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Reiger
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Mr Gowdy

Attached is additional briefing material for your discussions with Mr Viggers and the Secretary of State comprising:

- (i) Current state of play in the legislatures and at company AGMs;
- (ii) Details of programme expenditure to date; and
- (iii) Notes on the arguments for and against continuing the fight at its present level.

SJ.

S W JOHNSTON

22 September 1988

cc Mr Minnis

CURRENT STATE OF PLAY

STATE LEGISLATION

1. This time last year MacBride legislation was in force in five states:

Massachusetts	-	Monitoring
New York	-	Monitoring
Connecticut	-	Divestment
New Jersey	=	Monitoring ; Support for shareholder resolutions
Rhode Island	-	Divestment encouraged

[NB. A divestment Bill requires states to divest themselves of shareholdings in companies that do not subsidise to MacBride Principles.

A monitoring bill requires states to monitor companies' adherence to MacBride Principles.]

2. We started the year with bills before 4 states:

Michigan	Support for shareholder resolution
Ohio	Divestment
Pennsylvania	Ban on purchases of new stock; Monitoring; re-allocation
Illinois	Monitoring; compliance with amplified Principles

3. During the period from September 1987 there were bills in 7 further states:

Maine:	Monitoring; support for shareholder resolution
Minnesota:	Monitoring; support for shareholder resolution
Florida:	Monitoring; investment to reflect advances
California:	Monitoring; re-allocation
Maryland:	Monitoring
New Hampshire:	Monitoring; support for shareholder resolution; divestment
Vermont:	Monitoring; divestment

4. Current position:

Four failed to pass

California*	-	Bill withdrawn; substitute resolution withdrawn
Maryland*	-	Bill failed to pass before end of session
New Hampshire*	-	Bill weakened and then defeated 273 : 55 on floor of house
Vermont*	-	Bill failed to pass; substitute resolution failed to pass

Four passed

Illinois*	:	Bill amended to include MacBride amplification
Maine*	:	Original Bill vetoed; weaker bill passed
Minnesota*	:	Original Bill weakened to exclude mention of MacBride
Florida	:	Bill passed unmodified

*Professional lobbyist employed

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Three are still to be resolved:

Michigan	Passed final Committee stage on 20 September. Likely to be enacted shortly
Ohio	Hopefully stalled until end of session
Pennsylvania*	" " " " " "

Professional lobbyists have been engaged in 8 States and NI lobbyists have attended 17 legislative hearings since September 1987.

5. FUTURE OUTLOOK

Comptroller Goldin has stated in a recent newspaper article that MacBride legislation is pending in 11 other states so it is clear that the MacBride proponents do not intend to give up the fight.

There have been rumblings in Arizona, Georgia, Hawaii, Missouri, Nebraska, Texas and Wisconsin plus the possibility of further attempts in those states that suffered defeats this year: California, Vermont, New Hampshire and Maryland.

FEDERAL LEGISLATION

6. Senator D'Amato and Congressman Fish have introduced Bills in the Senate and House of Representatives which have been referred, respectively, to the Finance and Foreign Affairs Committees. No committee action is planned at present in either the Senate or House.
7. On 20 April Congressman Brian Donnelly introduced a Bill providing tax incentives to those US companies which located in and recruited from areas of high unemployment in Northern Ireland. At least 40% of the workforce would have to be from the minority. In introducing it Donnelly argued that the fair employment standards of the Bill were in effect the same as those recently proposed by HMG, but he would need evidence that HMG would enforce them vigorously. Sanctions amounting in effect to double taxation would be applied to those companies who failed to meet the Bill's Fair Employment criteria. The Bill is now almost certainly dead.
8. On 3 May the House of Representatives approved Congressman Joe Kennedy's amendment to the Defence Authorisation Bill preventing the Department of Defense giving contracts to foreign firms which discriminate in employment. In discussion in House/Senate Committee the amendment was narrowed down to refer specifically to the contract for Shorts to supply Sherpa aircraft to the National Guard. It requires the Army Secretary to obtain a commitment from Shorts that the Company will support equal employment policies. President Reagan's decision to veto the entire Bill was announced on 3 August. If the veto is sustained Kennedy will have the option of transferring to wording on Shorts to another Bill.

*Professional lobbyist employed

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COMPANY DIMENSION

9. Seventeen companies have faced MacBride-related shareholders resolutions in 1988 and there was no significant shift in support (see Annex). Some were slightly up, some were slightly down but the only trend was that more companies were faced with them in 1988 than in 1987 when eleven companies faced such resolutions and 1986 when only five were involved. According to Patrick Doherty (of New York City Comptroller's Office) 22 companies will face shareholder resolutions in 1989 so we must expect the companies to continue to come under attack. There have also been some indications that there will be interest in the employment practices of British companies which have undertakings in Northern Ireland and which have contracts in the US.

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SHAREHOLDER RESOLUTIONS ON THE MacBRIDE PRINCIPLES (OR RELATED ISSUES)

CORPORATION	% VOTE IN FAVOUR OF RESOLUTION		
	1986	1987	1988
AVX	Not tabled	Not tabled	6.3
American Brands	7.7	7.39	5.8
American Home Products	Not tabled	2.7	7.2
Baker Hughes	Not tabled	No Vote	5.69
Ball	Not tabled	3.58	3.5
Boeing	N/K	8.09	9.5
Data-Design Labs	Not tabled	Not tabled	Nov. 7 AGM
Du Pont	Not tabled	3.5	4.7
Ford	2.7	Resolution withdrawn	4.8
Fruehauf	Not tabled	Not tabled	1.96
General Motors	5.36	8.24	7.6
Interface Flooring	Not tabled	Not tabled	22.8
Lockheed	Not tabled	Not tabled	8.9
Oneida	Not tabled	5.7	5.96
TRW	Resolution omitted by company (following SEC ruling)	4.89	3.6
United Technologies	Not tabled	8.03	6
VF	2.9	9.85	6.7

7 JUNE 1988

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MACBRIDE CAMPAIGN: PROGRAMME EXPENDITURE

Expenditure September 1987 - March 1988

£

Professional Lobbyists	11,084.42
NI and other Spokespersons	80,094.66
Hospitality	642.72
Other	54.10
Total	<u>£91,875.95</u>

	<u>1988/89 Allocation</u>	<u>Expenditure from 1.4.88</u>	<u>Expected Outturn</u>
	£	£	£
Professional Lobbyists	135,000	47,000.00*	135,000
NI and other Spokespersons	295,000	40,192.26	175,000
Hospitality	30,000	583.27	15,000
External Monitoring	40,000	-	-
Totals	<u>£500,000</u>	<u>£87,775.53</u>	<u>£325,000</u>

*Committed expenditure (see table attached for details).

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1988/89 EXPENDITURE (ACTUAL AND PROJECTED) ON PROFESSIONAL LOBBYISTS AS
AT 23 SEPTEMBER 1988

STATE	TOTAL ESTIMATED COST AT 30 JUNE 1988 \$	PAID BY RELEVANT CONSULATE \$	RECOUPED FROM DED 1988/89 \$ (£)	1987/88 EXPENDITURE
CALIFORNIA	12,000	3,000	3,000 1,694.92	
FLORIDA	Nil	Nil	- -	
ILLINOIS	24,000	-	- -	\$5,000 paid in 1987/88.
MAINE	10,164	10,164	- -	\$3,506 paid in 1987.88.
MARYLAND	15,000	15,000	10,000 5,587.29	
MINNESOTA	3,362.92	-	- -	\$12,000 paid in 1987/88.
MISSOURI	?			
NEBRASKA	?			
NEW HAMPSHIRE	2,270	2,270	2,000 1,123.60	
PENNSYLVANIA	7,500	-	- -	
TEXAS	APPROVAL IN PRINCIPLE GIVEN VERBALLY TO SCC			
VERMONT	10,000	10,000	10,000 5,482.79	
VIRGINIA	?			
WISCONSIN	?			
TOTALS	\$84,297 (£47,000)	\$40,434 (£22,460)	\$25,000 £13,888.60	\$20,506 £11,084

ARGUMENTS FOR CONTINUING THE FIGHT AT ITS PRESENT LEVEL

1. It is only since we started adopting a much higher profile (ie professional lobbyists and NI witnesses and lobbyists) that we have been able to have a significant impact on the outcome of MacBride legislation. Four bills failed to pass this year (California, Vermont, New Hampshire and Maryland) and in each case the efforts of the Consulates and the Embassy were complemented by professional lobbyists and by NI witnesses and lobbyists. Of the four bills that got through (Illinois, Maine, Minnesota and Florida) two (Maine and Minnesota) were weakened by the removal of divestment clauses and one (Illinois) had the amplification of the MacBride principles added. In each case the efforts of lobbyists were critical. No lobbyists were retained in Florida, nor were any witnesses sent to testify: the bill passed into law without modification but it is not a divestment bill.
2. Until our new legislation is on the statute book we are vulnerable to attack by US legislators on the grounds that there is no commitment by HMG to fair employment. Once the bill becomes law we will be in a much better position to point to the requirements of the new law (which will clearly make MacBride redundant) and make a reasoned case for US companies to be judged by that legislation rather than by MacBride. We must, therefore, continue to resist the imposition of divestiture linked to MacBride, until we are in a position to offer the new tougher NI law as a real alternative to MacBride.
3. As part of our current policy we utilize the services of a NI lobbyist, Jim Eccles, who has, through his connections with the Catholic Church, an entree to the Catholic and Irish communities in the US that would be inaccessible to the FCO. Through Mr Eccles' efforts we are able to establish early

notice of MacBride activity and, in some cases, gain the support of the relevant Catholic bishop. It is very hard to quantify the effectiveness of this local lobbying programme but the conclusion must be that it offers good value for money in providing early information about MacBride activities that would otherwise be unobtainable.

4. In some States (Pennsylvania in particular) our allies in the State legislatures have often gone out of their way to oppose the MacBride bills and if we were to abandon the fight totally, we would lose a lot of credibility.
5. We believe that as part of our objective of supporting US investment in NI we should be vigorously opposing MacBride until the US companies are in a position to demonstrate their compliance with the substantial requirements of the NI law which should give them a measure of protection against MacBride legislation in the US.

ARGUMENTS FOR SCALING DOWN THE FIGHT

1. By early December the fair employment bill will be published and HMG's intentions will then be clear. It should then be possible to demonstrate the irrelevant nature of the MacBride principles.

[This assumes that US legislators will appreciate that the final legislation will be essentially the same as the bill which may not be the case and in the US is rarely the case. Until the Bill becomes law there will always be some measure of uncertainty about HMG's commitment.]

2. Even when the new legislation is enacted we have no reason to suppose that it will be the magic key which will switch off the MacBride campaign. By continuing the high profile fight we are simply putting off the evil day.

[The existence of the Bill on the statute book will be a much more powerful argument against the unhelpful nature of MacBride. We can stress the varied reporting requirements of MacBride versus the standardized and compulsory monitoring under our own legislation. We will also be in a better position to seek to persuade State Treasurers that compliance with the new legislation more than meets the requirements of MacBride.]

3. By mounting a resistance to the campaign at the current level we are simply giving the issue a higher profile than it might otherwise get and in the final analysis any sort of MacBride legislation is a victory for our opponents.

[While our opposition to MacBride generates a lot of column inches in the ethnic press in the US it really doesn't have any impact outside of that forum. One could argue that by offering resistance we are limiting their capability to do more damage - an unopposed MacBride campaign could quickly spread to many more states, and could see the agenda widened beyond that of fair employment.]

4. A scaling down of the fight by no longer hiring lobbyists and sending witnesses would not imply a total abandonment as the FCO could still continue to oppose the campaign.

[While the FCO would still continue to oppose the campaign, until the fair employment bill is enacted they would have nothing of substance with which to fight.]

5. The US companies have done very little to oppose MacBride and if they are not concerned, why should we be.

[The companies are concerned about MacBride and are, in some cases, looking for alternative formulations. The new legislation will provide that sort of alternative in a way that avoids the ambiguity of MacBride. Without the legislation, the companies, in the absence of strong opposition by HMG, might feel obliged to bow to MacBride pressure rather than take up the fight themselves.]