PO Box 241
Airport Road
BELFAST

① cc in memo with *DF*
② file in the minutes *DF/14*
Miss Strachan
to see + copy for *Shorts file / MacBride*
file DF 7/14

c.c. Mr Drummond
Mr Mayne
Mr Wilson *2/14*
Mr Wolstencroft

Dear Phil,

I know you are very well aware - not least from your contacts with Boeing - of the campaign in the United States to pressurise companies there with investments in Northern Ireland to adopt the MacBride Principles in respect of employment in their operations here; and this is extending to companies who do business with Northern Ireland, the aim being to ensure that their suppliers here also sign up for MacBride. As you know, the Government, right from the outset, has opposed this campaign because we believe that it is unnecessary, in view of the law here, and counter-productive, in that by imposing another requirement on investors or potential investors it will act as a disincentive to investment and hence job-creation which is our greatest need in trying to correct both the unemployment problem and the Protestant/Catholic imbalance in the workforce. In case you have not seen it I am enclosing a copy of the Government statement (recently updated) setting out its position.

We are of course actively engaged in countering this campaign. We are not claiming that the employment balance is totally satisfactory nor that the law here does not need some strengthening, but rather that Government is fully committed to equality of opportunity in employment and is taking firm steps to improve the position significantly. In this regard we are therefore promoting the Consultative Paper issued last September (on which you have offered some very constructive comments) and indicating that subject to the result of consultations, the types of action proposed in that document (particularly the more stringent Declaration of Practice, including monitoring, and linked tender acceptance) reflect Government intentions.

Despite this, the MacBride campaign continues to run; and laws passed in some State legislatures as well as shareholders' resolutions being tabled - and even in at least one case a product boycott threat - are all giving comfort and a degree of credibility to the MacBride sponsors, who seem incredibly well organised. On

the other side of the coin, we have had a number of influential people - the latest being John Hume, in an interview in the Boston Globe - publicly expressing doubts on MacBride and opposition to action which puts jobs at risk.

We are therefore not without friends in the matter and indeed although they have not taken public action there are a number of people of influence on the Washington scene who are sympathetic to our position and would be willing to help. This is particularly important just now and over the next several months because there have been two proposals for legislation tabled in the Senate, by Senator D'Amato, and in the House of Representatives by Congressman Fish. If this comes to the stage of serious consideration we will need to mount the strongest possible lobby to achieve its rejection and the people to whom I have just referred will be crucial to our success.

Eric Mayne has recently returned from the United States where a major element of his programme was to get an overview of the position on MacBride. He has confirmed and emphasised an attitude and view of which we have been conscious (in perhaps less definitive terms) for some time. Our allies in Washington (and elsewhere in the States) want to be helpful but they feel that they are very badly hampered by the lack of real evidence - that is, evidence which will convince their political contacts - that the Government is committed unequivocally to prompt and effective action on fair employment. Their message is quite clear - words are not enough, there must be facts, figures and action. They gave Eric Mayne a very tough time on two subjects - one was the time being taken to get the Consultative Paper proposals into law and the other - which explains the purpose of my letter - was Shorts.

On the Consultative Paper proposals Parliamentary procedures will simply not allow us to get measures on to the Statute Book before mid to late 1988; and I recognise too that to the average American that seems unduly long if we think - as they do - that it is an urgent problem. We have made some possible proposals in the Consultative Paper for interim measures which could be adopted administratively and I will be looking at these very shortly to see if they can be quickly and effectively implemented and given full publicity. This will help us to convince our friends - and they their contacts - that we mean business, as we certainly do.

So far as Shorts is concerned, the case put to Eric Mayne in the US was stated in the following terms: Shorts is a Government owned company and the flagship of a modern industry - it is therefore a touchstone of Government sincerity and commitment on fair employment. They repeatedly hear of actions by the company to progress fair employment but they have no figures by which to judge other than applications and recruitments in the 1983/84 period. They find it - to use their word - "incredible" that in March 1987 they are not able to get properly authenticated recruitment figures beyond December 1984 and that we cannot provide actual figures and percentages for the total workforce which would at least serve as a benchmark for the future. From my own experience I have heard at least one of our "opponents" in the USA claim that pre-1983, 5% of the Shorts workforce was Catholic and four years later (with an increased workforce) it is still that percentage. These claims of course are not based on facts but they can only be effectively countered with hard facts. Their case is simply that if we

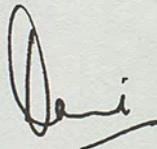
mean what we say we should produce as quickly as possible a breakdown of the current workforce as well as figures which indicate the pattern of recruitment between 1983 and the end of 1986. This would then give them something to counter misrepresentation and feelings that Government and publicly owned industry is adopting a cosmetic approach.

I cannot over-emphasise that I believe we are approaching a crucial phase in countering MacBride and that I think Shorts can play a very significant part in that. While I know this is a difficult and sensitive issue, to which you have already devoted substantial manpower resources, I would nevertheless be grateful if you would consider whether it would be possible for you to provide an audit of the religious breakdown of the existing workforce. How it is done in a way which will convince the Americans is a matter which I would be happy to discuss with you but one way which occurs to me is to dedicate a team of say 3 people to the task - one from the company, one from DED and one from FEA. It would probably take a few weeks but I would certainly be willing to make a suitable member of my staff available - I cannot of course speak for Bob Cooper and have not discussed the matter with him. Alternatively you might prefer to use a group of independent 'auditors' by commissioning reputable consultants; and I would be sympathetic towards DED bearing the cost. (Again I recognise that that may not appeal to Bob Cooper). If such an audit bears out the estimate from within the company that about 10% of the workforce is now Catholic this effective doubling of the percentage over a period of a few years (taking account of the 5% claim I have referred to) would be a major point in destroying opposition credibility.

I have written at considerable length because I want to give you the full picture as I perceive it and to stress the importance of the issue and our response to it. I hope therefore you will consider my suggestion in that light; and if you would like a meeting to discuss I am available and willing.

I was also grateful to have had the opportunity to discuss the matter on the telephone with you this morning.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David', with a stylized flourish at the end.

DAVID FELL

FAIR EMPLOYMENT IN NORTHERN IRELAND AND THE MACBRIDE PRINCIPLES

1. This note summarises British Government Policy on fair employment and its views on the MacBride Principles, which are being canvassed by certain groups in the United States, including the Irish National Caucus.

GOVERNMENT POLICY

2. The British Government is totally committed to the promotion of equality of opportunity in employment in Northern Ireland and has taken positive steps to give effect to this policy. The Northern Ireland Constitution Act 1973 outlaws discrimination on the ground of religious belief or political opinion in legislation and by public authorities. In 1976 Government introduced the Fair Employment (Northern Ireland) Act 1976 which outlaws such discrimination in employment. The guiding principles of the 1976 Act are equality of opportunity, no discrimination on religious or political grounds and recruitment solely on merit.
3. Enforcement of fair employment law is in the hands of a statutory body, the Fair Employment Agency for Northern Ireland, which is independent of Government. The Agency is under a duty to promote equality of opportunity in employment and to investigate individual complaints of discrimination. There is no cost to an individual complainant. It can also investigate employment practices generally. Agency rulings are legally enforceable. Funding for the Agency has been significantly increased in recent years.
4. In addition Government publishes a fair employment Guide to Manpower Policy and Practice which is targeted at employers and trade unions. A new version of the Guide will be published in 1987 and will include advice on monitoring and the essential elements of an equality of opportunity programme.

FURTHER DEVELOPMENTS

5. As part of its ongoing commitment to achieving further progress on fair employment the British Government has recently conducted a comprehensive review of law and practice in Northern Ireland as a result of which a Consultative Paper on equality of opportunity in employment, containing a number of major proposals for change, was published in

September 1986. The proposals in the Paper include tough economic sanctions against any possible default in the private sector; the imposition of a statutory duty on the public sector; more vigorous law enforcement through systematic monitoring of employment practices allied to the introduction of a Declaration of Fair Employment Practice and the provision of a more effective organisational framework. These proposals demonstrate beyond doubt the British Government's determination to achieve equality of opportunity in the workplace.

THE ANGLO-IRISH AGREEMENT

6. The Anglo-Irish Agreement provides for the Irish Government to put forward, in the Intergovernmental Conference, views on proposals for major legislation and on major policy issues where the interests of the minority community are significantly or especially affected. In particular they may also put forward views and proposals on the role and composition of the Fair Employment Agency. The Irish Government has welcomed the British Government's Consultative Paper on equality of opportunity and has forwarded preliminary views for consideration.

THE MACBRIDE PRINCIPLES

7. In view of the progress already made in the provision of fair employment in Northern Ireland, the existing legal requirements and Government's determination to secure further progress, the British Government considers the MacBride Principles to be unnecessary and their adoption undesirable.
8. The Government is concerned moreover that attempts to compel US companies to apply the MacBride Principles will damage the climate for badly needed investment and employment in Northern Ireland. The US companies in Northern Ireland already operate under the terms of the fair employment legislation and are subject to the oversight of the independent Fair Employment Agency. Attempts to force them to adopt principles which could potentially put them in conflict with this legislation, and to account to a variety of other bodies, will do little to encourage their continued investment in the Province. Nor will it persuade other companies of the value of putting new investment into Northern Ireland. These attempts therefore threaten the employment opportunities for Catholic and Protestant alike and it is important to note that what Northern Ireland needs is

more US investment rather than counter-productive efforts to impose unnecessary employment conditions.

9. The promoters of the MacBride Principles claim that they can be given effect within Northern Ireland fair employment laws. If so, they do not add to the protection already afforded under Northern Ireland law: they are not needed. Instead, employers in Northern Ireland who are anxious to provide equality of opportunity in employment should, and do, look to the Fair Employment Agency, which is the responsible statutory body, under the Fair Employment (Northern Ireland) Act 1976, for advice and guidance regarding what is, and is not, acceptable under the law. The reality is that the Fair Employment Agency has indicated that whilst a number of the Principles are consistent with Northern Ireland law, others (in particular Principles 7 and 8 and, depending on the manner of implementation, possibly Principle 1) are objectionable as requiring preferential and discriminatory treatment, and companies operating such principles would be held to be acting unlawfully.

10. In its Tenth Annual Report (page 18) the Agency further stated:-

"If employers generally are to adopt the type of equality of opportunity programmes which the Agency has been demanding, it is crucially important that there should be total clarity about where the dividing line is between permissible and impermissible recruitment activities. It is for this reason that the Agency believes that the MacBride Principles, currently much debated in the United States of America, are likely to have a detrimental effect because, in the view of the Agency, they at worst stray over the line, and at best cause confusion and doubt about where the line is".

11. Few of those who support the MacBride Principles appear to appreciate the damage they will cause to those whom they apparently wish to help. To threaten US companies operating in Northern Ireland with withdrawal of investment is of no assistance whatsoever. The best way to end inequality in employment in Northern Ireland is to increase the prospects of jobs by further encouraging investment and by supporting

existing efforts to achieve progress in Northern Ireland itself. As the leader of the Social Democratic and Labour Party (SDLP), the main Catholic party in Northern Ireland, Mr John Hume, MP, said at his Party's Annual Conference on 22 November 1986:-

"The task of ensuring fair employment in normal economic times is difficult enough but we should have no illusions about its difficulty in circumstances of continuing job losses and rising unemployment. That is why we are so strongly opposed to any effort to promote fair employment by promoting disinvestment. Disinvestment is an attack on jobs, it is a means of ensuring that jobs do not come; it considerably weakens the struggle for fair employment. Unemployment is no answer to discrimination. Rather do we call on all people of good will, particularly those abroad who wish to help, to use instead their considerable influence to encourage investment and job creation in areas of high unemployment. Job creation is vital to the struggle for fair employment and an essential part of that struggle, but it is one side of the equation. Ensuring fairness is the other".

12. Job creation and fairness in employment are central parts of British Government policy in Northern Ireland.