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GREEN PAPER

Restructuring and anticipation of change: what lessons from recent experience?

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1. INTRODUCTION: PROACTIVE RESTRUCTURING FOR FUTURE COMPETITIVENESS AND GROWTH

The central subject of the present Green Paper is company restructuring and its social consequences which are a cause of legitimate concern for many European citizens. Restructuring is a crucial factor for employment and for the competitiveness of the European economy.

This Green Paper aims to identify successful practices and policies in the field of restructuring and adaptation to change in order to promote employment, growth and competitiveness as part of the Europe 2020 strategy¹ and in particular the industrial policy flagship initiative of October 2010², the "Agenda for new skills and jobs" adopted in November 2010³. The Green Paper is also intended to contribute to improving synergy between all relevant actors in addressing challenges related to restructuring and adaptation to change and takes into account the important work carried out in recent years by the European Commission, the social partners, regions, Member States and many other stakeholders.⁴

The Commission wishes to renew the terms of this policy debate in the light of the lessons learned from the economic crisis, the deep changes in the economic and competitive contexts worldwide and the structural reform agenda currently implemented in the EU.⁵

In that light, the Commission will build upon the outcome of this consultation to consider new ways to better disseminate and effectively implement good practices, including at EU level, for dealing with both immediate concerns related to the economic crisis and long-term competitiveness objectives as identified in the industrial policy flagship initiative. The Commission will feed the results of this Green Paper consultation into the revived flexicurity agenda, also with a view to steering a renewed debate at EU level on a possible approach to and framework for restructuring.

In the industrial policy flagship initiative, the Commission stated, in particular, that 'updated orientations on restructuring can be very useful in reinforcing the capacity of businesses and

¹ COM(2010) 2020.

² Commission Communication of 27 October 2010 'An integrated industrial policy for the globalisation era — Putting competitiveness and sustainability at centre stage' (COM(2010) 614 final).

³ Commission Communication 'An Agenda for new skills and jobs', COM(2010) 682 final

⁴ Including the Commission's consultation document on restructuring of January 2002, the results of the subsequent work carried out by the European social partners and a number of other reports and studies conducted in recent years, not least in the Restructuring Forums organised by the Commission since 2005. A useful summary of the lessons learned by all the stakeholders in restructuring is given in the 'Checklist for restructuring processes' presented by the Commission in its Communication of 3 June 2009 'A shared commitment for employment'.

⁵ COM(2011) 815 — Annual Growth Survey 2012, http://ec.europa.eu/europe2020/reaching-the-goals/monitoring-progress/annual-growth-surveys/index_en.htm

workforce to adapt to a fast-changing economic environment'. Such updating could also 'encourage a shift from purely reactive actions to more anticipative strategies'.⁶

The Green Paper is accompanied and supported by **the Staff Working Document 'Restructuring in Europe 2011'**. The Staff Working Document describes the impact of the economic and financial crisis on labour markets and the responses of the different stakeholders; illustrates EU action in the field of anticipating skills needs and developing competences; highlights the role of EU funds in support of restructuring processes, the impact of restructuring in EU regions and the role of 'smart specialisation' strategies⁷; analyses the role of social dialogue, legal instruments and Member States' support measures in this field; outlines the challenges and the EU responses to them; and highlights some tentative lessons learned in recent years on anticipation and management of change and restructuring.

The lessons from the crisis

The European economy is emerging with difficulty from the deepest recession in decades. The recession caused a large drop in economic activity in the EU, with millions of jobs lost and a high human cost, and put public finances under severe pressure, leaving Member States with more binding fiscal constraints.

The outlook for the EU labour market, which proved rather resilient during the 2008-2009 recession and started to create jobs again by the end of 2010, has deteriorated markedly and continues to exhibit significant cross-country differences. In many advanced economies, job creation has so far been insufficient to hire back the workers laid off during the crisis, and the consequences of the recession are increasingly raising concern about the possibility of persistent effects on unemployment rates.

Besides diverging GDP developments, other relevant factors explaining the differences in unemployment rates across Member States include differences in the extent of adjustment of working hours, different needs to relocate labour across sectors, e.g. away from construction, different education and training systems, notably apprenticeship arrangements, different economic and institutional starting conditions and dissimilar policy responses to the recession.

In spite of extremely adverse market and financial situations, companies and their workforces throughout Europe have, by and large, **engaged creatively in restructuring processes that have been constructive, effective and instrumental** in limiting job losses, through innovative arrangements, often with the support of public authorities and European Commission.

The European Commission's communication "**A European Economic Recovery Plan**" (COM (2008) 800 final) adopted in November 2008 provided a framework for a co-ordinated action at EU level, across the various policies and mobilising the available instruments to

⁶ Commission Communication 'An Agenda for new skills and jobs', COM(2010) 682 final, point 1.2.

⁷ Smart specialisation is a condition for well-performing national and regional research and innovation systems under the Innovation Union's self assessment tool and a key element of the reformed cohesion policy and is proposed as ex-ante conditionality for the use of the European Regional Development Fund in the next programming period of the Structural Funds 2014-2020. A Smart Specialisation Platform was launched in June 2011 and will assist regions and Member States in developing such strategies.

support the European economy. In this context, cohesion policy is of particular importance as the main instrument at EU level for investing in competitiveness, growth and jobs.⁸

It is urgent to **analyse the adequacy of this response** in the light of the uncertainty about the path of the current recovery and the new risks looming on the horizon.

The competitiveness challenges

From a more medium-term perspective, technological progress and innovation shorten the product life cycle and constantly force firms and the labour force to adjust. In addition, **changes in the international division of labour** and the arrival of strong companies from emerging countries, in particular those specialised in the upper segments of the market, further intensify the competitive pressures on European companies. The competitiveness of the European economy, the preservation of its activities and jobs and the development of new products and related job openings will depend more and more on the **capacity of European companies to enhance their competitive base through innovation and rapid but smooth adaptation to change**. In this sense technological change and innovation may force adjustment strategies for companies and labour, but there are also indications that innovation, combined with research and education can build an effective way to pull Europe out of the crisis. The Commission launched the Innovation Union Flagship initiative in 2010, and reported on the progress of the state of the Innovation in 2011.⁹

Firms divert resources from industries and sectors producing traditional goods and services, usually with a low elasticity of demand to world income, towards sectors and industries with a higher technology and knowledge content, usually with a high elasticity of demand to world income. The competitiveness of the EU depends on its capacity to foster framework conditions for innovative fast-growing firms, important for sustainable growth and job creation.¹⁰ It will also depend on the capacity to retain and further develop a productive base in Europe, which in turn will bolster the service economy.

Enterprises need to be able to adapt to the internationalisation of world production and respond to the competitive challenge. Any obstacles to such adjustment could hamper competitiveness and employment in the long run. Framework conditions, as stressed by the industrial policy flagship initiative, are crucial to enable successful economic adjustment. An early involvement of all relevant stakeholders is necessary for the adjustment measures to be successful. Adequate access to finance is especially relevant, as investments can be delayed or stopped altogether by lack of credit and limited access to finance. Good practices in this area need to be identified and disseminated.

The challenge of adaptability of businesses and employability of workers — companies at centre stage of the restructuring process

Human resources development and skills enhancement are of paramount importance in this context. That is why the EU needs to use recent experience to enhance its global competitiveness, so that it comes out stronger and turns itself into a smart, sustainable and

⁸ Cohesion Policy: Responding to the economic crisis. A review of the implementation of cohesion policy measures adopted in support of the European Economic Recovery Plan, (SEC(2010) 1291 final).

⁹ *EU 2020 Flagship Initiative Innovation Union, Commission Communication SEC(2010) 1161 and State of the IU Report 2011 (2011) 849*

¹⁰ "Innovation Union Competitiveness report 2011", ec.europa.eu/iuc2011.

inclusive economy delivering high levels of employment, productivity, competitiveness and social cohesion.

The positive export performance of some Member States shows that success in global markets relies not only on price competitiveness but also on other factors such as sector product specialisation, innovation and skills levels. In these areas, the weaknesses pre-dating the crisis are becoming glaringly obvious.

The EU has over the last few decades built a strong system of employment and social protection that, combined with a relatively high level of education, has been the basis for its economic and social prosperity so far. However, new actors entering the global economy and fast-changing business environments are challenging a system that was very effective in delivering growth and jobs. It is becoming increasingly evident that without change, this system is inadequate to ensure that resources, and especially human resources, are rapidly and smoothly reallocated from declining to emerging activities. It is also less and less capable of giving workers a real chance of professional development when their jobs are at risk, because it does not nurture their ability to adapt to change.

The recent economic and financial crisis and the attendant pressure for structural change make it more important than ever to address such weaknesses. In line with the flexicurity approach and the Europe 2020 strategy,¹¹ **the Commission is eager to encourage permanent business adaptation to fast-changing economic circumstances while pursuing a high level of employment and social protection through the appropriate supporting measures. Measures supporting the reallocation of resources between firms and occupations are strongly in demand.** These include changes in employment protection legislation and business practices related to corporate restructuring that do not hamper reallocation of resources towards higher value-added and faster-growing activities, but also appropriate training and activation policies that, together with suitably designed unemployment benefit systems, accompany displaced workers towards different jobs and professions.

Restructuring operations are part of the everyday life of companies, workers, public authorities and other stakeholders. In recent years, the EU has put a substantial amount of energy and effort into pursuing policy objectives that facilitate adaptation to change and restructuring. However, in spite of the commendable work of the European social partners in this field following previous Commission consultations, the adaptation capacity of companies, workers and regions needs to be further enhanced.

The role of national, regional and local authorities in economic and social conversion

The crisis hit entire industrial sectors and thereby whole regions, irrespective of national borders. This has added to the persistent geographic inequalities, both between and within regions, that undermine the single market.

¹¹ The concept of flexicurity is at the core of an integrated strategy that has been developed by the Commission and the Member States on the basis of wide agreement that Europe needs to find new and better ways of making its labour markets more flexible, while at the same time providing new and better forms of security. It is a comprehensive response to the challenges faced by the European labour markets and societies in the context of globalisation and technological and demographic change. It is an integral part of the Europe 2020 strategy and its flagship initiative 'New skills and new jobs'.

Proactive and dynamic restructuring is likely to be encouraged when public authorities play a supporting role in restructuring operations and processes for anticipating them by facilitating coordination between outside stakeholders and companies.

The role of regions, besides the one of the countries, in promoting smart specialisation is of paramount importance and ways of reinforcing that role should be further analysed.

Public service, another important employer

While the focus of this Green Paper is on the industrial sector, the impact of the crisis on the public sector must also be addressed, acknowledging the important role of both the public sector as an employer and as a service provider.

Employment in public services (including public administration, education, health and social work) has been increasing considerably compared to other sectors over the last three years, with around 2 million more jobs. In autumn 2010, however, growth slowed down, and in the first semester of 2011 turned negative. The impact of spending cutbacks in the public sector probably explains this change¹². The cutbacks in the public sector will mostly affect women both as employees and as main users of services such as for instance childcare and elderly care.

The production of many public services sector may be more valuable for the competitiveness of the economy than what their cost and productivity suggest (e.g. because they give rise to high consumer surpluses or to total factor productivity improvements in other sectors). This would be the case of service sectors such as health, education, personal care to children and the elderly or of transport services.

Public authorities are directly or indirectly responsible through public enterprises or the granting of concessions for a sizeable share of employment in the service sectors. Further to their general responsibility for the economy, they should ensure the conditions for the smooth transmission of knowledge and the best use of the existing workforce of the sectors of which they are in charge. At the same time, the need to continue to consolidate public finances obviously impacts on public sector activities and employment. Efficiency improving restructuring is increasingly important also in the public sector. This underlines the importance of restructuring strategies in the public sector which appropriately take into account the specific role of public services, including in contributing to productivity in the private sector.

One can also question how can anticipative and strategic long-term approaches to the management of change and restructuring be applied to the public sector, in the framework of the current consolidation measures. It would also be important to take into account the need to restructure key public services such as healthcare and to ensure their long-term sustainability in the face of growing demand.

¹² EU Employment and social situation report quarterly review September 2011" - ESTAT

2. THE LESSONS FROM THE CRISIS

The impact of the financial crisis on the real economy started to be fully felt in 2009, when GDP declined at an unprecedented annual rate on both sides of the Atlantic. Employment proved very resilient in Europe immediately after the recession, particularly due to the strong adjustment of hours worked. Since the second half of 2009, however, job shedding became widespread and unemployment shot up in most EU countries, albeit with large differences. The recovery gained momentum in the first half of 2010 but stabilised in the remaining part of the year, also reflecting the fading of temporary factors such as the exceptional stimulus measures. Despite output recovery, employment growth did not follow until late 2010, and unemployment remained at the high levels reached in 2009.¹³

The overall trend in employment reflected different patterns at sectoral level. While initially the rise in unemployment affected mainly industries that are most exposed to the business cycle and could rely only to a limited extent on the adjustment of working hours, in particular construction, there is evidence that part of this increase is becoming entrenched. In spite of the widespread use of short-time working schemes, employment declined also in manufacturing and remained on a downward trend during the recovery. These patterns could be due to the adjustment triggered by the worldwide recession following excess capacity in certain sectors and to the fact that GDP losses during the recession risk becoming permanent.

The need to reallocate workers from low- to high-productivity sectors may indeed engender longer unemployment spells and a high structural unemployment rate, which in turn will have negative effects on human capital, thus further contributing to persistent unemployment.¹⁴

The speed at which unemployment will go back to pre-crisis levels will depend not only on the growth outlook and on the different economic and institutional starting conditions, but also on the need for sectoral reallocation and on the capacity of firms to adjust labour costs directly or through varying the hours worked. It will also depend on the presence of supportive policy frameworks, including unemployment benefit systems and activation policies providing incentives for the unemployed to go back to work; wage setting frameworks supporting wage adjustment; tax systems encouraging job creation; targeted active labour market and training policies facilitating labour market transitions and the return to work for the long-term unemployed.

Experience during the economic crisis demonstrates that, in spite of extremely adverse market and financial situations, companies and their workforces throughout Europe have, by and large, engaged in restructuring processes that have been constructive, effective and instrumental in limiting job losses through innovative arrangements.

As highlighted in the European Restructuring Monitor (ERM) Report 2009 ‘Restructuring in recession’,¹⁵ in response to the crisis, many companies throughout Europe have taken initiatives to maintain jobs — most prominently, **various means of reducing working hours (see box)**. These include production stops, obligations to take annual leave, shorter working

¹³ Source: Labour market developments in Europe 2011, European Commission, European Economy 2/2011.

¹⁴ The belated response of employment to the recovery was also the counterpart of labour hoarding during the recession and went hand-in-hand with a considerable rebound in labour productivity.

¹⁵ <http://www.eurofound.europa.eu/publications/htmlfiles/ef0973.htm>. See also the ERM 2011 Annual report: <http://www.eurofound.europa.eu/publications/htmlfiles/ef1165.htm>.

weeks or days, enhanced use of working time accounts, leave rotation and sabbaticals. In some firms, wage levels have been adjusted downwards, with temporary cuts of 10–20% being not uncommon. Most companies have resorted to different combinations of these measures, and **intense bargaining** has led to a wide range of trade-offs — for example, lower wages in return for company equity. Severance packages, often in combination with early retirement, are also widespread.

More than ever, **social dialogue and collective bargaining** have played a crucial role in adapting production, work organisation and working conditions to fast-changing and demanding circumstances during the crisis.

For their part, public authorities have stepped up public instruments aimed at promoting the reintegration into the labour market of those who became unemployed during the crisis. In an early phase of the crisis, Member States enhanced the responsiveness of **public employment services** and their service offer. However, the prolonged duration of the downturn has led some governments to cut back expenditure and to reduce resources across public administration, including public employment services (PES).¹⁶ Some Member States have set up or reinforced pre-existing **specific outplacement bodies**. These bodies usually have many stakeholders, including the state, regional authorities, the social partners and other local actors. Their efficiency — a result of specialising in outplacement work — together with the high levels of trust inherent in multi-stakeholder governance make them a valuable tool for coping with the effects of the downturn.

Shorter working weeks have probably been the most innovative response to the crisis, often with extensive public support for these schemes. Generally, workers have been compensated for lost hours both in countries with public schemes and in countries where working time reduction was regulated by collective agreement, with public authorities intervening in the first case to top up collectively agreed compensation. The degree to which training is provided during newly available free time also varies considerably, as does the extent to which social security contributions are maintained during the period of reduced working hours.

During the 2008-2009 recession, the reduction in hours worked has been the main cost-saving strategy for companies. However, reducing working hours as a crisis response is not always possible. Within firms a temporary reduction of working time is possible when positive balances are available in working time accounts. Moreover, these short-time working schemes are likely to lose their effectiveness when weak labour demand persists. A belated withdrawal of these schemes may carry substantial costs in terms of locking in labour to declining activities, thereby preventing the necessary reallocation of resources, damaging future growth prospects and distorting competition. Finally, the availability of government-sponsored schemes depends on their fiscal situation, which has worsened in several countries.

When analysing these mechanisms, it is important to take into account the fact that their efficiency and impact, both from an economic and social viewpoint, have differed considerably in diverse national and sectoral contexts. Any conclusions on their adequacy

¹⁶ In an EC survey on ‘PES adjustment to the crisis 2011’, 13 out of 21 respondents declared that their financial resources would be reduced in the 12 months ahead. In 9 of those 13 cases these reductions amounted to 10%.

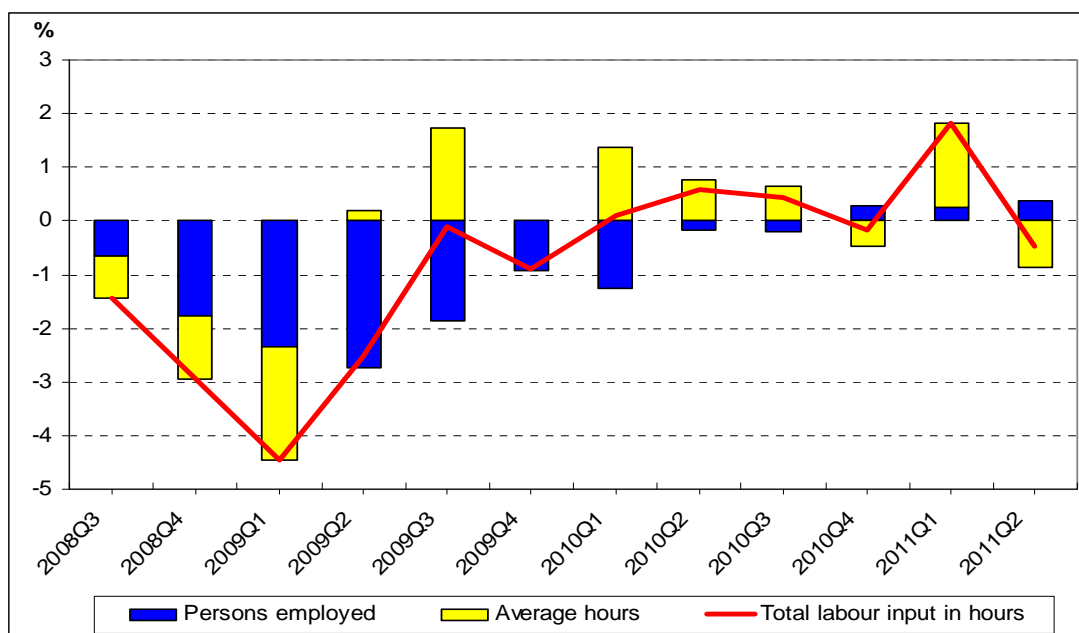
and/or transfereability to other contexts should therefore include an analysis of the factors of success.

Working time reduction and short-time working schemes — some evidence

The analysis of changes in employment and working hours in reaction to the fall in output shows that the adjustment of the Member States' labour markets differed substantially during the worst of the crisis. Whereas in some countries job shedding was immediate, in others employers, in some cases supported by the public authorities through short-time working schemes, first reduced the working hours of their workers instead of making them redundant.

The chart below shows that the reduction of working time was most widely used in the EU in the first quarter of 2009, when manufacturing production was in its cyclical trough. Following the recovery of output average working hours also increased, indicating both the withdrawal of short-time working and in some cases workforce adjustments.

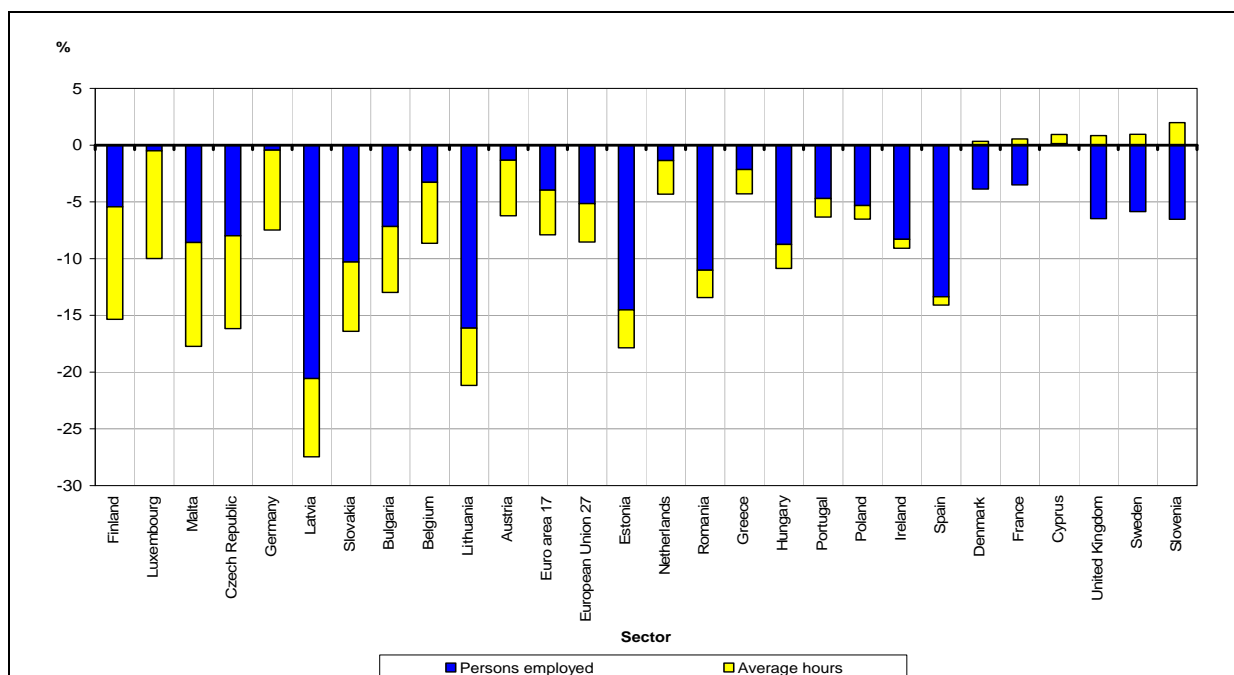
Table: Quarterly growth in employment and average hours worked in manufacturing sector in the EU (seasonally adjusted)



Source: Eurostat

Looking at the developments in the Member States, the reduction in working hours was widely used in several countries in the first quarter of 2009. In particular, working time reductions were substantial in Germany, Belgium and Austria, which managed to maintain employment at a similar level to the previous year.

Table: Change in the level of employment and in the average number of working hours in manufacturing in Q12009 compared to Q12008 (seasonally adjusted)



Source: Eurostat (data for Italy are not available)

There seems to be some indication that short-time working schemes served to reduce the rate of job loss and associated rise in unemployment in these economies. Moreover, such schemes are beneficial for businesses, which are thus enabled to retain highly skilled or specially trained workers through the course of an economic downturn.

A Commission analysis¹⁷ indicated that these schemes were effective in reducing the impact of the economic crisis on job loss and emphasised that timely withdrawal of such measures was necessary following the economic crisis. The study highlights the risk that prolonged use of short-time work supports demand in declining sectors, possibly delaying their restructuring, especially when the costs of labour reallocation are low and the incentives to restructure high. By delaying reallocation, short-time work schemes hold back productivity growth and the consequent wage gains. To be most effective, these schemes should be linked to an efficient unemployment benefits system that promotes labour reallocation. This analysis is supported by a recent OECD study¹⁸ that suggests that short-term working schemes had an economically important impact on preserving jobs during the economic downturn, with the largest impacts in Germany and Japan for workers with permanent contracts. Such schemes were largely successful in maintaining employment in these economies.

In line with the recommendations set out in the European Economic Recovery Plan, **Member States introduced comprehensive anti-crisis packages** to contain the impact of the financial crisis on aggregate demand and prevent excessive labour shedding in response to a temporary contraction of output. In addition to short-time working schemes, the coverage and generosity of unemployment benefits was increased in several Member States. Short-term measures also included direct support to enterprises, such as loans or guarantees to facilitate access to finance; lowering of social security contributions; job creation schemes in the public sector;

¹⁷ Alfonso Arpaia et al., 'Short time working arrangements as response to cyclical fluctuations', European Commission, European Economy Occasional Paper No 64, July 2010.

¹⁸ Alexander Hijzen and Danielle Venn, 'The role of short-time work schemes during the 2008-09 recession' OECD Working Paper 115, Jan 2011.

strengthened active labour market policies and training provisions often targeted at redundant workers.

Starting from 2010, the incipient recovery coupled with more binding fiscal constraints led to a revision of policy priorities. Reforms will have to be appropriate to a context where growth is gradually resuming but labour is not yet giving its full contribution to the growth potential due to high and persistent unemployment. The focus has to be on tax and benefit systems that ensure that work pays off; activation policies that reward the unemployed going back to work; employment protection systems that balance security with flexibility; wage developments consistent with the rebalancing and adjustment needs of the economy. Many of the emergency labour market measures taken at the onset of the financial crisis were gradually phased out. Active labour market and training policies were strengthened, while some countries started reforming employment protection legislation to foster job creation and fight labour market segmentation.

Are the policy measures and practices outlined above in relation to restructuring, with special reference to short-time working schemes during the crisis appropriate? In what specific contexts? Are they able to cope with persistently weak demand? Finally, what can Member States, the Commission or the social partners do to exchange, disseminate and encourage wider application of the best practices in this domain?

3. THE COMPETITIVENESS CHALLENGE: THE IMPORTANCE OF FOSTERING ECONOMIC AND INDUSTRIAL ADJUSTMENT

Different ways for companies to adjust

Adjustment is part of the competitive process for enterprises. It is a means for companies to improve their productivity. The need for constant adjustment results from technological change, innovation, keener competition and the emergence of new competitors, shifts in consumer preferences, changes in legislation, availability and price of resources and other inputs, market access, etc.¹⁹ The pressure to change that may arise during normal times becomes stronger during the extended periods of weak economic activity. Companies that do not manage to adjust to changing conditions will not keep up with competitors in the long run.

Adjustment can therefore be seen in the context of a process of re-allocation of resources, whereby existing productive structures are challenged and possibly replaced by new, more efficient and competitive structures and firms. With an industry base ever more skilled and increasingly capital- and technology-intensive, EU industry will become even more integrated into international value chains as global sourcing becomes more complex and in order to serve global growth markets.

Such adjustment can take the form of changes in the company's activities, e.g. a broader or narrower scope, changing its position on the value chain, spin-offs and internal entrepreneurship, new use of assets, clearing of the balance sheets, improvements in skills and training, and/or organisational changes in the management of the company. In concrete terms,

¹⁹ See for instance the DG ENTR study 'Measuring and benchmarking the structural adjustment performance of EU industry', available at http://ec.europa.eu/enterprise/policies/industrial-competitiveness/industrial-policy/future-of-manufacturing/files/key_findings_measuring_and_benchmarking_en.pdf.

new business models are emerging that link manufacturing more closely to services. The development of innovative solutions such as more resource-efficient production methods or new technologies such as advanced materials and nanotechnology may have implications for outsourcing decisions, etc. These are some of the activities that would be part of daily business dynamics for a sound enterprise to stay competitive.

Framework conditions needed for efficient adjustment

Companies and sectors themselves normally know best about their needs for restructuring. To achieve an efficient adjustment, firms need to operate in an environment where the appropriate framework conditions *enable* such adjustment. Any obstacles to such adjustment will hamper competitiveness and employment in the long run.

The Single market must help set framework conditions and create opportunities across Europe. The functioning of the labour market and mobility is one important aspect. Other important areas, for enterprises and for society at large, include the functioning of capital markets (access to finance), the degree of competition on product markets, the efficiency of R&D and innovation systems, the entrepreneurial environment, mechanisms for knowledge transfer and take-up of technology, an effective education system and training and broader societal challenges. These are not only regulatory aspects. The Single Market Act and the Innovation Union Flagship initiative is geared to systematically removing these obstacles, enabling enterprises to get good ideas faster to the market, adjust and grow. Highly innovative SMEs and innovation clusters are becoming a key channel of the innovation and production process. This translates into an increasing need for cluster policy and smart specialisation, provision of skills as well as focused knowledge of future markets and relevant key technologies.

Restructuring

Restructuring may concern a single firm, be related to its ongoing business development, or linked to a failure of previous investments. It may also involve a whole sector or some segments of this sector. In addition, there are clear differences between sectors, with some being more affected than others by the pressure mentioned above. For instance, industries such as equipment, chemicals, motor vehicles or electrical machinery could be described as heavily affected by global competition and technological development. This has implications for their need for efficient restructuring.

A recent example of how companies and sectors are dealing with restructuring in a demanding economic and social environment is given by the automotive industry in the Interim Report of the High Level Group CARS 21 adopted on 2 December 2011 (see the accompanying Staff Working Document ‘Restructuring in Europe 2011’²⁰).

Some restructuring operations (e.g. closing parts of supply chains, temporary redundancy of some employees) will have negative consequences for the surrounding economy. This means that there is a role for policy makers, but an efficient policy answer should not delay or block necessary efficiency-enhancing restructuring. Rather, it should focus on policy measures that facilitate reallocation of resources to different enterprises/sectors.

²⁰ See point 4.3.2 of the Staff Working Document. For the report, see http://ec.europa.eu/enterprise/sectors/automotive/competitiveness-cars21/cars21/index_en.htm.

In particular, access to finance is of vital importance to economic activities, as necessary adjustments that involve investment can be delayed or stopped by limited access to external funds. Such access to finance is influenced not only by capital markets or public financial support, but also by other regulatory factors such as corporate taxation or bankruptcy rules. Lengthy and burdensome bankruptcy procedures may effectively prevent honest failed entrepreneurs from re-entering business and thereby saving existing and creating new jobs, despite substantial evidence that such 'second chance' businesses grow more quickly and are more resilient than traditional 'start-ups'²¹.

The Commission Communication "Think Small First, A Small Business Act for Europe" of 2008²² and the follow up Communication "Review of the Small Business Act for Europe" of 2011²³ requests Member States to take two specific actions to tackle this issue. In particular, the 2008 Communication asked Member States to " Aim to complete all legal procedures to wind up the business in the case of non-fraudulent bankruptcy within a year" and the 2011 Communication asked Member States to "promote second chances for entrepreneurs by limiting the discharge time and debt settlement for an honest entrepreneur after bankruptcy to a maximum of three years by 2013"

State aid rules²⁴ play a role in some cases of restructuring. This type of aid is allowed for companies that are deemed viable but in difficulty and would go bankrupt without public support as no private entities are willing to provide them with capital. Therefore, this aid relates only to extreme situations in which the companies may not have reacted in time to a changing environment.

The Commission would like to hear views from stakeholders on the following questions:

- What types of framework conditions are most appropriate in order to enable successful industrial adjustment?**
- What existing measures on access to finance to accompany structural adjustment constitute good practice?**
- What further measures need to be taken to improve bankruptcy proceedings?**

4. THE CHALLENGE OF ADAPTABILITY OF BUSINESSES AND EMPLOYABILITY OF WORKERS — COMPANIES AT CENTRE STAGE OF THE RESTRUCTURING PROCESS

The EU has managed to safeguard the productive base of its economy through the worst years of the economic downturn. However, with the current uncertain macro-economic conditions, the ability of European industry to remain competitive and preserve its jobs will depend more

²¹ The 'Business Dynamics' study (http://ec.europa.eu/enterprise/policies/sme/business-environment/files/business_dynamics_final_report_en.pdf) gathers this evidence, along with extensive information on bankruptcy laws of the Member States and analysis of the effects of differing bankruptcy proceedings on entrepreneurs and businesses. Further information including a sampling of 'best practices' supporting honest failed entrepreneurs can be found at the 'second chance' portal here: http://ec.europa.eu/enterprise/policies/sme/business-environment/failure-new-beginning/index_en.htm

²² COM(2008) 394 final of 25.06.2008.

²³ COM(2011) 78 final of 23.02.2011.

²⁴ Guidelines on State aid for rescuing and restructuring firms in difficulty: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2004:244:0002:0017:EN:PDF>.

and more on its **capacity to innovate** as well as to **quickly and smoothly adapt to change**. Such change is due to technological progress, shifting trade patterns, the evolving regulatory framework, changing business models and consumers' behaviour. The EU, through its actions in different policy areas, needs to support its business sector in this regard. The scale of economic restructuring and social change triggered by the deep adaptation required by environmental, economic, technological, market and societal challenges, and accelerated by the great recession, is immense. From an employment viewpoint, it will **involve both job creation and job destruction** and above all **job transformation** (in terms of new tasks, new skill profiles and new working arrangements). While a qualified labour force is one of the key **competitiveness factors** of European industry, it cannot be taken for granted and sustaining this factor requires a proactive approach.

Smooth adaptation to change clearly requires skills needs and adequate human capital investment. In order to sustain smart, sustainable and inclusive growth it is essential to **ensure that firms have a suitably skilled workforce in order to avoid skills shortages and mismatches**. Anticipation of future skill requirements (for example, the need for green skills and skills in areas such as health and social care) and the consequent adaptation of education and training systems, curricula and qualifications in collaboration with the social partners, development of apprenticeship of quality retraining in the context of lifelong learning of workers already active in the sector is also crucial for maintaining high employment. In case of skills shortages, firms should be prepared to look abroad for talent. To this end, **investment in ICT skills and in digital literacy** is imperative. Jobs are being generated in the production of new energy-efficient semiconductors, in cloud computing service providers, cyber security and in virtualization applications provider. As a result, people with skills needed in these sectors will be in high demand, and specific initiatives on eSkills should be encouraged.

The economic and financial crisis and the concomitant acceleration of change, with the ensuing needs for restructuring in certain sectors and for sectoral reallocation of labour, have made it more important than ever for Europe to address existing weaknesses with regard to adaptability of businesses and employability of workers.

The Commission wants to encourage permanent business adaptation to fast-changing economic circumstances while pursuing a high level of employment and social protection through the appropriate supporting measures. Measures supporting the reallocation of resources across firms and sectors are strongly needed as well as measures capitalizing on the highly-skilled but increasingly unemployed youth. Better anticipating and managing restructuring would help employees and companies to adapt to transitions imposed by excess capacities and by modernisation and structural adjustment.

Management and employees' representatives are the key players to discuss forward-looking restructuring strategies at company level. Policy measures accompany such restructuring to avoid social hardship and promote new skills and jobs, by facilitating economic conversion and professional transition. In order to facilitate the reallocation of factors when required, policies should indeed aim to prevent rigidities in the labour market and its skills structure becoming a hindrance to adjustment and economic growth.

At the same time, the social and health effects of employment insecurity, adaptation, loss of employment, and long-term unemployment need to be addressed by effective approaches which enable employees to adapt to change at workplaces, quickly reintegrate into labour markets and mitigate the health effects of transitions. Emerging practices at company and sector level can be noted in this field, also through times of crises.

The amplification of the factors driving change is having a profound effect on the way in which the social partners and public authorities address this issue. In several Member States, there has in recent years been **a clear trend away from a purely corrective strategy towards preventive action, i.e. a shift towards a more proactive strategy which helps to minimise social impacts linked to restructuring process.** Preventive strategies integrate the risks inherent in restructuring, so that the outcome can be both positive professional mobility of the workers affected and an increase in companies' competitiveness.

Observation of restructuring processes in Europe suggests, however, that practices in this field are sometimes reactive rather than anticipative and proactive; they can happen too late in the decision-making process and may not involve external entities early enough for them to play a role in attenuating the social impact of restructuring.

Passive attitudes and resistance to change have a huge economic cost and threaten investment and employment growth. It is therefore important to create the conditions of trust that will allow all segments of society (companies, workers and their representatives, public authorities, etc.) to face the future in a dynamic way.

Is the anticipative approach feasible with regard to management of change and restructuring?.

How can the existing orientations and guidelines on restructuring be improved in light of the lessons learned from the crisis and the new economic and social challenges? How can the lessons from the crisis be disseminated and implemented?

5. CREATING SYNERGY IN THE PROCESS OF INDUSTRIAL CHANGE

The Commission would like to hear the views of all stakeholders on good practices and possible synergy in the fields of: (a) anticipating restructuring processes; (b) preparing and managing restructuring processes; (c) evaluation and reporting; (d) the role of social dialogue; and (e) reviewing passive protection, as outlined below.

(a) Anticipating restructuring processes

Long-term strategic planning

Anticipation of change is more successful if it is integrated effectively into companies' and regions' long-term strategies to secure and strengthen their long-term sustainability and competitiveness, and if an innovation-oriented culture is fostered. Furthermore by anticipating change in their long-term strategic planning, companies and public authorities could grasp emerging opportunities and generate growth and employment. A positive example in this respect is the development of low-carbon and resource-efficient technologies, which has proved to be a source of sustainable growth and jobs in different regions across the EU.

Long-term corporate strategic planning includes human resources, employment and skills objectives for continuing development of the skills and competences of the workforce. This can increase the productivity and therefore the competitiveness and profitability of the company, and its capacity to adapt and to be innovative. It can also help to increase the employability of employees and to encourage their mobility inside and outside the company.

Local and regional authorities can also play an important role in improving the longer-term competitiveness of their regions, in particular through the development of smart-specialisation strategies.

What could be done to encourage strategic long-term and innovative approaches to the management of change, including employment and skills issues, be encouraged? How can synergy be improved between companies, local authorities and other local actors?

How should specific responsibilities and roles be distributed among companies, social partners and public authorities be distributed in this field?

Early anticipation of employment and skills needs

Some companies develop mechanisms, in cooperation with employees' representatives and/or with vocational educations and training providers, for forward-looking planning of employment and skills. Public employment services and sectoral organisations also play an important role in retraining workers who have to change occupation or sector, thus facilitating reallocation of labour between firms and sectors.

Identifying the right type of training and the skills needed, and where they may be found in the future, including in preparation for demographic change, requires the full cooperation of all partners involved. Cooperation between companies and vocational schools proves to be very successful in that matter when being well structured and framed. An important role can also be played here by local initiatives such as skills partnerships with regional and local authorities in close cooperation with outside bodies, including universities and other education and training providers, technology institutes, innovation centres and development agencies as well as healthcare and social security providers. Companies can also contribute to employment and skills observatories, and take part in other relevant initiatives in the region and/or sector concerned.

How can effective practices for anticipating employment and skills needs within companies be further encouraged? How can training be developed as a permanent feature of human resources management?

How can synergy between action taken by companies and public sector initiatives be promoted to facilitate appropriate employment and skills policies?

(b) Preparing and managing restructuring processes

Early preparation

Time is critical in efforts to manage restructuring well. As far as possible, restructuring operations should be preceded by appropriate preparation involving all relevant stakeholders in order to prevent or cushion their economic, social and regional impact. At sector level, good examples are industry-wide actions undertaken in the defence, auto parts and telecom industries.

This preparation should ideally occur as early as possible and start as soon as the need to restructure is recognised, taking account of the methods and procedures negotiated at the level of the sector, region or company concerned, if any. An early start will make it easier to adopt measures to minimise the economic, social and regional impact of the operation.

How can companies and their workforces be encouraged to engage in early and adequate preparation of restructuring processes favouring acceptance of change? What best practices exist in this field?

Building mutual trust and shared diagnosis

It is important to build mutual trust and arrive at a shared diagnosis through continuous and high-quality communication between all the relevant stakeholders. Companies' long-term strategic goals and requirements or short-term constraints should be explained to the extent possible, along with measures envisaged and other possible options in the light of all the interests concerned.

Corporate social responsibility and a transparent approach can encourage all stakeholders, especially employees' representatives, to cooperate in the search for solutions that satisfy the interests of both parties without creating undue delays and uncertainties.

To what extent can mutual trust and shared diagnosis play a role in good management of restructuring? How can this be promoted within companies and in broader contexts?

Minimising the social impact

While seeking to preserve their competitiveness and long-term prosperity, companies faced with the need to restructure usually envisage redundancies only after having considered all possible alternative options. Companies also often try to identify and implement appropriate supporting measures. Employees' representatives should be open to negotiating flexible solutions alternative to redundancies.

As shown by the economic crisis, flexibility is inherent in the existing system. Many companies throughout Europe have taken temporary initiatives to maintain jobs, including through reducing working hours, production stops, obligations to take annual leave, shorter working weeks or days, enhanced use of working time accounts, leave rotation and sabbaticals.

When redundancies cannot be avoided, or as part of the package of alternative options, companies, local authorities and all relevant stakeholders including health and social security providers can be encouraged to work together to make arrangements for the employees concerned to improve their employability and re-enter the labour market as quickly as possible.

It has been shown that, through its human and psychological consequences, poorly managed restructuring can have a significant negative longterm impact on the human resources of companies, thereby weakening this key resource for competitiveness. [Companies and social partners from some sectors undergoing particularly strong change have therefore agreed on guidelines to manage mental health issues at workplaces, and are increasingly engaged in managing these challenges.](#)

What can companies and employees do to minimise the employment and social impact of restructuring operations? What role can public policies play in facilitating these changes?

Minimising external economic, social, environmental and regional impacts

The need to address the territorial impact of restructuring was mentioned during social partners' work. In many cases, when a restructuring operation has major effects in a region, companies seek to align their preparatory activities with those of all the other actors with the aim of maximising the re-employment opportunities of employees, encouraging the economic and social conversion of the region affected and developing new economic activities that create jobs.

For that purpose, companies often discuss the measures being prepared with the regional or local authorities and other relevant stakeholders, including health and social security providers. They also sometimes participate in and/or contribute to any task force or network set up at regional or sectoral level to minimise the impact of the operation.

In some cases, the measures outlined above include the employees of other companies, including SMEs, in the region affected by the restructuring of larger companies. Information and assistance to SMEs is likely to help them to adapt their own businesses and manage the restructuring process.

What can companies, local authorities and all the other stakeholders usefully do to minimise the regional impacts of restructuring?

How can companies affected as a result of the restructuring of another company be supported in their own adjustment process? In particular, how can SMEs be better informed and assisted in the restructuring process?

(c) Evaluation and reporting

Tools for regular evaluation and reporting of restructuring operations in cooperation with employees' representatives and the outside organisations involved in those processes might prove useful in some circumstances, in particular to facilitate a learning process.

What role can evaluation and reporting of past restructuring operations play in increasing knowledge and improving stakeholders' practices?

(d) The role of social partners

Since management and workers' representatives are among the key players to discuss restructuring strategies, it would be useful to give a prominent role to social dialogue in disseminating and encouraging best practices.

What role social dialogue could play in better disseminating and encouraging best practices for the anticipation and management of restructuring?

(e) Reviewing passive protection

A shift from passive employment protection to active protection is at the heart of the flexicurity concept. One possible way of implementing this concept is to move away from protecting specific jobs and towards protecting employees through their working life. Another possibility is to strengthen the so-called internal flexibility that aims at protecting jobs through measures ensuring a flexible adaptation to the changing circumstances. In some instances, however, such a change has not always been accompanied by an overhaul of the existing employment protection system, especially in terms of burdens and costs.

Like any other function within companies, anticipation of change and proactive restructuring certainly have a cost but also a benefit for all those involved: companies improve their capacity to adapt, employees become more employable and regions boost their economic dynamics.

While fully taking into account the huge differences between Member States in this regard, the Commission would like to hear the views of stakeholders (in particular national authorities and social partners' organisations) on whether some aspects of the employment protection systems need to be reviewed in the light of this intended transition towards anticipation and proactive protection of employment.

6. THE ROLE OF REGIONAL AND LOCAL AUTHORITIES

Proactive and dynamic restructuring is often encouraged when public authorities play a supporting role in restructuring operations and processes for anticipating them by facilitating coordination between outside stakeholders and companies. They also often create, promote and support mechanisms to encourage small and medium-sized companies to get involved in measures of that type. Finally, public authorities also support anticipatory processes and restructuring operations to alleviate their economic, regional and social impact. Some of the best practices identified in Europe are set out below.

Some identified best practices in Europe:

- Public authorities, including PES, play a major role in regions affected by structural change: they set up permanent bodies, networks or observatories to monitor change processes; promote territorial employment pacts for employment creation and adaptation; promote or create mechanisms facilitating employment transition; arrange training for small and medium-sized companies and their employees and support dialogue and cooperation between them and large companies; favour regional employment and economic and social conversion.
- In some cases, public authorities activate, in cooperation with companies, rapid response services and support schemes to help employees facing professional transitions or redundancy. Without prejudice to companies' obligations resulting from national laws and/or practices, public authorities sometimes co-finance employability measures, including the acquisition of transferable skills.

'**Smart specialisation strategies**' can also be an important tool for regions to use in their restructuring process.²⁵

At EU level the Cohesion Policy, and especially the European Social Fund, as well as the European Globalisation Adjustment Fund also exist to support both anticipative action and measures aimed at helping employees whose job is threatened by particular restructuring events, including emerging labour market needs resulting from the transition towards low-carbon and resource-efficient economy.

How can a supporting role be encouraged for public authorities, particularly at regional level, in anticipation processes, as well as in particular restructuring events, taking into account differing national traditions regarding the involvement of public authorities in company-level processes?

CONSULTATION

The Commission invites all interested parties to respond to the questions set out in this Green Paper, and provide any additional comments, by 30 March 2012.

The green paper and the template for reply are available on the Europa website:

<http://ec.europa.eu/social/main.jsp?catId=333&langId=en>

Responses can be sent by email to:

EMPL-GREEN-PAPER-RESTRUCTURING@ec.europa.eu

or by post to:

European Commission
Directorate-General for Employment, Social Affairs and Inclusion
Green Paper on Restructuring
Unit C2
Rue Joseph II, 27
Office 06/044
B-1000 Brussels

²⁵ See Commission Staff Working Document 'Restructuring in Europe 2011', point 4.1.3.