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COMMISSION STAFF WORKING PAPER

Restructuring and employment the contribution of the European Union

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Restructuring and employment the contribution of the European Union

INTRODUCTION

This paper forms part of the package presented with the Commission Communication *A renewed social agenda: Opportunities, access and solidarity in 21st century Europe*¹. The Communication emphasises the need to prepare the European Union to cope with the challenges of globalisation better and to promote social management of change and restructuring. Such management must offer new opportunities to workers and regions affected by restructuring, must allow the workers access to training or re-training, and must demonstrate real solidarity with them. The European Union's action with regard to the management of restructuring operations can only supplement that of the other actors, and in particular the Member States, the regions and, naturally, the companies and employees themselves.

The term 'restructuring' here means a modification of a company's workforce that affects both the latter's qualitative (skills and qualifications required) and its quantitative features (number of jobs) following adaptations to the company's structure, organisation or production. Such adaptations, which are the result of many factors, such as changes in demand, the introduction of new processes or the arrival of new competitors, are necessary for the company to remain competitive. They also bring new opportunities, as evidenced by the creation of over 12 million new jobs across the EU from 2000 to 2007. The social management of restructuring is designed to reduce the negative effects of such adaptations.

In 1998 the Commission published a report by the High-Level Group on economic and social implications of industrial change chaired by Pehr Gyllenhammar. The concerns and suggestions presented in the report have subsequently guided the Commission's action to promote the social management of restructuring.

This paper takes stock of the main advances in this area in the wake of the two Communications on the management of restructuring presented by the Commission in January 2002² and March 2005³.

Taking as a basis a review of the last ten years, and the lessons which can be drawn from it, the main players in the management of restructuring processes are invited to press ahead with and to step up cooperation. In particular, the contribution of the social partners following the adoption of the 2005 Communication is eagerly awaited. For its part, the Commission intends to continue its work and step up its efforts to encourage anticipation of coming changes and the development of partnerships between the players.

¹ COM(2008) XXX final

² http://ec.europa.eu/employment_social/social_dialogue/docs/changement_I_fr.pdf.

³ COM(2005) 120 final.

I. REVIEW

I.1. The Gyllenhammar Group Report

In 1997 the European Council⁴ invited a high-level expert group to analyse the implications and economic and social effects of industrial change, and to consider ways of anticipating and managing them. The Group's report, *Managing change* (November 1998), presented a set of recommendations addressed to political decision-makers, company managers and social partners.

EXTRACTS FROM THE MAIN RECOMMENDATIONS OF THE GYLLENHAMMAR GROUP

- Companies should be encouraged to take voluntary action to emulate the level of the best. Legislation should be used to prevent improper behaviour.
- A motivated workforce is the key to success. Companies have the responsibility to maintain the employability of their workers, whilst workers have the responsibility to utilise all available training opportunities.
- Develop social dialogue to tap its full potential at all levels.
- Companies should shoulder the main responsibility for the anticipation of change.
- Commission should assist this process by creating an Observatory on industrial change.
- Larger companies are encouraged to prepare a 'Managing change report'.
- In the event of a crisis, the main responsibility for action lies with the company; the government should abstain from interfering in industrial change although local authorities may intervene in a coordinating and mediating capacity to support the negotiation of a successful outcome.
- Any company proceeding with dismissals without having taken the necessary steps to safeguard the employability of those dismissed should be barred from access to public aid.

I.2. The 2002 and 2005 Communications

The 2002 Communication

The Commission based its 2002 Communication *Anticipating and managing change: A dynamic approach to the social aspects of corporate restructuring* on points highlighted in the report *Managing change* and in connection with the Lisbon Strategy. The Communication sought to stimulate dialogue between the social partners with a view to identifying and developing best practice in anticipating and managing restructuring. It took as a starting point the observation that corporate restructuring operations are an important element of the process of change. Forward-thinking human resources planning and better qualifications are fundamental in this context, while the introduction of mechanisms to support the latter calls for active partnership between the social partners.

⁴ Luxembourg Extraordinary European Council meeting on employment, 21 and 22 November 1997.

In accordance with Article 138 of the EC Treaty, the Communication called on the social partners to express their opinions on the advisability of laying down certain principles at Community level for action to support good practice in companies undergoing restructuring, and on the way such principles should be developed and laid down. The Communication asked the European social partners to say whether they regarded agreements between the social partners at inter-branch or sector level as the right way to proceed.

The inter-branch social partners responded to this request by presenting a document entitled 'Orientations for reference in managing change and its social consequences' in October 2003. Their contribution contained an in-depth analysis of the phenomenon and identified key factors in the sound management of a restructuring operation. The social partners agreed that the existence of good social dialogue in a climate of trust and a positive attitude to change were important factors in preventing and limiting its negative consequences.

The 'orientations for reference' developed by the European social partners underlined the need to:

- explain the reasons for the change to the employees or their representatives in good time;
- make provision for effectively informing and consulting the employees throughout the process of change;
- maintain and develop the skills and qualifications of the employees in order to enhance their employability;
- take into account the regional dimension (economic and social repercussions of the restructuring on the regions affected);
- consider the specific situation of subcontractor SMEs.

The social partners were unable, however, to agree on mechanisms for implementing and following up these guidelines, and this consequently limited the practical impact of their work.

The 2005 Communication

The Commission's Communication of 31 March 2005 entitled *Restructuring and employment: Anticipating and accompanying restructuring in order to develop employment — The role of the European Union* fitted in fully with the re-launch of the Lisbon Strategy. Its aim was to identify and promote the mobilisation of resources that would allow both the economic actors and the workers to adapt quickly to the changes under way. The Commission emphasised that a combination of different instruments and policies could allow opportunities offered by current processes of change to be exploited optimally and problematic aspects to be tackled, in particular by facilitating transitions on the employment market.

Many European policies contribute to the objectives of adaptation to change, and of anticipation of and support for restructuring operations: one may cite policies on competition and innovation, those aimed at improving the environment in which European companies operate and at facilitating the reallocation of resources, employment, education and training policies, directives on informing and consulting workers, the European social dialogue, cohesion policy, financial support instruments, rural development policy, etc. The Union is

also developing sectoral policies geared to anticipating change and strengthening the competitive position of Europe's economy.

At the same time, in accordance with Article 138 of the Treaty the Commission called upon the European social partners to continue with their work to identify good practice with regard to the anticipation of and support for restructuring operations and, above all, to find the means of ensuring their application. The Commission encouraged the social partners to be more proactive in the management of restructuring and to step up cooperation in order to:

- promote the application and follow-up of their guidelines on restructuring activities, and a discussion on the way forward;
- encourage the adoption of best practice set out in the existing guidelines on restructuring, where applicable;
- promote best practice in the way that European works councils operate, with a view to making them more effective, in particular as regards their role as a driving force for change;
- develop a common approach to the other points in the Communication of concern to them, and in particular training, mobility, the sectoral dimension and anticipation.

The Commission had intended to go ahead with its analysis of the advances made at the 2006 Tripartite Social Summit. However, as the social partners decided to continue their work on the guidelines by holding several series of national seminars, the Commission has opted to wait until they have made sufficient progress before proceeding with this analysis.

The other measures proposed in the Communication have actually been implemented. Attention is drawn in particular to those listed below.

The European Employment Strategy

The guidelines endorsed the importance given to the priorities relating to anticipation and management of change and the contribution of active employment policies under the European Employment Strategy (EES). More recently, in their national reform programmes the Member States were asked to give substance to the principles for implementing a flexicurity strategy, which has a key role to play in securing career paths by combining a flexible workforce, capable of adapting to new markets and new technologies, with a suitable compensation system and active employment policies.

The EES fits into the wider context of the Lisbon Strategy, which concentrates on stronger, sustainable growth and on more and better jobs. The Lisbon Strategy's re-launch has led to a comprehensive review of the EES, aimed at fully exploiting the synergies between measures taken at national level and Community action by making it more effective. The Lisbon Strategy constitutes a key element for the management of restructuring operations, as it aims to encourage the competitiveness of Europe's economies and thus to strengthen their ability to respond to current and future adaptations.

Cohesion policy

Cohesion policy is designed to reinforce economic and social cohesion across the Union through the reduction of disparities. To achieve this objective, the European Regional

Development Fund (ERDF) and the European Social Fund (ESF) support proactive strategies, in particular to raise standards of training, diversify the industrial base and adapt to economic and structural change. In order both to anticipate and to respond to changes and restructuring, the European Union has noteworthy instruments in the form of medium-term programmes funded under the cohesion policy. These integrated programmes have increasingly come to replace previous initiatives of a sectoral nature, which have proved to have limited coverage and impact. An integrated approach under the cohesion policy provides the political decision-makers with the chance to take account of the whole set of conditions required to respond to the effects of economic changes.

The Structural Fund programming process is flexible, so although the programmes are implemented for a seven-year period, they can be adjusted to fit in with new circumstances. This flexibility was demonstrated by the actions undertaken as part of the closure of the MG/Rover car plants in the United Kingdom (ERDF and ESF part-funding). During the previous programming period, the Equal Community Initiative and innovative actions under the ESF⁵ and the ERDF⁶ also contributed, both through the development of innovative solutions and discussions and the exchange of good practice, to greater knowledge of the mechanisms permitting improved social handling of restructuring operations⁷.

European rural development policy also makes a significant contribution to job creation and to the development of qualifications among the population in rural areas. Thanks to the European Agricultural Fund for Rural Development, the Member States and regions can part-fund actions to achieve that objective. The Member States have made use of this option in the new programming period for 2007-13.

European Globalisation adjustment Fund

The Commission has set up the European Globalisation Adjustment Fund (EGF) to provide support for workers affected by restructuring processes linked to changes in the organisation of world trade. The EGF has been in operation since 1 January 2007 and its first annual implementation report is also presented in connection with the renewed Social Agenda. The EGF constitutes one of the Union's most important and most visible initiatives in this field.

The external dimension

The Union has continued to promote basic social standards in its external policies, on the one hand through various free trade, partnership, association and cooperation agreements, and on the other, in its development aid programmes and projects. The EU has actively supported the inclusion of decent work as a global objective of the United Nations. In a Communication published on 24 May 2006 the Commission developed an integrated strategy aimed at mobilising the EU's internal and external policies for the promotion of decent work. It has

⁵ Communication from the Commission on the Implementation of Innovative Measures under Article 6 of the European Social Fund Regulation for the programming period 2000-2006 (COM(2000) 894 final).

⁶ Communication from the Commission on guidelines for innovative actions under the European regional development Fund for the programming period 2000-2006 (COM(2001) 60-005).

⁷ See the reports on the evaluation of ESF support for the anticipation and management of economic change (July 2007), innovative measures in accordance with Article 6 of the ESF and the 2000-06 Equal Community Initiative at http://ec.europa.eu/employment_social/evaluation/esf_fr.html, http://ec.europa.eu/employment_social/esf/fields/2000_2006/article_6_2000_2006_programme_fr.htm and http://ec.europa.eu/employment_social/equal/about/key-doc_fr.cfm

supported consideration of the issues connected with decent work by the G8, and the research work launched recently by the ILO and the secretariat of the WTO on the interaction between commerce, employment and social policy.

Monitoring of activity sectors

With a view to helping workers and companies to anticipate changes more effectively, the Commission has launched in-depth research and analyses, both on the restructuring phenomenon itself and on the monitoring of activity sectors, including a series of sectoral studies on the identification of emerging skills at sectoral level and on changes in employment between now and 2020. This prospective analysis is being carried out in conjunction with independent researchers, social partners and other European institutions, such as the European Parliament, EUROFOUND's European Monitoring Centre on Change (EMCC)⁸ and the European Centre for the Development of Vocational Training (Cedefop). It will comprise part of the response to the Council's resolution of 15 November 2007 on the new skills for new jobs⁹, and to the request from the March 2008 European Council concerning employment and qualification forecasts for 2020.

Owing to the scale of the changes they are undergoing, over the last two years certain sectors have been the subject of reinforced monitoring, closely linking the Commission, professional organisations, the social partners and the regions concerned. This is the case of the automobile sector and, more recently, defence. Starting from a shared diagnosis, these monitoring programmes identify the roles and responsibilities at each level and of each group of actors. This generates a programme of practical measures that focus on strengthening the competitiveness of these sectors and regions, identifying future requirements in terms of innovation, skills and qualifications and the resources to meet them, and putting in place systems for anticipating and managing the social impact of the changes anticipated.

A number of sectoral social dialogue committees have taken an interest in this issue. Noteworthy examples include work carried out in the civil aviation, hotels and catering, furniture, textiles, shipyards, electricity, sugar, chemicals and railway sectors or industries¹⁰.

Restructuring Task Force

Since 2005 the Restructuring Task Force has carried out major work on the internal coordination of the various policies targeting restructuring operations or those of relevance to addressing their economic and social impact. This is shown by the increasing extent to which the need to anticipate restructuring and develop partnerships at all levels has been incorporated into different Community policies and actions (integrated guidelines, Structural Funds frameworks, industrial policy, commercial policy, various sectoral policies, environment policy, etc.).

⁸ In 2001 one of the proposals of the Gyllenhammar Expert Group was implemented. This involved the establishment of a European Monitoring Centre on Change (EMCC) within EUROFOUND, the European Foundation for the Improvement of Living and Working Conditions in Dublin. The EMCC manages in particular the European Restructuring Monitor (ERM), which collects information on restructuring operations on a certain scale.

⁹ OJ C 290, 4.12.2007, p. 1.

¹⁰ http://ec.europa.eu/employment_social/social_dialogue/sectoral_en.htm.

Restructuring forums

Since March 2005 the Commission has held six ‘restructuring forums’ on various important facets of restructuring. These were the inaugural forum on anticipation (June 2005) and the forums on the sectoral dimension (July 2006), the regional dimension (December 2006), instruments for analysis and anticipation (June 2007), the automobile sector (October 2007) and SMEs (November 2007). Attended by hundreds of participants each time, the forums have permitted a wide exchange of views on the mutual interdependence of the different facets of dealing with corporate restructuring and the proactive and positive management of processes of change.

The 2005 Communication also refers to the revision of the Directive on European works councils. After the social partners were consulted, a draft recasting of the Directive is being presented as part of the renewed Social Agenda. In conjunction with other, non-regulatory measures, this new proposal seeks to ensure that workers’ rights to information and transnational consultation are properly observed in practice, to increase the number of European works councils established, to strengthen legal security and to ensure that the Directives on worker information and consultation work in with each other more effectively.

Alongside other European legislation, such as that concerning worker information and consultation, mass redundancies and the transfer of companies, the Directive is a key tool for promoting the social management of restructuring operations. Also presented with the renewed Social Agenda, the Commission Staff Working Paper on transnational company agreements concluded by companies at European or international level is another example of work at European level aimed at encouraging such social management of restructuring.

Other European institutions have also made a contribution. On several occasions, the European Parliament has underlined the need to support the social management of restructuring operations and has invited the Commission in particular to step up its work. The European Economic and Social Committee’s Consultative Commission on Industrial Change (CCMI) has produced a large number of own-initiative opinions and information reports directly connected with the management of restructuring operations. In October 2007, the Committee of the Regions adopted an outlook opinion on success factors to anticipate and accompany restructuring in cities and regions¹¹, which stresses that it is at local and regional level that action is most effective when it comes to the implementation of policies designed to addressing restructuring operations.

II. PRESSING ON WITH ACTIONS

Over the last decade, the number of factors contributing to change has multiplied (e.g. acceleration of globalisation, climate change, changes in the way companies are run as a result of the financialisation of the economy, technological development, changing tastes of consumers and demographic trends). The Commission, the European social partners and the other players, who have taken a large number of initiatives for optimising the management of change, should therefore press on with them and step up their efforts in the future.

¹¹ CoR 340/2006.

II.1 The key role of social partners and companies

The importance of a joint approach by the social partners with regard to the anticipation and management of change should be underlined. In view of the social partners' intention to promote and evaluate the guidelines for reference in managing change and its social consequences in their 2006-08 working programme, the Tripartite Social Summit for Growth and Employment to be held in March 2009 could be the right time to present a first assessment of their work in this field. On the basis of that contribution, thought could be given to the advisability of presenting new initiatives to promote principles shared at European level.

Considering the key role played by business in the management of change, a possibility for the future is to encourage companies to include management of change and restructuring, including the relations they develop within their immediate environment (such as with regions or subcontractors), in reports many companies produce on a voluntary basis in connection with corporate social responsibility. Inclusion of restructuring in such reports would encourage the exchange of good practice and could allow the public authorities to gain a better grasp of the issues raised by industrial and technological change.

II.2 A wider partnership

A number of actions already under way that demonstrate the benefit of a wider partnership will be continued in the future in order to develop this approach and encourage social management of restructuring operations. The main aim of these actions is to step up the exchange of good practice in the management of restructuring by emphasising in particular the major role of anticipation, which is complementary to that of partnership:

- Continuation of '**restructuring forums**': topics to be addressed include climate change, the contribution of the European Social Fund, transnational company agreements, the financialisation of the economy, the results of sectoral studies as a tool for anticipation, the defence industry and the link between health and restructuring.
- Continuation and widening the scope of the **monitoring of certain sectors and certain regions** which are likely to experience significant changes in economic and employment terms. Such monitoring will take the form of partnerships like those developed in the automobile sector. These partnerships are necessary owing to the complexity of restructuring processes. Cooperation between all players, particularly upstream of a restructuring project, is an essential condition for sound management of change. Authorities at all levels (European, national and regional) and all economic and social actors need to play their part in line with their own roles and responsibilities. All players, and in particular the social partners, should develop long-term views and education and training systems and practice should be adapted to those perspectives.
- Launch during the next few months of an **interactive site called 'ANTICIPEDIA'**, which will be a collection, exchange, dissemination and networking tool for the actors involved in change.
- **Dissemination of results of prospective sectoral analyses**, in particular through the organisation of national seminars and support for sectoral social dialogue committees wishing to contribute to such forward planning work.

- Publication of a guide collating good practice on **training and the adaptation of skills in SMEs** before the end of 2008.
- Possible establishment of **sectoral employment and qualifications councils**. In the economic sectors facing profound changes in the structure of employment, consideration will be given to setting up such councils as a practical tool for following up the sectoral analyses. Canada's experience with sectoral employment and qualifications councils, involving public, economic, social and training actors with the aim of analysing and exchanging information on the long-term trends in jobs and skills in a given sector, including the impact of IT, could provide a worthwhile area for action for the Union's sectoral social dialogue and provide a measure of response to concerns about identifying job shortages. A communication addressing the possibility of setting up such councils is planned for 2009.

II.3 Cooperation with national and regional authorities

Cooperation with national authorities is another key area for the management of restructuring operations. Clearly, it is the job of national governments to simplify the regulatory framework, take action to promote and support investments in production and research and innovation activities, ensure the development of a qualified workforce and use the Structural Funds to anticipate and manage restructuring. In the context of efforts to press ahead with the cohesion policy and create new, sustainable jobs, the importance of paying special attention to issues relating to the anticipation, preparation and management of restructuring through the ESF's Adaptability priority and the Regions for Economic Change initiative has been underlined on numerous occasions.

Further, stronger coherent action in the fields of continuous training and employability to facilitate professional transitions is another key area for action by the public authorities, in which the application of the principles of flexibility constitutes a major strand.

The EMCC recently launched an appeal for voluntary cooperation between the Member States for the improved collection of data on restructuring operations, based on notifications of mass redundancies. Given the importance of having available the most complete and reliable data possible, this appeal should be passed on by the Commission.

Good practice has demonstrated that it is for the regional and local authorities to carry out permanent monitoring of changes in economic activities of significance to their region, in close cooperation with the economic players involved. Their participation in putting in place and strengthening mechanisms for the adaptation of companies and staff and in boosting the competitiveness of the region's economic and social fabric is a major challenge.

II.4 Greater visibility for Community action

In addition to the role of the **Restructuring Task Force** within the Commission, which is to improve coordination of the various Community policies with an impact on the processes of change and restructuring, better evaluation of the social impact of Community policies in accordance with the new 'horizontal' clause in the Lisbon Treaty could be an additional factor in anticipating the effects of Community interventions. In addition, the visibility of action at European level also needs to be increased. To achieve this, the services of the Commission will be publishing regular **reports on restructuring operations** in Europe. The first of these, to be adopted before the end of 2008, will outline the main Community policies incorporating a specific dimension on adaptation to change.