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Martin Donnelly

Cabinet Office

MacBRIDE PRINCIPLES IN THE US

1. You may have been aware of a recent flurry of activity over attempts to implement the MacBride Principles (on employment in Northern Ireland) through legislation in New York State. This attempt was seen off, thanks at least in part to swift lobbying by the Commission who pointed out that such extra-territorial action by a US state was legally unsound and challengeable in court.

2. Our own role as HMG in trying to stop this legislation - as we have consistently tried to do in the past - became an issue of debate. The Northern Irish authorities in particular were concerned about the potential political repercussions. With the Commission firmly in the lead on the trade aspects, however, the issue could be side-stepped.

3. There was a great deal of contact between Linda McIntyre here and Paul Heardman in London, culminating in Paul's letter to her of 27 June, we read this to mean that we should take no further action on MacBride without further instructions from London.

4. Unfortunately, we now need those further instructions. Legislation to implement the MacBride principles has been tabled in the Ohio Legislature last month. It is likely to be taken up in early September. We need to decide swiftly whether to get involved in lobbying against it, or let it ride, to the possible detriment of British companies in the state.

5. The situation in Ohio is more complex than in New York. Though the Commission lead on trade relations with the US generally, the state of Ohio is not a party to the [? Agreement on public procurement?] which provided the basis on which the Commission contested the New York legislation. [We have consulted the Commission Delegation here and they ? agree they are not in a position to lobby the Ohio authorities. – Linda grateful if you would check if this is true. If not, please amend.] If action is to be taken, we therefore need to do it ourselves.

6. To allow the legislation to pass into law risks serious consequences for a number of British companies in the state. Most concerned are BP who have a very large presence in Ohio, do extensive business with the state and state agencies, and estimate that implementation of the legislation would cost them \$10-20 million. [Peter – you were going to ask Caroline to substantiate this figure.] Other British companies operating in Ohio who might also be affected (we have not checked) include: the BOC Group, Unilever, Marks and Spencer, ICI, Marconi, Pilkington, Rolls Royce and Coast Vyella. In short, there are real, material British commercial interests at stake.

7. We are conscious from the discussion last month, however, that we need to bear in mind possible repercussions of action here on the political situation in Northern Ireland. It is difficult for us here to know where the balance lies between this, and the need to protect the interests of British companies in the US and mention the consistency of our policy on extraterritorial legislation.

8. So we need your advice, and as swiftly as possible. If we are to lobby against the legislation, we need to get cracking soon to ensure it is effective. Our PPA team are already sharpening their bayonets. I should therefore be grateful if you could agree a line on this in Whitehall and let us know – if possible before [the end of July?].

9. If you or copy addressees need more information on this, please let us know; I am happy to discuss it in more detail by phone.

Nicholas Westcott

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