



# trade union information

No. 5 - MAY/JUNE 1975

COMMUNITY JOURNAL FOR TRADE UNIONS  
produced by the trade union division  
(information directorate-general)

REPRODUCTION AUTHORISED

Contents:

1. New action by social fund to combat unemployment
2. Commission makes new proposal for European Company Statute
3. Termination of an export cartel in linoleum
4. The Lomé Convention and the unions
5. The European Community and the trade unions of Spain
6. ETUC sets out rights of young workers
7. European Assembly of railway workers' unions, Brussels, 28 and 29 April 1975

OFFICE ADDRESSES:

Dublin: 29 Merrion Square  
Dublin 2, Ireland

London: 20 Kensington Palace Gdns  
London W8 4QQ, England

New York: 277 Park Avenue  
N.Y. 10017, U.S.A.

Washington: 2100 M Street, N.W.  
Suite 707, Washington 20037

X/256/75-E  
Orig.: -F

## 1. NEW ACTION BY SOCIAL FUND TO COMBAT UNEMPLOYMENT

The Commission has approved and sent to the Council a proposal for a new kind of intervention by the Social Fund to help member states tackle the present employment difficulties. The intervention would be made under Article 4 of the Social Fund rules which says that the fund can take action when the employment situation "calls for specific joint action to improve the balance between supply of and demand for manpower within the Community".

The draft Council decision which the Commission is proposing would allow the Social Fund to grant assistance for certain schemes to help persons seeking stable employment to acquire new skills and to change their place of employment if that were necessary.

The retraining schemes which would benefit from aid from the Social Fund would be those which encouraged:

- the development of activities linked to structural changes in the energy sector;
- the promotion of activities corresponding to priority Community needs;
- the necessary changes in sectors or branches with structural problems seriously affecting employment. (Unless unemployment trends and sectoral employment prospects are suddenly reversed, the Commission expects that these sectors and branches will be found among those often referred to in recent consultation held at Community level, namely, motor vehicle, building, textile and certain sectors of the chemical industries as well as certain associated or sub-contracted activities.)

### Special regions and categories

It is also proposed that within the limits set out above, priority should be given to operations carried out in regions most affected by unemployment and benefitting persons in the sectors where the unemployment has risen sharply, young persons under 25 and women who are unemployed or seeking employment. These last two categories are traditionally the most vulnerable in times of crisis or recession. This priority corresponds to the desire expressed at the "Summit" meeting of Heads of Government held in Paris in December 1974 that the Council would at the appropriate time study the possibility of increasing the resources of the Social Fund while taking account of "the problems of the regions and categories of workers most affected by employment difficulties".

It should be emphasised that this new opening up of Article 4 will not affect the intervention methods already used by the Social Fund under Article 5 to support retraining operations in regions in difficulty, particularly those with an under-developed industrial structure. Likewise the Social Fund already has the power under Article 4 to help in the retraining of migrant workers, those in textiles and leaving textiles and those leaving agriculture.

Finally, retraining operations benefitting from this new intervention of the Social Fund will have to form part of development programmes. These programmes should enable the Commission to ensure that the operations which are being assisted by the Social Fund are advisable in a national context and are consistent with the economic and social guidelines of the Community.

It is envisaged that the Social Fund will be able to assist the type of schemes outlined above for a period of 2 years from the time of the Council's decision.

### Budget for 1975

The Social Fund budget for 1975 in millions of units of account is as follows:

	<u>Article 4</u>	<u>Article 5</u>
Already committed	110.0 38.4	245.0 53.5
Available	<hr/> 71.6	<hr/> 191.5

There is also approximately 51 m.u.a. left over from Article 4 budget of 1974 which the Commission intends asking the Council to transfer to this year's budget to finance both Article 4 and Article 5 operations.

## 2. COMMISSION MAKES NEW PROPOSAL FOR EUROPEAN COMPANY STATUTE

The Commission at its meeting in Luxembourg on 30 April 1975 approved a proposal for a European Company Statute. Compared to the previous Commission's proposal of 30 June 1970 the proposal has been amended significantly, following, to a large extent, the advice given by the European Parliament in July 1974. Since the debate in the European Parliament, extensive consultations have taken place with numerous industrial organisations, trade unions, governments and political parties as well as independent experts in the fields of industrial democracy and company law.

The purpose of the proposed European Company Statute is to make possible cross-frontier mergers, holdings and common subsidiaries which would then exist and function as European companies. The proposal is meant to help industry to restructure itself by external growth and internal reorganisation and by adaption to the dimension of the European common market and the requirements of our times.

As yet, European enterprises do not have the opportunity of acting throughout the Community in the same way as they can within the single Member State in which they are incorporated. They have to contend with serious legal, practical and psychological difficulties if they wish to engage in certain cross-frontier operations.

The European Company Statute does not seek to replace national company laws. It is a complete European Companies Act, which will exist alongside them. It opens up a new possibility for European enterprises that wish to overcome present legal differences and practical difficulties in cross-frontier operations.

The European Company Statute is optional. No enterprise is compelled to use this legal framework. They can choose to do so, if they fulfil the requirements of the Statute, including the provisions for workers' participation in the decision-making process of the enterprise on the supervisory board, in the European Works Council and through collective bargaining.

The Statute will facilitate the formation of new multi-national companies, but of a different type. Multinationals which choose to take advantage of the new European form will have a transparent structure and clear obligations in relation to shareholders, creditors, employees and society as a whole. This will constitute a step towards establishing a modern uniform company law applicable to European multi-national companies throughout the Community.

### Amendments to the original draft which are of particular interest to the trade unions concern three issues:

- the representation of employees in the Supervisory Board of a European Company,
- the problem of how to choose the representatives of the employees for the Supervisory Board and the members of the European Works Council, and
- the powers of the European Works Council.

### Composition of Supervisory Board

One third of the Supervisory Board shall consist of representatives of the shareholders, one third of representatives of the employees and one third of members co-opted by these two groups who are to be independent of both shareholders and employees and to represent "general interests".

Since the "general interests" are not defined in a concrete way, the proposed system has some similarity with the system of the "eleventh man" prevailing in the German coal and steel industry since 1951; he is to be co-opted by the representatives of the shareholders and of the employees on the Supervisory Board. Nevertheless there are

substantial differences. Since the final third of members on the Supervisory Board of a European company will normally consist of at least three members, there will not be just a single member, but a plurality of independent members who are all equally entrusted with preventing a deadlock in the Supervisory Board of the European company.

The proposed system also contains substantial elements of the Dutch system in force since 1973. The candidates eligible for co-option are to be proposed by the General Meeting, the Works Council and the Management Board as under Dutch company law. Accordingly, the General Meeting, the European Works Council and the Management Board are each expected to propose candidates who will have the necessary knowledge and experience, will defend the long term interests of the enterprise as a whole, and will therefore probably be acceptable to both shareholders' and employees' representatives.

The shareholders' and the employees' representatives on the Supervisory Board will then probably elect those of the candidates nominated by the three organs whom they predict will act as mediators and conciliators rather than a substantial third force.

It will not be mandatory for employees to be represented on the Supervisory Board. It is left to the employees to decide - by a simple majority - whether they wish to participate in the Supervisory Board of a European company or not. If not, the Supervisory Board will consist of representatives of shareholders only, fulfilling its normal functions.

#### Representation of trade unions by persons not employed by the European Company

The ESC gives the statutory right to the trade unions represented in the establishments of the European company to submit lists of candidates for the election of the employees' representatives to the Supervisory Board. The lists can include a minority of trade union candidates from outside the enterprise, leaving the electors to express their preferences.

It is thus left to the electors and not to the law to decide whether persons not employed by the European company become employees' representatives on the Supervisory Board. The legitimation of all of the representatives of the employees on the board depends on their election, that is on the will of the majority of the employees of the European Company.

#### Election of employees' representatives to the Supervisory Board

Under the election rules the choice of employees' representatives takes place normally in two stages.

First stage: all employees elect in the establishment of the S.E. a number of electoral delegates by secret direct ballot. The election is subject to the principle of proportional representation. Lists of candidates may be submitted by trade unions represented in the establishment and by groups of employees entitled to vote.

10% or 100 employees in an establishment is the minimum requirement for putting up a list of candidates.

Second stage: the electoral delegates elect the employees' representatives to the Supervisory Board jointly by means of a secret ballot. They must exercise their voting rights freely and must not be bound by any instructions. The election is subject to the principle of proportional representation.

Lists of candidates may be submitted by the European Works Council, by trade unions represented in the establishments of the S.E., by 1/20 of the electoral delegates or by at least 1/10 of the employees of the S.E.

#### Election of employees' representatives to the European Works Council

The members of the European Works Council are elected by all employees of the European company by secret direct ballot. Lists of candidates may be submitted by trade unions represented in the establishment and by groups of employees (10% or 100 employees). The election is subject to the principle of proportional representation.

The European Works Council is considered to be the representative body of all employees employed in establishments of the S.E., irrespective of whether they are organised in trade unions or not. Hence, there are direct and secret elections in which all employees of the respective establishment can participate. This is of particular significance in the case of undertakings which have establishments in several Member States - and it is only then that a European Works Council is created. The degree of organisation of workers in a trade union varies as much from one Member State to another as it does from one branch of industry to another.

But the degree of the legitimation of the members of the European Works Council should not differ and depend upon the degree to which labour is organised in each establishment.

All employees of the European company, moreover, should enjoy the same rights relating to information, consultation and co-decision. These are intended to be statutory rights and therefore not reserved to organised groups, but available to all employees.

This does not mean that trade unions are in any way excluded from having members on European Works Councils. Where an election takes place, they have an equal right to submit lists of candidates. In addition, the European Works Council may at any time, by majority vote, invite a representative from a trade union represented in an establishment of the European company to attend certain meetings in an advisory capacity. Furthermore, experts may be called in to clarify certain difficult questions and these experts can be drawn from the ranks of trade unions.

#### Powers of the European Works Council

The European Works Council is competent for all matters which concern the European company as a whole or several of its establishments. The Works Council is to be kept regularly informed on the general economic position of the S.E. and of its future development. It has to be consulted before important economic decisions affecting the employees are taken. Decisions concerning certain social matters may be made by the Board of Management only with the agreement of the European Works Council. If the European Works Council withholds its agreement, agreement may be given by a court of arbitration whose members are appointed by the European Works Council and by the Board of Management.

The European Works Council must give its agreement to decisions planned by the Board of Management concerning the establishment of a social plan in the event of closure of the European company or of parts thereof. Before making any decisions relating to the winding up of undertakings and mergers with other undertakings, the Board of Management must consult the European Works Council.

On the other hand, the competence of the European Works Council shall extend only to matters which do not involve the negotiation or conclusion of conventions or collective agreements concerning the working conditions of employees. Thus a demarcation line has been drawn between the powers of the European Works Council and of the trade unions.

The European Works Council must not interfere with the role of trade unions nor with the duties of employee representatives organised at plant level under national arrangements. These representatives will continue to exercise their functions, unless otherwise provided in the Statute. Such provisions exist only in cases where a uniform representation of all employees affected by a decision of the Management Board is desirable both for the representation of employees' interests and the viability of the decision making process within the European Company. Nor is collective bargaining on working conditions a matter for the European Works Council. The draft of the amended proposal expressly prevents the European Works Council from engaging in such procedures, unless it is authorized to do so by the contracting parties within a European collective agreement. It is hereby intended to forestall any possible conflict with the functions of the trade unions. Indeed, the proposed European Company Statute goes much further than that and gives the trade unions the new, additional opportunity to operate effectively in the specific environment of a company working at a trans-national level. To these ends, it includes provisions enabling the European Company to conclude agreements with the trade unions represented in its different establishments on working conditions

which are binding throughout the Community for all employees who are members of a trade union which is a party to such an agreement.

This reflects the feeling that the European Company will function better if the trade unions are sufficiently organised and possess specific rights at the transnational level on which the company works and are thus able to play an active role in the life of the undertaking.

### 3. TERMINATION OF AN EXPORT CARTEL IN LINOLEUM

Following representations by the Commission, four European floor coverings manufacturers have terminated their export cartel for linoleum (The Linoleum Manufacturers' Export Convention).

The firms involved - Nairn Floors Ltd., Kirkcaldy, Fife, Scotland; Barry Staines (Sales) Ltd., Staines, Middlesex, England; Forbo AG (formerly Continentale Linoleum Union), Zürich, Switzerland; and DLW-Aktiengesellschaft, Bietigheim, Württemberg, Germany - were concerting their practices on the basis of principles set out in the more than thirty clauses of the Linoleum Manufacturers' Export Convention Trade Practices notified to the Commission. Uniform prices and discounts were fixed at regular intervals, while terms of payment, charges and standard thickness were harmonized.

In the common market the Convention operated in Belgium, Luxembourg, Denmark and Ireland and otherwise primarily in non-member countries. The Federal Republic of Germany, the United Kingdom, France (including overseas territories), the Netherlands and Italy were expressly stated as being outside the scope of the Trade Practices. The four firms marketed the bulk of their output on their respective domestic markets, on which they all held strong positions. Forbo's Dutch subsidiary - Nederlandsche Linoleum-fabriek BV, Krommenie - holds 95 % of the Dutch market and 80 % of the Belgian and Luxembourg market. DLW is the only linoleum manufacturer in Germany and has a market share of some 90 %; in the UK, Nairn Floors has about 67 % of the market, the remainder being accounted for by Barry Staines.

By providing for uniform prices and discounts, the Linoleum Manufacturers' Export Convention restricted competition within the meaning of Article 85 of the EEC Treaty - not only in the Member States directly covered by the Convention but also, in view of the positions held by the four firms on their home markets, throughout the common market. There was a likelihood of concerted practices as a result of the export cartel even on markets in which the Trade Practices did not operate.

The Commission was unable to exempt the cartel under Article 85(3), having concluded that the Convention did not contribute to improving the production or distribution of goods nor allow consumers a fair share of the benefit.

The Commission expects competition to become keener in the linoleum industry now that the cartel has been broken up.

### 4. THE LOMÉ CONVENTION AND THE UNIONS

Claude Cheysson, member of the Commission of the European Communities, held a meeting on 24 April 1975 with a delegation from the European Trade Union Confederation, led by the president and the general secretary. The meeting examined the possibilities for associating the trade unions with the development policy of the Community, in particular in the framework of the Lomé Convention. It was stressed that both the Commission representatives and the ETUC delegation were in favour of bringing the unions in.

The ETUC side stated their willingness to cooperate effectively in an open policy of cooperation for development; they set out conditions which it appeared to them would have to be fulfilled, both as to the content of the cooperation and as to the institutional form of cooperation. Mr. Cheysson promised the support of the Commission for an effective association of the ETUC, through appropriate forms to be defined, in the application of the Lomé Convention.

#### 5. THE EUROPEAN COMMUNITY AND THE TRADE UNIONS OF SPAIN

At the request of the European Trade Union Confederation, Claude Cheysson, member of the Commission, received a delegation from the two Spanish trade union organisations affiliated to the ETUC: the general union of Spanish workers UGT and the Basque workers' solidarity organisation STV.

In a cordial discussion on the general and trade union situation in Spain, the representatives of the genuine trade unions of this country stressed that the Spanish workers are not duped by the deceit practised by the official "trade union" system and trust those who genuinely represent them.

The delegation was accompanied by the ETUC general secretary and one of the secretaries.

#### 6. ETUC SETS OUT RIGHTS OF YOUNG WORKERS

In view of the increasingly acute problems concerning the employment of young workers, the European Trade Union Confederation has asked its affiliated organisations to promote with their governments certain priority measures which could contribute to the solution of this problem arising partly from the failure of teaching and vocational training to adapt to the needs of the economy and vice versa:

- prolongation of compulsory schooling to 16 years, linked with restructuration of the education system and the installation of a temporary wage at this age in the case of lack of employment;
- prohibition of employing young workers:
  - (a) on production lines or any other form of repetitive work;
  - (b) on piece work, or any other form of work based on bonuses for production increases, or work performed by young people in groups where adults work such systems;
  - (c) between 8 p.m. and 7 a.m.;
  - (d) on work exposing them to risks to their health, either physiological or psychological;
- right to a special 10-day annual holiday period paid by the employer and considered as working days, for the purpose of further education in the political and socio-cultural fields, so that they can develop themselves and in particular gain a critical sense towards society.

#### 7. EUROPEAN GENERAL ASSEMBLY OF RAILWAY WORKERS' UNIONS, BRUSSELS, 28 and 29 April 1975

This assembly, where the railway trade union forces of different types met, defined their common positions with regard to:

- the promotion, within the E.E.C., of a transport policy which really corresponds to the general interest;
- the creation of conditions allowing the railways to fulfil an economic and social role in conformity with its possibilities;

- to assure real social progress for the railway companies' employees.

These various positions are stated in the attached documents adopted by the participants at the Assembly on 28 and 29 April.

The participants decided to appeal to governments, other public authorities, the European Commission and the Council of Ministers, with a view to getting their objectives realised.

They will also appeal to public opinion so that it will give them its full support with a view to a new transport policy which takes into account the needs of the peoples of the European Economic Community.

In this context, the leaders of railway trade union organisations in the EEC, have adopted the text of an appeal from the railwaymen of the EEC countries, to be addressed to governments, the EEC and public opinion. A resolution stating their primary demands must be considered as a minimum essential in the different countries and this defines what action must be taken to attain this end.

The trade unions taking part in the Conference of Railwaymen's Organisations in the European Communities,

HAVING NOTED a proposal concerning the establishment of a European Railway Authority which the "Group of Nine" of the UIC has submitted to the Council of Ministers of the UIC,

WHILST RECOGNIZING the necessity of steadily closer co-operation between the separate railway undertakings,

DEPLORE NEVERTHELESS the harmful insistence on a liberal transport policy characterized by curtailment of railway operations, transfer of railway activities to the private sector and prejudice to the public service functions of the railways,

CONSIDER that the future organizational structure of a European Railway Authority should not be so framed as to serve as support for an erroneous transport policy which has hitherto resulted in manifest absurdities and waste prejudicial to the general interest and to the interests of workers employed in transport,

ARE RESOLUTELY OPPOSED to the essentially technocratic basis of the plans drawn up by the "Group of Nine" which must result in a loss of consultative and other rights in the field of co-determination at present enjoyed by railwaymen and their trade unions and would therefore bring about a state of affairs incompatible with the declared objective of a democratic, social Europe in so far as the threat to existing trade-union rights in the rail sector would be accompanied by neglect of vital national and regional interests.

DEMAND effective participation of railwaymen's trade unions in all further consideration of these matters both within the framework of the Community Institutions and in the "Group of Nine",

AFFIRM THEIR RESOLVE to work for the continuing democratization of the machinery in question,

UNDERTAKE to bring these views to the attention of the competent national and European authorities.