Case Ref No: IC-07/2001

THE INDUSTRIAL COURT

THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND) ORDER 1995 (AS INSERTED BY ARTICLE 3 OF THE EMPLOYMENT RELATIONS (NORTHERN IRELAND) ORDER 1999)

SCHEDULE 1A – COLLECTIVE BARGAINING – RECOGNITION

DETERMINATION OF THE BARGAINING UNIT

The Parties:

Amalgamated Transport and General Workers Union

And

Montracon Ltd

INTRODUCTION:

1. The ATGWU (the Union) submitted an application to the Industrial Court (the Court) dated 5 November 2001 that it should be recognised for collective bargaining purposes by Montracon Ltd (the Company) for 'all hourly paid graded production employees involved with the manufacturing of trailers at the Mallusk site, including supervisors and foremen'. The Court gave both Parties notice of receipt of the application on 7 November 2001 and invited responses from the employer in regard to the application.

2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the IC Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Richard Steele, Chairman, and, as Members, Mr Bob Gourley and Mr George McGrath. The Case Manager appointed to support the Court was Ms Anne-Marie O'Kane.

3. By a decision dated 21 November 2001, the Court accepted the Union's application. No agreement on the Bargaining Unit was reached and as a result, both Parties were invited to provide the Court with written submissions relating to the question of the determination of the appropriate Bargaining Unit. The Parties received each other's submission. A hearing was held on 4 January 2002 and the names of those who attended are appended to this decision.

PRELIMINARY APPLICATION:

4. Mr Bloch, representing the company made a preliminary application to the Court. The Company had two plants in Northern Ireland ie. Montracon Ltd based in Mallusk, Newtownabbey and Fruehauf based on the Antrim Road, Newtownabbey. These plants were within one mile of each other. The Amalgamated Engineering Electrical Union (AEEU) now, Amicus, had recognition at the Fruehauf plant and as of 20 December 2001 this recognition had been extended to the Montracon plant. Mr Bloch further submitted that it would be inappropriate to let the Union's application proceed as the purpose of the legislation was not to afford a second trade union access to a bargaining unit where there was already recognition.

5. In response to the Company's preliminary application, Mr Hanna submitted that the Company had usurped the power of the Court and that groups of workers should be allowed to join a trade union of their choice, rather than have another trade union imposed upon them.

6. After an adjournment the Chairman informed the Parties that the Court had considered the preliminary application, taking into account Paragraph 35(1) of the Schedule which refers to General provisions about admissibility. In the Company's response to the application dated 14 November 2001, when asked for details of any existing agreements for recognition covering workers in the proposed Bargaining Unit, the reply was 'None'. Moreover, when the Panel met to decide whether to accept the application on 21 November 2001 there was no trade union recognition agreement in respect of AEEU at that time. The Chairman therefore informed the hearing that the preliminary application was dismissed and the Court would proceed with the Union's application in line with the legislation.

SUMMARY OF THE UNION CASE:

7. Mr Hanna informed the Court that in his view the Union's proposed Bargaining Unit ie. 'all hourly paid graded production employees involved with the manufacturing of trailers at the Mallusk site, including supervisors and foremen' was compatible with effective management. The Company already dealt with different Unions at different plants, Mr Hanna referred the Court to a copy of the Woodville Agreement, which afforded the ATGWU recognition at that plant and to a copy of the Fruehauf Agreement which afforded the AEEU recognition at the Fruehauf plant.

8. Mr Hanna gave a breakdown of how the hours, pay and holidays at the Woodville plant, Fruehauf plant and the Montracon plant differed, albeit that he had been unable to obtain updated figures from the Company. There were also a number of other differences between the plants, ie. Company sick-pay scheme, additional payments, redundancy selection procedure and disciplinary procedure. Mr Hanna

submitted that if Fruehauf and Montracon became one Bargaining Unit these differences would not make for good industrial relations.

9. Mr Hanna re-iterated that there were different management structures at each of the plants and that there were no inter-relationships between the Fruehauf plant and the Montracon Plant. The two plants had separate targets and accounts and each was an autonomous cost centre.

10. Mr Hanna informed the Court that a Works Committee has been in operation at the Montracon plant for the past 20 years and that this Committee had negotiated terms and conditions for the same employees as covered by the Union's proposed Bargaining Unit. There had been no evidence that effective management had been compromised by this arrangement.

11. In addressing the Company's statement in their submission that the Montracon plant was currently under a consultation process on redundancies, Mr Hanna informed the Court that the Works Committee were not aware of any potential redundancies. Mr Hanna quoted from the relevant legislation in respect of what is required in a Consultation Process and what information has to be supplied to a Works Committee. The Works Committee was not in receipt of such information. There had been discussions as to how to improve production levels and meet targets and that a three-month review was being carried out in this regard, due to end in January 2002.

SUMMARY OF THE COMPANY CASE:

12. Mr Bloch opened his submission by stating that the AEEU had been recognised by the Company at the Montracon plant. The Company was facing a redundancy situation and rationalisation, which would result in the closure of one plant in Northern Ireland. It had not been decided which plant to close. The Company, he said, would consult with the recognised trade union ie. the AEEU, if a second trade union was to be recognised this would pose difficulties for both the Company and the Unions. He further stated that multi-union agreements were not desirable and would not promote good industrial relations. In addition fragmented bargaining units should be avoided.

13. Mr Bloch stated that the Fruehauf plant was acquired in July 2001 and under TUPE regulations the existing recognition of the AEEU continued. The Company had two plants within one mile of each other carrying out similar tasks and it made sense to have one Bargaining Unit. Mr Bloch agreed that there was a difference in hours, pay and holidays etc. but re-iterated that there were workers, carrying out the same duties of the same category at two plants, with a union recognised at one plant. It was the Company's submission that the Bargaining Unit should encompass both plants.

CONSIDERATIONS:

14. The Order requires the Court to decide the appropriate bargaining unit and, in making that decision to take into account the need for the unit to be compatible with effective management and the matters listed in Para 19(4) of the Schedule, in so far as they do not conflict with that need. These are: the views of the employer and of the union; existing national and local bargaining arrangements; the desirability of avoiding small fragmented bargaining units within an undertaking; the characteristics of workers falling within the proposed bargaining unit and of any other employees of the employer whom the Court considers relevant; and the location of workers. The Court's decision has been taken after full and detailed consideration of the Parties' views as expressed in their written submissions and amplified at the hearing and in the light of the evidence placed before it and the Court's own industrial relations experience.

15. In addressing Para 19(4)(a) of the Schedule, the Court accepted the Union's contention that their proposed Bargaining Unit would be compatible with effective management. The Company had been negotiating with a Works Committee at the Montracon plant for the past 20 years for the same employees as described in the Union's proposed Bargaining Unit and the Company had conceded that they view the two plants as separate establishments for redundancy purposes. Each plant also has separate distinct management structures with separate targets and are separate cost centres.

16. Para 19(4)(b) requires the Court to take into consideration existing national and local bargaining arrangements. It is the Court's view that there is evidence that the Company deals with different unions at different plants. The Works Committee at Montracon Ltd has been dealing with management for the past twenty years for broadly the same workers as detailed in the Union's proposed Bargaining Unit.

17. Para 19(4)(c) requires the Court to take into account the desirability of avoiding small fragmented bargaining units within an undertaking. In the Court's opinion the Union's proposed Bargaining Unit could not be viewed as creating a fragmented bargaining unit within the Company as the Works Council have been negotiating for broadly the same workers for the past twenty years.

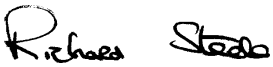
18. In addressing Para 19(4)(d) which concerns the characteristics of workers falling within the proposed bargaining unit and of any other employees of the employer whom the Court considers relevant. The Court accepts that although the workers carried out the same duties in the production of trailers, there are differences in the terms and conditions of workers at the Fruehauf plant and the Montracon plant.

19. Para 19(4)(e) in relation to the location of workers, the Court considers that the proximity of the two plants is not relevant.

On the balance of the evidence the Court concluded that the appropriate Bargaining Unit is the one proposed by the Union. It is, in the Court's considered view, compatible with the need for effective management.

DECISION:

The Court decision is that the appropriate Bargaining Unit is that proposed by the Union, that is, all hourly paid graded production employees involved with the manufacturing of trailers at the Mallusk site, including supervisors and foremen at Montracon Ltd, 50 Mallusk Road, Newtownabbey, Northern Ireland.



Court Chair:	Mr Richard Steele
Members:	Mr Bob Gourley Mr George McGrath
Date of Decision:	4 January 2002
Date Issued to Parties:	21 January 2002

APPENDIX

List of those attending hearing

Representing the Union

Mr Bobby Hanna (Regional Industrial Organiser)
Mr Sean McIvor (Works Committee)
Mr Timothy Clarke (Works Committee)
Mr Sidney Mathews (Works Committee)

Representing the Company

Mr Peter Bloch (Engineering Employers' Federation)
Mr Wilson McClelland (Group Finance Director)