

EUROPEAN AFFAIRS COMMITTEE

Date: 17 October 2001

Time: 9.00 am

Venue: Committee Room 3, National Assembly Building

Proposed European Directive establishing a General Framework for Informing and Consulting Employees in the European Community.

Purpose

1. To assist the Committee's discussion of the proposed European Directive on Informing and Consulting Employees.

Background

History of the proposal

2. Following controversy over the sudden closure by Renault of a plant at Vilvevoorde in Belgium in 1996, the Commission invited the EU Social Partners to agree a measure on information and consultation of employees. The Social Partners could not agree and so the Commission brought forward a proposal for a Directive in November 1998. The purpose of the Commission's proposal was to establish a general framework in the European Community for informing and consulting employees. It would apply to Community undertakings with 50 or more employees and would require them to put in place arrangements for informing and consulting their employees in respect of matters as set out in the proposed Directive.

3. The Directive would mainly affect the UK and Ireland, the only two Member States where employees have no legal right to information and consultation, about the general affairs of the undertaking. Other Member States have a works council system of one sort or another. The UK Government's position was set out in the Fairness at Work White Paper of May 1998. This said that The UK Government "is not persuaded of the need for a directive on information and consultation in companies operating only at national level. It is difficult to reconcile with

subsidiarity and would cut across existing practices in Member States to no benefit". This position was strongly supported by the CBI and opposed by the TUC.

4. Political pressure for the Directive increased following a series of high profile redundancy/restructuring programmes in the UK and elsewhere (BMW, Vauxhall, Corus, Marks and Spencer, Motorola, Ericssons, Danone etc). In the UK, the Secretary of State for Trade and Industry announced in January a review of UK rules on consultations about collective redundancies and European Works Councils, which has a read-across to the subject matter of the Directive. The lessons learnt from the review will be taken into account when implementing the Information and Consultation Directive in the UK.

Current Position

5. A political agreement was reached at the Employment and Social Policy Council on 11 June 2001 on a [Presidency compromise text](#). The revised compromise text included a number of concessions towards the UK. In particular, it allowed for phased implementation, and left many details on the kinds of specific information and consultation arrangements to be put in place up to Member States (see para 9).

6. Under the terms of the compromise text, the UK will have three years from final adoption to implement, ie. until late 2004/early 2005. The Presidency compromise allows the UK to apply the Directive in the first instance to undertakings with 150 or more employees. After two years it will apply to undertakings with 100 or more, and after a further two years, to ones with 50 or more. Undertakings with 50 or more employees account for about 2.5% of all undertakings in the UK with more than one employee, and about 70% of UK employees in undertakings with more than one employee.

7. The Directive gives employees in the covered undertakings a right to be informed about the undertaking's economic situation, informed and consulted about employment prospects, and informed and consulted with a view to reaching agreement about decisions likely to lead to substantial changes in work organisation or contractual relations, including redundancies and transfers.

8. Information and consultation has to take place at an appropriate time and at the relevant level of management. Normally it will be done via employee representatives, defined according to national law and practice. The representatives, having received the appropriate information, may meet the employer, present their opinion and receive a reasoned response.

9. Under the compromise text, management and the workforce may establish their own information and consultation arrangements without reference to those prescribed in the directive. Member States shall also determine the practical arrangements for the exercise of the right, and the enforcement measures. Employers may withhold information whose

disclosure would seriously harm the company or be prejudicial to it, or they may require that it be kept confidential by the employee representatives to whom it is disclosed.

10. The Directive will give employees in the UK new rights to general information and consultation about workplace issues. Previously these were limited to consultation about collective redundancies, transfers (TUPE), health and safety and through European Works Councils. The directive is without prejudice to existing EU Directives, already in force in the UK, concerning consultations about collective redundancies, business transfers, and European Works Councils. The DTI will consult widely about implementation in the UK once the final text is adopted in Brussels after the European Parliament's Second Reading.

11. The Directive is not yet finally agreed; it must now be given a Second Reading by the European Parliament, who are likely to propose amendments. If these amendments are rejected by the Council, there would then be a conciliation procedure. Parliament are due to vote on the directive in w/c 22 October. Final adoption is expected towards the end of 2001, or early in 2002, depending on whether conciliation is necessary.

Assembly's Position

12. The Assembly has not yet adopted a position on the Directive. However the issue was raised in the Steel Communities Report with the following recommendation:

Recommendation: The National Assembly for Wales should prepare and present policies to the United Kingdom government promoting legislation to extend the EU Directive, which establishes a general framework for informing and consulting employees in the European Community. The aim should be to require companies that are contemplating closure and staff reductions to develop a Social Plan that provides for an orderly process of restructuring and prepare the community for a positive future. These Plans should be developed in conjunction with local agencies for the relocation of staff, retraining and community development, and related support. Such a measure should be in line with best practice evident in Germany, Netherlands, France as well as Quebec Province.

The recommendation is being considered as part of an Action Plan in response to the Steel Communities Report.

13. The European Directive is not a devolved issue, and the likelihood is that the Directive will be implemented by the UK Government through regulations.

14. The Assembly will wish to feed into DTI's consideration of implementation, and will need to consult with the Business Community, and possibly other interests, before adopting a position.

Recommendation

We recommend that:

- We await the outcome of the European Parliaments consideration of the draft Directive, and the DTI's proposals on consultation arrangements;
- Consider the issue at a future meeting of the European Affairs Committee, with a view to the Assembly taking a position on the matter to present to the UK Government.