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**CODE OF CONDUCT**

**CANADIAN COMPANIES**

**IN SOUTH AFRICA**

**JULY 1994**

Victoria, 21 July 1994

Dept. of External Affairs  
Min. des Affaires extérieures

OCT 20 1994

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The Honourable André Ouellet, P.C., M.P.  
Department of Foreign Affairs and International Trade  
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Ottawa, Ontario K1A 0G2

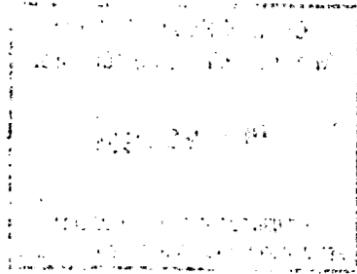
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CONSULTER SUR PLACE

Dear Minister:

I have the honour to submit herewith the Seventh and final *Report on the Administration and Observance of the Code of Conduct Concerning Employment Practices of Canadian Companies Operating in South Africa*. It covers the period from July 1, 1991, to the cessation of Canadian and Commonwealth sanctions on September 24, 1993.

As required by my Terms of Reference, I have updated the list of Canadian companies to which the Code of Conduct applies; drawn their attention to the Code and its standard reporting questionnaire; collated those reports which have been submitted; and consulted these companies and, where appropriate, their South African affiliates, relevant governmental representatives and individuals. My report, based upon these consultations and company documentation, is presented for your consideration. One or two policy issues emerge from this study, the most immediate being that of the extension of the Public Service wage "freeze" to local employees of the Canadian Embassy in Pretoria. Interested parties who wish copies of the individual submissions are invited to apply directly to the enterprises concerned.

The number of Canadian companies still involved in South Africa and included in this report is six including the Canadian Embassy. There have been ownership transfers and disinvestment in the case of two enterprises and a further two have been active during the period. The equity holdings of one of the Canadian companies has declined further in the past two years and the numbers of non-White employees of companies to which the Canadian Code applies has dwindled. Further, two companies, one of them a new entrant, chose not to submit a report under the Code.



In addition to the two companies, referred to above, which began operations in South Africa during the reporting period, a further four Canadian entities began operations during the latter part of 1993. One of these in transportation, one in marketing, and two in the mining sector. Since they report not having employees prior to the lifting of sanctions, they would not have been subject to the Code, and are mentioned here, and in the text of the report, to give an indication of the direction of new inward investment from Canada.

Yours truly,

Robert W. McLaren  
Administrator

Enclosure

**CODE OF CONDUCT**

**CANADIAN COMPANIES  
IN SOUTH AFRICA**

**1991 - SEPTEMBER 24, 1993**

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*PREFACE*

This is the seventh, and last Administrator's Report under the Code of Conduct and covers the period from July 1, 1991, to September 24, 1993, the date on which Canada and other Commonwealth countries lifted sanctions on South Africa.<sup>1</sup>

The Code of Conduct was issued originally in 1978 under the authority of the Secretary of State for External Affairs and was revised and tightened in 1986. Adherence to the Code of Conduct is now, and always has been voluntary. Initially, the Code of Conduct was regarded as a guideline and companies normally did not submit reports on their South African operations. Since the appointment of an Administrator in 1985, most of the Canadian enterprises with South African affiliates have reported on a periodic basis. The number of companies to which the Code would apply remains at six, the same as at the time of the 1991 report, although two of these represent new investment. An equivalent number of former enterprises have divested, or otherwise altered their investment arrangements since that report. At the time of writing, three of the six Canadian entities have reported under the Code and one has made its report under the European Community arrangements.

It was not Canadian policy to either encourage or discourage disposal of Canadian investments in South Africa. Disinvestment had been a decision for companies alone. The disposal of assets in South Africa by Canadian and other foreign firms reflected primarily, economic and commercial considerations including existing double taxation arrangements, frequently reinforced by pressures generated by anti-apartheid and other forces in Canada and elsewhere, including U.S. state and local government purchasing requirements.

The Code of Conduct was one of a variety of measures adopted by the Canadian Government to demonstrate opposition to apartheid and to encourage the South African Government to undertake these fundamental reforms and enter into negotiations with non-White leaders that led in 1994, to the establishment of the new non-racial democratic, representative government. The Code of Conduct aimed to combat racial discrimination through the encouragement of company policies and employment practices which respect human rights and advance equality. Such policies and practices were to encompass:

- equality of working conditions
- equality of pay for equal or comparable work
- equality of opportunity with respect to employment and training

<sup>1</sup>As distinct from UN. sanctions which applied to armaments sales.

- freedom of association and the right to organize and bargain collectively
- promotion of social justice and peaceful achievement of economic, political, and social reforms by positive, constructive, and legal means
- support to projects which enhance the quality of life of the non-White communities from which their work force is drawn

These principles and rights apply to all races but have special relevance to Black, Coloured, and Asian employees<sup>2</sup> and to the quality of life which they and their dependents enjoy.

The methodology employed in preparing this report and its organizational pattern remain unchanged from that of 1990-1991. Its basic data have been drawn from the Standard Reporting Questionnaire completed by Canadian companies in collaboration with their South African affiliates and from reports by affiliates of Canadian companies reporting under EC requirements. The American, Australian, and UK Code authorities have again been consulted, as well as the Commonwealth Secretariat in London and the Investor Responsibility Research Centre in Washington, DC. During an unrelated visit to South Africa I took the opportunity to exchange views with the South African-based Administrative manager of the Signatory Companies arrangement, and with other government representatives which have had Code requirements.

In contrast to the previous reports under this program there will be no attempt to encapsulate the rapid political developments that occurred since 1991. There is however, in the text, references to the economy, particularly as it relates to the issue of wages, and that of the linked issue of labour generation. It is important to understand the context in which decisions on wages, employment and investments have been made in the evolving economy of South Africa as it works its way out of a very long period of recession.

It is very satisfying for those who have been concerned with South African issues to contemplate the positive changes that have occurred over the period of this and other similar programs. These changes, which led to the all inclusive election of April 1994, were but a start on a path which South Africa's friends hope and expect will lead to a rising level of enjoyment and satisfaction by all her people. This may not occur without a correlation between the positive political developments and economic growth and diversification.

In preparing this summary report, I am indebted to those I consulted who gave freely of their time and to the Canadian companies that cooperated by responding voluntarily to the questionnaire on employment practices.

---

<sup>2</sup>Racial classifications used in this report are based on categories set forth under earlier South African law; The abolition of the Population Registration Act in June 1991 has removed the statutory obligation to maintain racially segregated staff records.

The responsibility for the analysis in, and content of, this report is mine alone despite the substantial help from those mentioned above.

Robert W. McLaren  
Code Administrator

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Robert W. McLaren  
Code Administrator

## I. CANADIAN COMPANIES WITH INTERESTS IN SOUTH AFRICA

The trend towards disinvestment of South African interests by Canadian firms continued in the early period of this report, when Sternson S.A. (Pty) Ltd., purchased the remaining interests of its Canadian parent, and Bayer Foreign Investments Ltd. of Toronto transferred its South African interests to the European parent. This disinvestment was balanced, at least nominally, by that of two Canadian companies, one in the mining sector and one in the food sector. These latter investments along with three other recent ones will be dealt with more fully in later sections.

Table I below lists the disinvestments occurring from 1986 and Table II (next page) shows the Canadian enterprises with holdings in South Africa up to September 24, 1993, and to which the Code applied.

Table I

### DISINVESTMENT OF SOUTH AFRICAN INTERESTS BY CANADIAN COMPANIES

<u>1986</u>		<u>1988</u>	
1.	Alcan Aluminum Ltd.	1.	JKS Boyles International Inc.
2.	Bata Ltd.	2.	National Business Systems Inc.
3.	Dominion Textile Inc.		
4.	Jarvic Clark Co. (CIL)		
<u>1987</u>		<u>1989</u>	
1.	AMCA International Ltd.	1.	Qit-Fer et Titane Inc.
2.	Champion Road Machinery Ltd.		
3.	Chempharm Ltd.		
4.	Cobra Metals & Minerals Inc.		
5.	Cominco Ltd.		<u>1990</u>
6.	DelCan Ltd.		
7.	Falconbridge Ltd.		
8.	International Thomson Org. Ltd.		
9.	Joseph E. Seagram & Sons Ltd.		<u>1991</u>
10.	Moore Corporation		
11.	Ford Motor Co. of Canada Ltd. (Completed in 1988)	1.	Varity Corporation
<u>1992</u>			
1.	Sternson Ltd. <sup>3</sup>		
2.	Bayer Foreign Investments Inc. <sup>4</sup>		
3.	Menora Resources Inc. <sup>5</sup>		

<sup>3</sup>Subsidiary purchased Canadian interest

<sup>4</sup>Transferred interests to parent company on 14/11/92.

<sup>5</sup>Dormant.

Table II

### CANADIAN ENTERPRISES WITH SOUTH AFRICAN AFFILIATES (At September 24, 1993)

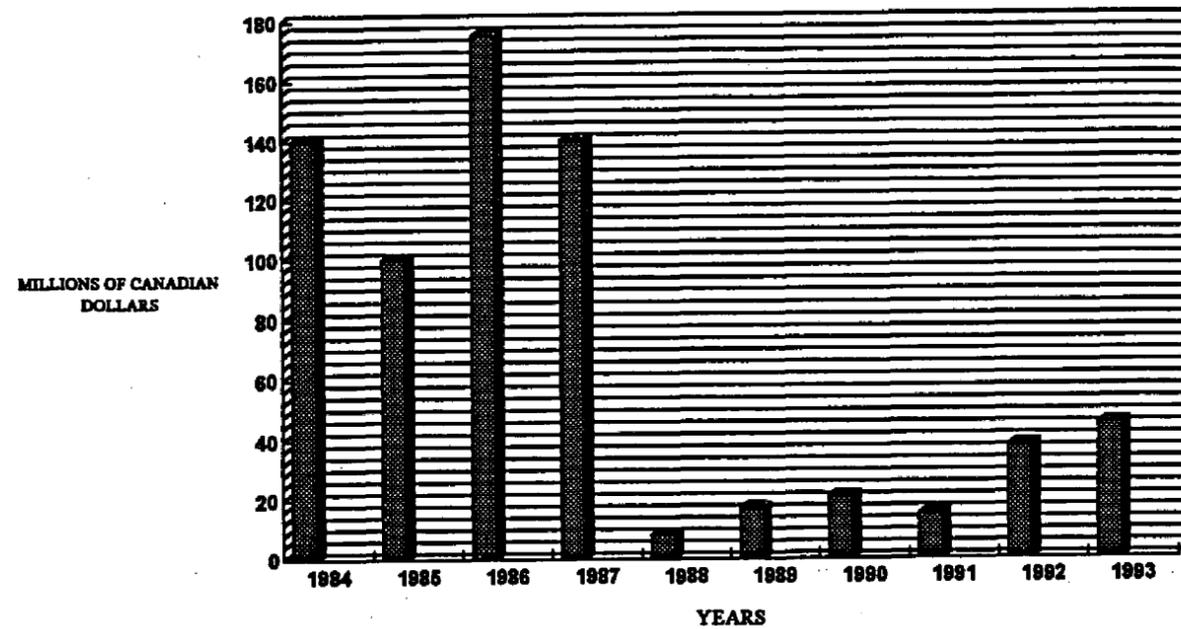
1. Bocknek Ltd. (Rexdale, Ontario)
2. Cott Corporation (Mississauga, Ontario)
3. Dundee Bancorp (Mississauga, Ontario)
4. Government of Canada, Dept. of External Affairs (Ottawa, Ontario)
5. Northern Telecom Ltd. (Mississauga, Ontario)
6. Unican Security Systems Ltd. (Montreal, Quebec)

The number of active Canadian firms has stabilized at five or six for the entire period from 1988. The decline in the number of Canadian companies involved in South Africa in the sanctions' period had reduced the value of direct Canadian investment there to an amount of \$17.0 Million for 1991, which, in anticipation, of positive developments, grew to 37 Million in 1992 and can be estimated for 1993 to have increased, on conservative estimates, to something of the order of \$50 Million.

The level of Canadian commercial investment in South Africa, for the last 10 years, is given in Figure 1 (next page); it fell from \$250 Million in 1981 to a low of \$8.0 Million by 1988, and in its direction now represents a significant retreat from manufacturing and processing. The data provided in this figure is revised from that given in the December 1991 report.

Figure 1

DIRECT CANADIAN INVESTMENT IN SOUTH AFRICA •  
1984 - 1993



(1993 as estimated)

\*Does not include contingent investment through acquisition of non-South African Assets.

The composition of Canadian investment in South African industry has changed with the Northern Telecom acquisition referred to in my last report, and will have been further changed significantly by new investments made in 1993, consequent to the lifting in September by the Commonwealth of all remaining sanctions.

All Canadian companies with direct investment in South African affiliates were expected, to comply with the Canadian Code of Conduct, regardless of the level of investment, or the number of personnel involved. The percentage of equity held by Canadian companies ranges down from 100% in the case of Cott Corporation, to less than 20% in the case of Northern Telecom. In almost all cases, where equity participation is less than 50%, Canadian interests report no involvement in the management, or operation of the affiliate, and suggests they have little or no influence over the issues at stake. The equity participation of these Canadian companies, and their reporting compliance with the Code of Conduct for this period, is given in Table III below.

Table III

PER CENT EQUITY HELD BY CANADIAN COMPANIES IN THEIR SOUTH AFRICAN  
AFFILIATES AND REPORT SUBMISSION  
(As at September 24, 1993)

	% Equity	Reported
1. <u>Cott Corporation (Mississauga, Ontario)</u> <u>Retail Brands Interafrica (Pty) Ltd.</u>	100	Yes
2. <u>Northern Telecom (Mississauga, Ontario)</u> <u>International Computers S.A. (Pty) Ltd. (See note 1)</u>	17.5	Yes
3. <u>Bocknek Ltd. (Rexdale, Ontario)</u> <u>Bocknek (Pty) Ltd.</u>	75	Yes
4. <u>Department of External Affairs (Ottawa, Ontario)</u> <u>Canadian Embassy (Pretoria/Cape Town)</u>		Yes
5. <u>Dundee Bancorp (Toronto, Ontario)</u> <u>Knights Gold Mining Co. Ltd.</u>	25	No
6. <u>Unican Security Systems Ltd. (Montreal, Quebec)</u> <u>ILCO Unican S.A. (Pty) Ltd.</u>	33.3	No

N.B. Copies of report provided under EC Reporting Code was made available to the Administrator

The number of non-White employees reflected in reporting under the Canadian Code has decreased significantly with disinvestment. For the period from 1986 to the present, the drop has been of the order of 17,500 employees — this without having regard to the contraction in work force that has occurred in currently active affiliates as a result of the recession. Table IV, showing the effects of disinvestment on employment for the period 1986-1992 and Table V, showing a record of current employment, are given below.

Table IV

**TOTAL EMPLOYMENT IN AFFILIATES OF CANADIAN FIRMS THAT HAVE DISINVESTED\***

	<u>Employment</u>	<u>Non-White Employment</u>
1986 Disinvestors	7,218	6,095
1987 Disinvestors	11,312	8,757
1988 Disinvestors	179	57
1989 Disinvestors	2,058	1,463
1991 Disinvestors	375	214
1992 Disinvestors	<u>1,947</u>	<u>914</u>
<b>Total 1986-92</b>	<b><u>23,089</u></b>	<b><u>17,500</u></b>

\*N.B. In some cases, there is a lag effect; for instance, the statistics for a given year often represent the number of employees for the preceding year's reporting period.

Table V

**TOTAL AND NON-WHITE EMPLOYMENT AT CANADIAN AFFILIATES  
(As at September 24, 1993)**

<u>Canadian Company</u>	<u>Total</u>	<u>Non-White</u>
<b>A</b> <u>Reporting to EC Code Authorities</u>		
1) Northern Telecom	<u>683</u>	<u>132<sup>6</sup></u>
<b>Total</b>	<b><u>683</u></b>	<b><u>132</u></b>
<b>B</b> <u>Eligible for Reporting under the Canadian Code</u>		
1) Bocknek	6	2
2) Canadian Embassy	46	13
3) Cott	3	0 <sup>7</sup>
4) Unican Security Systems Ltd.	4	2
5) Dundee Bancorp	0	0
<b>Total</b>	<b><u>59</u></b>	<b><u>17</u></b>

<sup>6</sup>at June 30, 1993

<sup>7</sup>estimated

The employment impact of this disinvestment is dramatic and the following statement in the Administrator's Report for 1988 both bears repeating, and is germane to both the present situation and to debate on whether the Canadian Government should consider suggestions that an Employment Code should be maintained for South Africa.

"While it could be said as recently as 1985 that the numbers employed by Canadian affiliates and their contributions to the South African economy were significant, with a few exceptions, this is no longer so. Where once their collective voice was heard on economic, political, and social questions; today, their combined influence is inconsequential."

This comment does not, of course, apply, because of its representational role, to the Canadian Embassy and in any case its programs are exemplary; one positive element that may be drawn from the situation described above is that the base established by the Canadian program has been built on, at least in some cases, by the successor entities. In section V of this report, I will comment on what others are doing in the situation, and consider the promulgation of a new Code covering activities which now have some 17 employees.

## NEW CANADIAN INVESTMENT IN SOUTH AFRICA

With the positive outlook which began with the un-banning of certain political parties and the release of Nelson Mandela in early 1990, the issue of further direct investment from Canada became a matter of interest and discussion, not the least within the Canadian business community. I would have no way of knowing what transactions occurred in the period from then until the cessation of all sanctions by the Commonwealth in 1993, however, the investment figures speak for themselves (see figure I). Even if the Code was still operative, a Canadian contribution to the employment generation picture at the appropriate level could be expected to be marginal. While the statistics on employment in these new activities are not presently available – largely because either they are too new to be significant, or because the companies were not asked to report under this code. The information that is available to the administrator is given below in Table VI.

Table VI

<u>South African Affiliate/Holding</u>	<u>Sector</u>	<u>Percentage Canadian Equity</u>
1. Jamestown Platinum of South Africa	Resources	51 % <sup>8</sup>
2. Leicester Diamond Mines Ltd.	Minerals	60 %
3. Cost Miser Coupons (SA)	Marketing	80 %
4. South African/Express	Air Transportation	[Majority] (8)

The pattern of this investment, and that of the companies which entered during the reporting period is slightly different from that reflected by other industrialized country interests. Most companies are increasing their equity in entities in which they already hold an interest. Perhaps as a reflection of an almost total run down of holdings during the sanctions period, Canadians are getting into new fields such as food and transportation. Most companies, regardless of national origin are eschewing manufacturing, and in the South African economy generally there have been very few new large scale "green field" industrial investments. The six newer Canadian companies, that is the four (4) above and Cott and Dundee Bancorp are in a mix of traditional resource based industries and service and food related sectors. Part of this trend can be attributed to a restructuring away from manufacturing, and part to its corollary, the relatively high wage rates prevailing in the South African economy. It is significant, as well as interesting, to relate that one of the formerly Canadian held South African companies is now active and winning contracts unfettered by former contractual limitations in Eastern Europe and South East Asia, but on the basis that it cannot afford to be competitive if it were to use South African labour inputs.

<sup>8</sup>No other information is available to the Administrator.

## OBSERVANCE OF THE CODE

### 1. General Working Conditions

All South African affiliates of Canadian companies report the provision of safe, and otherwise acceptable, working conditions for all of their employees.

### 2. Collective Bargaining

Trade unionism and collective bargaining are new accepted features of the South African scene and continued during the period of the report to be an area of intense activity.

The Council of South African Trade Unions (COSATU) retained its dominant role on the labour front and during the period became involved in the National Economic Forum, set up to address short and long term economic problems. COSATU has been at the forefront of the anti-apartheid movement and has over the years received a great deal of international support and assistance in that respect. One involved observer has suggested that the organization has very little to learn about bettering the lot of labour, and could probably teach its former mentors a thing or two!

With respect to Canadian affiliates, these are free to become unionized (in fact one or two are in the process) and therefore meet Code of Conduct requirements. In practice smaller firms all report having an "open-door" policy with direct access to management when issues arise or they otherwise work through a spokesperson.

The Canadian Embassy, in lieu of a trade union with full bargaining rights, has an active staff association which meets regularly and consults management when need arises. The Canadian Public Service Staff Relations Act (PSSRA) specifically excludes locally engaged Embassy staff worldwide from collective bargaining, but the staff association has been found on all sides to provide a comparable mechanism. The elected representatives of the staff association are permitted to meet individually or collectively with staff on Embassy premises and are accorded reasonable time-off to do so. With respect to household staff engaged on a personal basis by Canadians serving with the Embassy, there are written guidelines recommended by the South African Domestic Workers Union which in general are in accordance with the Code of Conduct. Their implementation is monitored by the Embassy.

3. Migrant labour

No migrant labour is employed by the current group of Canadian company affiliates.

While not migratory labour in a technical sense, the Canadian Embassy does have a group of three locally-engaged employees who travel regularly with the Ambassador to Cape Town for the annual Parliamentary session. They are provided with housing in both Pretoria and Cape Town. They received a special family allowance while in Cape Town and are granted a family reunification visit when the Parliamentary session is extended beyond six months.

4. Wages

The Canadian Government's Code of Conduct stipulates equal pay for equal work; all companies meet this requirement. Additionally, it urges companies to pay their employee's wages which guarantee a standard of living that allows them to live with dignity. This requirement has particular relevance to the minimum wage, that is, the wage of the lowest-paid employee in the company.

The living standards of non-Whites, against which the pay performance of the companies is gauged, are calculated by the University of South Africa (UNISA). UNISA's standards are based on semi-annual surveys carried out in 26 urban areas throughout South Africa and take into account the household size, age structure, and sex composition in the populations groups and areas under study. For the Minimum Living Level (MLL), UNISA includes in its calculations 11 items: Food clothing, fuel and light, other services, washing and cleaning materials, transport, medical and dental services, education, household equipment replacement, taxes, and support of relatives. MLL, as defined by UNISA, reflects: "The minimum financial requirements of members of a household if they are to maintain their health and have acceptable standards of hygiene and sufficient clothing for their needs. The MLL is the lowest possible sum on which a specific size of household can live in our existing social setup."

The Supplemented Living Level (SLL) of UNISA makes provision for the inclusion of additional items. These include: recreation and entertainment, extra food, additional household equipment, extra transport, additional support, taxes and rent, and contributions to pension (unemployment, medical, and burial) funds. in UNISA's words: "By present standards, some of these items may be regarded as necessities and others as desirable amenities of life. The SLL is not a subsistence budget, nor is it a luxury budget. Perhaps, it can best be described as an attempt at determining a modest low-level standard of living." Depending on the area involved, the SLL is approximately 25% to 30% higher than the MLL. Given that the latter represents bare subsistence standards of living, foreign firms are encouraged to take as their guideline the SLL.

The Canadian Code suggests the SLL as an absolute minimum and urges companies to exceed it and to strive for a minimum rate of pay at least 20% higher, or 50% in excess of MLL. This has not been an easy matter for any but the major enterprises in the past. Table VI (below) indicated the degree of success and progress achieved by Canadian affiliates in meeting the Code of Conduct wage guidelines in the period from the last report to September 1993.

Table VI

REPORTED WAGES OF LOWEST PAID EMPLOYEES RELATED TO MINIMUM LIVING LEVEL (MLL)<sup>9</sup>

<u>% By Which Wage Exceeds MLL</u>	<u>Number of Companies</u>	
	Last Report	at September 24, 1993
0 - less	-	-
1 - 9	-	-
10 - 19	-	-
20 - 29	1	1
30 - 39	1	-
40 - 49	1	1
50 and over	5	-
	<u>8</u>	<u>2</u>

Neither the Embassy, nor any of the affiliates reported meeting or exceeding the higher target of 50% or more of MLL for their lowest paid employees, but all affiliates which chose to report met the minimum rate set by the Canadian Code of Conduct.

<sup>9</sup>only two (2) of this period's respondents supplied sufficient data on which to base comparisons.

The few Canadian companies and their South African partners reporting for the period generally comply with the basic requirements of the Code of Conduct. The one large firm with its subsidiary, and the Embassy, by virtue of size and substantial resources, were able and did devote some resources to programs and practices which exceed this and support the Code's further objectives. The smaller firm, without comparable resources, is, nonetheless working within its means to ensure fair practices and advances in the desired directions. In fairness to the small firms which reported under this voluntary code, and even to those that felt they could not, it's important to note that, had these been corporate citizens of any country other than Canada embracing a similar Code, they would not have been expected to report because of the small work force, or percentage of ownership involved. Given the fact that the South African economy has been in recession for the three years preceding the cut off date of this report and the combination of factors contributing to this -- a shrinking world economy, the effects in particular of international financial sanctions, shortages of external investment capital and technology, low productivity growth, high inflation and interest rates, and stiff competition -- commercial and industrial enterprises had little leeway for more rapid progress. Within these constraints, however, improvements were clearly there, if at a rate that is slower than desirable.

With respect to the average wage of all non-White personnel, the picture is better, with all but one reporting company exceeding SLL and the suggested level of at least 50% above MLL. For the affiliates in the computer and services sector, the average wage for non-Whites at lower levels exceeded the MLL by amounts in the range of 4.9% - 40%. There has been progress in promoting non-White personnel, all reporting companies support and implement the principle of equal pay for equal work.

In some cases, an effort was made to close the gap between White and non-White wages by giving somewhat larger annual increase to non-White, in particular Black, employees. Table VII (next page) although based on limited data, illustrates this point.

Collective bargaining arrangements are not in force in Canadian affiliates, or at the Embassy, but wages are generally adjusted annually. Increases customarily reflect the cost of living and, where relevant, increases in productivity. Qualifications rather than race are universally reported as a basis for staffing of, and remuneration for, positions; in one case, positions are related to a qualitative job evaluation process (the Hay system).

While progress has been made in improving the pay and promotion prospects of non-White personnel, it remains the case that apart from positions in sales and marketing, few of them attain other than the lower and middle levels of management or high-technology positions. For this reason, the average wages paid White workers remain substantially higher.

Table VII

AVERAGE DIFFERENTIAL REPORTED PAY INCREASES 1991 - 1993<sup>10</sup>

	<u>Black Employees</u>	<u>Coloured/Asian Employees</u>	<u>White Employees</u>
1991	19.2%	15.9%	16.5%
1992	10.2%	15%	5.3%
1993	12.3%	(1.3%)	10.5%

5. Training and Promotion

The Code of Conduct suggests, as a preliminary objective *en route* to a fair and balanced racial composition of the work force, the filling of 50% of all supervisory and management positions with non-White employees, within a specified period of time. While some progress has been reported toward this goal, it has been minimal to date and must be considered, in part, a legacy of the bias in the educational system which places non-Whites at a disadvantage. While recently the Government had made as an objective significant new investment in Black educational facilities and objective, there remains a startling differential in educational opportunities, which is likely to prevail for some time.

6. Fringe Benefits

Companies are encouraged by the Code of Conduct to concern themselves with the living conditions of their non-White employees and their families. To this end, they are expected to provide benefits beyond those required by South African legislation, notably with respect to social protection schemes (e.g. health, accident, pensions, unemployment insurance), education for family members, housing, transportation, legal, and recreational needs.

The major entities -- given their substantial resources -- have more scope, and are able to provide more fringe benefits than the smaller ones. Nevertheless, all, both large and small, provide basic benefits and attempt to ameliorate the prevailing legacies of the former system.

<sup>10</sup>Based on limited data.

**Social Benefits.** Most enterprises provide basic medical, accident, unemployment (state scheme), and pension schemes in a variety of forms. Some are contributory; others, particularly the smaller ones, operate on an *ad hoc* basis, assisting when need arises but lacking the formal schemes of the larger companies.

**Vacations.** All affiliates provide vacation leave on a non-discriminatory basis.

**Housing.** All four (4) respondents, including the Canadian Embassy offer assistance in one form or another, such as subsidized housing or loans for home improvement or acquisition.<sup>11</sup> Generally, where assistance has not been provided, it is because affordable housing is available within commuting distance of the work place. There is reportedly, however, a structural problem in financing housing, particularly in township areas with legal issues and tenure complicating the capacity to help employees with mortgages.

**Transportation.** All affiliates recognize the difficulties for staff in the existing transportation and housing mosaic, and attempt to alleviate commuting difficulties where they impinge on attendance at work. One affiliate indicated they take the extra costs involved into account in wage determination, and others pay subsidies to the local authority transportation fund, and another helps with vehicle and repair costs. All, who have employees working overtime or outside normal work periods, provide transport to or from home where needed.

**Education, Recreation, and Health.** The one large firm, reporting under the E.C., and the Canadian Embassy, have programs which support in particular educational and training objectives. The Canadian Embassy arranges both computer courses and french language training for its local staff and provides, a subsidy of R2,342 per year per child for schooling. Additionally the Embassy funds \$800 000 to \$3.5 Million in local aid initiatives, including education.

#### 7. Race Relations

Desegregation in the work place, including related amenities and recreational facilities, is a non-issue with Canadian affiliates. This has been the case for a number of years.

<sup>11</sup>The Canadian Embassy facility was "frozen" in 1991/92 but is again operational.

#### 8. Encouragement of Black Businesses

Without exception, Canadian affiliates have indicated readiness to conduct business with enterprises of any racial background; however, the practice has been slow in implementation. CABBSA, the Canadian Association for Black Business in South Africa, (a Canadian Exporters Association initiative with CIDA funding) and other Black entrepreneurship programs, such as the "Get Ahead Fund", have support from one or two subsidiaries. The initiatives these large and small affiliates have been able to take are greatly overshadowed by those of the Embassy which has promoted a well-funded program in this area, including a small Business Advice Centre with a varied extension program.

Nevertheless, affiliates indicated the intention to persevere in the encouragement of the Black businesses.

#### 9. Social Justice

Canadian companies and their South African affiliates are urged in the Code of Conduct to use their influence by positive, constructive, and legal means to promote the cause of social and political reforms. With the events of 1992-93 leading up to the April 1994 election, this is no longer an issue.

#### IV. COMPANY PERFORMANCE

The Code of Conduct Administrator's terms of reference, require a report on the administration and observation of the Code, consistent with the purposes and intent of that Code.

In the past, and when there were as many as 20,000 employees affected, the Administrator was able to assess the degree to which enterprises complied with both the spirit and the letter of the Canadian Code of Conduct. In that exercise, companies were rated on the degree to which their subsidiaries fulfilled or exceeded (or in some cases failed to meet) the basic requirements of the Canadian Code. The 1989 report rated eight companies, of which two -- the Canadian Embassy and Qit-Fer et Titane Inc. -- received points which put them in the highest category of performance. Others fared less well but no company was in the bottom category by "failing to meet many basic requirements" of the Code. The rating exercise was considered useful in that it not only allowed comparison with peers, but also indicated in general where improvement was necessary and to what degree. It had parallels with the rating system used for U.S. firms under the Signatory Association and the State Department systems.

In approaching this issue, the Administrator felt the number of companies reporting under the Canadian Code (three [3] this year including the Canadian Embassy) and the small number of non-White employees affected (only 17 on which reports are given), the incompleteness of one report -- taken in conjunction with the impossibility of adequately categorizing Canadian affiliates reporting only under the EC system on the same basis as those reporting under the Canadian Code -- would make this a less than meaningful statistical exercise. Based on interviews and available data, it is clear that those entities which reported fully, including the Canadian Embassy, have not moved backwards; although, like other employers, the Embassy itself has been under constraints in the matter of wage increases.

Minimum wages related to rates in excess of MLL for the lowest-paid employees formed a major part of the assessment, accounting for 20% of the weighing. Now that unions and, in previous years, employee groups have more bargaining power, and productivity is seen as a vital issue, it may be that the minimum wage issue -- while important -- is secondary to other tangible employee benefits. In any case, it cannot be a useful criteria in present circumstances and will not, therefore, form part of this analysis.

Section 4c of the Code stipulates that companies in determining wages, should take particular note of the impact of inflation, and that annual increases should offset the impact of this factor. The period to the end of 1993 was described by one observer to encompass the "longest recession experienced in this century and the deepest since the Great Depression." In these circumstances of recession and low growth in employment, it would be perhaps understandable in the South Africa of the period that some companies would feel unable or it unnecessary to meet this suggestion. This was not, however, the general case and although the public sector lagged somewhat, the aggregate increase in remuneration exceeded inflation by 1.6% in 1991, by 2.6% in 1992 and for the first quarter of 1993, by 1.3%.<sup>12</sup> However, in the case of the Canadian Embassy there was a significant constraint on its capacity to meet this suggestion. While it has traditionally exceeded the requirements of the Code, it was unable, because of Canadian Treasury Board regulations, to do so for 1993.

This deficiency is worth perhaps a few words of explanation, if for no other reason than because of the importance the Code has assumed among the measures Canada has taken to mitigate the affects of apartheid. The Canadian Government, in an effort to limit growth in public expenditure, decreed a pay freeze for its employees that was extended to locally engaged staff at Posts abroad. Under current arrangements there will be no salary increments until at least 1996. The lack of a raise in 1993 must be seen in the context of the Embassy's policy of wage levels keyed to a high percentile within comparator Embassies in Pretoria; also, even for the lowest grade Embassy employee the salary level was still some 47% in excess of the MLL as established for the area for the year 1993 -- the first year in which the freeze applied. Whether the effects of the Treasury Board freeze should have been extended to local employees in the many dozens of Canadian Posts where inflation is high is of course a policy decision.

In the view of the Administrator the following companies which reported either directly under the Canadian Code, or through the EC system, met the spirit and intent of this voluntary Code, in respect to their South African entities, if unable, in some cases to meet all aspects of it:

- 1 Bockneck Ltd.
- 2 The Canadian Embassy in Pretoria
- 3 Northern Telecom

Additionally, Cott International, in the report of their preliminary arrangements for staffing, indicated that they would be conforming with the recommended labour practices. There is no information on which to base a judgment as to the compliance, or otherwise, of Unicom Security Systems Ltd. or Dundee Bancorp in respect to their South African interests.

<sup>12</sup>Inflation was: 15.3% in 1991, 13.9% in 1992, 9.7% in 1993

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A CODE FOR THE NEW SOUTH AFRICA?

The European Community canceled the requirement to report on the labour practices of firms operating in South Africa from June 1993, and the Signatory Association followed suit in late 1993, but recommended that its members report instead under the State Department South African Fair Labour Standards system. In the meantime U.S. legislation (South African Democratic Transition Act) was passed on November 23, 1993 which would terminate these reporting requirements on a determination by the President that the requirement for an interim non-racial government had been put in place. That determination was made on June 8, 1994.

As noted earlier Canadian sanctions against South Africa had already been terminated, and the other measures put in place by Canada had fallen away. Nevertheless, there had been discussions among Code countries of "the road ahead", and the desirability of applying a new Code of Conduct in respect to future employment practices to aid in mitigating some of the legacy of apartheid. There had in fact been an earlier proposal to this effect endorsed by the South African Council of Churches (SACC). In the case of the European Community their Ambassadors in Pretoria have been enjoined to consult and report on labour practices. The consensus on the issue, taking into account earlier ANC views as well as those of the former government, is that while it is hoped appropriate steps are taken to prescribe good practices, it should be for the South African government itself to determine what is appropriate.

The issue for Canada with its minuscule employment base in South Africa clearly limited to one of respecting the sovereignty of this fellow Commonwealth country, and perhaps taking some satisfaction from the positive demonstration effects of its earlier actions when its work force was so much larger, and when such actions had impact.

Code Administrator

Terms of Reference

Under the authority of the Minister of Foreign Affairs and International Trade and in liaison with the Eastern and Southern African Relations Division of the Department of Foreign Affairs and International Trade:

- (i) to draw the Code of Conduct concerning the Employment Practices of Canadian Companies Operating in South Africa to the attention of companies to which it applied before the lifting of Canadian sanctions against South Africa on September 24, 1993; make them aware of the standard reporting format, and solicit a public report from those companies with respect to their compliance with the Code;
- (ii) to collate the reports received from the companies concerned; make complete and accurate records of official consultations, correspondence and transactions undertaken in the execution of the terms of this contract;
- (iii) to prepare a report on the administration and observance of the Code during the period between the last report (July 1991) and September 24, 1994

ANNEX B

(Valid to 24/9/93)

CODE OF CONDUCT CONCERNING THE  
EMPLOYMENT PRACTICES OF CANADIAN COMPANIES

OPERATING IN SOUTH AFRICA

This Code of Conduct is addressed to all Canadian companies that have subsidiaries, affiliates or representative establishments in South Africa. Its aim, as one of a number of Canadian Government measures, is to make a contribution towards abolishing apartheid.

There are now numerous Codes of Conduct for businesses operating in South Africa. They have been promulgated by domestic South African organizations, by individual South African and foreign companies, by a number of countries (the European Community) and by individual countries on government initiative (Canada and recently Australia and the United States) or on a non-governmental basis (the Sullivan System in the U.S.A.). The text of the Canadian Code of Conduct which was first issued in April 1978, has been substantially revised in the light of developments in South Africa and of the need to improve the Code's administration and provide more adequate guidance to Canadian Companies. The revised text has, in particular, taken into account the experience of the European Community countries and of the Sullivan System with their Codes and the importance of demonstrating the solidarity of international opposition to the apartheid system.

With the aim of combating racial discrimination in mind, the Canadian Government strongly hopes that every Canadian company active in South Africa will implement employment practices which are based on the principle of equal treatment for all its employees, are consistent with the general economic welfare of all people in South Africa and will help bring about the conditions necessary for acceptance of the well-established standards of human rights approved by the International Labour Organization and by the International Organization of Employers. While these objectives are applicable to all employees they have particular relevance to the employment conditions of black workers and to the urgency that should be attached to the improvement of their working conditions and quality of life generally.

Accordingly, it is the view of the Canadian Government that employment practices and policies related to the improvement of quality of life for black employees and their families should be guided by the following conditions, principles and objectives.

I. General Working Condition

In general, companies should regard the constant improvement of the overall work situation of black employees as an objective having a high priority. They should ensure that employment practices applicable to any group of workers are equally applicable to all workers.

2. Collective Bargaining

- (a) Companies should ensure that their employees are free to organize collective bargaining units of their own choosing that can effectively represent them, and should undertake to engage in collective bargaining with such units in accordance with internationally accepted principles.
- (b) Companies, recognizing that the South African Labour Relations Act and Labour Law are now free of provisions that discriminate on the basis of race, should pay particular attention to black trade unions and ensure that black employees are free to form or join the trade union of their choice. They should be prepared to sign recognition's agreements with representative black trade unions within the company and allow collective bargaining, including the signing of collective agreements. Employers should regularly and unequivocally inform their employees that consultations and collective bargaining with organizations that are freely elected and representative of employees are part of company policy.
- (c) Companies should as a matter of course allow trade union officials to explain to employees the aims of trade unions and the advantages of membership, to disseminate trade union information material and display trade union notices on the company's premises, to have reasonable time off to carry out their union duties without loss of pay and to organize meetings.
- (d) In companies where works or liaison committees already 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 of status of trade unions or of their representatives.

- (e) Companies should do everything possible to establish a climate of confidence in their relations with their employees. In this connection it is important that each company ensure that its employees be familiar with the Canadian Code of Conduct and that at regular intervals they can see or have the text of the Code read to them in a language they understand. The company should be prepared to inform its employees what it is doing to implement the Code and should review and discuss with them or their implementation of the Code.

3. Migrant Labour

- (a) The policy of apartheid leads to the use of migrant Labour, which robs the individual of the basic freedom to seek and obtain the 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 workers and giving them the opportunity to lead a family life.
- (c) Employers should endeavor to alleviate the effects of existing regulations, in particular by facilitating the regular renewal of contracts of employment and making it easier for the families of employees to settle near their workplace.

4. Wage and Pay Structures

- (a) Companies should formulate specific guidelines aimed at improving their terms of employment and at implementing the principle of "equal pay for equal work." The staffing of and remuneration for a position should be based on the qualifications of an individual and not on his or her racial origin. The same pay scales should be applied to the same job.

- (b) Companies would also provide remuneration sufficient to assist their black employees in particular to achieve a standard of living significantly above the minimum level required to meet their basic needs. In this context they should refer to the data on living costs regularly collected and analyzed by the University of South Africa (UNISA) (See annex C for further details.) Pay based on the "Supplemented Living Level" for an average-sized family must be considered as the absolute minimum necessary and the Canadian Government strongly urges companies, taking into account the value of work performed in particular industries, to introduce minimum wages which substantially exceed this level at an early stage of their programs for improving the terms of employment of their black employees.
- (c) In their continuing review of pay and wage structures, companies should take particular note of the impact of inflation. Annual wage increases should offset the impact of this factor but, if the desired improvement in real wages is to be achieved, it cannot be the only factor to be reflected in the determination of wage increases.

5. Training and Promotion

- (a) The principle of equal pay for equal work would not mean much if black employees were kept in inferior jobs. Implementing the principle of equality of opportunity must also be given a high priority. Employers should therefore draw up an appropriate range of training schemes of a suitable standard to provide training for their black employees.
- (b) Companies should ensure that supervisory and management jobs and those requiring high technical qualifications are open to their black employees.

The aim should be as a preliminary objective only towards the ultimate goal of a fair and balanced racial composition of the work force, to fill fifty percent of all supervisory and management positions with employees other than those designated as white persons within a period of time which companies should clearly specify in their employment plans and development programs.

- (c) Companies should, if possible, organize occupational training programs for their black employees and help them to take advantage of other educational and occupational training program outside their places of work. Where required, companies should set up or use educational facilities to enable their black employees to benefit from more specialized training, and generally should support them and members of their families in their right of access to equal, integrated and universal educational facilities and opportunities.

- (d) Companies should make every effort to eliminate in practice any de facto restrictions based on custom on apprenticeships for black employees. They should ensure that employees of different racial groups can take part in training programs without any form of segregation.
- (e) In general, whether it is a matter of an imbalance in the racial composition of a company's work force and staff or of such an imbalance at any of the different levels of management and work force, companies should, in their forward planning, treat the need to correct this situation as a matter of some urgency.

6. Fringe Benefits

- (a) In view of their social responsibilities, companies should concern themselves with the living conditions of their black employees and their families.
- (b) For this purpose, company funds could be set aside to provide benefits over and above those currently provided according to South African legislation:
- providing complete social protection schemes for employees and their families (health, accident and unemployment insurance and old age pensions);
  - ensuring that their employees and their families have the benefit of adequate medical care;
  - assisting in the education of members of their families;
  - helping them to buy their own housing or to obtain accommodation which enables all workers to live with their families near their workplace;
  - providing transport from home to work and back with particular attention to alleviating the difficulties facing those employees who are obliged to commute some distance to the workplace;
  - 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 other employment;
  - providing leisure facilities.
- (c) Companies would support community projects that aim to improve the quality of life of the black communities from which they draw their staff.

7. Race Relations and Desegregation

- (a) Where this has not already been completely achieved, employers should do everything possible to abolish any practice of segregation, notably at the workplace, in canteen, in education and training and in sports activities. They should also ensure equal working conditions for all the staff.
- (b) Along with the advancement of their black employees, companies should directly support inter-staff contacts, and help employees from different racial groups to get to know each other better and integrate more fully.
- (c) Companies should encourage sporting activities in such employees from different racial groups take part in mixed teams in mixed competitions.

8. Encouragement of Black Businesses

As far as they are able, companies should, in the framework of their activities, encourage the setting up and expansion of black businesses by contributing their expertise, counseling and advice, by sub-contracting, by providing assistance for their black employees to set up their own businesses and by preferential, priority treatment in customer-supplier relations.

9. Social Justice

By positive, constructive and legal means and approaches and in cooperation with other foreign companies and with their South African partners, Canadian companies should use whatever channels of influence are available to them to promote the cause of social justice and the peaceful achievement of necessary social and political changes and reforms.

The revised procedure establishes a reporting system regarding the adherence of companies to the Code of Conduct which is reviewed on an annual basis by an impartial and independent Administrator. In conformity with a standard reporting format issued to them for this purpose, all Canadian companies should submit to the Administrator annual public reports in sufficient detail to permit assessment of their progress in realizing the objectives of the code of conduct. On the basis of his review and collation of the responses of the companies, the Administrator submits to the Secretary of State for External Affairs and annual report that is subsequently tabled in Parliament.

Although the Code of conduct is addressed primarily to the employment practices of Canadian companies in South Africa, there may be other Canadian establishments, in South Africa, there may be other Canadian establishments, as is the case with the Canadian Embassy in Pretoria, which employ people locally in South Africa and whose employment practices, accordingly, should conform to the guidelines set out in the Code. The Canadian Government invites any Canadian public or private organization, temporarily or permanently located in South African and employing local labour there, to comply voluntarily with the Code of Conduct.

\*Note: Changes in South African law subsequent to the promulgation of this Code may have altered the relevance of some elements of it.

## CODE OF CONDUCT

### ADMINISTRATIVE PROCEDURES AND GUIDANCE (1991-93)

#### Reporting System

Companies are asked to provide their annual public reports relating to the code of Conduct in the standard reporting format which will be issued to them by the Administrator.

The annual report should state the facts as of September 24, 1993 and in particular should bring out clearly the progress achieved in the implementation of the various sections of the code. This is particularly important where they are considered to represent a significant contribution to the advancement and well-being of the Black employees and their families and to the communities in which they live. Companies should feel free to describe their achievements in some detail citing, wherever relevant, the financial provision for them in company budgets.

Companies should submit this report to the Administrator by 15 March 1994.

The Administrator will review and collate company reports and submit a report to the Minister of Foreign Affairs by 31 March 1994. It will shortly thereafter be tabled in Parliament.

Members of the public who may wish to obtain a copy of any company annual report relating to the Code of Conduct will be informed that they should apply directly to the company concerned.

#### Collective Bargaining

This section of the Code does not ask companies to promote, set up, or do the job of trade unions. It does, however, ask companies to "ensure that their employees are free to organize collective bargaining units of their own choosing." A feature of the labour relations scene in recent years has been the involvement of Black workers in the statutory industrial relations system and the emergence and growing influence of independent trade unions representing black employees. The Code states that companies should pay particular attention to such union and be prepared to conclude recognition agreements with them. This should not, of course, be at the expense of the employees' freedom of choice.

Section 2(a) of the Code asks companies to allow collective bargaining "in accordance with internationally accepted principles." These are the well-established standards in the field of human rights approved by the International Labour Organization. The Declaration adopted unanimously in 1973 by the Executive Committee of the International Labour Organization of Employers appeals "to all employers in South Africa to take urgent measures to promote the conditions necessary for acceptance" of these standards. The suggestions made in Section 2(b) and (d) of the Code are examples of action which employers can take to ensure that Black employees can exercise freedom of choice and of association. Other steps which employers can take include an understanding that employees will not be victimized on account of trade union membership or for participation in trade union affairs.

### Minimum Wage

The improvement of the wages of Black employees is an important issue, especially in respect of the minimum wage, that is, the wage of the lowest-paid employee in the company. Employees should be guaranteed a standard of living that will allow them some dignity. Thus companies are asked to report their minimum living levels.

The standards used based on a family of five as an average size of an African family are the monthly Minimum Living Level (MLL) established by the University of South Africa (UNISA).

These standards are calculated from statistical studies, periodically updated, carried out by the university at various locations, including separate surveys for rural areas. For example as specified by UNISA in a 1985 study, "The Minimum Living Level (MLL) denotes the minimum financial requirements of members of a household if they are to maintain their health and have acceptable standards of hygiene and sufficient clothing for their needs."

The MLL represented purely a subsistence budget, cannot, however, be regarded as a satisfactory standard and companies should instead use the Supplemented Living Level (SLL) recommended by UNISA as the minimum guideline. The (SLL) as described by UNISA is not a subsistence budget, nor is it a luxury level. At best, it is an attempt at determining a modest low-level standard of living. It should, as the code stresses, be regarded as an absolute minimum, and not as a target. .

Minimum pay conforming to the SLL would be roughly 30% higher than a rate based on MLL. The Canadian Government nevertheless strongly urges companies to strive for a minimum rate of pay at least 50% in excess of the MLL within the shortest possible time frame

In view of the special circumstances encountered in such areas, companies operating in defined rural areas should pay at least the MLL and achieve the SLL within 5 years by regular annual pay increases. The company policy with respect to such a time table should be submitted in writing to the Administrator and reviewed, as to results, in the company's annual report.

