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Restructuring and employment

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The Commission has proposed relaunching the Lisbon strategy, focusing on stronger and lasting growth and the creation of more and better jobs. In order to achieve these objectives, it is necessary to mobilise all national and Community resources through an enhanced partnership between the Union and the Member States, but also with the social partners, civil society and all players concerned.

The prosperity and well-being of European citizens depend on economic players and workers adapting rapidly to the current far-reaching socio-economic changes, which are translating into the creation and development of new economic activities, but also into the contraction, or even disappearance, of existing activities and the related jobs.

At the same time, the restructuring of enterprises often entails costs that can be very high, not only for the workers concerned but also for the local or regional economy. The preservation of social cohesion, which is a distinctive characteristic of the European social model, requires the introduction of accompanying policies designed to reduce the social costs to a minimum and to promote the search for alternative sources of jobs and income.

It is therefore essential to ensure that restructuring is well-managed so as to meet a two-fold economic and social requirement. It is vital for enterprises to adapt to change: if enterprises conduct these operations rapidly, their competitiveness can be preserved and enhanced. Moreover, the intention to preserve the employability of workers and to facilitate their transition to another job of equivalent quality has an economic impact by taking advantage of one of the main competitive assets of the European Union, namely the quality of its workforce, which is the guarantee of future growth. In addition, restructuring must form part of a long-term vision of the development and direction of the European economy in order to ensure that the changes really are a way of strengthening its competitiveness.

The work of anticipating and accompanying these operations is therefore fully in keeping with the Lisbon strategy and is the collective responsibility of the public authorities, enterprises and social partners.

Thus, the Social Agenda which was adopted by the Commission on 9 February 2005, at the same time as the Communication on the review of the sustainable development strategy, foresees that the Commission will develop a strategy for managing restructuring operations focused on improved interaction between the relevant European policies, greater involvement of the social partners, enhanced synergy between policies and financial levers and the adaptation of the frameworks of legislation and agreements.

Restructuring is nothing new. The Union has been developing policies and instruments in this area for a long time. Accordingly, in the past, it has played an essential role in restructuring the steel industry, and, more recently, shipbuilding and textiles.

These measures concern not only sectors in difficulty. In recent years, high-level sectoral groups have been set up in order to establish the strategic prospects for many sectors.

Many European policies contribute, through cross-cutting action, to the objective of anticipating and accompanying restructuring: the Directives on worker information and consultation, the European social dialogue, employment policy, financial support instruments, industrial and enterprise policy, rural development policy, etc.

This Communication sets out the measures to be developed or strengthened around the various means that the Union can mobilise to this end through cross-cutting and sectoral action. When these measures are implemented, it is necessary to limit as far as possible the burdens imposed on enterprises, while ensuring improved anticipation and management of restructuring operations.

As called for by the Communication on the Lisbon strategy, the European social partners at cross-sectoral and sectoral level have a specific role to play in the implementation of the various strands of the policies set out below. They are therefore invited to respond to the call made to them in point 2.4 of this Communication, which constitutes at the same time the second phase of the consultation on corporate restructuring and European works councils under Article 138(3) of the Treaty.

1. THE CURRENT CHALLENGES

1.1. Analysis of the phenomenon

The restructuring of enterprises is often seen to be an essentially negative phenomenon, and its immediate effects on employment or working conditions are highlighted in most cases. And yet, restructuring operations are often essential to the survival and development of enterprises. It is therefore necessary to accompany these changes in such a way as to ensure that their effects on employment and working conditions are as short-lived and limited as possible.

Restructuring is the form taken at enterprise level by the permanent reshaping of the fabric of production under the effect of numerous factors.

The development of the European single market and the opening-up of economies to international competition represent new opportunities in terms of economic dynamism and competitiveness for enterprises and the creation of high-quality jobs. Thus, in general, competition on the EU's internal market promotes prosperity and lasting employment, since it is the main driving force behind innovation, the creation of new products and services and economic renewal.

Technological innovation also triggers restructuring. On the one hand, the spread of the new information and communication technologies is making international trade and the coordination of production faster and very cheap, while generating new applications that produce more creative and higher-quality jobs. On the other hand, the development of new manufacturing processes and production methods is creating a move towards high-quality jobs requiring other types of training. Ecological innovations, as well, are creating new job opportunities and improving our social well-being.

The development of the regulatory framework (the introduction of new regulations or deregulation) is resulting in changes on product and labour markets.

Major changes in consumer demand are occurring as a result of, among other things, the new needs of an ageing population, greater sensitivity to environmental issues or changes in the geography of world demand.

The reconstruction of the fabric of production entails permanent adjustments:

Quantitative aspects: the adjustments lead to a new distribution of workers across production activities and services. Indeed, Europe is continuing to create jobs: 30 million net jobs created between 1977 and 2002, with an increase of more than 44 million in services and a loss of at least 7 million in industry and 7.5 million in agriculture. Every year, 10% of European enterprises are set up and destroyed. It is estimated that between 5 000 and 15 000 jobs are created and destroyed every day on average in each of the Member States.

Qualitative aspects: the tendency in Europe is to move towards higher-quality and more productive jobs in certain sectors. Employment in the services sector has risen in the past 20 years, employing two out of three people in 2003; employment in the sector of services to enterprises has risen by 25% in the past five years. Between 1998 and 2003, Europe (EU-15) experienced growth in the employment rates of the three categories of workers (+2.2% for **low-skilled** workers, +14.2% for workers with **intermediate** skills and +25.1% for **high-skilled** workers). However, the proportion of low-skilled workers in total employment fell.

Workers do not automatically move from one sector to another. The disappearance of certain particularly dangerous, arduous or polluting jobs can be seen as something positive if they are offset by new ones. However, the new jobs that are created are not necessarily taken up by the people who have been made redundant because the location and the skills required are not necessarily the same in the two cases.

These changes hit the most vulnerable population groups, especially low-skilled workers, particularly hard. The capacity of the European Union to maintain a supply of satisfactory jobs for these workers is decisive for social cohesion.

Moreover, apart from this permanent process, shocks linked to technological breakthroughs, developments in trade and state policy decisions can have a dramatic impact on certain industries and/or certain regions in terms of the destruction of human capital and the reduction of growth potential. These negative consequences can be mitigated if the state authorities take appropriate action and there is effective coordination of the players concerned.

Need to accompany the effects of the deepening of the internal market and of the opening-up of the economy to trade

Overall, the opening-up of the economy produces benefits for growth and employment but, at the same time, involves costly transformations for the enterprises and employees concerned. Less-skilled and more vulnerable workers are hit first, with the opening-up of the economy resulting in a form of hidden redistribution that must be corrected. This correction is needed not only to ensure **social justice, but also for political reasons**, given the mismatch between the costs – that are limited overall but are visible, tangible and concentrated – and the benefits of the opening-up process, which, even at a high level, remain hard to pin down: this mismatch directly fuels rejection of the opening-up of the economy. Finally, it is an **economic necessity**, since targeted anticipation policies can reduce the costs of change and facilitate transition.

Empirical studies generally show that these costs, although hard to assess, are very limited in comparison with the benefits that can be expected from the process of opening-up, with a ratio of one to twenty in many cases. However, their impact can be far higher, for several reasons:

- the costs of opening up the economy are generally concentrated in certain sectors or regions;
- the nature of the costs are not directly offset by the nature of the benefits resulting from the opening-up of the economy;
- a certain period of time elapses before the costs and benefits of opening up the economy can be seen;
- the costs and benefits do not occur in the same place.

The link between opening up the economy and providing assistance in adjusting to its effects is explicit in the USA, which has always considered international trade negotiations and the introduction of measures to accompany the effects of opening up the economy to be two sides of the same international integration policy. The 2002 Trade Adjustment Assistance Reform Act more than doubled the financial resources granted to this programme (\$1.4 billion for 2004), which benefit both the enterprises affected and their workers who suffer the concomitant effects.

It is logical for the EU to bear the cost of the policies that it implements. This will be all the more urgent in the coming years since the period that lies ahead of us will be particularly marked by the implementation of trade agreements (end of textile quotas, EU/Chile Free Trade Agreement) and the negotiation of new agreements (Doha round, EU/Mercosur Free Trade Agreement, EU/Gulf Cooperation Council Free Trade Agreement). This is the sense of the measures on Community intervention in the event of a crisis that are referred to in point 2.1.3 of this Communication.

Europe creates jobs every day but, in order to ensure that the new members and those affected by restructuring operations can benefit from them, it is necessary to improve the functioning of the labour market, strengthen active employment policies, anticipate change and provide mechanisms to facilitate the transition to other employment. There is therefore a need to strengthen the partnership between all players, focusing on pinpointing the potential comparative advantages, and to estimate the changes that can be expected by market sector and by occupation, and hence by labour market area, so that the players concerned anticipate future developments more effectively as closely as possible to the potentially affected geographical area and population. The same type of comparative advantage can be sought in certain areas, for example small and medium-sized cities, with lower degrees of congestion, and attractive rural areas, where higher standards of living and working are made possible with lower costs.

1.2. Participating and managing change for the benefit of all

The above analysis shows that Europe is not facing an inexorable economic and social decline but an unsolved challenge, namely the challenge of anticipating and managing change.

It is essential not to lose sight of the major impact of the phenomenon in certain European countries that are still in a process of transition, and that are faced with far-reaching economic and social restructuring that needs to be given substantial support through cohesion policy. Nevertheless, restructuring is affecting the whole of the Union. Community policies and instruments must take account of the diversity of its effects depending on regions and respond in a way that is adapted to the whole of Europe.

2. RESPONSES AT COMMUNITY LEVEL — THE ROLE OF THE EUROPEAN UNION

These responses fall within the more general framework of the growth and employment strategy proposed by the Commission on 2 February 2005, which constitutes the backcloth of

a policy designed to seize all available opportunities and prevent restructuring from turning into a human and social drama.

Clearly, most of the concrete responses to the present challenges occur at sub-European level. For its part, the European Union has useful levers at its disposal to anticipate and accompany change. In practice, it has an important role to play in three areas:

- through the cross-cutting policies it pursues, coordinates or promotes, it helps create the conditions for long-term economic and technological development and facilitates the anticipation of change;
- by endowing itself with adequate capacity to identify sectoral developments and instruments for reacting to unforeseen events with a concentrated impact in certain sectors or regions, the European Union promotes effective coordination among all stakeholders;
- by recognising the role which the social partners can play in anticipating and managing change, it gives them the opportunity to play a positive part.

2.1. Mobilisation of horizontal Community policies

- *Reinforced coordination of policies*
- *Reform of the European Employment Strategy*
- *Reform of financial instruments and the role of the Structural Funds, also in a crisis*
- *Industrial policy*
- *Competition policy*
- *External policy*
- *Improving measuring instruments*

2.1.1. Reinforced coordination of Community policies.

What is needed is more convergence and synergies between the various internal objectives, policies and actions.

This requires close coordination within the Commission, to be achieved by setting up an internal task force involving the Commission departments concerned, as well as regular dialogue with the European Parliament and the Council.

2.1.2. Reform of the European Employment Strategy (EES)

Based on its Lisbon relaunch proposal, the Commission will propose a review of the EES in 2005. The employment policy framework will be directed towards three priorities, all of them relevant in anticipating and managing restructuring: to attract and retain more people for the labour market, to improve the adaptability of workers and companies, and to invest more in human capital.

In line with this revised approach, the EES will provide more encouragement for national policies which contribute to anticipating and accompanying restructuring.

2.1.3. Reform of Community financial instruments for better anticipation and management of restructuring

In its proposal on the financial perspectives for 2007-2013, the Commission has suggested that the Structural Funds should focus more on the objectives of the Lisbon Agenda, through the Community strategic guidelines which will constitute the basis of national strategies. The European Social Fund is already financing measures to anticipate and manage restructuring. The new draft ESF Regulation confirms this role, in particular in the following contexts:

- improving the adaptability of workers and companies in connection with sectoral and company restructuring;
- by supporting investment in human capital and lifelong learning; the ESF can assist the development of quality training systems geared to local needs and based on a broad partnership;
- establishing employment and innovation pacts and partnerships at national, regional and local levels; for example, the new regulation will foster the development of systems and tools to anticipate economic and social change;
- strengthening the institutional capacity and the efficiency of stakeholders, for example by training "change managers";
- strengthening synergies and partnerships among vocational training and regional development players.

The European Regional Development Fund will also play a major role in developing new activities, thanks to investment in research and development, dissemination of innovation and creation of infrastructures with a view to the sustainable management of resources.

With regard to rural development, the contribution of rural areas to these objectives will be of a different kind to the one expected from urban areas: in low density areas competitiveness is more often achieved through economies of diversification, the modernisation of traditional crafts and technologies, the provision of innovative services, the exploitation of environmental amenities, etc.

The key financial instruments that Member States will have available in this field will come from the Agriculture and Rural Development Fund. In this context, sectoral (agriculture, industry, services) and territorial policies (regional, rural, urban, local) need to act in complementary and integrated ways in order to maximise their growth and employment impact.

Other programmes will also contribute to improved anticipation and integration of economic change. The Framework Research Programme aims to strengthen the scientific and technological bases of EU industry in order to promote excellence and creativity in European research and boost the international competitiveness of the EU economy.

Education and training programmes play a key role in fostering the creation of a competitive and dynamic knowledge-based economy which encourages mobility. This aspect will also be reinforced by the adoption of the new integrated programme for lifelong learning for the period 2007-2013.

The Community's capacity to intervene in a crisis

Despite efforts to improve the anticipation of change, unforeseen events with a severe regional or sectoral impact may occur (cf. 1.1 above), necessitating public intervention in order to facilitate the necessary transitions.

Regional policy has proved effective in this context, and this is why, in the financial perspectives for 2007-2013, the Commission has proposed the constitution of contingency reserves within the Structural Funds (to the tune of 1% of "convergence" funding and 3% of "competitiveness" funding, per year and per Member State), which will also be used for this purpose, in close association with the regional authorities and social partners. It has also proposed the creation of a growth adjustment fund with an annual budget of €1 billion.

2.1.4. Industrial and enterprise policy

a) Follow-up to the Communication of April 2004

The Commission will continue to implement the revamped industrial policy which it proposed in April 2004. In particular, this will involve improving the regulatory framework applicable to companies, supporting their innovation and competitiveness activities, and ensuring better-coordinated action especially at sectoral level.

b) Reinforced sectoral and regional follow-up

Better anticipation of change is dependent on a better knowledge of sectors, their outlook, and the levers which can be used to promote growth and employment. In recent years the Commission has set up high-level groups, which are informal temporary bodies bringing together all stakeholders in order to compare their points of view on each sector's difficulties and opportunities and achieve a common vision.

A number of sectors have also seen rapid and far-reaching changes, in some cases with a severe impact in certain regions with insufficient diversity in available jobs and workforce skills. In view of this experience and the risks involved, the Commission intends to ensure more attentive follow-up in the sectors likely to experience significant changes in the short term. It will concentrate on analysing the development of competitiveness, environmental threats and opportunities, consequences at regional level, and measures likely to be taken at Community level to anticipate and accompany change. As regards employment and training issues, it will involve the European sectoral social dialogue committees where appropriate.

These arrangements will be set out in a communication being prepared on the sectoral dimension of industrial policy. In 2005 the Commission will concentrate its efforts on developments in the textile and shipbuilding sectors, as well as the car industry.

c) Other measures

The Commission has also proposed that joint technological initiatives be launched to finance programmes for the development of socially useful products or services, with the aim of creating a competitive advantage and creating new markets and jobs.

Technological platforms will provide a forum where all the parties concerned can identify needs on the basis of the current state of research and technological development.

It is also essential to make full use of new employment opportunities brought about by present trends. The Action Plan on Environment Technologies is a strategic component here.

2.1.5. Competition policy

On the whole, vigorous application of the competition rules, including control of State aid, significantly contributes to long-term growth and employment, and helps bring about better products and services which, at the same time, reflect distinct European values, in particular respect for the environment, as well as acceptable working conditions.

In the field of State aid, the Commission is working on a reform of its policy on the control of State aid, particularly with a view to contributing to the implementation of the Lisbon Agenda by redirecting State aid to areas making the greatest contributions to growth and employment.

With regard to the control of concentrations between undertakings, the new Merger Regulation facilitates industrial restructuring and responses to the challenges of a globalising economy, whilst at the same time ensuring that those mergers are stopped or modified that would harm competition.

Employee representatives are in a position to make their views on particular competition cases known to the Commission in the course of investigations:

- under the Merger Regulation and similarly under antitrust procedures, employee representatives already have the right to be heard as third parties; they can submit written observations, participate in the oral hearing and request a meeting;
- under State aid rules and procedures, employee representatives have the capacity as third parties to submit information to the Commission, which it may take into account after having submitted such information to the Member State concerned for comment; the Commission may also meet with employee representatives to hear their views on particular cases.

2.1.6. External policy

The Social Agenda, through external measures, makes provision for the promotion of employment, social policy and decent working conditions for everyone. This will involve promoting fundamental social rights, development of the social dialogue, corporate social responsibility and social protection cover, as well as proactive management of change at global level. These objectives will be followed up in the context of exchanges between the EU and its partners, and also with international organisations (ILO, OECD, UN, and the organisations involved in economic governance — IMF, World Bank and WTO).

Concerning trade, the Commission will continue its efforts to ensure that the Doha Development Round acts as a development factor. It will also endeavour to consolidate the protection of intellectual property and measures to combat counterfeiting. Finally, it will continue to take the necessary action provided for in WTO agreements to counteract the adverse effects of practices which infringe the basic principles of a market economy (illegal dumping and subsidies).

2.1.7. *Improved ways and means of measuring restructuring*

The Dublin-based European Monitoring Centre on Change will be asked to develop quantitative and qualitative analysis resources and the wherewithal for monitoring restructuring, with a view to building a firmer foundation for the public debate on restructuring and relocation.

2.2. **Strengthening the partnership for change**

- ***Strengthening the sectoral social dialogue***
- ***Corporate social responsibility***
- ***Creating a “Restructuring” Forum***

Apart from the call made to them under point 2.4 below, the social partners have a decisive role to play, in two main areas:

- within the European sectoral social dialogue committees, it is up to them to develop ways of anticipating structural change, having regard particularly to the conclusions of the negotiations set out in point 2.4 below, and to their sectoral and regional monitoring initiatives;
- given their special knowledge of the sectors, they have a role to play in informing and alerting the authorities at all levels. If the social partners then decide to alert the Commission to a particularly worrying development, the Commission can decide to set in motion an enhanced process of sectoral and regional monitoring along the lines spelled out in points 2.1.3 and 2.1.4 above.

The Commission will shortly be tabling a Communication on corporate social responsibility, focusing on positive initiatives being taken by firms and the various stakeholders to address restructuring. Evidence shows that companies which are able to handle restructuring in a socially responsible manner are often those with better track records in terms of market competitiveness and resilience.

The Commission will set in place a “Restructuring” Forum in 2005. Based on work already done by existing organisations, the Forum’s mission will be to keep in regular touch with ongoing changes and to ensure that the various initiatives are properly dovetailed; this will require the participation of the Commission, the other European institutions, the social partners and outside specialists.

2.3. **Adapting the framework of regulation and agreement**

- ***Regulatory modernisation and simplification***
- ***The Green Paper on the Development of Labour Law***
- ***Promoting worker mobility***

The first point to be made here is a reference to the regulatory modernisation and simplification measures provided for in the Lisbon Action Programme.

In the context of its Green Paper on the Development of Labour Law, the Commission will look into developments concerning the new models of work organisation and the role of labour law in coping with these changes and creating an environment which will ease effective transition on the labour market.

With a view to promoting intra-Community mobility, the Commission will present a proposal for a directive concerned with improving the portability of supplementary pension rights.

2.4. The second phase of consultation of the European social partners on company restructuring and European works councils

This second phase of consultation consists of calling on the social partners to become more involved in the ways and means of anticipating and managing restructuring. The fact is that they are the key players in terms of effective action on the restructuring front.

This second-stage consultation should primarily consist of inviting the social partners to continue their ongoing work by encouraging the adoption of their best-practice guidelines on restructuring and European works councils.

As early as January 2002, the Commission made the social partners aware of the restructuring issue, asking them to pinpoint and develop throughout Europe instances of good practice in terms of restructuring. They subsequently spelled out reference guidelines for managing change. The point of this new phase is to ensure that these guidelines are put into practice and developed further, and in particular to encourage the adoption of these guidelines.

In April 2004, the Commission launched a first phase of consultation on revising the European works councils directive. European works councils have an essential role to play in anticipating and managing restructuring operations. Here again, the social partners have undertaken a Europe-wide review to establish principles or guidelines based on an examination of existing councils.

In the light of this work and these contributions, the Commission takes the view that there is a need for more European social dialogue input on these two closely linked questions, as part of the partnership for growth and jobs which lies at the heart of the reinvigorated Lisbon strategy. The Commission is therefore encouraging the European social partners to intensify ongoing work and to start negotiations with a view to reaching an agreement among themselves on the requisite ways and means for:

- implementing mechanisms for applying and monitoring existing guidelines on restructuring, and a discussion on the way forward;
- encouraging adoption of the best practices set out in the existing guidelines on restructuring;
- promoting best practice in the way that European works councils operate, with a view to making them more effective, more especially as regards their role as agents for change;
- devising a common approach to the other points in this Communication which are of concern to them, more especially training, mobility, the sectoral dimension and the anticipatory aspect.

The Commission will follow the work of the social partners and will look at the progress made between now and the 2006 Tripartite Social Summit.

3. CONCLUSION

The Commission firmly believes that restructuring must not be synonymous with social decline and a loss of economic substance. On the contrary, restructuring can underpin economic and social progress — but only if such measures are correctly anticipated, and provided firms can manage the necessary change quickly and effectively, and provided public action helps ensure that the change is carried out in sound conditions.

Policies aimed at blocking change and freezing economic structures can only defer the problem and exacerbate the negative effects. They would tend to slow down innovation and lead to a loss of competitiveness on the part of European companies. Additionally, policies which would in effect make workers less employable would have grave effects on growth potential and social cohesion.

It follows that the response at Community level must focus on four essential requirements:

- A need for consistency between the various policies, if growth and the ensuing restructuring are to avoid destroying human capital.
- A need for a long-term perspective encompassing the various Community policies. If the economic and social players are to act effectively, they need to be able to see the way ahead.
- A need for participation on the part of all the stakeholders, first and foremost the social partners.
- A need to pay heed to the local dimension — it is, after all, at local level that anticipating change is most effective. Looked at from this angle, the European Union's regional and cohesion policy must act as a catalyst.

Annex

Proposed measures

- Review of the European Employment Strategy, focusing on three priorities: boosting the employment rate, increasing the adaptability of workers and companies, investing more in human capital.
- Reform of the financial instruments, more particularly to strengthen the contribution of the cohesion policy, the ESF and the European education and lifelong learning programmes to the Lisbon strategy.
- Creation of a growth adjustment fund (to the tune of €1 000 million) and of contingency reserves as part of cohesion policy (to the tune of 1% of “Convergence” funding and 3% of “Competitiveness” funding) to deal with unforeseen events.
- Promotion of fundamental social standards, decent working conditions and the social dialogue in external policies.
- Closer monitoring of restructuring by the European Restructuring Monitor.
- Enhanced sectoral and regional monitoring of sectors liable to undergo significant changes in their short-term competitive situation.
- Greater involvement of sectoral social dialogue committees on restructuring issues.
- Creation of an internal Commission task force on restructuring.
- Creation of a “Restructuring” Forum.
- A Green Paper on the development of labour law.
- Facilitation of intra-Community worker mobility.
- Launch of the second phase of consultation of the social partners on restructuring and European works councils, in particular with a view to encouraging the adoption of their best-practice guidelines on restructuring and European works councils.