

# **Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring**

*First phase of consultation of the Community cross-industry and sectoral social partners*

## **1. INTRODUCTION**

*Corporate restructuring, with a growing transnational dimension, is an important element of change. The European Union should focus positively on these issues. This requires striking the right balance between flexibility for businesses - which is more important than ever in times of permanent restructuring - and security for workers - which is necessary to maintain human capital and employability.*

*Forward-looking planning of human resources and enhancement of skills are core issues in this context and the development of mechanisms favouring them requires an active partnership between the social partners, including at Community level.*

*This initiative aims at stimulating dialogue between social partners in order to identify and develop best practices on anticipating and managing restructuring.*

### **1.1. Managing change: a main component of the Lisbon strategy**

Economic and social renewal is at the heart of the Lisbon strategy. Strengthening competitiveness and cohesion are its dual guiding principles. Change and its management are crucial aspects of the strategy which is aimed at making the European Union become by 2010 *'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth, with more and better jobs and greater social cohesion'*.

The Lisbon strategy is based above all on a positive approach to these changes. Change has always been part of the business life cycle: governments and social partners have a long tradition of developing rules at national level to steer and accompany the process of change. The strategic view taken within the European Union is that change should be embraced. It is at the core of economic dynamism as it renews the economy. It contributes to innovation, increases productivity – including as a result of the modernisation of the organisation of work – and raises profitability.

Change should not, therefore, be feared but encouraged. Standstill in terms of economic developments would lead to shrinking living standards. Managing change underpins sustainable improvement of living conditions and quality of life, and therefore helps to create more and better jobs. The development of an appropriate combination of flexibility and security is recommended by the European Employment Strategy in its adaptability pillar, as well as by the Broad Economic Policy Guidelines,

by stressing the need to promote, in dialogue with social partners, a more flexible work organisation and the reform of the regulatory framework.

*Any strategy to reap the benefits of change should be based on a pro-active and positive approach. The European Union has widely acknowledged strengths to facilitate change and hence enable the creation of new activities and improve practices. The level of education of its population is crucial; its social model has traditionally allowed adaptation to strengthen businesses' competitiveness while maintaining social peace and granting fair and decent living standards to those adversely affected by that change.*

## **1.2. Maintaining and developing human capital**

*This structural change is intimately linked to a second change: the determining role of "human capital" in the competitiveness of businesses and economies and in creating jobs. European competitiveness, as the Lisbon European Council recognised, is based on research, on innovation and on employees' capacity for creation and adaptation. A dynamic economy requires a dynamic labour market.*

The key role played by human capital is illustrated by the figures on job creation: between 1995 and 2000, growth in employment in the sectors employing the most highly-trained people was 3% a year, while overall employment increased by only 1% a year on average.

Recognising the strategic importance of human capital means:

- Investment in human capital throughout working life
- Strengthening the capacity of businesses to adapt
- Involvement of workers in managing changes and creating new security
- Facilitating access to employment for lower-skilled workers.

An important issue concerns demographic ageing and the anticipated change in the composition of the labour force. It raises questions to be addressed urgently in order to ensure that there is a sufficiently large and qualified labour supply available to meet the labour demands of businesses.

## **1.3. Creative restructuring – a driving force for positive change**

In the economy of today and tomorrow, the speed of restructuring accelerates. There are more rapid changes in demand as well as in modes of production. Rapid technological progress is one reason, particularly the dissemination of information technologies to all sectors and occupations. This requires increased flexibility on the part of businesses, and therefore greater capacity for adaptation and anticipation. Also the integration of economies, both at EU and world level, is reinforcing the effects of these changes. An important element here are mergers and acquisitions<sup>1</sup>. Whereas in 1991, there were 8239 mergers and acquisitions involving EU firms, this number increased to 12, 796 in 1999. Although the trend has fluctuated over this period, the longer-term pattern is clearly one of an increase in mergers and acquisitions. In

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<sup>1</sup> Data taken from European Economy; Supplement A, Economic Trends, No 5/6 – 2000.

particular transactions in the services sectors have been growing considerably the recent years.

So, economic movements are transmitted more rapidly than ever through financial markets. This increases the need for businesses to be more responsive to fluctuations and developments in demand.

This situation of increased restructuring activity has led to a significant increase in job losses. For instance, calculations about redundancies based on the announcement of lay-offs during the first nine months of 2001 in media reports put the level of redundancies at 230,000 in the Eurozone and at about 350,000 in the European Union.

In this context, it is important to consider restructuring under three different aspects. It may affect *individual companies*, but also *whole sectors* –when they are adversely affected by economic shocks or shifting demand patterns- and/or *regions* –for instance when they are heavily specialised in a single industry. The management of these changes will of course differ to a large extent, especially the partnerships to be developed between businesses, social partners, local actors and public employment services. The current economic situation, and the aftermath of the September 11<sup>th</sup> attacks which have accentuated the difficulties faced by some sectors (airlines industry, tourism, insurance), highlights these different dimensions of restructuring.

*Despite its sometimes painful social consequences, corporate restructuring is not only inevitable but also a driving force for change. It contributes to increasing productivity and to the introduction of new technologies. In that sense, it is important that it is not simply ignored or opposed as such. Properly taking into account and addressing the social impact of restructuring greatly contributes to its acceptance and to enhance its positive potential. This implies combining in an effective and balanced manner the interests of businesses, faced with changes in the conditions governing their activity, and those of employees, threatened with the loss of their jobs.*

#### **1.4. The need for a new initiative at Community level**

##### **1.4.1. Developing a positive approach to corporate restructuring**

The Stockholm European Council stressed that "*the committed and active involvement of the social partners is essential not only for assessing progress towards the Union's strategic goal but also for implementing the ongoing reform, the success of which requires commitment from employers and workers at the grass roots*". In this context, the European Council endorsed the setting up of the European Observatory for Industrial Change as part of the Dublin Foundation.

***The challenge for Europe is to develop high-quality policies to enable changes to be anticipated, develop workers' capacity for adaptation and occupational integration, and involve them in the life of their business through an active social partnership.***

This can be done by defining a renewed positive and proactive approach to change, and in particular to corporate restructuring, by promoting information for businesses and workers, notably through the European Observatory for Industrial Change, and

finally by taking account of the social and employment consequences of economic integration (mergers, take-overs, etc.)<sup>2</sup>. In particular, as underlined by the Social Agenda adopted at the Nice European Council, the social dialogue and co-operation need to create the conditions for employees to participate in change, through an anticipation of developments in businesses, industrial sectors and territories.

Europe's economic strength is based on its capacity to produce high quality goods and services. Sustaining this requires investment in people and hence investment in the quality of employment and social policies.<sup>3</sup> It is well recognised that such investment in quality will help Europe to make the transition to the knowledge-based economy. It will be essential in continually rising productivity and living standards across the European Union, while at the same ensuring that the benefits are widely shared and the opportunities for full and efficient participation in economic life are given to all.

Sustainable economic growth and strengthening competitiveness requires a new focus on the social aspects of restructuring. Whereas in the past, change in general has been facilitated by social provisions, a major issue now is how social provisions cannot only soften the negative aspects affecting workers in the context of restructuring, but can play a more active role in maintaining and improving the human capital in Europe. This would further support the implementation of the European employment strategy and its preventative approach. Anticipating and managing change also with regard to corporate restructuring should contribute to providing springboards for people to advance their professional career as result of capacity-building. At the same time the question should be raised as to how transition measures can be organised within businesses to adjust to changing circumstances and improve flexibility. There are examples of this across the European Union. It would be important to improve exchange of information and make such practices better known.

The identification and dissemination of good practice – which may include legislation at national level, the input of social partners (including through collective agreements), or good business practice - would be instrumental in addressing the employment and social consequences of the permanent processes of restructuring.

This new focus should be helpful in finding appropriate balances between long-term objectives and the short-term imperatives and performance assessments businesses are confronted with.

#### *1.4.2. The case for action at Community level*

***The economic situation affecting the Union since the beginning of 2001, characterised by business restructuring operations accompanied by collective redundancies, sometimes widely reported, underlines the need for an approach at Community level, facilitating the exchange of good practice at all levels which could be helpful to businesses.***

The European Union is indeed very much concerned by all the different types of challenges raised by these developments, as illustrated by the attention given to them

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<sup>2</sup> Communication from the Commission: Social Policy Agenda, COM(2000) 379 final.

<sup>3</sup> COM (2001) 313 Employment and social policies: a framework for investing in quality

in successive European Summits (Luxembourg, Lisbon, Nice, Göteborg) and the launching of a number of major policy initiatives resulting from these (the European Employment Strategy, the Lisbon/Göteborg process), etc., with direct implications for facilitating change and addressing the social consequences of restructuring. The forthcoming Barcelona Summit will also address all these challenges.

The evolution of the European Union itself (the development of the Internal Market, the euro, the forthcoming enlargement) has contributed to and even promoted an acceleration of business restructuring and will continue to do so.

In addition, through the years, the EU has developed a number of instruments in different areas (mentioned in section 2 of this document), which can be positively exploited, developed and supplemented for the purposes of enhancing the positive dimension of corporate restructuring and helping dealing adequately with its potential negative impact.

On the other hand, restructuring increasingly concerns sites and facilities for the same company or group in a number of countries, raising the question of matching their legal, economic and social framework.

In fact, the increasing insertion of the European economy in the world economy requires and will continue to require that all stakeholders, including the European decision-makers and social partners, anticipate the processes of international adjustment generated by economic globalisation. This is a long-term trend which deserves a better integration in the practices of social dialogue.

#### *1.4.3. The central role of social partners*

***Managing change<sup>4</sup> requires solid partnerships and commitments. It is built on dialogue and a common understanding of the challenges and the opportunities change brings. This is particularly relevant in the context of restructuring.***

It is also against this background that the European Community has been given provisions in the Treaty to encourage dialogue between social partners at European level, including with the possibility of making binding agreements. Social partnership has proven to be essential for the completion of the internal market – a process of change and restructuring which has significantly altered the European economic landscape.

#### *1.4.4. The aim of the initiative: to promote social dialogue at Community level on corporate restructuring*

***The aim of this document is, therefore, to open consultation of the cross-industry and sectoral social partners with regard to the identification at Community level of best practices on restructuring guided by a long-term vision aimed at developing human capital and a positive approach to change. This initiative has been announced in the Commission's report to the Ghent informal European Council in***

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<sup>4</sup> *Managing change*, final report by the High-Level Group on the Economic and Social Implications of Industrial Change, 1998.

*October this year<sup>5</sup>. It is also important to refer to the European Parliament Resolution<sup>6</sup> of 15 February 2001 on the 'social consequences of industrial restructuring', in particular its invitation to adopt a more pro-active approach to restructuring.*

*This initiative does not aim at working towards the harmonisation of rules, but rather at developing and disseminating good practice at all levels that can support the transformation of the economy and enhance its output as a result of the permanent process of restructuring. The Commission firmly believes that the social partners at Community-level have a central role to play in this field. It strongly urges them to take an active role in developing throughout the EU good practices in the field of corporate restructuring.*

## **2. THE CONTRIBUTION MADE BY COMMUNITY POLICIES**

Community policies already contribute to anticipating change and managing its consequences for employment, notably with respect to restructuring. Particular examples are:

- the involvement of workers' representatives in the operation of the business in general, and in particular in preparing and carrying out restructuring operations;
- the Community cross-industry and sectoral social dialogue;
- the observation and analysis of industrial change;
- the support provided by the policy of economic and social cohesion;
- the link between competition policy and employment policy;
- the promotion of social responsibility for businesses.

### **2.1. Involvement of workers' representatives**

The European Union has a number of instruments which establish machinery for involving workers' representatives, particularly in restructuring processes. They promote an approach geared to anticipating change and co-operation in responding to it, which is the only way to help maintain the competitiveness and economic viability of a business and to preserve the "human capital" affected by restructuring operations.

For the most part these are the Community Directives on collective redundancies<sup>7</sup>, transfer of undertakings<sup>8</sup>, European Works Councils<sup>9</sup> and the Directive on workers' involvement in the European Company, which was adopted on 8 October 2001<sup>10</sup>. Other instruments, such as the Directive establishing a general framework for employee information and consultation in the European Community are due to be adopted in the near future.

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<sup>5</sup> COM (2001) 611

<sup>6</sup> B-5-0089/2001

<sup>7</sup> As lastly codified by Directive 98/59/EC of 20.07.1998, OJ L 225 of 12.8.1998, p. 16.

<sup>8</sup> As lastly codified by Directive 2001/23/EC of 12.3.2001, OJ L 82 of 23.3.2001, p. 16.

<sup>9</sup> Directive 94/45/EC of 22.9.1994, OJ L 254 of 30.9.1994, p.64.

<sup>10</sup> Directive 2001/86/EC of 8.10.2001, OJ L 294 of 10.11.2001, p. 22.

## **2.2. The cross-industry and sectoral social dialogue**

**The cross-industry social dialogue** has two distinct and complementary dimensions. On the one hand, the social partners are consulted for the most part by the Commission, but also by other European institutions, on major economic and social matters, and in particular on the guidelines for economic policy and on the European Employment Strategy. On the other, the social partners have opened, or reserve the right to open, bipartite discussions on a number of subjects linked to employment conditions and industrial relations. The cross-industry social dialogue has produced a number of agreements implemented by means of directives. It is currently moving towards agreements arising from initiatives by the social partners to be implemented voluntarily.

There is a **bipartite dialogue at Community level in 26 sectors** today, either in areas where common policies have been in place for some years or in emerging sectors. This sectoral social dialogue is all the more important as, in a period of rapid restructuring, the social partners are increasingly turning to Europe as an area where developments can be more comprehensively addressed and as a more relevant level of action<sup>11</sup>.

## **2.3. Observation and analysis of industrial change**

The Stockholm European Council approved the setting up of the European Observatory on Industrial Change, which is an integral part of the Dublin Foundation. The Observatory will collect data on and analyse industrial change and thereby promote the identification of best practices, exchanges of experience and information for the players themselves on these changes.

## **2.4. Intervention by the Structural Funds**

The Structural Funds provide significant financial support for the economic and social conversion of areas in structural difficulties, and for adapting and modernising education, training and employment policies and systems, particularly in order to increase the adaptability and employability of workers.

The Funds may provide support in one of three ways, within the framework of the programming documents drawn up on a contractual basis between the Commission and the Member State concerned:

- Regions eligible for **Objective 1** under the Structural Funds may receive assistance intended to promote their overall structural adjustment and development. Between 2000 and 2006, € 136 billion will be invested in Objective 1 regions.
- A restructuring operation may fall within a region eligible under **Objective 2** of the Structural Funds<sup>12</sup>. The regions targeted under this objective include in

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<sup>11</sup> At European level, agreements have been concluded on reducing working time (agriculture), the organisation of working time (sea transport and railways), teleworking (telecommunications, commerce), and on a code of conduct for industrial relations (hairdressing).

<sup>12</sup> Regulation 1260/99 of 21 June 1999 laying down general provisions on the Structural Funds.

particular areas undergoing socio-economic change in the industrial and service sectors. They have a higher than average unemployment rate, a proportion of industrial jobs higher than the Community average and have suffered for some years from a decline in industrial employment. 11.5 % of the budget of the Structural Funds is allocated to Objective 2 for the period 2000-2006, i.e. 22 500 million Euro.

- Restructuring may also involve a business or establishment in an area ineligible for Objective 2. Support may then be possible under **Objective 3**, covered exclusively by the European Social Fund which, over the period 2000-2006, will devote 24 050 million Euro to the adaptation and modernisation of education, training and employment policies and systems.

In accordance with Article 14(2) of Regulation 1260/99 laying down general provisions on the Structural Funds, the various programming documents may be adapted, particularly following the mid-term evaluation scheduled for 2003 which will review progress made towards the achievement of the objectives agreed at the outset, and in the event of significant changes in the socio-economic situation and the labour market.

## **2.5. Competition policy**

Restructuring operations may be covered by competition policy, on the one hand under **monitoring of state aid**, and on the other where they accompany or follow a **concentration** between Community-scale businesses, under the procedure laid down in Regulation 4064/89.

- The *guidelines on state aid for rescuing and restructuring firms in difficulty*<sup>13</sup> set out the rules applied by the Commission to assess the legitimacy of these state aids with regard to the operation of the internal market, which by their very nature they could significantly affect. In this context, the guidelines take into account the role that aid may play in ensuring that there are social measures to accompany the restructuring, which may be necessary for the successful adaptation of a sector or business and for minimising the costs over time<sup>14</sup>.
- Where the restructuring operation accompanies a concentration subject to *Regulation 4064/89*, the analysis carried out by the Commission looks at the potential effects on competition in the internal market. In cases where there is legitimate interest, the representatives of workers and institutions or organisations affected have the right to be heard by the Commission or the State competition authority entrusted with examining the concentration. In the context of the recent Green Paper on the revision of Regulation 4064/89, the Commission has invited suggestions to encourage and facilitate further the effective expression of these views. Furthermore, the criteria proposed and accepted for authorising a concentration must be scrupulously respected.

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<sup>13</sup> OJ C 228, 9 October 1999.

<sup>14</sup> For example, state aids may be considered compatible with the Treaty if it is laid down that the net effect of redundancies following the bankruptcy of the business, combined with the effects on suppliers, would exacerbate local, regional or national employment problems.



## **2.6. Promoting the social responsibility of businesses**

The Green Paper, "*Promoting a European framework for Corporate Social Responsibility*", adopted by the Commission on 18 July 2001, following the Lisbon European Council, aims at launching a European debate on how to promote such corporate social responsibility. Responsible and exemplary social and environmental practices, which are not alternatives to correct application of the law, are a source of increased profitability in the long term.

The debate between the social partners, the Community institutions, governments and other players has therefore been launched and should be pursued, including in the area of restructuring.

## **3. POSSIBLE ORIENTATIONS**

*In addition to the contribution from these Community policies that are already in place and which will continue to develop, the experience with good practice in the Member States and as followed by particular companies prompts one to ask whether it might not be opportune to address in a comprehensive manner the overall context against which restructuring, in all its dimensions, takes place and is managed.*

In accordance with its obligations to promote the social dialogue, the Commission is submitting this document to the cross-industry and sectoral social partners at Community level to ask their opinion on possible orientations for Community action relating to the social aspects of restructuring.

### **3.1. The purpose and possible content of action at Community level**

One of the key factors for the success of restructuring, in terms of strengthening the competitiveness of the business and from the workers' point of view, is the assurance of good practice in involving the workers' representatives: involvement on an ongoing basis in the general running of the business, but also effective and therefore anticipatory involvement in relation to the possible emergence of changes likely to impact on employment.

In addition to this important dimension related to worker involvement, most Member States have developed their own responses to the economic and social challenges associated with restructuring, through sets of rules, either statutory or agreement-based, which businesses engaged in restructuring should comply with as well as good practices that they can follow. Although these rules and practices build very much on the specific nature of each national system of industrial relations as well as legal and social traditions, they may constitute a useful source of inspiration for guiding the Community-level discussion of the issue. They address, amongst others, the following issues:

- anticipating and measuring the social consequences of restructuring, including taking into consideration the fact that delaying limited restructuring may lead to more drastic restructuring in the future;

- the principle whereby job losses and redundancies are only a last resort ("*ultima ratio*"), to be used in the absence of other, less drastic solutions;
- the effective search (by providing the necessary resources or by achieving certain expected results) for alternative solutions, such as redeployment, training or retraining of the workers concerned, the phasing of the planned measures over time, the reorganisation of work, including working time, as a precondition for the use of more radical measures, help with job seeking, occupational guidance, supporting the development of self-employment or the creation of SMEs by the workers affected, support for workers taking over certain activities of the business, etc.;
- the search for someone to take over the interrupted activities;
- the rehabilitation and reallocation of abandoned industrial sites both as an environmental measure and the absorption of a proportion of the jobs lost;

In a context where restructuring is becoming an increasingly transnational phenomenon in which the different operating units of a business in several Member States are affected at the same time, these divergences between national legal systems can mean that companies face a variety of different procedures and requirements depending on where their activities are located. Although the relevant provisions and practices differ from one Member State to another, both in their scope and in their intensity, it is worth noting that no clear link has been demonstrated between the relative intensity of provisions and the propensity of businesses to restructure their operations at any particular location.

***Against the background of a growing transnational dimension of restructuring the Community level may be the most appropriate to promote good practice to address this situation. This fact alone may warrant the establishment at Community level of a number of principles which are both general and restricted to this dimension – thereby respecting the principles of both proportionality and subsidiarity.***

Therefore the launch of a first-stage consultation of the social partners is crucial to explore all possible options at EU level to address this challenge.

Such a measure would be a useful contribution to achieving the strategic aims of Lisbon and Göteborg, particularly by strengthening the capacity and readiness of the European workforce to accept change, developing its adaptability and employability, establishing an approach which opens the way to a simplification of existing national provisions and practices and, finally, by strengthening the competitiveness of the European economy and social cohesion.

It is the clear intention to draw where possible on existing examples of best practice and the systems already developed in the Member States to involve the various actors and reconcile their interests, to seek to develop a number of principles that would be of value in guiding actions and decision making in restructuring situations.

***In this context an agreement between the social partners at European level on principles that could apply to restructuring situations would, in the Commission's view, constitute the most appropriate way to proceed.***

### **3.2. *The possible main principles for action: components of good practice***

Drawing inspiration from existing law and practice in the Member States, and taking into account the transnational dimension of the operations referred to, the Commission considers it necessary to combine in an effective and balanced manner the interests of businesses, faced with changes in the conditions governing their activity, and those of employees, threatened with the loss of their jobs. In this context, it considers that a debate on the essential principles which would support business good practice in restructuring situations could relate to the following four main areas: (A) Employability and Adaptability ; (B) Effectiveness and Simplification ; (C) External Responsibility; and (D) Modalities of implementation:

#### **A) *EMPLOYABILITY AND ADAPTABILITY ISSUES***

- **Managing careers.** Good management of "human capital" makes for a successful changeover to the knowledge-based economy and strengthens the competitiveness of businesses. For this reason, without prejudice to the powers of the public authorities in this field, companies have an interest in helping to maintain their workers' capacity to adapt to developments in the techniques and knowledge required, for example through ongoing training and regular and independent skills assessments or other such measures applied in certain countries. More generally, it is important that businesses try to anticipate the profiles and skills necessary taking as much account as possible of the rapid obsolescence of knowledge and techniques.

This responsibility also concerns workers who must avail of the training opportunities offered to them and thus contribute actively to the ongoing adaptation of skills.

- **Support for employability and adaptability.** Good practice suggests that, faced with the need to adjust its workforce, a business needs to bear in mind, in designing and implementing the restructuring operation, the aim of maintaining employees' capacity for occupational integration. Achieving this aim involves an active partnership with the public employment service, training bodies and other players concerned.

Several types of measures applied in many Member States are relevant in this context, for example redeployment, help in seeking a new job, vocational guidance, support for the development of self-employment or the creation of SMEs by the workers affected, support for workers taking over some of the activities of the business, etc.

- **Considering all options.** That there must be immediate, real and serious economic grounds to justify job losses which are only envisaged after consideration of other less damaging options is widely acknowledged and observed in the Member States of the European Union.

This concern for "lowest social cost", which encompasses the idea that any decision leading to job losses should be proportionate to the objective being

pursued of ensuring the survival or maintaining the competitiveness of the company, needs to guide the practical implementation of restructuring plans. This may result, for example, in the phasing of the planned measures over time or prior reorganisation of work, including working time, before any recourse to job cuts, etc. A clear explanation of the serious nature of the economic grounds underlying the need for job losses is essential.

## **B) EFFECTIVENESS AND SIMPLIFICATION**

- **Streamlining the legal and regulatory frameworks.** The frameworks, both national and at Community level, governing interventions and the rights and obligations of the various players involved in restructuring (businesses themselves, workers' representatives, administrations, etc.) are sometimes complex and therefore difficult to interpret and to apply.
- Against this background it might be useful for the social partners to explore:
  - the identification of existing obstacles to restructuring in a socially positive way and of principles which could make it possible to simplify or clarify the procedures, and thus to help to increase the effectiveness and quality of the dialogue between the players;
  - the development of mechanisms aimed at bringing coherence to the process which could help overcome unnecessary bureaucracy;
  - encouraging national debates on the simplification and streamlining the relevant legislation.

## **C) EXTERNAL RESPONSIBILITY**

- **Territorial responsibility.** Aspects to take into consideration include measuring local effects, co-operation with local players, local training, restoration of industrial sites, etc.
- **Downstream responsibility.** Aspects to take into consideration include the impact of the proposed restructuring on subcontractors by, for instance, concern for the security of orders, participation of the subcontractor's personnel in training and adopting a global perspective, including subcontractors, when agreeing, adopting and implementing measures relating to the points set out above.

## **D) MODALITIES OF IMPLEMENTATION**

- **Involvement of workers.** Social dialogue is essential for management and acceptance of change. It can reinforce the effectiveness of the process and minimise its cost. Thus any restructuring process needs to be accompanied by effective co-operation with workers' representatives in order to anticipate and successfully manage its social and economic consequences. Both parties need to engage in dialogue on the basis of complete information while ensuring compliance with the principle of confidentiality.

- **Fair compensation.** In accordance with well-established practice in all Member States, provision of fair compensation in the form of payments, notice periods, etc are an essential element in smoothing the adjustment process where job losses cannot be avoided.
- **Prevention and resolution of disputes.** There is no machinery at Community level for preventing or for helping to resolve collective industrial disputes with a transnational dimension as there is at national level for disputes restricted to a single country. Given the usefulness of systems for preventing and resolving collective industrial disputes their availability at Community level needs to be explored.<sup>15</sup>
- **SMEs:** Particular attention should be given to the way in which good restructuring practices should be developed by SMEs, taking into account their specificities and their more limited capacity to act, on one hand, and the need to preserve social cohesion and equity amongst the European workforce, on the other hand.

#### 4. AIM OF THE CONSULTATION

In the light of these considerations, and in accordance with Article 138 of the EC Treaty, the social partners are therefore called upon to give their opinion on the possible direction of Community action in relation to:

1. The usefulness of establishing at Community level a number of principles for action which would support business good practice in restructuring situations.
2. The method of drawing up and developing these main principles and, in this context, whether they consider that agreements between the social partners at cross-industry or sectoral level represent the appropriate way of proceeding.
3. Any other appropriate initiative that should be further considered.

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<sup>15</sup> The OECD experience in this regard should be taken into account

The issue of systems for preventing and resolving transnational industrial disputes is not restricted to the restructuring of businesses. Studies are under way following meetings with experts and the social partners and the Commission intends to consult the social partners this year on the need to establish, at European level, voluntary mechanisms for mediation, arbitration and conciliation to promote the resolution of disputes.