



Prime Minister

To note.

A.J.C. 14/12

From the Secretary of State

Copy: Bernard Ingham.

Rt Hon Norman Tebbit MP  
Secretary of State for Employment  
Caxton House  
Tothill Street  
London  
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We must <sup>oppose</sup> the  
draft directive vigorously.

14 December 1982

mf.

Dear Secretary of State,

My officials have been warned by the Permanent Representative's Office in Brussels that the European Commission may adopt its revised version of the draft Fifth Company Law Directive on 15 or 21 December. If the Commission fails to reach a decision then the issue will be held over at least until 12 January.

As you will recall the European Parliament gave its Opinion on this draft Directive in May, after 10 years of consideration. The Parliament recommended that in addition to the Commission's original proposal that the work force should be represented on the supervisory boards of public companies employing more than 500 workers other ways of providing for worker participation should be permitted, by representation on the boards of companies with only a single-tier structure, without the introduction of supervisory and management boards on the German model, through the creation of works councils, or as a result of a collective agreement. Furthermore the scope of the application of the Directive should be restricted to public companies employing 1000 workers, but extended to include employment in subsidiary companies.

In addition to the controversial issue of compulsory worker participation the Directive also deals with a wide range of questions affecting the structure and administration of public companies, such as the prohibition of non-voting shares, the creation of compulsory reserves, the liabilities of directors and auditors. These aspects of the draft Directive, which did not attract much of the Parliament's attention, are likely on the whole to be unwelcome to industrial and professional opinion here.



*From the Secretary of State*

In September the Commission informed the Parliament that the Directive was being redrafted to take account of the Parliament's proposals.

I gather that the Commission can be expected to announce its decision almost immediately after it has been taken, although copies of the revised draft may not be published forthwith. The revised draft will probably become available first in French, with versions in the other languages some weeks later.

The Commission will send its new draft formally to the President of the Council of Ministers after which it would be considered by the Committee of Permanent Representatives (COREPER) in the New Year, under the forthcoming German Presidency. COREPER is likely to refer the new draft to a working group of officials from the Commission and from the relevant Government Departments of the Member States for detailed study. This process could easily take 4 or 5 years.

We now need to consider:

- (a) the way in which the Press Offices of the Departments of Employment and of Trade, and of the Northern Ireland Office, should deal with inquiries provoked by the Commission's announcement, given the hostility to the compulsory worker participation proposals already evinced by the Institute of Directors and the CBI, etc. *and the hostility to other parts of the draft directive*
- (b) the instructions to be given to the UK Representative for the discussion at COREPER; and
- (c) the way in which the Departments of Employment and Trade should consult industry and the professions about the details of the Commission's proposals.

On (a) above, I suggest that your Press Office should explain that the Government supports the development of worker participation but is opposed to compulsion and indeed to many of the specific proposals. My Press Office would deal with any questions about the more traditional company law aspects on the lines that the Commission's proposals were being examined and that a consultative document was being produced. The same approach could no doubt be adopted in Belfast.

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*From the Secretary of State*

While it would no doubt be sensible to leave the details of the instructions to COREPER to be evolved by officials through the standard inter-departmental machinery I suggest that these instructions should be based on the following approach:

- (a) the UK Representative would call attention to the Government's belief in the voluntary approach to employee participation and explain that any agreement to negotiations in a working group did not involve any modification of this view;
- ✓ (b) he would also explain that the Directive dealt with a wide range of complex company law issues on which the UK would need to consult industry and the professions; UK opinion was likely to be highly critical; and
- (c) if there were a majority in favour of establishing a working group the UK Representative could go along with it.

As to (c) above, I suggest that following consultation with other departments the Department of Trade and Employment should publish a consultative document recalling the Government's general approach to employee participation and examining the Commission's proposals in detail. This approach is preferable to the use of a White or Green Paper: it is not sensible to give undue prominence to the Commission's revised proposals as they are to be the subject of many years of negotiation. What matters is what emerges from the working group.

I am sending copies of this letter to the other members of the E Committee as well as to the Lord Chancellor, the Attorney General and the Secretaries of State for Scotland and Wales; and to Sir Robert Armstrong.

*Yours sincerely*  
*John Whitlock*

for LORD COCKFIELD

*[Approved by the Secretary of State and signed in his absence]*

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