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Secretary of State for Trade and Industry

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The Rt Hon Sir Geoffrey Howe QC MP
Secretary of State for Foreign and
Commonwealth Affairs
Foreign and Commonwealth Office
Downing Street
LONDON
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Dear Geoffrey,

SOUTH AFRICA: EC CODE OF CONDUCT

I have been considering whether we should accept the draft text of the revised Code of Conduct which was produced by the ad hoc group of EC Member States' officials in Luxembourg on 4 October.

2 My conclusion is that, while the text is not perfect, it represents about the best result we could realistically hope for.

3 As you know, my officials consulted the CBI and the UK-South Africa Trade Association (UKSATA) and several companies with major South African interests before we embarked on this exercise with our partners. In the light of the comments we received from industry, we drew up a list of objectives and proposals.

4 We firmly opposed proposals for making the Code mandatory and were determined to resist changes which would have jeopardised UK companies' existing high level of voluntary co-operation. The most objectionable of these would have entailed some form of official, public assessment of individual companies' performance under the Code; would have encouraged black South African trades unions to comment on individual company reports and would have increased companies' financial and other burdens at a time when their trading returns were diminished by the South African recession.

5 On the positive side, we wished to see the Code up-dated to focus on areas which are now of greater relevance and concern than when it was adopted in 1977. Education, training, black career development and wider community projects are examples of such areas, in all of which British companies are already active, as their Code reports show. You may also have noted that Sir James Cleminson, in the draft (which he sent to both of us) of the speech

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he was proposing to deliver in South Africa on 15 October, listed these as areas where the private sector must continue to be involved in a constructive and beneficial way.

6 We also aimed to use this revision to secure the adoption of procedures for implementing and monitoring the Code and of more precise wording in areas where the existing Code was decidedly vague, to bring our partners up to the standards of reporting and performance observed by the UK Government and the vast majority of British companies. We attached particular importance to all partners making their national and company reports publicly available, as ours and only three of our partners' national reports currently are.

7 All these objectives were achieved. We could, of course, press for further improvements to the text on points which we would prefer to see expressed differently. But to do so would make it harder to prevent others from seeking to do likewise, with a risk that issues of substance, as well as presentation, would be reopened.

8 There may be a particular risk of this in relation to the minimum pay requirements. The formulation in the revised text is now completely in line with the way in which we interpreted for British companies the requirements of the existing Code, in the 1978 Command Paper. But as your officials will no doubt have told you, the Dutch (and to a lesser extent, the Danes) were distinctly unhappy with this and pressed for a higher level,which would have increased the cost of complying with the Code's minimum pay provisions by around 15 per cent.

9 If we now notify our partners promptly that we can accept the draft text as circulated following the 4 October meeting, we may be able to wrong foot the Dutch. I propose that we do so.

10 Given the pace of the drafting process, we have been unable to consult the CBI or UKSATA on proposed textual amendments. But, as explained above, we agreed with them beforehand the objectives which have now been met. We have continued to keep in close touch and took advantage of the presence of representatives of both organisations for a meeting with Paul Channon on 2 October to brief them on how our discussions with our partners were proceeding. No company which is currently performing well under the existing Code should have difficulty in complying with the Code as amended by the present draft. I accordingly anticipate no significant complaints from British industry, although the revised text may of course come under fire from those of our opponents who feel that our companies should be doing more.

... 11 For ease of reference, I am enclosing a copy of the unofficial translation which my officials have prepared of the revised draft

text of the Code. New or substantially altered passages have been sidelined. Our predecessors published the text of the 1977 Code in a Command Paper and we shall have to consider following suit, once the revised Code is agreed by all our partners.

12 I am copying this letter and enclosure to the Prime Minister, other members of OD and David Young.

Yours,

Leon

LEON BRITTAN

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CODE OF CONDUCT FOR COMPANIES WITH SUBSIDIARIES, BRANCHES OR REPRESENTATION IN SOUTH AFRICA

The present Code is addressed to European companies with subsidiaries, branches or representation in South Africa

The objective of this Code is to contribute to the abolition of apartheid.

None of the provisions of the Code can be interpreted as discriminating between the different racial communities in South Africa.

TEXT OF THE CODE

1. Relations within the Undertaking

(A) Companies should ensure that all their employees irrespective of racial or other distinction are allowed to choose freely and without any hindrance the type of organisation to represent them.

(B) Companies should pay particular attention to emerging black trade unions and be ready to recognise them.

(C) Companies should be ready to sign recognition agreements with representative black trade unions in the company itself and allow collective bargaining to develop, including the signature of collective agreements, in line with internationally recognised labour standards. Employers should regularly and unequivocally inform their employees that consultations and collective bargaining with organisations which are freely elected and and representative of the employees are part of their company policy.

(D) Companies should do everything to inform their employees within the company of their social and union rights. Employers should do everything possible to ensure that black African employees are free to form or join a trade union of their choice. Steps should be taken in particular to permit trade union officials to explain to employees the aims of trade unions and the advantages of membership, to distribute and display trade union documentation on their premises, to have reasonable time off to carry out their union duties without loss of pay and to organise meetings. Employers should promote participation of union members in training programmes on union activities.

(E) Companies should do everything to establish a relationship of confidence with their employees, notably by putting at their disposal the text of the EC Code of Conduct and by informing them at an accessible place and in an appropriate language of the company's performance in implementing the Code.

(F) Where works or liaison committees operate, trade union officials should have representative status on these bodies, if employees so wish. The existence of these types of committees should not prejudice the development or status of trade unions or of their representatives.

2. MIGRANT LABOUR

(A) The policy of apartheid calls for a system of migrant labour which denies the individual the freedom for seeking and obtaining a job of his choice. It also causes grave social and family problems.

(B) Employers have the social responsibility to contribute towards ensuring freedom of movement for black African employees and making it possible for these employees to lead a family life.

(C) Employers should make it their concern to alleviate, as much as possible, certain effects of existing regulations, notably in facilitating the regular renewal of contracts of employment and the installation of the families of employees in the vicinity of the companies.

3. PAY AND WAGE STRUCTURE

(A)* Companies should assume a special responsibility as regards the pay and working conditions of black African employees. In this context they should refer to the data of the University of South Africa (UNISA). They should formulate specific policies aimed at improving their terms of employment. Pay based on the "Supplemented Living Level" for a family of average size should be considered as the absolutely necessary minimum. Companies should however strive to exceed this level in fixing pay levels. In their reports companies should provide the explanations required, and notably give details of the pay scales of their employees and of the possibilities of progress in this context.

* Certain delegations made a reservation on this paragraph.

(B) The principle of equal opportunities for all employees should be fully respected. The principle of equal pay for equal work means that all jobs should be open to any worker who possess suitable qualifications, irrespective of racial or other distinction, and that wages should be based on a qualitative job evaluation. The same pay scales should be applied to the same work.

4. TRAINING AND BLACK AFRICAN ADVANCEMENT

(A) The principle of equal pay for equal work would however be meaningless if black African employees were kept in inferior jobs. Employers should therefore draw up an appropriate range of training schemes of a suitable standard to provide training for their black workforce and should reduce their dependence on immigrant white labour.

(B) Companies should take steps to enable black employees to have acess to supervisory, highly skilled and executive posts. Companies should, if possible, organise training programmes for their black workers. Black workers should be assisted by companies to take advantage of further educational schemes and of professional training outside the workplace. Where necessary, companies should establish or utilise educational facilities to permit their black employees to benefit from more specialised training.

(C) Companies will do their utmost to eliminate in practice de facto or customary restrictions on the apprenticeship of black workers. They should ensure that the participation of employees from different racial groups in training programmes takes place in a totally desegregated context.

5. FRINGE BENEFITS

(A) In view of their social responsibilities, companies should concern themselves with the living conditions of their employees and families.

(B) For this purpose funds could be set aside for use, complementary to provisions in force on the national scale:

- in providing complete programmes of insurance for employees and their families (health, accident, unemployment and old age assurance);
- in ensuring that their employees and their families benefit from adequate medical care;
- for the education of members of families;
- in the housing of black African personnel and their families, in particular encouraging home ownership;
- in transport from place of residence to place of work and back;
- in providing their employees with assistance in problems they encounter with the authorities over their movement from one place to another, their choice of residence and their employment;
- in providing leisure facilities.

(C) Companies should support projects which aim to improve the quality of life in the black communities from which they draw their workforce.

6. DESEGREGATION AT THE WORKPLACE

(A) Employers should do everything to eliminate any practice of segregation, notably at the workplace, in canteens, in the fields of education and professional training as well as in sporting activities. They should also ensure equal conditions of work for all their workforce.

(B) Besides the advancement of black employees, companies should directly encourage interpersonal contacts, better mutual understanding and closer integration between employees from different racial groups. Companies should encourage the sporting activities of their employees from different racial groups in mixed teams and mixed competitions.

7. ENCOURAGEMENT OF BLACK BUSINESSES

In the framework of their activities and as far as possible, companies should strive to encourage the creation and development of black businesses through sub-contracting, assisting the creation of firms by their black employees, and by giving preference and priority at the level of client-supplier relations.

PROCEDURE

1. CRITERIA FOR APPLICATION

(A) A detailed and well documented report should be prepared by all companies which have a controlling interest in a South African company which employs black African workers.

(B) Within other companies where there is European shareholding significant or otherwise, these shareholders should strive to encourage the application of the principles of the current code as well as the presentation of a report.

2. PREPARATION OF REPORTS

(A) Company reports will be drawn up according to uniform criteria, common to the countries of the EC. These reports will be addressed either through the Embassies in South Africa or directly to the national authorities in the country of origin and should be made public by companies.

(B) The reports will cover an annual period, from 1 July in the preceding year to 30 June in the current year. These reports should reach national authorities by the end of September. The latter will be charged with the preparation of national reports which should be available by the end of March the following year and which will be submitted for the attention of national Parliaments. An overall report will be prepared by the current EC Presidency and presented to the European Parliament as well as to the Economic and Social Committee of the European Community before the summer recess. National and ~~common~~ Company reports will be public.

3. COORDINATION ON APPLICATION OF THE CODE

Member states will regularly strive towards harmonisation on the application of the current Code, particularly through their representatives in South Africa. With this in mind, the latter will draw up an annual report which will be taken into account in the preparation of the overall report, also containing an evaluation of the impact of the Code of Conduct in the economic and social context of South Africa, and in particular of the positions of the union and management sectors who may be interested in its content and application.