



Council of European Employers  
of the Metal, Engineering and  
Technology-based industries

## **CEEMET Response to the Commission Green Paper – Restructuring and anticipation of change: what lessons from recent experience?**

### ***Introduction***

CEEMET<sup>1</sup> would like to underline that if companies are to maintain and increase their competitiveness it is essential that they are able to adapt quickly to change, including being able to carry out restructuring swiftly when a need for this arises. This is particularly true for companies in the MET sector which compete on a global market. The sectoral Social Partners CEEMET and EMF have jointly concluded in their joint statement to the Commission regarding the Communication on “Industrial Policy for the globalization era”, that companies in the European MET sector must be equipped to meet the challenge of international competition and the need to cope with ever faster technological and organizational changes, and to see these changes as opportunities.

Against the background of the importance of the topic CEEMET welcomes the opportunity given with the Green paper on “Restructuring and anticipation: what lessons from recent experience” to share its views on some of the questions raised in the latter.

The Commission has invited all interested parties to comment on the Green Paper. Considering that the Green Paper to a large extent deals with issues which are of particular importance to and within the remit of the Social Partners, CEEMET would expect that the Commission would give priority to opinions presented by Social Partners where and as appropriate.

In this response CEEMET will comment primarily on issues which are of particular importance for the MET Industry.

### ***1. Introduction: Proactive restructuring for future competitiveness and growth***

CEEMET welcomes the overall positive approach of the Commission as regards the necessity of restructuring and shares the view of the Commission that restructuring is a crucial factor for employment and competitiveness in the European economy. This is particularly true for industry due to it being a sector that is subject to global and not merely national or European competition.

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<sup>1</sup> CEEMET is the European employers’ organisation representing the interests of the metal, engineering and technology-based industries. Its members are national employers’ organisations and federations, representing 200 000 member companies across Europe. The vast majority of them are SMEs, providing over 13 million jobs of direct employment. The Metal Engineering and Technology based industries is the largest industrial sector in Europe in terms of employment and added value. Moreover the industry is one of Europe’s prime exporters with a wide range of engineering services and products, which are at the leading edge of technology.

CEEMET welcomes that the Commission recognizes that the competitiveness of the EU depends on its capacity to foster framework conditions for innovative, fast-growing firms as well as the capacity to retain and further develop a productive base in Europe, which in turn will bolster the service economy.

Restructuring is a key factor in ensuring international competitiveness for European manufacturing companies and demands a framework that will allow for swift restructuring processes not only in situations of crisis such as the one in 2008-2009, but also in business operations in more normal cycles.

Whereas CEEMET welcomes the overall positive approach in the Green Paper, CEEMET would also like to underscore that company restructuring is based on the strategic and economic decisions of an individual company (or group of companies). Such decisions depend on a range of different and interrelated factors. Thus, there can be no single solution to address the restructuring of undertakings.

Naturally, CEEMET shares the view of the Commission that measures which support the reallocation of resources between firms and occupations need to be in place in order to facilitate smooth restructuring processes. These frameworks, such as Active Labour Market Policies and Employment Protection Legislation allowing for flexibility, must however take into account that restructuring needs generally cannot be foreseen in advance, that rules on restructuring must be adapted both to situations such as the crisis of 2008-2009 and to restructuring carried out in normal business operations, the fact that there can be no single solution to address restructuring, and must not place burdens on companies which are competing on a global market.

It should also be noted that an extensive range of legislative and other instruments dealing with restructuring already exists at both EU and Member State level, particularly to safeguard trade union and worker involvement in the decision making process and to ensure employee protection, including employment protection legislation and health and safety legislation. CEEMET is firmly of the opinion that no further such legislation is needed, particularly not on the EU level, as it would have negative effects for the ability of companies to adapt to changes.

For industry there is always a need for adaptability, since companies in this sector are particularly exposed to global competition and are driving technological change. Hence, there will always be a need for companies in industry to have access to legal systems which enable the companies to develop and to carry out restructuring in an efficient and swift manner where and when the need for restructuring appears. This is even more true considering that the wage costs for industry sector companies are higher than for most, if not all, third country companies with which they are competing on a global market.

This means that, among other things, employment protection legislation in many MS needs to be adapted to reflect the needs of businesses of today and allow for more efficient and swift restructuring. Other actions that could and should be taken include ensuring that there are effective national systems for reallocation to new jobs, be they in Industry or in other sectors, within the scope of active labour market policies.

However, costs for reallocation or costs for training for new jobs, i.e. re-training, is not a responsibility of companies and should not be put on companies, but have to be carried by society as a whole. Any other solution would be counterproductive and would not contribute to providing industry sector companies with as level a playing field as possible vis-à-vis third country industry sector companies, that rarely if ever would be burdened with such costs.

## ***2. The lessons from the crisis***

Short-time work schemes can be an important tool during a crisis, as has been seen during the 2008-2009 crisis. However such schemes cannot solve all problems during a crisis. As the schemes are of a temporary nature they are clearly not a solution to problems which are part of the framework in which European companies operate, e.g. overly regulated labour markets or lack of skilled work force.

Indeed, if such short-time work schemes are too open and can be used in situations which may be problematic for the individual company but where industry as a whole is doing “business as usual” they can actually hinder necessary structural change. Thus, short-time working schemes are very useful in situations such as the crisis of 2008-2009 where there is a sudden sharp drop in demand where the reasons for the drop in demand does not emanate from within industry as such, e.g. natural disasters and sudden financial shocks, but not a panacea for persistently weak demand which hardly can be met with any instrument other than structural change. Short-time work and other support systems, e.g. allocated funds, would risk hindering necessary structural change if they were to be used long-term.

It should also be noted that short-time work systems vary to a very large degree from country to country, and that a few MS have no such systems at all. This makes it difficult to draw conclusions concerning good or best practice beyond the basics of how such a system should be designed to produce positive results.

Further studies in the application of best or good practice in the field would be welcomed by CEEMET. The issue of short-time work and other instruments which were used by Member States, companies and social partners during the crisis is an issue that has also been discussed by CEEMET and EMF in their European Sectoral Social Dialogue. One concrete result of those discussions is a toolbox consisting of good practice regarding, for instance, instruments used by the social partners during the crisis of 2008-2009. The Social Dialogue Committee has decided to keep this toolbox up to date and available to members as a valuable knowledge pool of good practice. CEEMET would welcome support in disseminating this and other compilations of good practice identified by the social partners jointly. Such support from the Commission would be a very useful contribution to the existing social dialogue.

## ***3. The competitiveness challenge: The importance of fostering economic and industrial growth***

As noted above CEEMET shares the view of the Commission that it is necessary to have framework conditions which facilitate swift restructuring. In this regard, employment legislation and associated case-law which allows for flexibility and adaptability is of crucial importance. It is also important that

Member States have active labour market policies in place which ensure efficient readjustment processes, without putting burdens on companies which are competing on a global market.

CEEMET sees a need for rules which allows for more flexibility and adaptability, however the existing legislation on this mainly is on the national level. CEEMET is of the view that EU initiatives in the area should not include new legislative efforts but rather support Member States in their work by providing examples of good or best practice, *cf.* the policy advice given in the context of the so called European Semester that certain Member States should deregulate their labour markets.

#### ***4. The challenge of adaptability of business and employability of workers – companies at centre stage of the restructuring process***

CEEMET does not believe that there should be any EU-level initiative concerning an anticipative approach to restructuring as outlined in the Green Paper. The crisis of 2008-2009 clearly demonstrates that not even events of that nature and magnitude can be predicted by companies, Member States or indeed by the EU Institutions. The same can be said of the EURO-crisis. Considering that events of such a magnitude cannot be foreseen even by Member States' governments or the EU which all have considerable resources at their disposal, it hardly seems realistic that companies which compete on a global market where changes in one market could have effects on business operations of the company in other markets would be able to anticipate these effects to a higher degree than what is currently the case. CEEMET is of the view that companies do have strategies to try to anticipate change and that they already do try to take early action, simply because this is good business and no company participating in global competition could survive or prosper without such strategies. That said, there are limits to what can be foreseen in the rapidly changing markets which are a reality for companies today. Thus, trying to formalize such procedures or strategies as regards restructuring needs would, in the view of CEEMET, be futile and even detrimental to the competitiveness of European companies.

In terms of anticipating employment and skills needs in companies, planning tools can at best provide indications of possible future developments.

Against this background it would be more constructive and helpful to focus on creating framework conditions for retaining and further developing a productive base in Europe and thus creating systems which enable swift restructuring rather than focusing on how to foresee events which are to a high degree unforeseeable.

As regards the issue of existing orientations and guidelines on restructuring, it is not entirely clear to CEEMET what this question is in regard to. If it is indeed in regard to the existing orientations and guidelines adopted by the Social Partners, CEEMET wishes to underline that it is up to the Social Partners to decide on whether such an update should take place or not, considering the Treaty-enshrined autonomy of Social Partners. CEEMET, for its part, does not see a need for this as it does not believe that the obstacles to swift restructuring processes are due to a lack of regulation on the matter but rather the opposite. Considering that most of the regulation concerning restructuring exists at the national level, it could also be put into question why the Social Partners should try to regulate the issue at the EU-level. In the view of CEEMET, the Social Partners should focus on identifying good practice and on trying to come to a common understanding of causes and effects of

restructuring, drivers for change and on how to handle change, by way of discussions in sectoral Social Dialogue rather than adopting orientations or guidelines.

As regards dissemination and implementation of lessons from the crisis, CEEMET would like to draw the attention of the Commission to the work that has been carried out by the sectoral social partners within the scope of the on-going European Social Dialogue between EMF-CEEMET. As has been mentioned previously, CEMET and EMF have together with their member organisations made a compilation of examples of good practice concerning tools to handle the crisis. The examples have been compiled in a so called tool box which is intended to be updated continuously. The purpose of this toolbox is that good examples could serve as an inspiration for social partners in other countries. This is one example of how the Commission is already supporting dissemination and implementation of lessons from the crisis by supporting on-going social dialogue at EU-level. This support is much appreciated but could be further strengthened by helping with dissemination of initiatives by the social partners in the social dialogue, for example by helping in setting up and maintaining web pages where the social dialogue committees could publish such information.

### ***5. Creating synergy in the process of industrial change (including questions 5a-e)***

As noted above, CEEMET does not see a need for initiatives concerning strategic long-term approaches to the management of change, as the types of change leading to restructuring is to a large extent not possible to anticipate. In the view of CEEMET, it would be more useful to focus on creating framework conditions suitable for retaining and further strengthening a manufacturing base in Europe.

In terms of anticipating employment and skills needs in companies, planning tools can at best provide indications of possible future developments. More important than planning tools is therefore the ability of education systems to adapt to changes in labour market needs.

In fact, for both competitiveness and employability, it is vital that there is a better match between skills and labour market needs from the very start, in initial vocational education and training as well as higher education and continuous vocational education and training. This requires, above all, a strengthened relationship between schools, universities, training centres and companies in order to facilitate appropriate employment and skills policies and bring the demands and realities of the labour market closer to all levels of education and training (including any training that may be offered during periods of short-time work or restructuring). In addition to strengthened cooperation, the shift towards competence-based approaches (learning outcomes) needs to be further supported as it ultimately will provide a common language between education and the world of work.

Nevertheless, high-quality education and training is of no use if there is little demand. Therefore, this has to be accompanied by lifelong learning – and not only in difficult times. Motivation for, and investment in, continuous education and training is a shared responsibility between industry, individuals, and public authorities. Changing the way European citizens view education and training is a considerable and pressing challenge but incredibly important for companies and employees, not least to successfully meet the changes brought by restructuring. The concept of lifelong learning, however, is not something that should be introduced as an individual enters a company. Rather, it

needs to be taken on already in initial education. CEEMET regrets that this issue is still not addressed in European policies concerning skills, where it really could make a difference.

At European level, many initiatives have nevertheless been rolled out over the past few years to bring the worlds of work and education and training closer together. However, an evaluation of the added value of these tools is still largely lacking. The idea behind, for instance, the European Skills, Competences and Occupations classification (ESCO), as a shared interface between the worlds of employment, education and training is good, but on a European scale we believe that the European Commission is prematurely committing to a titanic and costly task, especially when all elements for making it feasible are not yet in place (including the general use of learning outcomes). Therefore, before further initiatives are introduced, we would recommend as a first step to look at a better coordination between modernised public employment services at European level and at encouraging Member States and all relevant stakeholders in education systems to adopt a learning outcome approach.

As regards the issue of early preparation which the Commission has raised, CEEMET shares the view that it should be possible to carry out restructuring processes swiftly. This is sometimes not possible at present, due to national and EU legislation on information and consultation processes which in certain situations can lead to drawn out processes which can delay restructuring. This is of course not in line with attempts to create framework conditions which facilitate swift restructuring. In the view of CEEMET the Commission should take these problems into consideration in the on-going fitness check of the directive on information and consultation.

As regards the questions raised by the Commission regarding best practice, trust between social partners and what role social dialogue can play, CEEMET would like to make the following comments.

In the view of CEEMET mutual trust and shared diagnosis between employees and management plays an important role in restructuring situations. In this regard it should however be noted that such trust cannot be created by decree or by legal instruments but must be allowed to grow organically. The best way of achieving this is by keeping legislative interventions to a minimum and allowing social partners, at all levels, autonomy to create arrangements which work in practice.

Concerning best practice CEEMET would like to again refer to the joint EMF-CEEMET so called toolbox compilation of good practice which has been mentioned previously in this reply.

CEEMET believes that this toolbox is a good example of useful results of social dialogue on the EU-level. As has been stated before, it is the opinion of CEEMET that Social Partners on the European level should focus on identifying good practice and on trying to come to a common understanding on causes and effects of restructuring, drivers for change and on how to handle change, by way of discussions in sectoral Social Dialogue rather than adopting orientations or guidelines. As mentioned above, the Commission could make further useful contributions on this area by helping with dissemination of results achieved by Social Partners in their social dialogue at the EU-level.

Considering that the social partners already are active in exploring the field of restructuring, CEEMET can see no added value in creating tools for regular evaluation or reporting of restructuring operations. Such a system could also lead to added administrative burdens for companies undergoing restructuring which is the last thing a company needs in such a situation.

Regarding the issue of how to minimize the social impact from restructuring, it must be recognized that the responsibility of companies in this regard is limited in many MS and that the extent of their responsibilities varies greatly between MS as well. In some MS public institutions have the main responsibilities in this regard. In other MS social partners have, by way of collective agreements, set up institutions to handle for example retraining of employees that have been made redundant.

In the view of CEEMET the balance on how responsibilities should be distributed between different stakeholders must be made on the national level, considering that this is closely linked to other parts of social and employment policies which are the responsibility of MS.

The fact that there are such differences between MS means that the room for initiatives on the EU-level is limited, beyond fact finding and identifying good or best practice.

In the Green Paper the Commission states that companies with restructuring needs usually envisage redundancies only after having considered all possible alternative options. That may well be the case. CEEMET would however like to underline that restructuring takes place in individual companies and due to strategic and economic decisions by the management of an individual company. This means that restructuring need not only appear where a particular operation is unprofitable. It may well be that the decision is made due to other strategic reasons. It is also the case that in many MS that company management is free to make its decision on whether to restructure or not and that the reasons behind the decisions cannot be tried by courts. This is said to underline that while it is true that companies usually envisage redundancies only after considering all other options, the final decision is a management decision and no rules should be introduced which limits the rights of management to make these decisions.

As has been mentioned above CEEMET is of the opinion that if Europe is to retain and further develop a manufacturing base in Europe, it needs framework conditions that facilitate swift restructuring processes. In this context legislation on employment protection is of course of significant importance. In the view of many CEEMET-members the employment protection legislation in their countries is too cumbersome or too restrictive and need to be reformed to allow for greater flexibility. Since this legislation is almost entirely on the MS level these reforms need to be carried out on the national level which is the only level where the right balance between flexibility and security can be found, taking into account how these issues are interconnected with national labour market and social policies.

This means that the room for the EU to reform this policy area is limited. However as mentioned above there is other EU Labour Law that is of relevance to restructuring operations and which can cause delays to restructuring processes in certain situations. If the Commission wishes to make a concrete contribution to facilitating swift restructuring, it should take this into account in the on-going fitness check on the directive on information and consultation as well as in possible coming reviews of existing legislation and when proposing possible new acts of legislation which could potentially hinder or delay restructuring operations.