

INTERNATIONAL LABOUR ORGANIZATION  
UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE

## REGIONAL FORUM

# “Social Aspects and Financing of Industrial Restructuring”

26 and 27 November 2003, Moscow, Russian Federation

Topic 3. Alleviating the hardships of laid-off workers

Negotiating Socially-Responsible Restructuring: an Overview of Practice in  
Western Europe

By Ms. Andrea BROUGHTON - Editor, European Industrial Relations  
Review

United Kingdom

(This paper is being circulated by the secretariat as received from the author)



UNITED NATIONS

# **Negotiating socially-responsible restructuring: an overview of practice in western Europe**

**Andrea Broughton**  
**Industrial Relations Services**  
**26 November 2003**

*This paper looks at the issue of socially-responsible enterprise restructuring in western Europe and the role that trade unions and employee representative bodies can play in this. One of the key issues in ensuring a successful restructuring exercise is a good HR culture and fit. Central to this is the issue of involving employees in the restructuring process. Information and consultation procedures are provided for by European law, transposed into national legislation. Companies that successfully manage mergers and restructuring not only follow all their legal obligations, but also go beyond them in many ways, listening to the needs of staff and working with trade unions. This paper looks at the legal framework, the role of negotiation in enterprise restructuring and the added value that dialogue between management and employee representatives can bring to the process, centring on concrete examples based on research undertaken by Industrial Relations Services.*

## **Overview**

The world in which companies and employees operate is changing constantly. In particular, the number of restructuring exercises carried out by companies, including mergers and acquisitions, has increased considerably over the past decade or so. The European Commission cites figures of 8,239 mergers and acquisitions involving EU firms in 1991, rising to 12,796 in 1999.

This kind of change can have a significant impact on employment. The European Commission estimates that in the first 9 months of 2001 there were some 350,000 redundancies in Europe. Thus, there has been considerable focus on the part of employee representative bodies and also lately on the part of the European Commission on how companies can effect change and evolve in an effective way which also has the least social impact.

## **The legal situation**

There are a number of laws (European Directives) formulated at European level which require companies to inform and consult the workforce on major decisions affecting them. These are essentially:

*The collective redundancies Directive (98/59/EC).*

This Directive includes the following obligations:

- a requirement for companies of 20 employees or more to inform employee representatives in writing of any intention to make redundancies;

- a requirement to consult employee representatives “with a view to reaching an agreement” on ways and means of avoiding collective redundancies or reducing the number of workers affected and mitigating the consequences; and
- a requirement to wait 30 days from notification before making the redundancies.

*The transfer of undertakings Directive (2001/23/EC)*

This Directive requires employee representatives in both the acquiring and the transferred company to be informed and consulted before the transfer takes place.

*The European Works Councils Directive (94/45/EC)*

This Directive aims to improve the information and consultation rights of employees in companies of 1,000 or more employees with at least 150 employees in each of two member states. It gives the EWC the right to be informed and consulted about transnational questions which significantly affect workers’ interests.

Guidance about what these issues could be is given in the subsidiary requirements annexed to the Directive. These include:

- the situation and probable trend of employment, investments, and substantial changes concerning organisation;
- transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof; and
- collective redundancies.

The Directive also gives the EWC the right to be informed about any exceptional circumstances, such as closures, relocations or collective redundancies.

This means that workers should be informed about any significant company restructuring plans, before they are made public.

*Information and consultation of workers Directive (2002/12/EC)*

This is a new Directive, which must be implemented into national legislation by March 2005 and which requires undertakings with at least 50 employees or establishments with at least 20 employees to:

- inform on the recent and probably development of activities and the business’s economic situation;

- inform and consult on the employment situation and any anticipatory measures envisaged, particularly whether there is a threat to employment; and
- inform and consult on decisions likely to lead to substantial changes in work organisation or in contractual relations, including collective redundancies and transfers of undertakings.

### **Socially-responsible enterprise restructuring**

The legal framework is, however, the minimum an employer is obliged to undertake in a merger or restructuring situation. The ideal outcome in a restructuring situation involving workforce reductions would be to achieve a coincidence of good business practice – not losing the best people – and social responsibility – making sure that the restructuring is as untraumatic as possible. These things to do not need to be mutually exclusive.

The main elements of socially responsible restructuring include:

- timely information and consultation with workforce representatives on restructuring plans;
- negotiation with workforce representatives on how to prevent adverse effects of restructuring for the workforce;
- measures which can be taken to avoid redundancies, including:
  - working time reduction
  - flexible working patterns
  - cuts in pay and premia

Redundancies should be a last resort in this context. However, where redundancies are inevitable, the effects can be softened in a variety of ways, such as:

- downsizing rather than closing entire plants
- spreading the redundancies across plants and countries
- looking for voluntary redundancies and early retirements.

In addition, a range of social cushioning measures can be put into place, including:

- redeployment within or outside the company;
- training and other measures aimed at increasing the employability of redundant workers;
- priority of rehire for redundant workers; and

- investment in the local economy.

### **EU-level initiatives**

In January 2002, the European Commission consulted the EU-level social partners on the issue of “socially intelligent” corporate restructuring. In July 2002, the social partners asked the Commission to delay issuing a second consultation paper to allow them to hold seminars to discuss case studies of restructuring. A series of such seminars was held during 2002 and 2003 and the social partners subsequently began negotiations on a joint text to reflect some of the lessons learnt from the case studies discussed at the seminars. This resulted in a draft joint text, agreed on 11-12 June 2003.

The text is entitled “*Orientations for reference in managing change and its social consequences*” and contains a number of guidelines to be followed for successful change management. It deals with issues such as transparency, good-quality communication and information and consultation at different levels. It also highlights the importance of maintaining and developing workers’ competencies and qualifications and the need for organisations such as public authorities to get involved when change affects a whole region.

It states that the case studies examined by the signatory parties show that all possible alternatives to dismissals should be explored, including reassignment of workers, training and retraining, support for business creation, diversifying forms of work, suspending or adapting some benefits temporarily, offering individual support to workers and downsizing by means of natural departures, including early retirement “as a last resort”.

The text also states that good timing is an important factor in the successful management of change, although it is difficult to organise good information and consultation without creating delays and uncertainties. A climate of confidence between management and workers is also deemed to be important, as are informal relations between the parties involved.

The text is scheduled to be put before the governing bodies of the signatory parties this autumn.

### **UK research**

A survey published at the beginning of 2002 by IRS, based on 60 organisations operating in the UK, looked at the issue of redundancy. It found that 70% of those surveyed had experience in reducing the size of their workforce over the past two years. The total number of redundancies was 8,460 (2.9% of all staff employed by the surveyed companies), although more than half of the redundancies were at one company. 67% of companies said that they expected to make further reductions in the coming 12 months.

No single method of reducing the workforce predominated. Around 25% of firms surveyed used a mixture of five methods:

- voluntary redundancies;

- redeployment;
- early retirement;
- compulsory redundancies; and
- natural wastage/freezing posts.

However, compulsory redundancy was the most commonly adopted approach, cited by 87% of respondents. The other methods were natural wastage/freezing posts (80%), voluntary redundancy (75%), early retirement (55%) and redeployment (40%).

61% of those surveyed recognised trade unions for collective bargaining purposes, while 53% had consultation arrangements in place.

It would appear that the presence of a trade union does make a significant difference – 38% of the companies recognising trade unions stated that they had cut jobs recently, compared with 67% of those who do not recognise trade unions.

### **Case studies**

There are a number of examples of what are considered to be “best practice” restructuring exercises, from a socially-responsible point of view. A selection of these are examined below.

#### **Ford**

This first case study is an example of how a company guarantees employment rights for employees following a spin-off of one of its divisions in 2000.

On 25 January 2000, the management and European Works Council (EWC) at Ford signed an agreement regulating the conditions to apply to employees of Visteon, Ford's components operation, in the event of it becoming independent. This is thought to be the first time that an EWC has been accepted by the management of a multinational company as a bargaining partner in this way.

The key points of the agreement with the EWC are as follows:

- all Ford employees who transfer to Visteon as a result of the spin-off will be guaranteed, for the rest of their working lives, the pay and extra payments laid down at Ford. This is also the case for pension rights;
- employees' length of service before the spin-off of Visteon is fully taken into account. Employee benefits - such as car or share purchase schemes - comparable to those at Ford are to be developed and introduced at national level;

- existing company agreements and other collective agreements – especially concerning employment guarantees and training programmes - are fully adopted by Visteon;
- employees wanting to switch to Ford after the legal independence of Visteon are apply for vacancies at Ford, and are given preference over external candidates;
- all employees working at Visteon before independence were able to decide if they wanted to stay at Ford until Visteon became legally independent. In this case they will receive job offers from Ford;
- in the event that parts of the Visteon group in Europe are sold off, potential new owners are obliged to adopt this agreement;
- detailed provisions on sourcing guarantee the purchase of Visteon parts and components by Ford, not only ensuring the further existence of Visteon and the widening of production lines - and thus competitiveness - but also providing employment guarantees.

About 77,600 Visteon employees worldwide are covered by the agreement, of whom 52,000 work in the USA and 19,800 at 26 European production sites, including about 3,966 in four German factories. New Visteon employees following independence are employed under conditions set at Visteon, which might differ from agreements at Ford.

## **BP**

This case study is an example of how a company managed the major restructuring of one site in a socially-responsible way and how it implemented specific programmes to look after the “survivors”.

The UK oil and petrochemical group BP announced significant restructuring at its Grangemouth site in 2001. It wanted to reduce the workforce at the site from 2,400 to 1,700 in order to stem losses. The workers here included many highly-specialised professional and technical staff.

The HR department quickly arranged for managers to hold meetings with their teams over a two-week period. It also wrote to all staff, explaining the changes, and opened a website with information on the restructuring.

Selection for redundancy was made on the basis of a scoring process and selection mechanism (a competency-based matrix) which identified the skills, knowledge and experience needed by the site. This process was drawn up in consultation with the site’s staff Council, made up of management, union and non-union representatives.

### **Support for redundant workers**

- Voluntary redundancy. Staff were asked whether they wanted to take voluntary redundancy and a number of people were able to leave voluntarily, provided that they did not have essential skills for the site.
- Staff aged over 50 were offered early retirement.
- A dedicated off-site resource centre was set up to house an outplacement firm to help redundant staff to look for jobs, develop interview techniques and get guidance on CVs and application forms. Local firms were also invited to hold recruitment fairs on the BP site.
- BP wanted to establish a link between redundant staff and the survivors as this sends a message to survivors. It informs about the number of workers who have found alternative employment (around 80% almost a year later).

### **Support for survivors**

BP recognised that the situation was also stressful for those who were not made redundant. It therefore organised:

- training. The company organised courses about the restructuring. It helped prepare line managers for one-to-one conversations with their staff and line managers for managing teams through transition. The courses looked at issues such as understanding and working with tensions associated with uncertain futures, understanding low morale and motivation and worked on increasing focus and motivation;
- stress management. The site's occupational health department ran a session for line managers showing them the various ways in which employees might react to the process of change, how to recognise stress in their staff and how to try to reduce it. Courses for individuals were also run; and
- listening to the staff. The staff felt that they would like the process speeded up in order to reduce uncertainty, so it was brought forward by six months, from December 2002 to June 2002.

The exercise appears to have been a success. The key objectives of increasing plant availability and cutting costs have been met. The site now has a long-term future. Also, the number of site accidents has fallen.

### **Restructuring in the media sector**

This case concerns a small, independent research-based organisation, employing around 70 people, producing specialised journals for a niche market. The organisation was bought by a large multinational, which announced a major restructuring exercise, aimed at cutting costs and



increasing the profitability of this division. This involved redundancies of 50% across the board (editorial and support staff) and relocation for the survivors.

A number of problems arose, including: a significant culture clash. The business model of the acquired firm was very different to that of the acquiring firm. There was also reluctance to be subsumed into the larger firm; different trade union traditions; and different terms and conditions of employment. There was also a shock factor – many of the people at the acquired firm had worked there for a significant length of time. There were also a number of practical issues, such as journey times, open-plan offices after small, individual offices.

Management and the trade union representatives at the company met to negotiate the way forward, within the framework of both the law (relating to information and consultation of workplace representatives in the context of collective redundancies) and the company's trade union agreement.

There was a considerable amount of debate within the trade union as to what the priority should be – to save all jobs or to negotiate to get what individual members wanted. In the end, the trade union focused on ensuring that no members were: a) forced to become redundant b) forced to relocate and forego a redundancy payment.

The final negotiations ensured that more or less everybody got what they wanted. The structure was tweaked and resources shifted around to suit the wishes of individuals – some jobs appeared where there was demand, while others disappeared where there was no demand.

There were a number of advantages emanating from the union presence and the resulting dialogue between union representatives and company management:

- for the employees, in a number of areas, extra provisions and entitlements were agreed over and above what the company would normally offer
- for the company, the trade union was a negotiating partner with which to build up trust and obtain the support of the workforce. Many people were hostile to the changes and this could be channelled and resolved via the union.

## **Conclusions/questions**

### **What are the advantages of developing a socially-responsible strategy?**

Restructuring appears to be a fact of life for companies and their employees in western Europe. However, there can be advantages for the company if it manages restructuring in a socially responsible way. Thus, if it carries out the restructuring that it deems essential to its business in a way which has as little impact as possible on its stakeholders – employees, customers, shareholders, the local community and the environment – this can lead to the development

of good customer relations. In this way, it can build a profile as a socially-responsible employer, particularly at local level.

Socially-responsible restructuring and change can also help to build up good relations with trade unions and employee representatives. This will in turn lead to the development of a relationship of trust which will stand the company in good stead in the future.

In addition, as mentioned at the start, the two issues of restructuring and social responsibility are not mutually exclusive – carrying out the restructuring in such a way as to limit the number of redundancies means that the company will be able to keep talent and expertise amongst its workforce.

**Can a restructuring strategy worked out in conjunction with employee representatives make a difference to how enterprise restructuring is carried out?**

There have been cases, as we have seen, where negotiation with employee representatives or trade unions has been successful in mitigating the impact of restructuring on the workforce. In some cases, plant closures have been abandoned – in others, the number of redundancies has been significantly reduced. It is very unlikely that dialogue with employee representatives will succeed in reversing an employer cost-cutting exercise, but there is evidence that the effects of this can be mitigated in social terms.

Consultation and dialogue between company management and employee representatives has made a significant difference in the case of some restructuring exercises not mentioned here, such as Danone, where one planned factory closure in Hungary was reversed following consultation. There are a number of restructuring plans which are currently undergoing consultation, such as the planned closures at the Franco-Spanish tobacco group Altadis – it will be interesting to see what kind of outcome will emerge here.