

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 470

To provide for adherence with the MacBride Principles by United States persons doing business in Northern Ireland.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 1995

Mr. GILMAN (for himself and Mr. MANTON) introduced the following bill; which was referred to the Committee on International Relations and, in addition, to the Committees on Ways and Means and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for adherence with the MacBride Principles by United States persons doing business in Northern Ireland.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Northern Ireland Fair  
5       Employment Practices Act of 1995”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

1           (1) Currently, overall unemployment in North-  
2           ern Ireland is approximately 13 percent, as com-  
3           pared to 9 percent in the rest of the United King-  
4           dom.

5           (2) Unemployment in the minority community  
6           in Northern Ireland is 22.8 percent, and in some  
7           portions of the minority community unemployment  
8           has historically exceeded 70 percent.

9           (3) The British Government Fair Employment  
10          Commission (F.E.C.), formerly the Fair Employ-  
11          ment Agency (F.E.A.), has consistently reported  
12          that a member of the minority community is two  
13          times more likely to be unemployed than a member  
14          of the majority community.

15          (4) The Investor Responsibility Research Cen-  
16          ter (IRRC), Washington, District of Columbia, lists  
17          80 publicly held United States companies doing  
18          business in Northern Ireland, which employ approxi-  
19          mately 11,000 individuals.

20          (5) The religious minority population of North-  
21          ern Ireland is subject to discriminatory hiring prac-  
22          tices by some United States businesses which have  
23          resulted in a disproportionate number of minority  
24          individuals holding menial and low-paying jobs.

1           (6) The MacBride Principles are a nine point  
2       set of guidelines for fair employment in Northern  
3       Ireland which establishes a corporate code of con-  
4       duct to promote equal access to regional employment  
5       but does not require disinvestment, quotas, or re-  
6       verse discrimination.

7   **SEC. 3. RESTRICTION ON IMPORTS.**

8       An article from Northern Ireland may not be entered,  
9       or withdrawn from warehouse for consumption, in the cus-  
10      toms territory of the United States unless there is pre-  
11      sented at the time of entry to the customs officer con-  
12      cerned documentation indicating that the enterprise which  
13      manufactured or assembled such article was in compliance  
14      at the time of manufacture with the principles described  
15      in section 5.

16   **SEC. 4. COMPLIANCE WITH FAIR EMPLOYMENT PRIN-**  
17                           **CIPLES.**

18       (a) COMPLIANCE.—Any United States person who—

19           (1) has a branch or office in Northern Ireland,  
20       or

21           (2) controls a corporation, partnership, or other  
22       enterprise in Northern Ireland,

23      in which more than twenty people are employed shall take  
24      the necessary steps to ensure that, in operating such  
25      branch, office, corporation, partnership, or enterprise,

1 those principles relating to employment practices set forth  
2 in section 5 are implemented and this Act is complied  
3 with.

4 (b) REPORT.—Each United States person referred to  
5 in subsection (a) shall submit to the Secretary—

6 (1) a detailed and fully documented annual re-  
7 port, signed under oath, on showing compliance with  
8 the provisions of this Act; and

9 (2) such other information as the Secretary de-  
10 termines is necessary.

11 **SEC. 5. MACBRIDE PRINCIPLES.**

12 The principles referred to in section 4 are the  
13 MacBride Principles, which are as follows:

14 (1) INCREASING THE REPRESENTATION OF IN-  
15 DIVIDUALS FROM UNDERREPRESENTED RELIGIOUS  
16 GROUPS IN THE WORK FORCE INCLUDING MANAGE-  
17 RIAL, SUPERVISORY, ADMINISTRATIVE, CLERICAL,  
18 AND TECHNICAL JOBS.—A workforce that is severely  
19 unbalanced may indicate prima facie that full equal-  
20 ity of opportunity is not being afforded all segments  
21 of the community in Northern Ireland. Each signa-  
22 tory to the MacBride Principles must make every  
23 reasonable lawful effort to increase the representa-  
24 tion of underrepresented religious groups at all levels  
25 of its operations in Northern Ireland.

1           (2) ADEQUATE SECURITY FOR THE PROTEC-  
2           TION OF MINORITY EMPLOYEES BOTH AT THE  
3           WORKPLACE AND WHILE TRAVELLING TO AND FROM  
4           WORK.—While total security can be guaranteed no-  
5           where today in Northern Ireland, each signatory to  
6           the MacBride Principles must make reasonable good  
7           faith efforts to protect workers against intimidation  
8           and physical abuse at the workplace. Signatories  
9           must also make reasonable good faith efforts to en-  
10          sure that applicants are not deterred from seeking  
11          employment because of fear for their personal safety  
12          at the workplace or while travelling to and from  
13          work.

14          (3) THE BANNING OF PROVOCATIVE RELIGIOUS  
15          OR POLITICAL EMBLEMS FROM THE WORKPLACE.—  
16          Each signatory to the MacBride Principles must  
17          make reasonable good faith efforts to prevent the  
18          display of provocative sectarian emblems at their  
19          plants in Northern Ireland.

20          (4) ALL JOB OPENINGS SHOULD BE ADVER-  
21          TISED PUBLICLY AND SPECIAL RECRUITMENT EF-  
22          FORTS MADE TO ATTRACT APPLICANTS FROM  
23          UNDERREPRESENTED RELIGIOUS GROUPS.—Signato-  
24          ries to the MacBride Principles must exert special  
25          efforts to attract employment applications from the

1       sectarian community that is substantially  
2       underrepresented in the workforce. This should not  
3       be construed to imply a diminution of opportunity  
4       for other applicants.

5               (5) LAYOFF, RECALL, AND TERMINATION PRO-  
6       CEDURES SHOULD NOT IN PRACTICE FAVOR A PAR-  
7       TICULAR RELIGIOUS GROUP.—Each signatory to the  
8       MacBride Principles must make reasonable good  
9       faith efforts to ensure that layoff, recall, and termi-  
10      nation procedures do not penalize a particular reli-  
11      gious group disproportionately. Layoff and termi-  
12      nation practices that involve seniority solely can re-  
13      sult in discrimination against a particular religious  
14      group if the bulk of employees with greatest senior-  
15      ity are disproportionately from another religious  
16      group.

17              (6) THE ABOLITION OF JOB RESERVATIONS, AP-  
18      PRENTICESHIP RESTRICTIONS, AND DIFFERENTIAL  
19      EMPLOYMENT CRITERIA WHICH DISCRIMINATE ON  
20      THE BASIS OF RELIGION.—Signatories to the  
21      MacBride Principles must make reasonable good  
22      faith efforts to abolish all differential employment  
23      criteria whose effect is discrimination on the basis of  
24      religion. For example, job reservations, and appren-  
25      ticeship regulations that favor relatives of current or

1 former employees can, in practice, promote religious  
2 discrimination if the company's workforce has his-  
3 torically been disproportionately drawn from another  
4 religious group.

5 (7) THE DEVELOPMENT OF TRAINING PRO-  
6 GRAMS THAT WILL PREPARE SUBSTANTIAL NUM-  
7 BERS OF CURRENT MINORITY EMPLOYEES FOR  
8 SKILLED JOBS, INCLUDING THE EXPANSION OF EX-  
9 ISTING PROGRAMS AND THE CREATION OF NEW PRO-  
10 GRAMS TO TRAIN, UPGRADE, AND IMPROVE THE  
11 SKILLS OF MINORITY EMPLOYEES.—This does not  
12 imply that such programs should not be open to all  
13 members of the workforce equally.

14 (8) THE ESTABLISHMENT OF PROCEDURES TO  
15 ASSESS, IDENTIFY, AND ACTIVELY RECRUIT MINOR-  
16 ITY EMPLOYEES WITH POTENTIAL FOR FURTHER  
17 ADVANCEMENT.—This section does not imply that  
18 such procedures should not apply to all employees  
19 equally.

20 (9) THE APPOINTMENT OF A SENIOR MANAGE-  
21 MENT STAFF MEMBER TO OVERSEE THE COMPANY'S  
22 AFFIRMATIVE ACTION EFFORTS AND THE SETTING  
23 UP OF TIMETABLES TO CARRY OUT AFFIRMATIVE  
24 ACTION PRINCIPLES.—In addition to the above, each  
25 signatory to the MacBride Principles is required to

1 report annually to an independent monitoring agen-  
2 cy on its progress in the implementation of these  
3 Principles.

4 **SEC. 6. WAIVER OF PROVISIONS.**

5 (a) WAIVER OF PROVISIONS.—In any case in which  
6 the President determines that compliance by a United  
7 States person with the provisions of this Act would harm  
8 the national security of the United States, the President  
9 may waive those provisions with respect to that United  
10 States person. The President shall publish in the Federal  
11 Register each waiver granted under this section and shall  
12 submit to the Congress a justification for granting each  
13 such waiver. Any such waiver shall become effective at the  
14 end of ninety days after the date on which the justification  
15 is submitted to the Congress unless the Congress, within  
16 that ninety-day period, adopts a joint resolution dis-  
17 approving the waiver. In the computation of such ninety-  
18 day period, there shall be excluded the days on which ei-  
19 ther House of Congress is not in session because of an  
20 adjournment of more than three days to a day certain or  
21 because of an adjournment of the Congress sine die.

22 (b) CONSIDERATION OF RESOLUTIONS.—

23 (1) Any resolution described in subsection (a)  
24 shall be considered in the Senate in accordance with  
25 the provisions of section 601(b) of the International

1 Security Assistance and Arms Export Control Act of  
2 1976.

3 (2) For the purpose of expediting the consider-  
4 ation and adoption of a resolution under subsection  
5 (a) in the House of Representatives, a motion to  
6 proceed to the consideration of such resolution after  
7 it has been reported by the appropriate committee  
8 shall be treated as highly privileged in the House of  
9 Representatives.

10 **SEC. 7. DEFINITIONS AND PRESUMPTIONS.**

11 (a) DEFINITIONS.—For the purpose of this Act—

12 (1) the term “United States person” means any  
13 United States resident or national and any domestic  
14 concern (including any permanent domestic estab-  
15 lishment of any foreign concern);

16 (2) the term “Secretary” means the Secretary  
17 of Commerce; and

18 (3) the term “Northern Ireland” includes the  
19 counties of Antrim, Armagh, Londonderry, Down,  
20 Tyrone, and Fermanagh.

21 (b) PRESUMPTION.—A United States person shall be  
22 presumed to control a corporation, partnership, or other  
23 enterprise in Northern Ireland if—

24 (1) the United States person beneficially owns  
25 or controls (whether directly or indirectly) more than

1       50 percent of the outstanding voting securities of  
2       the corporation, partnership, or enterprise;

3           (2) the United States person beneficially owns  
4       or controls (whether directly or indirectly) 25 per-  
5       cent or more of the voting securities of the corpora-  
6       tion, partnership, or enterprise, if no other person  
7       owns or controls (whether directly or indirectly) an  
8       equal or larger percentage;

9           (3) the corporation, partnership, or enterprise  
10      is operated by the United States person pursuant to  
11      the provisions of an exclusive management contract;

12          (4) a majority of the members of the board of  
13      directors of the corporation, partnership, or enter-  
14      prise are also members of the comparable governing  
15      body of the United States person;

16          (5) the United States person has authority to  
17      appoint the majority of the members of the board of  
18      directors of the corporation, partnership, or enter-  
19      prise; or

20          (6) the United States person has authority to  
21      appoint the chief operating officer of the corpora-  
22      tion, partnership, or enterprise.

1 **SEC. 8. EFFECTIVE DATE.**

2       This Act shall take effect 180 days after the date of  
3 enactment of this Act.

