



## **General comments on the European Commission’s green paper “Restructuring and anticipation of change: what lessons from recent experience,”**

The world is changing. To the extent that economy and society are changing, the pressure on companies to adapt is also growing. Businesses that want to prosper on increasingly global markets have to be competitive; businesses that want to be competitive have to re-adapt their activities internally and externally on a constant basis, have to “restructure”. Inasmuch, globalisation, competitiveness, adjustment and restructuring logically belong together. A changing world without changing companies does not exist.

The European Commission’s green paper “Restructuring and anticipation of change: what lessons from recent experience?” describes this interdependence clearly and soberly. It does not paint the often tough reality of corporate restructuring exercises in soft pastel shades; nor does it reduce the question to its negative aspects – felt in particular at individual level – and hence does not disregard Schumpeter’s central finding of “creative destruction” which is necessarily inherent in business activities in a market economy.

The European Chemical Employers Group (ECEG) welcomes this underlying tone of the green paper as well as the broad, holistic approach that the Commission has chosen for addressing this complex issue which is tightly linked to our late-modern globalised and fast-moving world.

However, the basis for an understanding on the theme of corporate restructuring is a clarification of central concepts, which is missing from the Commission’s green paper. For the discussion in the coming months and years, it would be useful to distinguish in particular between *crisis-induced restructuring scenarios* and *restructuring scenarios prompted by strategic considerations*. It should also be borne in mind that a large portion of companies’ internal adjustment measures is an everyday affair; lumping them together with high-profile cases – involving mass redundancies, for instance – under the large and colourful heading of “restructuring” would fail to do justice also to the positive aspects of macroeconomic and company-level change.

### **Chemical employers’ central concerns**

1. Restructuring operations should be regarded as what they essentially are: necessary adjustments by companies to continuous change in economy and society. This should be kept separate in terminology and thought processes from the many phenomena resulting from restructuring. Restructuring operations as such are neither “good” nor “bad”.

2. The framework conditions for restructuring processes should be structured in such a way that companies' adjustment measures can be decided and implemented as rapidly and with as little bureaucracy as possible.
3. The autonomy of social partners at company, sector, national and European level should be respected.
4. The existing corpus of restructuring-relevant legal provisions is sufficient. More far-reaching rules, in particular a European "code of conduct", are superfluous.
5. Policy-makers and authorities should *enable and flank* restructuring processes, not impede them.
6. The exchange of best practices on restructuring and institutionalised learning from each other in the form of social dialogue, internet platforms, sector skills councils, etc., are good instruments which can help to make anticipation of change a beneficial exercise.

On the specific questions posed in the European Commission's green paper "Restructuring and anticipation of change: what lessons from recent experience?" ECEG submits the following positions:

1. **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?**

The measures referred to – in particular short-time working – have proved suitable for cushioning the direct consequences of the economic collapse at the end of 2008. The instrument of short-time working enables employers to retain qualified specialist workers in the business and to reactivate them without a time lag when capacity utilisation picks up again.

Nevertheless, beyond this sensible short-term stimulation function, we believe that longer-term use of such crisis instruments is wrong, since it holds back structural change in the economy (which is taking place anyway; see above) at the cost of the taxpayer. Inasmuch, we regard the renaissance of Keynesian thinking in recent years as acceptable only in this short-term version focused on direct crisis management. Long-term demand stimulation implies a role for the state in business life which we think is the wrong regulatory approach

and which historically has led above all to a long-term increase in government spending and high national debt.

Countries, authorities but also social partners can learn from each other. We are therefore in favour of the exchange of best practices among these players. But information and learning from each other must not mutate into a transfer of decision-making: given that economic and societal conditions in the individual member states, regions, sectors and companies differ widely, it is impossible to draw conclusions on specific company situations at several removes from business reality as if there were a single simple recipe. In cases of doubt, the field for action should be left to the sectoral and company-level social partners who are closer to what is happening than state bodies. It is they who ultimately bear responsibility for implementation of the restructuring on the ground.

**2. 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?**

If you are looking for a clearly defined list of criteria, the “most appropriate” framework conditions do not exist. There are as many contexts for adjustment strategies as there are companies. Moreover, framework conditions deemed to be appropriate in one country cannot be transposed to another country without further ado – not to mention the regional diversity of economic structures within a single member state. Hence, in our view, it is only possible to describe framework conditions as “appropriate” in abstract terms: those which restrict entrepreneurial freedom as little as possible (flexibility) but which at the same time ensure a high degree of stability (planning certainty). In this regard, it should be remembered that volatility on financial markets, but also on product and labour markets, has increased substantially in recent years – as a consequence of faster economic and societal change (see above).

Also with a view to access to financial resources, we are convinced that exceptional measures such as those taken by governments of EU member states and by the European Central Bank are appropriate *for the short term*: both support for lending institutions which pose a systemic risk and the low-interest policy pursued by central banks have helped to prevent a credit crunch and hence to meet companies’ liquidity needs. With a stronger

focus on restructuring processes, accompanying measures in the framework of European instruments (e.g. European globalisation fund) have proved useful in the past.

Questions linked to insolvency law should not be confused with the issue of restructuring. Whereas the latter relates to a company's adaptability and survival capacity, insolvency procedures only come into play after the fact, once the opposite of survival capacity is demonstrated.

### **3. 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?**

Hardly anyone would question the idea that an anticipative approach, i.e. a forward-looking, proactive, future-oriented approach is sensible and desirable – in every area of life including in entrepreneurial activity. However, the question of “feasibility” should be radically separated from this basic propensity for anticipation: as employers in the chemical industry – a sector which whenever possible wants not only to take part in future trends but also to help shape the future – we look in any event towards the future, but nevertheless warn against a steering optimism which imperceptibly transforms the wish for “anticipation” into “planning” of supposedly unshakable future certainties. At best, a thorough analysis can identify *trends* (e.g. regarding levels of qualifications or demographic change) for individual sectors or the economy as a whole, but cannot *foresee* the future.

It follows from this perspective that “orientations and guidelines” for restructuring measures can only be general pointers and conclusions deduced from concrete company and social-partner practice. In 2008, European chemical social partners ECEG and EMCEF (European Mine, Chemical and Energy Workers' Federation) reached agreement on such “joint lessons learned on restructuring, managing change, competitiveness and employment” in the framework of a project supported by the European Commission. These conclusions recognise that, while an ideal restructuring implemented using a ready-made recipe cannot exist, it is nevertheless possible to define certain principles which should apply in our sector. Such orientations can be found in the “Conclusions on the tripartite meeting on promoting social dialogue on restructuring in the chemical and pharmaceutical industries” drawn up in 2011 in the framework of a tripartite ILO sectoral conference.

The question of better dissemination and implementation of lessons learned at European level (e.g. in the framework of EU projects) is a fundamental one. The multi-layered

character of the European Union and of social partnership makes it difficult to jump from one level to the next-lower level, and usually calls for major efforts by the players concerned. As a rule, simple trickle-down effects do not apply. Inasmuch, there is an on-going task for the European social partners, the Commission but also the European Foundation for the Improvement of Living and Working Conditions (Eurofound) to bridge the gap between European debate and business reality.

**4. What could be done to encourage strategic long-term and innovative approaches to the management of change, including employment and skills issues? 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 in this field?**

Encouragement should be given in the first line via information: people who know more about the universal phenomenon of restructuring and the importance of human capital in times of demographic change, people who exchanged best practices with others, can act more appropriately in a restructuring situation. We therefore support education and information instruments such as brochures, events or the establishment of sector skills councils (ECEG and EMCEF are currently carrying out a project supported by the European Commission which is examining the possibility of establishing such a council for the chemical industry at European level). However, we reject paternalism on the part of authorities: assessing which company needs which skills and when should continue to be the competence of *company* decision-makers.

Cooperation between companies and local players with a view to anticipating skills needs is basically a good idea, but should always take account of the individual situation locally and take place on a voluntary basis which is rational for the company.

Responsibility in this area lies with employers, social partners and authorities. Whereas anticipation in the broader sense, i.e. forward-looking entrepreneurial activity with a view to possible restructuring, falls within social partners' sphere of responsibility, authorities have a complementary responsibility as state players for ensuring a close interlocking of labour market and training institutions through a functioning and hence also necessarily "anticipative" vocational training system. Beyond this complementary role of authorities, any intervention in the actual restructuring process should be ruled out; this is exclusively the responsibility of the company and the social partners.

**5. 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?**

Just as there are limits on what can be anticipated (see response to question 3), there are limits on the extent to which anticipative strategies can be promoted. We support measures which generate collective intelligence through the establishment of skills councils or similar structures, allowing trends to be predicted as much as possible. All players involved should be aware that the dividing line between well intentioned anticipation and over-confident futurology is a narrow one. The extent to which effective anticipation practices can be developed for individual *companies* should continue to be left to decision-makers on the ground: in the same way that responsible management – not least in such a knowledge-dependent sector as chemicals – is conscious of the importance of a high qualification level for the business success of the company, representatives of the workforce know the significance of lifelong, anticipative learning for the employability of individual workers. It is at company level that training measures should become a “permanent feature of human resources management”. We reject a training plan ordained from outside – with the inevitable associated cost burden.

**6. 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?**

ECEG confirms the request made by the European chemical social partners in the “joint lessons” (see response to question 3) that the maxim of regular and early information and consultation be pursued in restructuring processes. Only the availability of information and open exchange on the corporate strategy enable the understanding essential for restructuring processes and acceptance among employees. Clearly, information and consultation processes should not lead to unnecessary delays in the necessary restructuring measures.

It is our conviction that effective practices for preparing restructuring processes can only be identified in a generalising manner; the ECEG and EMCEF social partner document already mentioned several times constitutes an important example of this. Before recommendations are prepared, it should be remembered that there are enormous differences of experience with regard to restructuring processes: by country (e.g. economies attuned more to agriculture than to the tertiary sector), by sector (e.g. declining sectors vs. booming sectors), by company (diversity of market positions, management strategies, etc.).

**7. 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?**

Since restructuring operations are ultimately transformation processes set in train by people, cooperation based on trust plays a central role. Yet a “spirit of social partnership” cannot be conjured up at the press of a button, it is the outcome of years of working together. If the social partners in a sector manage to reach agreement on *fundamental ideas* for doing business responsibly – economic success, social responsibility, ecological awareness, etc. – *joint flanking and implementation* of restructuring measures will also be easier.

In our view, a relationship based on trust can be promoted only through information and awareness-raising.

**8. 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?**

Insofar as restructuring operations are unavoidable, the associated consequences for employees cannot be completely avoided. If companies and workers alike commit as much as possible to continuing training of employees, they make the most effective contribution to their employability. “Security” in the form of a guaranteed job can no longer exist in an age of globalisation and accelerated socio-economic change. Security is best achieved by those who engage in lifelong learning, thereby enhancing their employability. In addition to this, an established culture of dialogue – inclusive information and consultation of the workforce – and social partnership help to ensure that both the adaptability of the company in question and the justified need of employees are taken into account (see also responses to questions 6 and 7). Lastly, in larger companies, internal job fairs can be put in place to match the supply and demand for labour as closely as possible. Where a reduction of the workforce cannot be avoided, the competent authorities have a role to play in ensuring that workers who have become unemployed are helped back to work as rapidly as possible.

Given that policy “measures” almost always entail *more* regulation, initiatives aimed at well intentioned “facilitation” of restructuring processes should be contemplated only with great caution. The density of regulation in this area is sufficient at both European and national level. We therefore clearly reject the idea which has now been aired of drawing up a European “code of conduct”. Any policy measure in the area of restructuring should be inspired by *enabling not impeding* corporate change. To this end, the creation of flexible and dynamic labour markets would be an essential element of a labour market policy approach which seeks to keep the mismatch between labour supply and demand as small as possible.

**9. 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 adjustment process? In particular, how can SMEs be better informed and assisted in the restructuring process?**

Economic structures in Europe's different regions are highly diverse: for instance, Andalusia and Bavaria differ considerably in terms of the level of industrialisation, labour market or existence of clusters. Hence, diversity (regional in this case) means that any standard response is impossible here too. It can be stated generally that a maximum of cooperation and exchange of information between companies, worker representatives and authorities locally is desirable to discuss and assess the possible consequences for the region – and, where appropriate, to take the necessary measures. In the first instance, regional policy is self-evidently the responsibility of regional (and local) actors in the policy-making process. Elements that can be mentioned include creation of an investment-friendly environment, an education policy geared to the labour market and generally a willingness on the part of authorities to provide a service to companies in the region in question.

As compared with large companies, SMEs mainly suffer from the problem of scarce financial, human and information resources. The creation of SME-specific information tools on the theme of restructuring seems at least worth consideration, but should be weighed against the use of resources that this would entail. An SME involved in restructuring measures is essentially best served if the legal framework conditions allow rapid decision-making and implementation.

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

Empirical lessons informed by experience are of great value for people and organisations alike. However, examples in history of where evaluation and reporting requirements imposed by authorities would *not* have led to more costs and bureaucracy must be few and far between. We therefore reject any obligations on companies operating in what is already a highly regulated context – not least in chemicals. We regard European information services such as the “European Restructuring Monitor” as a sensible alternative. With a view to individual companies, evaluation and reporting are clearly useful feedback instruments, but one on whose content and procedural aspects companies themselves should decide.

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

Social dialogue at EU level could play an important role in disseminating experience with anticipation and management of restructuring operations. European social partners could – with the necessary resources – help to generate such knowledge via the exchange of best practices and disseminate it via their cascading information systems (European, national regional, company-level) but also via the social dialogue institutionalised under the aegis of the Commission, or pass it on directly to companies via the appropriate media. For instance, ECEG and EMCEF have reached agreement on examining the possibility of establishing a sector skills council (see response to question 4). Were such a skills council led by the social partners to exist one day, the knowledge gained at European level about the skills needed in our sector today and in the near future could be disseminated, for instance via an internet platform.

**12. 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.**

A consultation at European level is not the right place for a broad discussion of policy areas that fall within the exclusive competence of the member states. However, ECEG basically holds the view that there should be a shift of emphasis in employment policy towards a strengthening of the principle of employability. As the pendant to adaptability for companies, employability constitutes so to speak the worker dimension of socio-economic change. A balanced flexicurity concept in which “security” is no longer defined as meaning the preservation of specific jobs but as “employment security” (see also response to question 8) constitutes a good way marker for a modern employment policy.

**13. 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?**

The role of authorities in restructuring processes should be limited to complementarity (see also response to question 4): the real players with competence are companies and their employees. State agencies can provide support in two ways: first by promoting the exchange of best practices and anticipation networks such as the skills councils already referred to several times, and second by being helpful in supporting workers released in the framework of a restructuring measure in their search for a new job. Under no circumstances should authorities take part in the actual restructuring process.