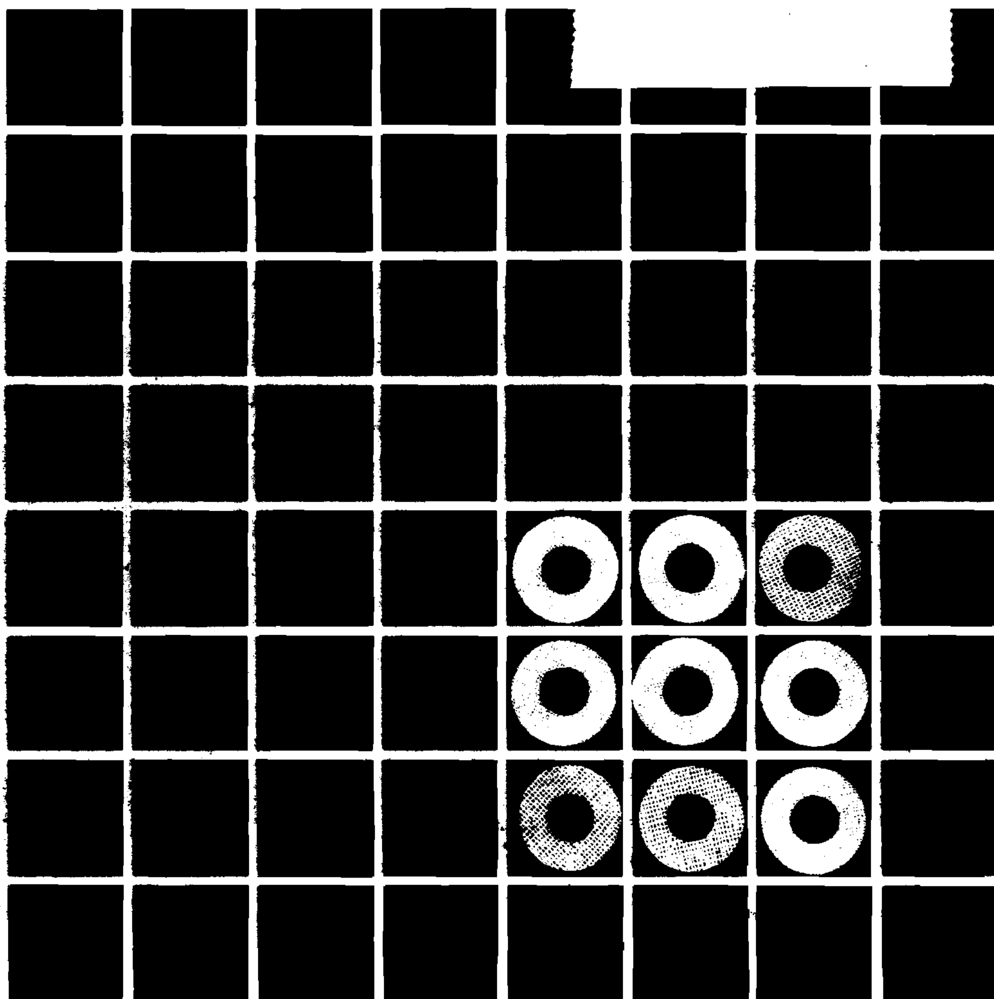
The protection of workers in multinational companies



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Contents

The measures envisaged 4

Nine directives 5

1. *A first achievement: the approximation of laws concerning collective redundancies* 6

The scope of the directive 6

Consultation of workers' representatives 8

The role of the public authorities 8

2. *Other measures proposed by the Commission to ensure the protection of workers* . . . 9

A. Security of employment and income in the event of mergers 10

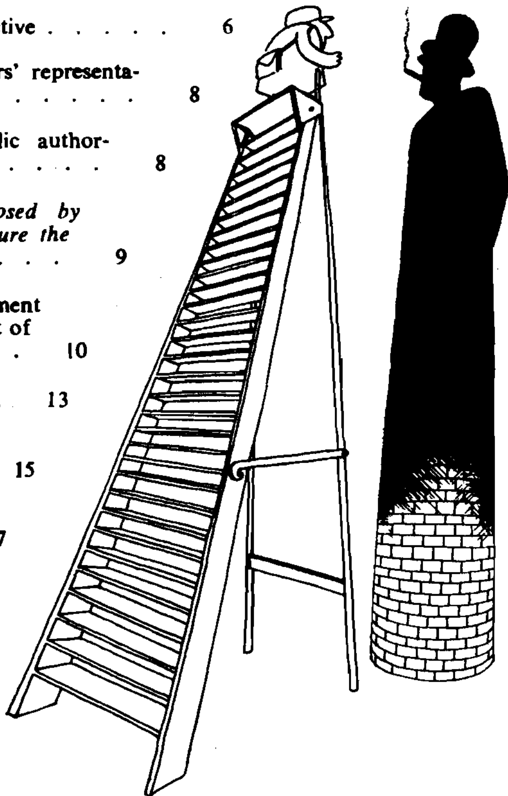
B. Working conditions . . 13

C. The role of the trade unions 15

D. Better information about firms . . 17

E. Worker participation in the draft statute for European Companies 20

Conclusion 23



The protection of workers in multinational companies

Recent decades have seen the rise of large industrial firms with plants in a number of countries.

Whatever benefits this trend may bring, the growing hold of large and in many cases, multinational companies on the economic, social, and even political life of the countries in which they operate is a source of deep concern in so many circles that public authorities cannot remain indifferent. Employment, competition, tax avoidance, disruptive capital movements, and the fears of developing countries about their economic independence are only some of the issues involved.

In practice, problems begin to emerge as soon as a firm has production plants in two or more countries. As the group of companies extends its activities more widely, the problems become more acute, although their basic nature remains the same. Some of these companies are now so large and operate in so many countries that traditional instruments of control wielded at national level by public authorities have ceased to be sufficient. National trade unions are similarly handicapped. Public authorities and unions are at present no match for multinational companies operating across national frontiers, and beyond the reach of national laws, tax arrangements and monetary regulations. The problems raised by the existence of groups of legally separate companies governed by different national laws can only be dealt with effectively at international level.

Can the European Community propose effective control, given that the problems are of worldwide scope? The answer is that, unlike international organisations such as the UN, OECD, and the ILO, which have no legal powers to implement policies in their member countries, the European Community is a political organisation with a system of laws and institutions for adopting, applying and enforcing them.

The Community has in fact begun to introduce measures of control following a decision taken at the summit meeting of ECC Heads of State or Government in October 1972, calling for an industrial action programme to be drawn up by January 1, 1974.

So far, the European Commission has drawn up a series of proposals designed to create a network of coherent measures. These, it is hoped, will give companies the autonomy they need to pursue their economic and social objectives successfully, but will impose sufficient constraints to prevent operations that the Community would consider undesirable.

The measures envisaged

The measures envisaged to resolve the various problems posed by the growth of multinational companies can be divided into seven sections:

- — protecting general interests;
- — protecting workers' interests;
- — maintaining competition;
- — controlling takeover methods;
- — ensuring equal conditions for the establishment of multinationals;
- — protecting developing countries;
- — improving the information supplied by multinationals.

Although this study deals only with measures to protect workers' interests, it may be useful to summarize the main points in the other proposals.

General interests are to be protected by measures to secure Community supplies, ensure monetary stability and safeguard the interests of shareholders and third parties, as well as to prevent tax avoidance and outbidding on regional and other aid.

On the tax side, the Commission is concerned to develop international assistance and cooperation in the fields of information, inspection and collection. Special attention will be given to the problem of "tax havens". As far as security of supplies is concerned, the Commission has made a start with proposals in the energy sector. The Commission is also concerned about the major monetary problems caused in part by the financial transfers made by multinational companies in the course of their transnational operations. It believes that steps will also have to be taken to strengthen company law so as to protect the interests of all the parties concerned. Out-bidding on public aid will also have to be eliminated by coordinating or harmonising member States' aid schemes.

• *Competition* must be maintained by supervising merger operations and oligopolies, since multinational companies are often tempted, by their very size, to abuse their dominant position.

• On *takeovers*, whether or not they are opposed by the company being taken over, the Commission proposes that Community rules should be drawn up and adopted. These will in particular provide better safeguards for the interests of small and medium-sized businesses.

• The Commission seeks to provide *equal conditions for the establishment of multinationals*, to ensure that liberalisation measures are applied on a wide scale.

• *The conditions in which multinational companies may set up in developing countries* must also be more clearly defined. The Commission has drafted measures to ensure that investments by multinationals of Community origin fit in with the economic and social aims of the host countries.

• *Information* about the operations of multinational companies should be improved, in particular by the widespread distribution of a detailed annual report.

Nine directives

Following its communication of November 7, 1973 regarding multinationals, the Commission has sent to the Council nine directives in this sector together with a report on the tax arrangements applying to holding companies. The Council, however, has so far agreed on only one directive, ironing out discrepancies between national laws on mass redundancy.

The proposals still being studied by the Council cover:

— common tax arrangements applying to parent companies and their subsidiaries in different member States;

— common tax arrangements applying to mergers, hivings off, and the transfer of assets between companies in different member States;

— the protection of workers and the maintenance of existing rights in the event of international mergers, takeovers and amalgamations;

— the harmonisation of national laws applying to mergers;

— a statute for European Companies;

— the structure of limited companies, including worker participation;

— the compulsory prior notification of mergers;

— establishing a Community guarantee system for private investment outside the Community.

1. A first achievement: The approximation of laws to deal with mass redundancy

When the Commission first made its proposals on this subject, regulations in force in the various Community countries differed considerably as regards both conditions and procedures, and measures to alleviate the social effects of such redundancy were also far from identical. These differences threatened to hinder the proper working of the common market by influencing firms' decisions on the distribution of jobs. For instance, a firm planning to reorganize its internal operations by cutting back or actually closing some of its factories might well make its choice according to the degree of protection given to workers by the law in the different countries concerned.

Differences between national laws may therefore distort competition and also obstruct social progress by unfairly penalizing workers in one country or another. This is increasingly serious because the rationalisation, cooperation and mergers of companies, which have accompanied the gradual establishment of the common market, have serious repercussions on job security.

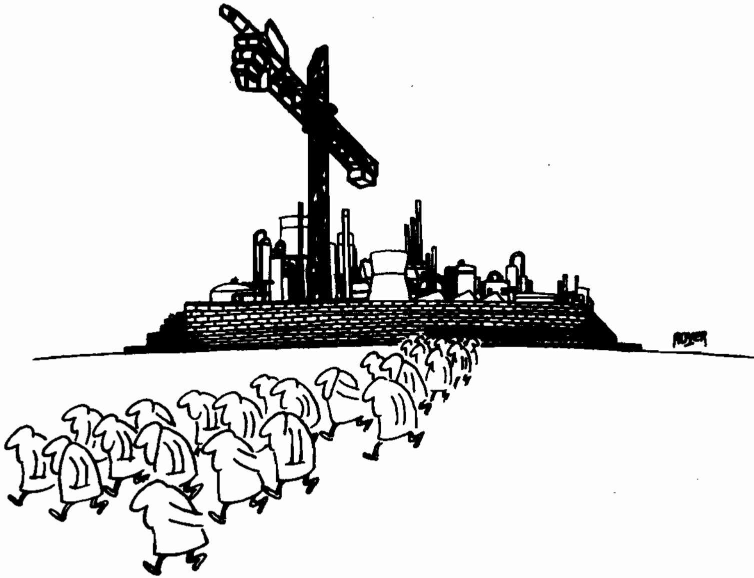
In November 1972, the Commission put before the Council a proposal for a directive to iron out discrepancies between member States' laws governing collective dismissals. On March 12, 1973, the European Parliament passed a resolution on this proposal, following a report by Mr. Della Briotta (Socialist Group), and the Economic and Social Committee (ESC) gave its opinion on June 23, 1973, based on a report by Mr. Muhr (Workers' Group). The Council of Ministers finally approved the directive on December 17, 1974.

The scope of the directive

In its proposal, the *Commission* defined collective redundancies as cases where at least ten workers were dismissed for reasons (economic, technical etc.) not related to their behaviour. The Commission made no provision for a reference period for the dismissals in question.

The Economic and Social Committee, however, took the view that such a reference period must be fixed, and proposed a period of one month. If not, the ESC argued, the employer could get around the rule by staggering dismissals over a period.

How many workers must be dismissed for there to be a 'collective redundancy'? The Economic and Social Committee opted for a system



combining both a minimum number of dismissals, and a percentage of the total work force dismissed. The Committee also asked that it be stipulated that the number of dismissals applied to each establishment separately.

The Committee was also of the opinion that the directive should not be limited to redundancies on economic and technical grounds, for in that case, a decision by an employer to close down a business for personal reasons would not fall within the scope of the directive. On the other hand, the Committee argued, dismissals for reasons connected with individual workers, even if they are not at fault in any way, should be possible without setting in motion the above-mentioned procedure for collective redundancies.

The *European Parliament* did not endorse the idea of a reference period proposed by its rapporteur, Mr. Della Briotta. In the end, however, the directive approved by the *Council* does provide for a period of reference, which can be either 30 or 90 days at the discretion of the member States.

In the first case, the directive concerns dismissals involving:

— at least 10 persons in establishments normally employing between 20 or 100 people;

— 10 per cent of the work force in establishments normally employing between 100 and 300 people;

— at least 30 persons in establishments normally employing at least 300 people.

In the second case, the directive also stipulates that the dismissals must affect at least 20 people, irrespective of the number normally employed.

Consultation of workers' representatives

The *Commission's* proposal required the employer to consult workers' representatives only if the number of dismissed workers was 50 or more. In other cases the appropriate public authority could ask the employer to undertake such consultations should it consider them necessary.

The *Economic and Social Committee* was of the opinion that these negotiations were necessary in all cases of collective redundancies with a view to reaching an agreement, although agreement, the Committee argued, did not necessarily have to be reached.

The *European Parliament* wanted consultations to be compulsory irrespective of the number of workers affected.

The directive finally approved by the *Council* makes it compulsory for the employer to begin consultations whenever collective redundancies are planned. The points discussed should include the possibility of avoiding and reducing dismissals, the choice of workers to be dismissed, the possibilities of employment elsewhere in the firm, compensation, and the priority to be given to the redundant workers for re-employment after a certain period.

The role of the public authorities

The *Commission's* proposal provided that the employer should notify any collective redundancies planned to the appropriate public authorities of the member State concerned. Following this notification, no action would be possible for a period of one month, which could if necessary be extended to two months, in order to allow the parties involved to find a solution to the problems raised by the dismissals. Under the Commission's proposal, the public authorities could oppose the dismissals if the reasons invoked by the employer were unsatisfactory. The public authorities could also extend the initial one month "standstill arrangement", if the public authorities were asked to act as mediator by either side.

In its opinion, the *Economic and Social Committee* maintained first of all that the employer must be able to notify the competent authorities

of the planned collective dismissals immediately, even if at the time of notification the results of the consultation with the workers' reprensentatives are not yet known. The Committee also wanted the initial period of one month to be extendable to a maximum of two months in exceptional circumstances, on condition that this did not jeopardise the existence of the firm. The mediation procedure would involve no obligation for the parties concerned as regards their final decision.

Mr. Della Briotta had proposed to the *European Parliament's* Committee on Social Affairs and Health Protection that the powers of the public authorities be more extensive: that they should be empowered to oppose the dismissals, not only where reasons invoked by the employer were unsatisfactory but also for other major reasons, such as a serious economic situation in the region, which would make it impossible for the dismissed workers to find other jobs.

The employer would nonetheless have been able to proceed with the dismissals, but in that case national legislation would have had to provide for sanctions, particularly in the form of compensation to be paid to the dismissed workers.

This strengthening of the role of the public authorities was not, however, accepted by the European Parliament, which also rejected an amendment by Mr. Marras (Communist Group) providing for compulsory arbitration when the mediation procedure was employed.

The directive finally approved by the *Council of Ministers* lays down that the employer must notify the public authorities of any collective redundancies planned, with the understanding that the redundancies may not be put into effect for a period of 30 days. This period must be used to seek to avoid or reduce the dismissals in question, and to alleviate their consequences.

The provisions of this directive will have to be incorporated into the respective national legislation of the member States by December 1976. They do not of course prevent member States from applying or introducing laws, regulations, or administrative provisions more favourable to workers.

2. Other measures proposed by the Commission to ensure the protection of workers

The Commission is concerned to give workers *adequate protection* against action by multinationals which could affect *employment* in the Community.

As regards *working conditions*, the Commission wants to promote the creation of joint committees at European level for the various occupations.

To protect workers adequately, the Commission feels that a *trade union counterweight* to the power of the multinationals is essential. It sees its task, however, as encouraging this rather than organising it.

The Commission also believes that a *clearer insight into the operations of companies* will make it easier to defend workers' rights.

On industrial democracy, the Commission has taken steps to incorporate *provisions for workers' participation* in its plans for a European Company Statute.

A. Security of employment and income in the event of mergers

When a multinational acts to generate, expand, cut back, or partially halt production or other economic activities, employment problems can arise both in the country where it has its head office and in those where it has plants or subsidiaries. For example, when a plant is set up in another country, activity or employment may be reduced, or plans for increasing employment abandoned, in the country in which the multinational is based [1].

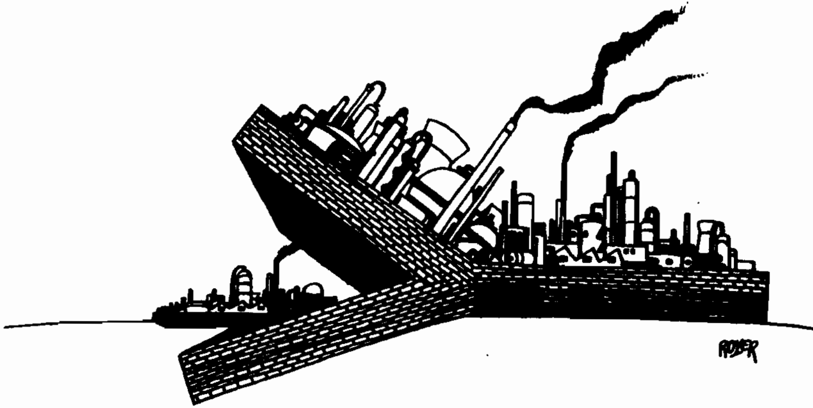
These aspects of a multinational company's operations raise considerable problems. Workers in multinational subsidiaries are very sensitive to the fact that management they deal with is often not a genuine negotiating partner and that the real decisions are usually taken at company headquarters in another country without any prior consultation.

A report from the European Parliament [2] quoting Robert Lattès, a member of the Club of Rome, noted that to counter trade union demands or the determined attitude of a state, multinationals can play off one subsidiary against another, or one state against another. They can, for instance, thwart a strike by transferring production from one unit to another. In other words, as the Commission notes, "greater flexibility in choice of locations has as its logical corollary an equal flexibility in disinvestment" [3].

[1] Economic and Social Committee: Supplementary Report of the Section for Social Questions on "Multinational Undertakings and Community Regulations", by Mr. Purpura, May 27, 1974.

[2] European Parliament: Interim report by Mr. Leenhardt on behalf of the Committee on Economic and Monetary Affairs on Commission communication to the Council concerning Multinational Undertakings and Community Regulations. Working documents 1974/75, October 24, 1974, Doc. 292/74.

[3] Commission of the European Communities: Multinational Undertakings and Community Regulations, Commission Communication to the Council, November 7, 1973.



The *Economic and Social Committee* [4] has argued that the following principles be applied:

— When a subsidiary or new establishment is set up in a member State, it should comply with the rules in force in that country for ensuring stability of employment, establishing recruitment procedures, and laying down pay and other working conditions. The same rules should also apply in respect of the vocational training and retraining of workers after transfers, dismissals, and closures of establishments.

— The company should make as much use as possible of the research and study facilities already existing locally rather than have such work carried out in the country where the multinational is based.

— The company should comply with the "income guarantee rules" applicable to workers who are dismissed or affected by a temporary reduction in working hours, or by a temporary cut-back in production.

The Commission has proposed two directives intended to cover some of the employment problems associated with the actions of multinationals: one to harmonize national laws governing mergers, and the other, sent to the Council on May 29, 1974, aimed more particularly at ensuring that workers retain their rights in the event of mergers, takeovers and amalgamations [5].

On April 24, 1975, the Economic and Social Committee gave its opinion on the second of these proposals, on the basis of a report by

[4] Economic and Social Committee: Opinion on the Commission Communication to the Council concerning Multinational Undertakings and Community Regulations, June 26, 1974.

[5] Commission of the European Communities: Proposal for a Council Directive on the harmonization of the legislation of Member States on the retention of the rights and advantages of employees in the case of mergers, takeovers and amalgamations.

Mr. Muhr submitted on behalf of the Section for Social Questions. The European Parliament welcomed the Commission's proposals at its December 1974 part-session.

The protection and safeguard measures provided for in the Commission's draft directive would enable workers to preserve basic rights and privileges acquired before the change of employer. This would be achieved as follows:

- the automatic transfer of employment relationship from the former employer to the new one;
- the protection of workers against dismissal solely on the grounds of the change in the structure of the enterprise ;
- information and consultation of workers' representatives.

The proposal covers all companies or firms constituted under civil or commercial law, including cooperative societies and other legal persons governed by public or private law, with the exception of those which are non-profit-making. The proposed rules are the same whether the companies or firms involved are located in a single member State or in more than one.

Automatic transfer of employment relationships from the former employer to the new one

The provision automatically substituting the new employer for the old employer in the employment relationship is crucial in the Commission's draft directive, for under it the new employer cannot refuse to continue to employ the workers. Likewise, rights and obligations based on plant agreements or collective agreements would remain applicable until their normal expiry date.

Even where these collective agreements have been concluded between trade associations to which the new owner does not belong, and where they have not been made compulsory, the new owner would still be required under the Commission's proposal, to respect the conditions laid down in the agreements up to the end of their period of validity (agreements of unlimited duration) or for one year.

The *Economic and Social Committee* proposed that the collective agreements should at all events remain valid until a new agreement has been freely negotiated by the parties involved. It would thus be possible to take into account the particular requirements of the establishment or to improve the previous system.

Protection of workers against dismissal

Former and new employers could escape their obligation to respect workers' acquired rights if they were able to use the merger or take-

over as a reason for dismissing workers. The *Commission's* proposal therefore prohibits dismissals on these grounds. While dismissals made necessary by pressing business reasons are not covered by this strict ban, procedures for informing and consulting workers' representatives should at least ensure that adjustment or retraining measures are taken if necessary. Moreover, where such dismissals are collective, they are covered by the directive already approved by the Council.

In the amendments it proposed, the *Economic and Social Committee* emphasised that all possible steps must be taken to enable workers affected by mergers and takeovers to find jobs with equivalent advantages.

If a worker wishes to terminate his labour contract with a new owner because the merger of the takeover has brought about a substantial change in his working conditions, the Commission proposes that this termination be considered as resulting from the action of the employer. The *Economic and Social Committee* wanted it specified that such a change was in fact prejudicial to the worker's interest; a situation could conceivably arise in which the worker was moved to a better-paid job but could not do it because of his age or state of health or because he was not willing to move house if need be.

PROCEDURES FOR INFORMING AND CONSULTING WORKERS' REPRESENTATIVES

In addition to the measures to safeguard workers' acquired rights, the *Commission's* proposal also provides for workers' representatives to be informed and consulted about the consequences of a merger, takeover, or amalgamation. At the request of the workers' representatives, negotiations could be entered into with a view to agreeing on the measures to be taken to protect the workers' interests. Should the negotiations fail, either party could within two months refer the matter to an arbitration board, which would give a ruling within a month. The *Economic and Social Committee* feels that this arbitration should be binding on both parties only if they have agreed to it in the first place. The parties involved should also be able to have recourse to procedures provided for by national law.

B. **Working conditions**

The *Commission* believes [6] that the time is still not ripe to put forward proposals on European collective agreements. But this does

[6] Statement made by Mr. Spinelli to the European Parliament on December 12, 1974. Debates, Report of Proceedings, December 12, 1974, p. 246.

not mean that the Commission has no role to play in encouraging initiatives from the parties concerned. Altiero Spinelli, Commissioner with special responsibility for industrial matters, considers that steps must be taken to develop European trade union solidarity and to encourage contacts between trade unions at European level. For this purpose, the Commission intends to encourage the setting up of European joint committees whose task will be to study working conditions in various occupations with a view to concluding collective agreements. At the moment, however, the Commission considers that it would be better for the trade unions to take the initiative rather than introducing legislation immediately.

In the view of the *Economic and Social Committee* [7], the activities of a multinational company in a country other than that of its headquarters should not give rise to discrimination between workers in national companies and those in multinationals. It is essential that the subsidiary should be integrated into the social structure of the host country.

The Committee points out that local labour laws apply automatically to workers in the plants and subsidiaries of multinationals. Moreover, collective agreements, concluded or to be concluded, regulate matters that the law leaves to the discretion of employers and employees, such as wage levels and the various forms of remuneration, and other terms of employment (working hours, paid holidays etc). Like other firms, multinationals are subject to these obligations [8]. The Economic and Social Committee also feels that employment offices should be able to provide information about the terms of employment in the host countries [9].

Finally the *European Parliament*, after examining the report by Mr. Leenhardt (Socialist Group) [10], noted the Commission's intentions [11] and asked it to prepare a proposal on European collective agreements [12].

[7] See footnote 4.

[8] Economic and Social Committee: report by Mr. Margot on behalf of the section for Industry, Commerce, Crafts and Services on "Multinational Undertakings and Community Regulations".

[9] See footnote 4.

[10] See footnote 2.

[11] Statement made in the European Parliament by the rapporteur Mr. Leenhardt on December 12, 1974. Debates, Report of Proceedings, December 12, 1974, p. 225.

[12] Resolution embodying the opinion of the European Parliament on the communication from the Commission of the European Communities to the Council on multinational undertakings and Community regulations. Minutes of the sitting of December 12, 1974.

C. The role of the trade unions

The *Commission* considers that the creation of a trade union counterweight to the powers of the multinationals is essential for the protection of workers. It is obviously not the Commission's task to organise this counterweight, but to encourage it.

The Section for Social Questions of the *Economic and Social Committee* [13] takes the view that trade union rights must be recognised and that encouragement should be given to the conclusion of European collective agreements to apply to multinationals taking into account the International Labour Conventions [14], as well as national regulations.

The economic objectives and the harmonious social developments sought by the Treaty of Rome will—the section feels—require multinationals to recognise the role of their workers' trade unions and to establish a good relationship with them. The voluntary affiliation of multinationals to employers' associations should give them an overall picture of the interests of the economic groups represented and enable them to take part in drawing up collective agreements, in working out terms of employment, or in implementing national or international labour laws.

The Section reaffirms, moreover, that it is not only for workers' trade unions to safeguard the rights and defend the interests of all the economic and social groups affected by the activities of multinationals. Employers' associations also carry their share of responsibility. Trade unions and vocational associations must attach great importance to the social integration of multinationals in the host country, to prevent illegal forms of competition between firms, and to avoid discrimination between workers.

During the debate in the *European Parliament* [15], Mr. Leenhardt pointed out that, in the Commission's efforts to encourage the creation of a trade union counterweight, some Member of the European Parliament saw a danger of trade unions taking over the role normally played by the democratic authorities. The Commission's intentions should not, however, be misinterpreted. It uses the term "trade union counterweight" to identify the lack of balance in the present situation and the need to give workers a real say in the decision-making process of all companies, both multinational and national. The Commission

[13] See footnote 1.

[14] Conventions No. 87 on trade union freedom, and No. 98 on trade union right to organize and collective bargaining, both ratified by the Nine.

[15] See footnote 11.

has already introduced this concept in all the proposals it has put to the Council, both on company law and on social legislation.

The main positions taken by the political groups in the European Parliament were as follows:

— Mr. Notenboom [16], for the *Christian Democratic Group*, felt that, for the dialogue with the workers and their unions to succeed, the unions must accept the principle of codetermination and stop trying to take over full control of the firms.

— Mr. Normanton, for the *Conservative Group* [17], thought that the question of trade unionism on an international level should be discussed in a wider context than that of the multinationals.

— Speaking for the *European Progressive Democrats* [18], Mr. Bousch (UDR) drew attention to the fact that the specific social problem raised by multinationals is in many cases not so much one of worker participation, which is an important but general problem, as one of job protection. The aim, he argued, must be not to find a counterweight to multinationals but rather to direct them towards greater stability.

— In the opinion of Mr. Bordu [19], speaking for the *Communist and Allies Group*, a move towards some sort of codetermination would lead workers falsely to believe that they had some say in company decision-making. As far as this Group is concerned, the only solution would be to nationalise multinationals.

Mr. Leonardi [20], also for the Communist and Allies Group, added that the role of multinational companies is to develop production and to ensure a certain degree of specialisation on an international level. He pointed out that multinational companies also exist in the Socialist countries and argued that the important thing is to work out common policies on a democratic basis with the object of ensuring that available resources are used properly.

In its *Resolution*, the European Parliament stressed that it "shared the Commission's desire to encourage the establishment of a trade union counterweight which would make a great contribution towards the solution of many problems".

An amendment proposed by Mr. Charpentier (Socialist Group), to remove obstacles that prevent workers striking in sympathy with others, was rejected.

[16] Speech by Mr. Notenboom. Debates of December 12, 1974, p. 230.
[17] Speech by Mr. Normanton. *Ibid.*, p. 235.
[18] Speech by Mr. Bousch. *Ibid.*, p. 236.
[19] Speech by Mr. Bordu. *Ibid.*, p. 232.
[20] Speech by Mr. Leonardi. *Ibid.*, p. 242.

D. Better information about firms

In its communication to the Council on multinationals, the *European Commission* proposed that large national and multinational companies should provide better information on their activities. This information should concern in particular funds invested, re-invested, and transferred to the country of origin, the origin and composition of capital, the number of jobs created and abolished, declared profits and taxes paid as percentages of turnover, as well as expenditure on research and income from licences. The figures would be given for each country in which the firm operated.

The *Economic and Social Committee* [21], while approving the principle of improving information arrangements, feels however that the Commission is being over-optimistic in thinking that by such "simple means" it can assuage the fears felt in many quarters. Some members of the Committee [22] pointed out that the member States already require companies to publish a large quantity of figures and that Community directives would make this obligation even stricter, although information of a confidential nature could not be included. Other members however felt that it is not enough to rely on the collaboration of multinationals, but that only the obligation to provide the necessary information can be effective.

It was also suggested that the Commission should consider whether it was possible to seek qualitative details as well as figures so that the operations of multinationals could be judged in the light of the objective of improving the quality of life. Other members again thought that the information mentioned by way of example should be considered as the minimum required. They stressed that these obligations should be extended, through the UN, to multinationals operating outside the Community.

Apart from this obligation to provide general information, the Economic and Social Committee attaches particular attention to workers being informed on matters directly relating to their protection. The workers and the trade unions that represent them are concerned at the lack of "knowledge about the way multinationals are organised and about their activities". In some cases, where a company is based outside the Community or in a country other than that in which the workers are employed, the workers know nothing about the organisation of the firm and its decision-making process, the production programme of the parent company and of plants and subsidiaries in other countries, the technological research in process, the use of any patents or results

[21] See footnote 4.
[22] See footnotes 1 and 8.

obtained, or, above all the potential impact of projects and research on employment, occupational skill requirements, working conditions and so on.

"It is often because of the failure to provide information and lack of knowledge about the situation", maintains the Committee, "that workers and their trade unions tend to see the dark side of multinationals rather than their positive social aspects, i.e. the valuable contribution which they can make towards not only the economic, but also the social goals of the Community" [23].

The Economic and Social Committee considers that the following steps are needed to make it possible or easier to provide information on the organisation and activities of multinationals:

"— the establishment — or the improvement where they already exist — of arrangements for providing extensive, comprehensive information at certain intervals, so that workers in the various establishments in each country know not only about the structure of the multinational's decision-making bodies, its internal organisation and its accounting system, but also about its production programmes, the economic and social reasons which determine them, and their effects — whether favourable or adverse — on employment (numbers of jobs in the company);

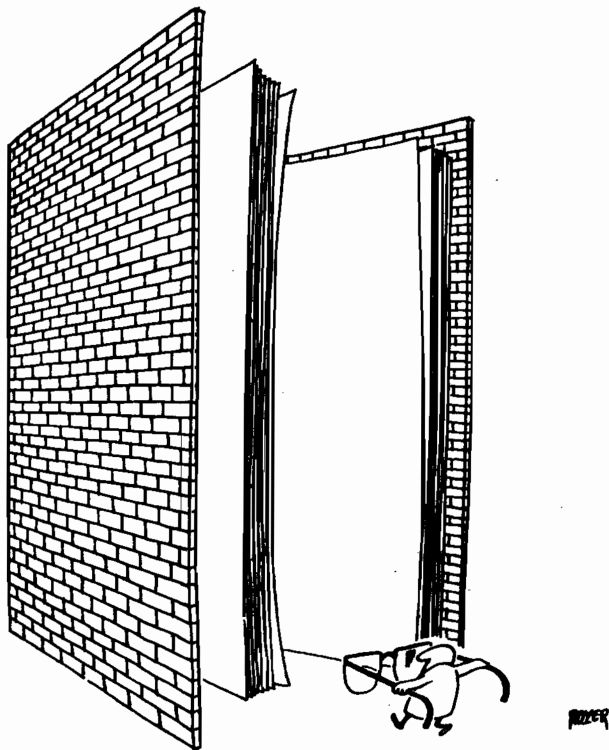
"— the setting up of a body, both within each firm and between firms, comprising representatives of the workers and of the multinational, or only workers' representatives, in accordance with established practice in each country, so as to establish, maintain and develop normal, fruitful labour relations;

"— workers' participation in the activities of the undertaking by means of a system of representation which would allow them to express their views and take a stand on matters of most concern to them, such as employment, working conditions, pay, the protection of health, the prevention of accidents at work, and policy on accommodation for workers and managerial staff, etc.;

"— contacts and cooperation, on the basis of a system of reporting and regular meetings, between representatives of workers employed in the various establishments belonging to the same multinational and located in member States [24]."

On the matter of the participation of workers in the life and the decisions of the firm, some members of the Economic and Social Committee felt that the situation was not yet ripe for setting up international-level bodies of workers' representatives in the Community. It was, how-

[23] See footnote 1.
[24] See footnote 4.



ever, proposed that the machinery provided for in the Commission's proposed statute for European companies should apply to multinationals (see below).

The *European Trade Union Confederation* also intends to raise at international level the problem of workers' representation, which at present is still governed by national laws. This is why the Executive Committee of the ETUC, at a meeting in Brussels on February 6, 1975, passed a resolution calling on the institutions of the EEC and EFTA (the European Free Trade Association) and the governments of the member countries to collaborate more closely in order to promote the rights of workers in multinational companies. ETUC argues that the public authorities must make the appropriate legal arrangements for a body of workers' representatives to be set up at the headquarters of a multinational company at the request of the trade unions represented at the various establishments; these representatives would be consulted and kept informed on matters concerning workers.

This workers' representative body should be convened at least three times a year by an elected chairman who should be able to invite to these meetings trade union officials who are not part of the group (representatives of international trade unions, etc.). Furthermore, workers' representatives in all multinationals should have the right to communicate regularly with each other.

E. Worker participation in the draft statute for European Companies

In its draft statute for European companies [25], the *Commission* provided for two institutions to protect workers' interests:

— the European Works Council, which would represent all employees of the European Company (and also the Group Works Council, if the European company is the controlling company of a larger group);

— the Supervisory board and, in particular, the workers' representatives who are members of it.

The Commission's proposal also provides for collective agreements to be concluded between the European company and the trade unions represented at its establishments. The national works council would continue to function and to perform the tasks which were not covered by the European Works Council.

The problem of the representation of workers on the Supervisory Board and, particularly, of how many representatives there should be has led to much disagreement. It should be borne in mind that the Supervisory Board, which is responsible for controlling the European company, would have the power to appoint and dismiss members of the management board who are responsible for running the company. Also, for a number of particularly important acts, the board of management would have to obtain prior authorisation from the supervisory board. In its initial proposal the Commission had given a third of the seats to workers' representatives, the remaining two thirds being appointed by the general meeting of shareholders. In view of the criticism aroused by this proposal, the Commission proposed a revised formula, whereby one third of the supervisory board of the European company would be workers' representatives, one third shareholders' representatives and one third co-opted by these two groups.

[25] This new legal formula would be available, under certain conditions, to companies looking for a more appropriate framework for their transnational activities. Cf. Commission of the European Communities: Amended proposal for a Council Regulation embodying a statute for European Companies, April 30, 1975.

The following views were expressed in the Committees of the *European Parliament* which examined the Commission's initial proposal:

— some Members were opposed to companies being required to have workers represented; each company, they thought, should be left to make what arrangements it considered most appropriate;

— other Members felt that the Commission's initial proposals should be given an experimental run; this was the line finally taken by the Parliament's Committee on Social Affairs;

— other Members regarded these proposals as being inadequate and supported the 1/3, 1/3, 1/3 formula.

This formula was adopted by the Christian Democratic [26] and the Socialist Groups. During the debates at the part-session of July 1974 [27], the spokesman for the Socialist Group expressed the view that if workers' representation was limited to one-third, the term "worker participation" would not be justified. The Conservative Group [28] by contrast felt that workers' representatives should not be allowed more than one-third of the seats, at least to begin with. The Group of European Progressive Democrats [29] was also in favour of restricting workers' representation to one-third. The Liberal Group [30] wanted half the members of the Supervisory Board to be appointed by the shareholders, two-thirds of the other half appointed by the workers and the remaining third by the executive staff. The Communist Group [31] felt that making the Supervisory Board responsible for "looking after the interests of the company and its staff" was an attempt to make the workers admit that there was a community of interest between the European Company and its staff.

In addition to the presence of their representatives on the Supervisory Board, workers' interests would be defended by the European Works Council which, in principle, would be set up in every European Company. The European Parliament specified that this principle should apply only to companies with at least two establishments located in different member States, and proposed that each such establishment would have to have a minimum of 50 workers.

The Commission's original proposal had not contained any limit.

[26] Speech by Mr. Pêtre. Debates, July 10, 1974, A, p. 190.

[27] Speech by Mr. Schmidt. Debates, July 10, 1974, A, p. 177.

[28] Speech by Brewis. Debates, July 10, 1974, A, p. 191 and amendment No. 51 by Sir Derek Walker-Smith. Debates, July 11, 1974, p. 280.

[29] Speech by Mr. Cousté. Debates, July 11, 1974, p. 281.

[30] Amendment No. 10 by Mr. Jozeau-Marigné and Mr. Hougardy. Debates, July 11, 1974, p. 280.

[31] Speech by Mrs Goutmann. Debates, July 10, 1974, A, p. 214.

The European Works Council would have regular meetings with the Managerial Board which would have to provide it periodically with information about the general economic situation and likely future developments. The European Parliament wanted such meetings to be at least quarterly.

In the *Commission's* proposal, the Management Board would need the approval of the European Works Council to take decisions on:

— rules on the recruitment, promotion and dismissal of employees;
— the implementation of vocational training;
— the fixing of terms of remuneration and introduction of new methods of computing it;
— measures for industrial safety and hygiene ;
— the introduction and management of welfare facilities;
— daily times for starting and stopping of work ("the establishment of basic criteria for the daily time of commencement and termination of work" according to the European Parliament);
— the preparation of holiday schedules ("the establishment of basic criteria for preparing holiday schedules" according to the text adopted by the European Parliament).

The *European Parliament* also wanted the European Works Council to have the right to approve the establishment of a social plan in the event of closure, owing to liquidation or for other reasons, or the transfer of the establishment or parts of it. The Parliament finally however approved an amendment put forward by the Liberal and Allies Group [32], stipulating that the Works Council had only to be consulted on the permanent closure or indefinite closure of the undertaking or parts of it. On behalf of the Commission, Mr. Gundelach stated that the problem of the protection of the workers in such a situation will have to be dealt with by the proposed social plan [33].

If the European Works Council withholds its agreement on a matter were such agreement is required, or fails to express its opinion within a reasonable time, the matter will be referred to an arbitration board, composed of assessors, half of whom are appointed by the European Works Council, and the other half by the Management Board, under a chairman appointed by agreement between the parties.

For European Companies controlling larger groups, Group Works Councils would also be set up to protect workers' interests and to act as a link between workers and the various administrative bodies on

[32] Amendment No. 9 tabled by Mr. Jozeau-Marigné and Mr. Hougardy. Debates, July 11, 1974, p. 277.
[33] Speech by Mr. Gundelach, Debates, July 11, 1974, p. 277.

matters concerning more than one company in the group. The Group Council would be set up in all cases where a group included two establishments, each employing — as specified by the European Parliament — at least 50 workers.

Conclusion

This pamphlet has dealt with only one specific aspect of the problem of the protection of workers and their jobs. Other questions are no less urgent in this time of economic crisis. For instance, the crisis accentuates the need, which the Commission has continually stressed, to harmonize member States' short-term economic policies and to follow real European structural policies in monetary matters and in the fields of energy, technology, and industry. Sound, effective and revitalised economic structures are needed to safeguard employment and social progress. This task is often beyond the scope and resources of individual member States, as for example in the computer and aeronautics industries. In spite of the efforts made by the European Community institutions, too little progress has been made in this field. There are, however, fields in which the European Community is extending its means of action considerably. By agreeing to reorganise the European Social Fund and to make available more assistance from it, particularly since 1972, for the vocational training of unemployed or underemployed workers, and by setting up a European Regional Development Fund in 1975 to stimulate investment in poorer regions, the member States have enabled the Community to play a more active role in economic and social development. This role will become more important in the future.

In different ways, the efforts described in this pamphlet all have the same aim: social progress. The Commission and the other institutions are thus actively committed to solving the employment problem. It may well seem surprising that action in this field has not been taken earlier, and that in many cases the steps proposed are still at the planning stage. Even so, these plans bear witness to a genuine desire to develop the social dimension of the Community. The Commission wants to fulfill this task in close cooperation with the representatives of the public and social groups in the European Parliament and the Economic and Social Committee. The road ahead is long and difficult. The building of a social Europe will depend very much on progress towards European Union. But above all it needs the active and critical support of the public in general and workers and trade unions in particular.

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