



12TH BIENNIAL

EUROPE WORK EMPLOYMENT

**ANTICIPATION AND PARTICIPATORY CHANGE
MANAGEMENT IN COMPANIES DURING A PERIOD
OF CRISIS AND TECHNOLOGICAL CHANGE**

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RECORD OF THE PROCEEDINGS

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INTRODUCTION

◆ **Georges Dassis**, Chairman of the European Economic and Social Committee, Belgium

When it comes to restructuring, it would appear that there's a preset pattern at European level without any efforts to pull through. No solution will be found in that way. There are officially more than 23 million unemployed. If we wanted to create jobs, we would have to invest, as Mr Juncker tried to do. But that is not sufficient, especially since in reality, such (public or private) investments are not forthcoming. We are told that we have to get young people, who not yet working, in the employment market without fail, for otherwise we will be faced with a "lost generation."

José Manuel *Barroso* had announced triumphantly during the launch of his youth guarantee plan (€5 billion over 3 years) that 500,000 young people would have a job. But there were 5 million young unemployed persons. In the face of such a situation, he replied that he lacked funds to act. If we stay on that rationale, we can conduct studies, discussions, and ascertain anything we want, but we will remain on the observation level. We have to be convinced that other solutions do exist. On that front, we can cite an unfortunate experience: the 35 hours put in place by the Jospin government are going to be repealed in France. This measure was in the right direction, and moreover, metal workers had obtained 32 hours in Germany and 36 hours in Belgium. Now, instead of starting to think things over, not only are the 35 hours repealed but there is even talk of putting senior citizens back to work while trying to enable young people to obtain employment. Problems cannot be solved by slogans, however. It is necessary to think about how we are going to redistribute the volume of work available as well as how to create more.

Creating more jobs admittedly poses the problem of the relationship of the Union with the world's other economic blocs. We need to review the policy on agreements. For example, whereas the agreement with Canada does not represent a danger for us, because it is a country with which we share cultural ties and patterns of economic behaviour, the same is not true with the United States and China. Are we going to accept that the standard of living continues to deteriorate, particularly in regions where the situation is already very poor? In our reflection, we must dare to put forward proposals that fall outside the scope in which we find ourselves for the time being.

◆ **Roger Briesch**, Chairman of the Steering Committee of the 12th Biennial, France

We actually have to change gear. We can speak of "blocs" in international negotiations and regret the weakness of Europe therein. We have CETA and TAFTA, of course, but we do not know what will happen, now that Mr Trump has been elected. In any event, we cannot get rid of the idea that trade must involve frameworks in terms of the economy and industrial and social policies. That said, it is up to Europe to respond and the European Economic and Social Committee has always been committed.

Focused on the role of social stakeholders, the 11th Biennial was also prepared here on 23 January 2014. The aim of the meeting was to gauge better, at European level, the actual situation and changes underway, to discuss the results of actions undertaken to initiate alternative solutions promoting progress, and to restore the confidence of workers in continuing the European venture. The subject is still topical today. In 2014, the discussion was extensive, lively and contentious concerning the causes of the situation and consequently the responses needed. The discussions had focussed on the cost of labour, the virtually listless dialogue which had affected the confidence of workers about the ability to come up with serious responses to the situation, the entire enterprise being accompanied by a lack of clarity and commitment from the Commission concerning the social dialogue.

A In spite of the inevitable pointed differences between the various stakeholders, trade unionists, researchers, and employers' representatives, a broad convergence had emerged on the need to continue the social dialogue in spite – and above all on account – of the difficulties, and on the urgent need for the Union to become more involved. It was reflected in the implementation of an agenda resulting from the participation of the social partners at all levels. Finally, emphasis was laid on the virtual impossibility of getting the social dialogue to move forward with 28 Member States. It would therefore make sense to initiate a discussion on the governance of the Euro zone. The angle of approach is now broader and closer to the concrete realities, thanks to specific case studies (Fnac-Darty, Caterpillar). We shall hone our analysis and try to provide a rough sketch that will take account of already known or foreseeable consequences. We shall broach developments that have occurred and are to come through trade agreements in a European and international context.

CETA lacks clarity and precision. TAFTA is being negotiated. Both elicit our interest and concern, all the more so as they seem to be marked by an unbridled liberalism, leaving deliberately out the underlying aspects of the

European Union, namely competitiveness, cooperation and solidarity, as defined by Jacques Delors. The context is volatile, marked by the election of Mr Trump and the consequences of Brexit, accompanied overall by the rise of populism and sovereigntist temptations in our different countries. The 12th Biennale is an opportunity to relaunch the desire for Europe. That is the aim of this seminar. It comprises three phases. The first (January-September 2016) rests on the choice of qualitative studies on a sample of multinationals in several Member States. The studies will be conducted with management and labour representatives on the basis of 10 questions. Six countries have been particularly targeted in the study: Germany, Romania, Spain, Italy, Belgium and France. The second phase (October 2016-June 2017) will present the works that will be discussed. The third and final phase will comprise the concluding session (October 2017).

Today we will broach the specific problems of the situation in Belgium (restructuring operations, mergers, acquisitions and relocations) and delve into particular case studies.

GENERAL SITUATION IN BELGIUM ON RESTRUCTURING, MERGERS, ACQUISITIONS AND RELOCATIONS

◆ **Paul Soete**, Member of the EESC – Belgian employers' federation VBO-FEB

As a stakeholder during restructuring operations, I would begin by saying that I have experienced a very large number of such operations. I embarked on my career in social affairs in the Belgian steel industry in the 1970s, a passionate period when the ECSC functioned well – particularly with Davignon, who was very active and had an overall sectoral approach. In my view, the 1968 plan was the last we saw at the country level with an overall sectoral approach, which fit perfect in with a European approach aimed at restructuring a key sector of the economy. Afterwards, when I moved to the metallurgy industry (Fabri Métal), I thought that I was through with restructuring, but that was not the case at all. The list is long. That said, new companies were being created in metal processing and in the technology sector. In short, companies were closing and new ones created – which made for a more interesting environment to work in.

“My” first closing was the Dutch company Philips, with 5000 people, in 1989. Brought about by Chinese competition, this disaster affected women workers in particular (assembling). It was the first time such a closing had been seen. Then came Renault in Vilvorde in 1997, followed by the slow and agonising closing of Opel in Antwerp in 2012. Then suddenly, the closing of Ford in Genk in 2012, and now, the extremely traumatising shock of the closing of Caterpillar in September. The lesson to be drawn is that restructuring and closing are two different things. One is an amputation, the other a burial. And yet they are treated at the same level in regulations and often in guidance. But that would be tantamount to confusing the undertaker with a surgeon. When a company like Caterpillar closes, an entire local community stops living. A visit to certain municipalities or towns in Wallonia will show the impact of such a closure. A different line of thought is certainly needed, because a restructuring can mean a new beginning. Companies have managed to bounce back on several occasions.

Various policy initiatives attempted to draft new laws during closures to refocus and intervene according to the forecasts. Such poor regulations are invariably improvised and driven highly by emotions. We never take the time to explore the possibilities overall. The typical example for restructuring and closures in Belgium is the “Renault” law, as it is known. Being familiar with the situation before and after the Renault law (1997), I would say that the support has become a purely legal follow-up, marked by different visits to law firms, whereas greater interest had previously shown to other aspects relating to workers. There is no question here of the need to inform the workers as a matter of priority, but from that to say that there is a criminal violation if a company manager gives a call to someone to tell him the bad news and his concern to discuss the matter, seems exaggerated to me. This law is hypocritical. Because it insinuates that management has to say: “We plan to close,” and must under no circumstances say: “We are going to close.” Now, have you ever seen anyone who said at a works council meeting that he planned to close and did not do so afterwards? There is never any grace when it comes to closing.

The same law applies to restructuring and closing, but in reality, the law is more of a brake during restructuring operations. If it is a closing, it does not matter that the discussions last for a year. Conversely, it is necessary to keep the industrial fabric going during a restructuring operation. This means that we must be able to supply customers and work with subcontractors. We therefore have every interest to keeping the period of discussion short. We are obviously talking about restructuring operations that convey hope, not those where 80% of the business is disposed of, which comes down to a total amputation. It is necessary to change the mechanisms so that these restructuring operations can be carried out within a shorter timeframe. In our country, many regulations concerning collective redundancies, restructuring and closures would have to be recast completely as it were. I am not saying that

the current government can do it, but it should be considered.

According to the OECD, Belgium needs more restrictive regulations on collective redundancy. Be that as it may, that does not give us an advantage in attracting investments. It should moreover be clear that when a site is targeted, solidarity among workers on the international level is quasi non-existent. I did witness as much when Opel was closed, but the Belgian trade unions were quite alone, even for the demonstrations in Amsterdam or Geneva.

Have the regulations on the European works council had any impact on restructuring? I remember a closing of Philips which took place before the directive on the European works council existed, and we feared more the OECD code on multinationals at that time. Everyone knows that all this takes place at the level of the European works council and in general, at least in Belgium, it is informed after the Belgian works council. It is a sort of compulsory exercise, in fact. I am not saying that the European works council is useless, but as regards restructuring, it has certainly not had any positive effects on the mechanism. For the rest, I think that it is a good tool for exchanging information and for having an overall view.

When the restructuring operation concerns production sites such as Caterpillar, we tend to proceed more and more with the “sniper’s principle.” A group is in the crosshairs, and that is the one that will exit in the end. We do not share the misery. The object has been thrown out completely. It is a more economic method, in fact. At Caterpillar, they were already saving 7% by removing the site in question. And on these considerations of principles, it is the difference in culture that comes into play. There is a very wide gap between the Anglo-American model, where the principle is used in the crudest way possible, and the Rhineland model, where the process is far slower. Although the method is not participatory either, it does have the advantage of a dialogue. For example, it would be surprising for a Chinese or American official to come and say that he intends to close a site, before announcing that he would not plan to do so before six months.¹ This difference is considerable.

◆ **Anne Demelenne**, former General Secretary of the FGTB, Belgium

A closure or restructuring is always a social disaster. Turnkey redundancies are always accompanied by a lot of suffering. There is little more hope in the case of a restructuring, but the positive examples on the matter are limited. Fortunately, a great deal of solidarity among workers emerges in these situations. If we take the case of Caterpillar, we can think of the demonstration held after the closure was announced, with the FGTB and the CGT in Grenoble. The workers have understood that globalisation of solidarity is needed to respond to the globalisation of the economy.

Industry and steelmaking have been hard hit, but service sectors also use this restructuring process, even in cases where they are making profits. There was talk of cutting 3,100 jobs at ING last month. Yet this bank made a profit of €1.1 billion in 2015. This means that restructuring and closure are applied not only because of economic difficulties or stock exchange strategies, but also when profits are made. It is a major, albeit not a new, problem.

In Belgium, the series of legal provisions that govern the closing and restructuring process could stand improvement. Furthermore, there are regulations on collective redundancies, which require consultation to avoid and limit redundancies, maintain social support, and have negotiations to compensate workers more, as well as measures that are added to the legal notices. Then there is the Renault law, which adds a supplementary element by opening an information and consultation procedure with an average period of 60 days after the announcement. This period should be sufficiently long to obtain all useful data to determine whether all the solutions have been sought. Where is the problem? The legislator has certainly done everything to leave time to examine the various avenues, and yet, that spirit no longer exists once the process is in progress – as if it were never but a procedure to follow in order to avoid a penalty (60 days of pay more for each worker).

We can cite certain attempts on the political landscape, particularly that of Mr. Peeters, Belgian minister for employment, who wants to include the matter of workers under fixed term contract and that of subcontractors. An initial improvement would be to introduce a procedure for sounding the alarm among workers’ representatives, well in advance before the problems arise, when there are disconcerting economic and financial signs – if necessary at the company’s general meeting of shareholders. Often, things that prove that a company is malfunctioning are all too evident to the workers on the shop floor, and that is why they have an essential role in avoiding a disaster. Another possible improvement: a counter expertise for workers’ representatives, paid for by the company. In fact, this is a responsibility incumbent upon the employer. Furthermore, the Renault law should be extended to companies with fewer than 20 workers, because a distinction is drawn according to company size in Belgium, and we know that the number of SMEs concerned by this type of process is increasing.

¹ In September 2016, the CEO of Caterpillar, Doug Oberhelman, announced the imminent closure of the Charleoi site in a few seconds, in English, without answering any questions.

Above all, we must never lose sight of the improvement of social protection. Workers made redundant may be covered for a certain period, but the employment situation is so critical that they will not necessarily find another job rapidly. Furthermore, social protection is coming under increasing attack, in particular by the structural reforms recommended by Europe and the Commission. Moreover, the EESC is working on a proposal for a European pillar of social rights.

Finally, the avenues to be pursued at the legislative level include the continuation of activities and recovery or compensation of government aids, for example, by proceeding to a precautionary seizure of materials, equipment and stocks. This type of action should be simplified, for it can facilitate a significant economic transition. Beyond this argument, there is also a question of justice. When we consider all the public aids that are allocated to foster investment, the least we could do was to transform them into mortgages and have a right to land and facilities.

The penalties should be far more severe on companies that make profits but restructure so that the price of their shares goes up when they cut their workforce substantially.

Let us take the socio-economic situation in Belgium into account from the perspective of taxation or investments. The current context is not conducive to maintaining companies or employment in fact.

◆ **Benoît Constant**, Coordinator of the redeployment unit - ACV-CSC, Belgium

As the coordinator of the redeployment units for the CSC, whose operation covers a public partnership with trade unions and the employment services in Wallonia (FOREM), I have a field vision of redeployments and redundancies. A bankruptcy, restructuring or closing means above all loss of jobs, but is also a loss of social network, a loss of reference points of an entire series of things established on the day-to-day level. The first step taken in the redeployment unit is to mourn the loss of jobs, which can take a great deal of time. There are faces behind restructuring operations and their figures -- at times, entire neighbourhoods, entire municipalities, families, several generations, if we consider major structures such as Arcelor (Liège) or Caterpillar (Charleroi). In 2015, 25,339 jobs were lost in Belgium, and if we add the collective redundancies due to restructuring operations, we come to at least 30,000 jobs. There are 5 times more bankruptcies than real redeployments. A substantial number of bankruptcies and restructuring operations are taken in charge. In 2015, we attended to 5,937 workers in Wallonia out of 8,800 made redundant, i.e. two thirds of those who lost their job, and another third of the workers did not go through our services, i.e. workers made redundant from very small companies. We have moreover noted that collective redundancies are up substantially in this type of very small structures.

Taking the entire group attended to in the redeployment units, and removing people who are on unemployment benefit with a company supplement, which we call early retirement, we arrive at a redeployment rate of more than 60%. But at the present time, there are 16 cases under examination for a group of about 3,000 workers. If we take into account all the announcements made for the time being and the repercussions on subcontractors, we arrive at a figure of 3000 to 9000 jobs lost, depending on the source, not counting the announcements of the last three months, i.e. since September. Put another way, the peak of the announcement is going up, at least in Wallonia, and that is bound to concern all of Belgium -- not only Caterpillar, but also the banking and insurance sector. The fact remains that Caterpillar represents the finishing blow for the region in terms of social and economic damage.

I intervene once the negotiations are finished, after the collective labour agreements are signed. In fact, the periods following the decision are regularly extended and often because of a certain misconception of the Renault law, either on the part of law firms, or of the companies themselves. In fact, we cannot be sufficiently armed: because these are issues we do not want to see surface, and also because the decisions are taken elsewhere, outside Belgium, and the knowledge of the legislation is often approximate. This misconception which extends the information period means that there is a certain transparency among the various partners around the table, or a collaborative dimension which is rarely optimal.

Most companies that close today continue to make profits. It is one of the difficult dimensions to understand for workers who lose their job. Solidarity has been activated here each time in a European and transnational manner into a common front. The workers have thus assumed this supranational dimension, whether European or transatlantic (Caterpillar).

The changes of the unemployment system with company supplement entail a more active job seeking control for workers have a long career behind them. Consequently, even if early retirement has been negotiated, workers will

be less and less interested in that system. Contrary to what has happened during a series of conflicts at the end of which more or less positive solutions could be found with this company supplement, doing the same thing in future will be complicated, simply because the workers will not buy into that type of solution. They know that they will have to continue looking only to find less well-paying jobs in the end, where their experience is not always valued.

An increase in redundancies in small companies affects all the regions. Contrary to previous periods, not only regions that have suffered major losses with emblematic cases are affected, but all the other regions also, and the number of workers supported is increasing everywhere. All the sectors are concerned. Even those which did not appear clearly in the past now call on our services in the redeployment units, in particular in the non-market sector, which nonetheless makes perfect sense on the social front.

Companies that have gone through a restructuring are surfacing on a regular basis, and the story ends with a bankruptcy or a closure, even though a restructuring had already taken place (example: the first restructuring at Caterpillar was announced in 2013, followed by a second one and now closure). This is the case of several small structures. In certain cases, companies that had changed name after a bankruptcy, are reconstructed. The managers and the workers are pretty much the same, but their ranks are thinned each time, so that bankruptcy is used as a sort of business plan.

In terms of anticipation, we are working on a large trade union component in the redeployment units. This entails the social dialogue in the company and all the tools that can already be in the service of workers, such as financial analysis, but also the determination to train trade union “professionals” in our organisation so that the anticipation of restructuring operations becomes a reflex in the field. Unfortunately, most are without a certificate. Individual paths must be secured so that these workers can continue to train in their sectors and be at the cutting edge, and eventually that they be trained in other sectors. It is necessary to do everything so that they can hone their skills, whether inside or outside the company.

Here, we shall probably attend to more workers in the next 12 months than in the last 18 months. I am concerned about the way we are going to help these people to find a job, bearing in mind that the regions are at times in difficulties in terms of job offers. This is the unknown element that weighs the heaviest on workers.

◆ **Olivier Valentin**, National Secretary of the CGSLB, Belgium

A restructuring is first of all a trial that affects directly any of the workers concerned, irrespective of the primary reason of management or the size of the company. ING makes fine profits, and its concern behind this restructuring is to increase them. At Caterpillar, even if the workers made efforts to boost their productivity and flexibility, nothing could secure the site's survival.

The economy is particularly open in Belgium and companies come and go relatively easily. Unlike other countries of a similar size, there are few companies whose decision-making centres are established on the territory. We are often the most productive and most flexible, contrary to what the Belgian government is trying to make us believe, but according to the “sniper's theory,” when it comes to getting rid of a company entirely in Belgium, the process is all too easy, particularly because most of the time, the decision is taken at the level of the multinational.

What instruments does Belgium have to manage restructuring operations? Our strong social consultation is a major asset for anticipation purposes. It enables us to determine changes that the sector goes through and the elements that the social partners can develop to address these changes. For example, the fund of the auxiliary joint committee for clerical employees which covers about 400,000 workers in Belgium has already proceeded to an anticipation study on the training needs in connection with the digitisation of the economy. We also have a large quantity of European regulations on information and consultation of workers, which are implemented by quite strict Belgian regulations. They define the information that has to be provided by companies. Unfortunately, it is often ex-post information. Similarly, the strategic information shared in our Belgian system is too limited. Today, in the works council, we are delving into the current state of the company, but do not ask where it is headed.

Thanks to the experts in our various trade unions, we are able to anticipate the future of the company to a small degree. Why not call on experts? To appreciate their utility, it suffices to look at the French system, which has real expert firm, such as Syndex. Even though these firms are from the outside, they are financed by the company itself.

In Belgium, the Renault law was adopted because the CEO *Louis Schweitzer* had announced the closure of the plant in a particularly brutal manner. Collective agreement number 24, concluded in the National Labour Council by

the inter-professional social partners, existed at the time, and it still does. It provided that management would announce its intention to restructure, so this element did not come into being with the Renault law. Nevertheless, the Renault law added criminal penalties in order to achieve the aim of the agreement, which was to reduce the disastrous effects of restructuring. In the end, rather than lead to prosecutions, we note a far stronger intervention by law firms in the restructuring process. We may deplore this trend, because we are focused less on seeking solutions than on compliance with the regulations.

The treatment of small and medium-sized companies is neglected in the Belgian system. The process is supervised when dealing with the restructuring of a large company, of course, although it remains questionable when it comes to subcontractors, stakeholders who deal almost directly and exclusively with the large company. With Caterpillar, we tried to arrive at an overall discussion, to involve not only the company but all the workers who were part of the outsourcing. We believe that the company has a responsibility to them.

The digitisation of the economy will be accompanied by the disappearance or transformation of 50% to 60% of jobs in Belgium. Such a disappearance, and the creation of jobs, will entail enormous changes in how the work is performed. Our role as social partners is to know how the social dialogue could contribute to meeting these challenges through the analysis of information and training, the aim being to enable workers to adapt optimally to this revolution.

GENERAL DISCUSSION

◆ **Jean-Cyril Spinetta**, President of Lasaire, France

Is there a great difference between Flanders and Wallonia?

◆ **Anne Demelenne**

Federal legislation applies to all workers with regard to the Renault law and collective labour agreement 24. Only Wallonia is concerned when it comes to the redeployment cells however. As such, there is a difference in treatment.

◆ **A participant**

Redeployment in a territory requires the intervention of a large set of stakeholders. Is there any training for them? Do you have mechanisms in Belgium, as in France, to help with redeployment, with public aid or financing from large companies?

◆ **A participant**

First, we must be sure as to what we mean by the term "territory." In Belgium, that would be essentially the regions, in my view. We have committees in each of the regions that provide a socio-economic analysis. They also know the strengths and weaknesses compared to a whole. At that level, we may consider that all the social partners engage in anticipation.

◆ **A participant**

We see that the anticipation of redeployments has moved centre stage in various trade unions. In any event, many training initiatives at the CSC level are driven by trade unions, to which is added a determination to create a more global, inter-professional training.

The major players who have a contact with the workers, i.e. those permanent representatives, have already received training on these questions. And we continue to train trade union officials in companies, whether they be union delegates or workers who take part in works councils and intervene in the different negotiation and consultation places.

◆ **A participant**

The trade unions seem to have realised the importance of internal expertise in organisations, as well as that of the representatives in the field. It enables them to stay on the same level in talks with a company negotiator. That is not new: The three Belgian trade unions have always stressed the need to have extremely well trained representatives and very advanced support services.

◆ **A participant**

Strategic information is evidently not shared. How can this information be obtained by trade unions? At what level can that be done? In the European works council or a lower level? And then, digitisation is expected to impact 60% of the jobs. That is a very high figure that deserves clarifications.

◆ **Olivier Valentin**

The figures in question arise from analyses carried out by the various stakeholders, in particular the centres of studies of the trade union confederation. Christophe Degryse's brochure on the globalisation of the economy teaches us that between 50% and 60% of jobs will be impacted in all European countries. This will entail the disappearance of some jobs and the creation of others, as well as other ways of working.²

How do we plan to share strategic information? Either at local level or at the European works council. Most probably at local level first, but unfortunately company managers may not have this strategic information. In any event, mutual trust and confidence are important, because those faced with a crisis situation can then think over overcoming it collectively through the social dialogue.

◆ **A participant**

The strategic information should ideally be at the level of the European works council, for two reasons. First, the local works council often does not have these elements. The proof: you can find a local employer who reports productivity gains and ignores strategy. Second, my experience has shown that European works councils are less adversarial than local works council. At the end of the day, a discussion with a trade union delegation, which by definition tends to be adversarial, and that in a works council are virtually identical, as if we did not mix the two systematically.

If we could disclose strategic information at the level in which we inform and react, we would rely on solid information. It would avoid dealing excessively with trifles, which pertain more to small squabbles between managers.

◆ **Anne Demelenne**

The State has a regulating role to play if we wish to re-calibrate this wild capitalism that is heaving all sorts of damage on the economic and social front. A state needs resources in order to function. To anticipate these disasters, it is necessary to build on investment in research, innovation and training. Naturally, it is also necessary to provide quality social protection, particularly to workers who are left out.

When we speak of the disappearance of a certain number of jobs, why not consider an appropriate taxation? In other words, when we speak of the digitisation challenge, why not consider the means and resources we could give to the State, particularly through a tax on robotisation?

FNAC-DARTY RESTRUCTURING/MERGER CASE STUDY

◆ **Christian Dellacherie**, Economic expert at Lasaire, France

I am conducting this analysis from a rather Franco-French perspective. Fnac and Darty are both strongly routed in France, although they have a strong presence in the Benelux and the Iberian peninsula. The two brands have just gone through a long period of crisis, which is reflected by a slew of social plans. This is the case of all specialised department stores affected on different fronts by the development of e-commerce. When it comes to cultural

² Cf. on www.etui.org the study of February 2016 available for free downloading.

products, the first victims are music sellers, the most emblematic example of which is Virgin, a global giant pushed into bankruptcy because of lack of anticipation and insufficient investment.

In the United States, Amazon has spearheaded e-commerce since 1995. The website Fnac.com, which was launched in 1999, remains a powerful platform. Darty.com was created the same year. According to the sociology researcher Vincent Chabault³, buying on the Internet would not explain in and of itself the decline of the model of those retailers that held sway in the 1980s. New modes of ownership engendered by the web should be reviewed in particular for cultural goods. In November 2003 Amazon launched a “marketplace” geared to professional sellers and private individuals. A reader-consumer then emerged who turned into an amateur book seller to sell part of his library. Amazon.com lost money for a long time on each book sold because of its sizeable investments to expand and to secure the complete bibliographical description and digitisation of every document put up for sale, thereby establishing a global virtual store. Jeff Bezos, its founder, stemming from financial circles in Wall Street, embarked on his adventure in 1994 because he foresaw the potential of Internet marketing. He opted for books as a point of entry because they are easy to ship and difficult to break. Today, he uses information on customers that he has acquired through the sale of books to market a wide range of products. Amazon made a profit for the first time only in 2004, i.e. the year when equipment sales exceeded sales of cultural products.

In 2005, Amazon launched its French electronics section (LCD TV sets, etc.), then in 2006 a line of web services based on a cloud computing platform. For Fnac and for Darty, this competition from *pure players* suggested, well before the purchase offer of 2015, the adoption of an omni-channel strategy in the store and sales online (clicks and mortar), offering the collection of an object on line from the store (click and collect). These signs have the advantage of strong name recognition and a large territorial coverage thanks to their network of stores that they are actively trying to expand through franchising. The competition remains very keen and it is not limited to Amazon and its emulators: “all the retail players are competing with us,” Alexandre Bompard, CEO of Fnac repeats endlessly: “Carrefour with Rueducommerce, Casino with Cdiscount, Auchan with Boulanger and Cultura, Leclerc with its cultural spaces.” Accordingly, Fnac management considers that the “exit from the crisis,” heralded by positive results after several years, remains fragile. Whereas this corresponds to an economic reality, it is perhaps also an argument that the time is ill chosen to ask for things which would not be considered reasonable.

The acquisition of Darty has given rise to a bidding war, leading to an overvaluation of the share, given Darty’s liabilities (negative equity and debt). The cost of acquisition is some 100 times Darty’s results in 2014/2015. Doesn’t this risk weighing down the profitability of the operation? The management of Fnac considers that, even if it would have preferred to avoid this episode, it did not go beyond what is reasonable. By way of proof (or as an indicator), it points out that the share has gone up by 30% since, thereby perhaps attesting also to the hope of the markets in restructuring.

This overbidding was the result of a struggle between Fnac and Conforama. We can continue to question the objectives of the South African group Steinhoff International, which counts Conforama as a subsidiary after the latter was sold in 2011 by the PPR group, to which Fnac belonged at another time. In any event, the American giant does not appear as a direct global competitor for Conforama, because it is not very positioned on furniture and seems to have decided not to establish a foothold on the sector of large household appliances. Furthermore, after – and undoubtedly in response to – the Darty episode, Conforama entered into a partnership with Casino for its purchases in France and the abroad. The two distributors have thus created a central purchasing organisation christened “SICA” (Steinhoff International Casino) to manage jointly a volume of purchase exceeding €1 billion, concerning Conforama France and all the companies of the Casino group that distribute household appliances, including Cdiscount, which is a direct competitor of Fnac and Darty.

The inflation in the price of the Darty share forced Fnac to resort to debt and undoubtedly induced the simultaneous arrival of a new shareholder (Vivendi). Is this an “ordinary” financial operation? Vincent Bolloré, the boss of Vivendi, aspires to be the new cultural agitator the “*standard bearer of European culture in the face of American entertainment and Asian abstruseness*”⁴ with, in addition, a target for the longer term, the African continent where his industrial group has been a long-time investor. For the management of Fnac, such a partnership seems capable of falling in line with a drive to enhance its global positioning and to broaden its mix of products by combining a publisher of contents and a distributor. Nevertheless, the current behaviour of Vincent Bolloré on Canal+ and on I-télé does not seem to presage a deliberate and bold vision from a specialist of financial coups.

³ Author of *La Fnac, entre commerce et culture*, Presses universitaires de France, 2010.

⁴ « *Vivendi: la stratégie de Vincent Bolloré en question* », Le Monde Economie § Entreprise, 18 November 2016

The strategic inspiration of Fnac appears to be, if not guided, at least very influenced by the “example” of Amazon which has constantly shown knack for innovation and a capacity for global innovation. With its platform Kindle Direct Publishing, Amazon has enabled young writers to publish their novels online in the form of e-books, often after being refused by publishers several times, and thus to reach millions of readers and get 70% of the selling price, compared with the “30% maximum” paid by a conventional publisher. Amazon, already n° 1 in the distribution of digital books, wants to control the production thereof. It strengthens its publishing capacity in Europe to “gain greater control over the entire chain” by feeding the offer for its Kindle reader, launched in 2007.

The pressure that Amazon exerts on prices and therefore on publishers could even cause the publication of physical books to decline while digital books expand. In such a case, Amazon would have the means and resources to promote a selection of books thanks to discussion groups and computer algorithms, rather than on the judgement of publishers, then bookselling professionals, on the literary value and quality of the contents. Amazon’s rationale is different from that shared by publishing bosses, far removed from the idea that European tradition has of the world of books, far removed from that of expert of the first generation of expert sellers working at the Fnac.

“If you do the same thing as Amazon, you have every reason to lose,” Régis Schultz, former general manager of Darty said in 2016. But Fnac obviously tries tirelessly to do the same thing as the American giant, as with the subscription model initiated by Amazon in 2005, with which subscribers no longer pay any shipping and handling charges for their orders. Result: premium Amazon subscribers in the United States spend more (\$1100 on average per year, compared with \$600 by standard customers), and are increasingly more numerous (54 million in the US at the end of 2015, 63 million at the end of June 2016, or more than one out of two American households).

This naturally leads to an increase of deliveries and a reduction of the margin. As is the case in ordinary food and non-food retail, Amazon’s real business is absolutely not to sell products, but to capitalise on the money spent by its customers. Thanks to the enormous volume of sales, the inventory is renewed every 20 days (bearing in mind that the standard terms for paying the supplier are around 45 days), so Amazon is sitting on a lot of money that it can make grow. Should the others copy it or is something else needed in a different cultural universe? The same question arises concerning local management methods, digital “policing” methods and often inhuman working conditions, particularly in Amazon warehouses.

The omni-channel strategy that has enabled the two brands Fnac and Darty to resist does not constitute all-risk insurance. It was moreover rumoured very recently that Amazon was going to sell food products in a revolution manner; but they say also at times that they will deliver with drones, so it suggest that it is more a communication effect than real anticipation.

The merger of Fnac and Darty will make it possible to boost the purchasing power of the new company. Can it become the basis for redefining strategy by relying on a synergy between the two brands? Fnac retains a strong image based on its cultural capital which enables it to continue to create and support events; ditto for Darty, from the quality and renown of its after-sales service. The new group will perhaps aspire to capitalise on the digital revolution to give new impetus to those images by updating them. A double process has already been launched by the management of Fnac. First, 12 workgroups are to be established, composed of 6 to 20 persons equally divided between the two brands, corresponding to 12 key areas (logistics, services, commerce, internet, franchise, etc.). Then, there is to be a draft agreement on a method to create an ad hoc body at group level (trade union coordination committee), where management proposes to receive information on the plan to merge the headquarters gradually as defined. It moreover proposes that if successful, this innovative approach to the social dialogue should be deployed in the group. This proposal has already come under fundamental criticism because it questions the principle of the trade union’s negotiating monopoly.

The proposal of management defines the schedules of the different stages concerning the coordination committee and the consultations of the works councils and the committees on hygiene, safety and working conditions of the two brands. The coordination and consultation process should last until 15 June 2017. Putting synergies in place is a large-scale process that will be carried out by the 12 workgroups, but nothing has yet filtered through. Now, essential aspects of proposals made about the tasks of the coordination committee and their schedule seem delicate in the absence of this information, which has already elicited reactions from the trade unions.

Fnac has announced savings of ca. €130 million, probably by reducing the workforce in “support positions” (administrative, IT, and logistics). The trade unions are talking about 250 to 500 jobs cut. The simple reduction of costs cannot constitute an efficient strategic vision, especially in the case of extensive debt. Many economists think that the size race makes sense only if profitability is obtained and if the corporate project is shared massively by the

employees. In the end, you might wonder whether the Fnac Darty merger is a strategic operation, properly speaking, or a vagary in the race for size in the face of the American giant Amazon.

Anticipating by sharing strategic information is virtually impossible in a case such as this. The sharing of information is overall low, and strategic information is nearly nil. Making a strategic prospecting effort by involving all the partners will be the only way to tackle the competition situation and the digital revolution.

◆ **Iannis Beaubois**, CGT central delegate of Darty Grand Ouest, France

In 2013, at Darty, the fixer who assumed the reins of management immediately decided to reduce the number of subsidiaries and restructure the company according to a particular methodology. It is estimated that the company deliberately started by focusing on the social plan on the parent subsidiary. Thus, having obtained an initial agreement on the negotiated social plan, it was able to implement it in other subsidiaries, on the pretext that there should be no departure from the initial social plan under any circumstances.

Today, we have the impression that this unfair rationale persists. The agreement on the social consultation committee signed last Monday merely builds on the reorganisation measures announced, mainly the transfer and merger of the two brands, Darty and Fnac. This committee was put in place on a very restricted scope which concerns less than 10% of the group's employees, but takes basic measures that risk being implemented for restructuring operations to come. We can imagine that other subsidiaries will wind up being concerned.

This strategy raises questions, particularly that these agreements are proposed in the subsidiaries where the trade unions can bring their weight to bear to a lesser degree. In the end, the social impact on the workers is catastrophic. Since the social consultation committees in question have been created on the basis of recently adopted laws (Rebsamen law, El Khomri law), we may dread that this type of financial beneficial process for the groups may extend further.

◆ **Mohamed Akkar**, CGSLB delegate of Vandendorre, Belgium

Vandendorre, a company where I have been working for some twenty years, is in very good health, but some months ago, we were taken over by Fnac-Darty. No information filtered through the works council, although there is a work group. People are worried, because we have a logistics centre, a telephone centre, a delivery centre, an accounts centre and an IT centre. What we fear about the acquisition of Fnac is a merger. The only information we are given in the works council is as follows: "You will be informed in due course." People are tense, all the more so as it is a company that generates a turnover of more than 10 million after taxes. When we see the price at which Fnac acquired Darty, we imagine that a social drama could hit Belgium and the Netherlands.

◆ **Boris Lacharme**, CGT central delegate of Fnac Paris, France

The conference title contains the words "crisis and reorganisation." But is the crisis shared by everyone? Let us take the example of Fnac. Alexandre Bompard, a very powerful CEO, and a group of executives, are dipping freely in the company's profits for their personal enrichment, as underscored by Apex in its report.

Fnac has been drawing up social plans for its many companies virtually every year since 2005. To be sure, commerce is changing, digitisation is advancing, consumer habits are emerging, but beyond these parameters there is a financial structure of the Fnac group which serves certain personal interests. The acquisition of Fnac Darty triggered a stock exchange war (as they call it in their press releases) with Conforama. The acquisition price was fixed at 760 million. It has gone up to 1.2 billion.

When the acquisition price was 760 million, there was talk of synergies to the tune of 68 million. The synergies correspond to the savings plans to be implemented. Fnac now says that 50% of these savings will be made by grouping purchases. Thus, 50% of 68 million is the wage bill, the reorganisation, and job losses. Except that the acquisition price is no longer 670 million, but 1.2 billion. Put another way, without strategy, the synergies that amounted to 68 million are now up to 136 million. Fifty percent of these 136 million are to be made from the reorganisation. We are told that in order to make 50% of these 136 million, we will proceed to grouped purchases, but in reality, this will be done through the reorganisation of various sites. It will be useless to have buyers at Darty and others at Fnac to buy the same computer that will be sold in both companies. Consequently, positions such as payroll administrators could be the first to go. We are talking about 250 to 500 jobs.

The new laws adopted, in particular the El Khomri law, created a sort of ad hoc commission that brings

together trade unions that are vested with powers to negotiate. These negotiations are carried out without knowing how many jobs will be affected, what the targets are and what the future of workers will be. And today, some trade unions are signing. In fact, the case of Fnac is quite symptomatic of the trade union situation in France. Two fronts face each other: CGT - FO Sud, the two most assertive organisations, which consider that the social attainments must not be lost and tend to be rather firm on the social gains; and then a CFDT - CFTC – CGC front which constantly signs whatever management proposes. A legal battle is going to take place. It is a choice, but we must also wonder, particularly about the trade unions and their role in defending the individual and collective rights of workers.

Savings plans have already been drawn up but they must be put in relation with the remuneration of executives. Alexandre Bompard is one of the best paid CEOs in France, particularly with regard to the value of Fnac in terms of stock exchange capitalisation, because it is not listed on the CAC 40, and yet Mr Bompard is paid as much, if not more, than certain CEOs of companies such as Renault. He gets an annual salary of 9 to 11 million, or ca. €38,000 per day. He earns more in one day than half of the employees in his group do in a year. One of the possible solutions to limit reorganisations would be to limit the salaries of senior executives. When we look at the savings plans and the annual variable remunerations, the LTI schemes (introduced in 2014), we realise that what social plans cost nowadays are paid to a few executives (3 million in 2014, 30 million last year). Moreover, they weigh heavily on the accounts, because without a strategy, these 30 million must be provisioned.

When I was talking about the title and the word “crisis,” the idea was to say that certain reorganisations could be avoided once the remuneration of executives was limited.

◆ **Yves Flamand**, Deputy secretary - SETCa BHV, Belgium

Officially, little information is filtering through. Unofficially, we can reconcile several types of information. We know that management meets every week and discusses to foresee mergers in the back offices, logistics and accounts. The official position is to say: “Move on there is nothing to see, we are still in the discussion phase.” We wonder whether there are preliminary discussions. During my exchanges with management, I was told not to worry because they wanted to retain the identity of each of the groups. Since I knew the shopping centre in question, where Fnac is situated above and Vandendorre below, I asked whether each would stay in place. Apparently, that was a disturbing question, because there plans to have Vandendorre, thus Darty, move up to join Fnac. How can you keep your identity when you occupy the same place? Management replied laconically to all these questions, in particular for a pragmatic reason: during the holiday period, a labour dispute would be highly problematic.

But the rapprochement has already materialised. It is not merely theory. We know that certain products were bought by Fnac for Vandendorre. A product bought in France by Fnac is thus sent to the Fnac warehouse, which then forwards it to the warehouse of Vandendorre, which sends it to the shop. There are only a few references for the time being. We will keep an eye on developments, but if such groups meet, both for the back office and for certain shops, we would expect a number of unfortunately quite sizeable job losses.

◆ **Guy Raulin**, former trade union delegate of Caterpillar, Belgium

I worked at Caterpillar for forty years. I took part in the local and European works council. The information I will give you is that which I was able to obtain inside the company.

Caterpillar, the world leader in civil engineering machinery, is a multinational that aspires to conquer the world. Established in Europe since 1965, it provided 5,000 jobs in Belgium; 3,000 jobs in Grenoble, France; and then slightly fewer in Germany, Italy and other countries, as well as Spain, Hungary, the Netherlands and Poland. The country with the most workers is the United Kingdom, with small Caterpillar companies disseminated throughout its territories. Gosselies is the largest industrial site outside the United States. All these companies have their parent company in Switzerland. What do we do with all the strategic decisions concerning Europe when they are taken in Switzerland? Even the marketing is carried out in Switzerland. Put another way, once finished, the machines we made were sold to the parent company.

In brief, the disaster of Caterpillar Belgium began in 2001. That year, we were told in the works council, that “Europe was the most critical battle field in the war of global competition.” The “core business” was in vogue at the time. To apply it, a company had to focus on its main activity and get rid of all the rest. The IT department was put elsewhere, ditto for the purchasing department, and gradually the company was denuded.

Stocks are a nuisance under such a rationale. It was decided to sell our stocks to Switzerland – quite a banal

decision, all things considered. The turnover of Gosselies dropped precipitously in 2001, from 1.1 billion to 300 million. The procedure is simple: a letter was sent to all suppliers telling them to continue to send their raw materials in Gosselies, but send the invoice to Switzerland, and no longer to Gosselies. With this service contract, we were reimbursed our expenses, and nothing more. The same thing was going on at Grenoble at the time.

Can we anticipate anything? The press conferences, the alerts sent to the staff through tracts, changed nothing. I would like to insist on the importance of the right of warning that exists in France and makes it possible to turn to the political world, but also on the expertise firms such as Syndex, which are in the service of the local delegations but paid by the company. This type of organisation is sorely lacking in Belgium.

In 2010 the group started investing heavily in Asia, particularly in China, because the mass had been said: the parent company stated that the first company to reach China would be the one that would bolster its place as world leader in the sector. Europe was no longer the strategic field... China was. An initial restructuring operation in 2013 provided for scrapping 1,400 jobs. What did the political world decide at the time? A specialised firm, Roland Berger, was brought in. It conducted a massive study and then told us that the Caterpillar plan seemed relevant and coherent. It was difficult to react, given the discourse of designated experts. Management had just invested 150 million that had borne fruit, so it showed to all that it intended to keep the company alive. And yet, in 2016, they decided to close it.

Information drip in day by day. Can we take part in the running of a multinational? I am not very convinced. The supplier who works with Caterpillar thinks that it will meet the AFNOR standards, the international standards, but in reality, it is the company's specifications that count. The rules established in the different continents are of little importance for the world leader. In Wallonia, where the political world had mounted a Marshall play to try and get certain sectors to cooperate with the companies, Caterpillar refused to join in. Caterpillar is "against the Marshall plan," used to say Paul Magnette, Minister President of Wallonia. With CETA and TTP, we fall under that rationale, where multinationals are above the laws of the countries and the standards.

Since 2011, we see that certain things are going merrily through Bermuda, and Delaware. Why do you think? Another key to understanding: the turnover of the multinational. As of 2003-2004, the curve went vertical. They embarked on buying at every turn, practically every year. Then came the shock of 2009, the crisis, everything seemed to be picking up, and then came the disaster as of 2012, 2013, 2014. The forecasts for 2016 are even worse. Caterpillar shows us that we go beyond the boundaries of an ideology to enter a sort of madness. Ten years ago, the group decided proudly that it would never pay fewer dividends. We have arrived at an idiotic rationale, all the more so as profits are apparently not going up. How can we manage? We have 200,000 people, so the plan for reducing the scope would be to cut them to 100,000. Let us bear in mind that there are people behind the graphs.

The turnover generated outside the United States has gone up again since 2011, because the American multinationals decided to reappropriate production by bringing it back inside the country. It's the type of question to ask if we want to go beyond our European point of view. To conclude, I affirm in turn that the core business model emptied a lot of activities by outsourcing them, and workers should have logically been involved in the negotiations, in case of a closure.

GENERAL DISCUSSION

◆ **Udo Rehfeldt**, Researcher at IRES, France

The European directive on takeover bids dating from 2004 is very favourable to mergers. On the one hand, it gives a great deal of power to companies that embark on mergers, and on the other a simple right to information and consultation for the targeted companies. The NRE law on new economic regulations was passed in France in 2001, then a law on the transposition of the directive in 2006, followed by the Florange law in 2014. These laws clearly confer higher rights to those of the European directive, not only for the workers' representatives in the company or the company targeted by a takeover bid, but also for representatives of the company that launches the takeover bid. What is the use of this legislation, in the view of the French trade union representatives present here? Has it served in the process of this takeover bid by Fnac for Darty?

◆ **Audrey Hiver**, APEX, France

I will not address the substance of the Fnac Darty issue, because I am not authorised to do so for ethical

reason. In the question of anticipation and participatory management, the example of Caterpillar shows the importance of having information on the scope of the group and understanding what are the decisive management decisions.

It has been said that the desirable level of sharing for strategic information would be the European works council. My experience in various such bodies makes me think that the European works council would not suffice in itself. Even if it can cover all of Europe (and here we are talking about an almost exclusively European group, Brazil notwithstanding, which is only a small part), and even if it is an advisory body. At that level, it will never be a case of seeing each other regularly to discuss matters, while we are after sharing information better. On the matter of participatory management, we must acknowledge the importance of the local level.

We have two anticipation tools in France. We have mentioned the right to warning. At the time that this tool intervenes, unfortunately, we are no longer in participatory management. Conversely, we now have an advisory bloc, which must focus on the strategic guidelines and their consequences on employment. This block pertains to the prospects for three years. Today, it is not followed in France. But the tool itself has been devised.

◆ **A participant**

Are the working conditions in France similar to those we deplore at Amazon?

◆ **A participant**

As regards the takeover bid, the complication has been aggravated by the fact that the Darty group was listed on the London stock exchange. It was not governed by French law. This parameter made things more complicated even with regard to information.

◆ **Mohamed Akkar**

For Fnac, we are talking about 250 jobs, 500 jobs in France, but there is no mention of Belgium or the Netherlands, and that is even more distressing. Ditto for Darty.

◆ **A participant**

Working conditions at Darty are deteriorating, but in a targeted manner. For some ten years, we have been developing versatility all out. Management is pursuing one simple idea: an employee in a shop must be able to do all tasks. That is why there is talk of a back office. The jobs of secretary and warehouseman are brought under a "service cluster adviser." In this way, the company put a different system in place in shops in difficulty in terms of profitability than in a conventional shop. The working conditions have deteriorated insofar as this versatility is not valued financially.

◆ **Roger Briesch**

How are the European directive and the Florange law perceived by the delegates in the companies?

◆ **Christian Dellacherie**

Mr Shultz pointed out that we have to do something different than Amazon. What is our response? Our European – in particular cultural – environment, and its particular features. For example, one of the Amazon's sledgehammer arguments is to lower prices. But in France, there is the Lang law, which prevents lowering the price of books by more than 5%. In 1981, Fnac fought vigorously against this law, arguing that it went against the interests of the consumer. Conversely, the manager at the time would approve it if it were to be redone today. The Lang law prevents crushing the margins and giving the advantage to those with the means to make fun of the process.

How can one go against Amazon? What is the difference in resources between Amazon and Fnac? What is their respective intensity? What are the competitive weapons we have? If strategic thinking is not engaged rapidly on this front, one of the two will disappear in ten years' time.

◆ **Anne Demelenne**

The limitation of the remuneration of executives should be accompanied by a work on tax evasion. More

specifically, such a limitation could entail other forms of deposits in tax havens.

How much was siphoned by Caterpillar when it moved invoicing to Switzerland? If it is known that it resorted to tax havens to deposit its profits, shouldn't legal action be taken and the sums in question estimated?

◆ **André Gauron**, Economist at Lasaire, France

We see that our children are buying everything on the Internet, unlike many of us, so we are faced with a generational problem. The question not posed in the discussion is the following: is the purpose of the merger to develop e-commerce for Fnac Darty? In fact, in an economy of increasing return, the more referencing, the more coverage for the country and the lower the cost.

We are starting with a system that has shops. Either we give ourselves ten years to do away with them because consumers will be buying differently, or we invent a model where the shop will remain a place of purchase. It is not possible to make out at this time whether Fnac-Darty has a strategy.

◆ **Guy Raulin**

In the example of Caterpillar, we go via Bermuda and Delaware, so we are dealing with black boxes. We are informed about the accounts of the company, duly certified, i.e. we know where the revenues come from, namely from Switzerland. And here's a second black box. Impossible to have the slighted figures on Switzerland. We also have figures for the local company, the balance sheet which arrives from Peoria, and between the two, we have the Bermuda triangle. Conversely, we know that the current CEO was paid 17.9 million dollars last year. It is said that the progression was limited, because the amount was only 17.1 million the year before. It would appear that we are dealing not only with black boxes, but also with the sense of outrageousness of some.

◆ **Christian Dellacherie**

Fnac and Darty do not have a common vision of their future shops. The company is increasingly speaking about them as places for retrieving purchases made via the Internet. But in such a case, are the shops going to keep their sellers? Whereas Fnac used to have its own shops, the group tends to develop through franchises. The customer still sees a façade of Fnac and Darty, but behind it is not the same social cost, or the same workers, or the same salaries, same organisation or working conditions. The trend is to develop the company, because it is deemed necessary to "esh" the entire national territory, be present everywhere, and create permanent pickup points. For this year, Fnac has announced that it will open 1 of its own shops for some ten franchises on the national territory (overseas departments and territories included).

At a time of considering how to take on giants, the cultural aspect must not be lost sight of. France still has a traditional bookshop sector, which has taken terrible blows but is resisting, whereas in the United States only Amazon is left. The aforementioned sociologist Vincent Chabault is interested in what the traditional bookshop could become, by banking on quality, with a niche phenomenon. It remains to be seen whether there is an intermediate place between Amazon and traditional bookshops that help each other. If we do not think of them now, we can be certain that there won't be any.

<p>HEARING OF REPRESENTATIVES OF EUROPEAN INSTITUTIONS AND STAKEHOLDERS ON BUSINESS RESTRUCTURING AND CHANGE MANAGEMENT IN EUROPE</p>
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◆ **Anne-Marie Grozelier**, General secretary of Lasaire, France

Having explored the situation in Belgium, we are going to broach the part of the seminar devoted to the discussion based on the elements that have emerged. Whether in Madrid during the previous seminar, or here, we come back to the question of the strategic decision in the company and the way in which the stakeholders can be associated, or even the possibility of discussing the merits of these decisions.

As our proposals suggest, the representatives of employees will not really be able to participate in the strategic direction if they do not have the full information needed on the subject, supplemented by a right of warning.

The subcontractors, who were part of the company before falling victim to outsourcing, must be taken into account.

For the State, the public power, to be able to refocus what has been called as “wild capitalism,” the possibility of taxing robots has been mentioned, in the same way as having them contribute to social security.

We are now wondering about the scope in which workers’ representatives can participate legitimately in the discussion on strategic developments.

Finally, a reconciliation was made between the cost of the social plan in a company where social plans are a recurrent phenomenon, and the annual remuneration of the CEO of that company, which corresponds to a social plan. This question of limiting salaries must be considered, by way of precaution, in connection with those relating to tax evasion.

Ultimately, we want the representative organisations of workers to benefit from counter expertise in all countries particularly when it comes to working on the merits of a restructuring operation.

◆ **Gabriele Bischoff**, Chairwoman of the workers group of the EESC, Belgium

European polices have missed an opportunity. More and more workers are nowadays turning to populism and the extreme right which promise them job security, while the European Commission touts its impotence in the face of the market forces. The European Union must show that it is capable of remodelling and devising a future where workers will have sufficient job security to proceed to changes necessary for all, employers and employees alike. It is time to reinvent employment thanks to new concepts. To begin with, we must stop talking about digital technology as a market share but only speak of the market in terms of digitisation. Employment, digitisation and its challenges may be promising if we do not fixate on the national level. ETUC and BusinessEurope have for years proceeded to analyses, reports, observations. The trade unions must table concrete proposals so that this discussion can be continued.

◆ **Wolfgang Kowalsky**, Advisor to the European Confederation of Trade Unions, Belgium

ETUC has been working a long time on the restructuring of companies and we stepped up our work when a report submitted to the European Parliament called for legal frameworks. The Commission refused to go down that road, but we are continuing to examine the issue.

The popularity enjoyed by the right in the United States is not alien to the current situation. Trump promised that men and women forgotten hitherto would be protected by investment programmes worthy of Keynes, and this discourse was heard by many white-collar and blue-collar workers. In the City, many citizens voted to stay in Europe, but the United Kingdom as a whole voted against it. The majority wins. That could also happen in France, where vast regions are highly deindustrialised. Furthermore, it is surprising to see that conservatives have opted for a candidate who defends absolute austerity, and wishes to reduce the number of civil servants and budgets. Such a programme is frightening for many workers. Beyond the effects of globalisation, we are witnessing the consequences of digitisation. Look at journalists who are announcing the disappearance of 50% of jobs without however talking about the transition to new jobs. It is an all the more frightening discourse for the most vulnerable.

Restructuring is part of the daily work of our institutions. The problem for trade unions is often a lack of resources, appropriate tools which would lead to a fair transition, and a fair new society. One of the tools should be the European works council. According to a recent assessment, the impact of the crisis in Europe was widely diverse depending on the Member States, and in the same way, the difference between European works councils which function well and those which do not manage to act is enormous. How can this be remedied?

Consultants have contacted us because they wanted to know the positive effects of the European quality framework. According to our colleagues, there is no effect to report. We then learnt that many executives did not even know it existed. Later, our affiliates explained that many things do not work in these directives and that they had to be reinforced. BusinessEurope said exactly the opposite. Now, more than year later, we are waiting for the Commission to decide. For the moment it is thinking about it. We will certainly get a simple answer in the form of a second consultation phase. The employers will then say that there was no need for improvements, and nothing will change.

In June 2016, the Commission was expected to submit an analysis report on the functioning of European works councils. It had announced a delay of a few months in advance. At the conference of the European works councils, we learned that it would not be submitting its analysis before 2017. That is the date on which the Commission

will present the social pillar. Everything is deferred until then. Same reply for information and consultation: No Commission activity before March 2017 – no political actions at all for the moment. That is really a pity. The Commission is playing a dangerous game. March 2017 will be the date for Brexit. We would remain optimistic, but there was recently a discussion on the social pillar during which we were made to understand that we should not expect much, especially no legal actions. So, just like that, the Commission initiated a discussion that is taking nearly a year, our affiliates are involved, many persons participate, and then it takes three months to see the replies before it comes back to say that it will not be possible. If the Commission continues down that road, as was the case under Mr Barroso, the pro-Europeans will have difficulties defending themselves and will soon run out of arguments. If there were a referendum in France, it is clear that it would be a Frexit. The European Parliament cannot take the place of the Commission.

It is not only on the consultation front that we need to move forward. We want to be able to influence the decision-making of companies. We have been talking about European companies and their status for more than four years at meetings with our experts and affiliates, and we are championing a minimum standard of representation in the administration committees, because that is where decisions are taken. Workers will not be able to influence them without that and we would only get a pittance of information. It is a structural problem. Information and consultation cannot function if we do not restore this imbalance. Even if that were not to concern all the companies, it is necessary to proceed in that direction.

It would be possible to revise the directive on the works council so as to extend that approach beyond the European companies, which are few, for that matter (about 50, compared with 1000 European works councils). Transnational companies, with subsidiaries in at least two countries should be treated as European companies, and we should consider that one member of these works councils sits on the administrative committee, if that is already not the case. The situations are widely different in the Member States. In 18 countries, the members of the European works council obtain information from their colleagues on what is happening in the board of directors and can thus rearrange the pieces of the puzzle when companies speak of their intentions. In return, they can exert influence and make corporate policy. That is why we propose to target that point, instead of simply targeting the improvement of the definition of consultation. In fact, another problem at the level of the European works council is that 42% of the agreements are no longer compliant with the articles of the directive because they are too old. It is necessary to give the possibility to negotiate a new agreement on condition that the old one remains valid during the transition period.

With a view to the next executive committee, the fundamental idea will be to present only policy demands understandable by all. We need 5 fundamental requests. I have noted 80 of them for the moment. The Information-Consultation-Representation triangle of workers remains our reference: if it is applied, we will have the keys to set companies on the right track.

◆ **Olga Martinez de Briones**, DG Employment, Social Affairs and Inclusion – European Commission, Belgium

The case studies conducted here tally with the view of the European Commission. We will be very attentive to the interim reports produced. One of our recent studies reconciled 100 concrete restructuring cases in 28 Member States. It was an opportunity to give feedback. In spite of the meagre visibility on the instrument serving as quality framework, we note that the Member States had continued to take measures to back and support workers. The good practice in these settings is obviously very interesting to influence the policies and measures which are decided at the national level, as well as to flank and support all operations.

On the one hand, the discussion on the European pillar of social rights is centre stage, because there will be open consultation until the end of the year, and on the other we have contributions that cover the issues of representation and consultation of workers and restructuring. This is also in line with the revision of the directive on European works councils which does not close the door to any possibility, legislative or otherwise. It was more logical to include the two lines of thought and to combine them. If the legislative line is followed, it must be combined with the directives which govern information and consultation.

The Commission is criticised for lacking responsibilities and the opportunities it has purportedly missed. And yet the legal framework, which is quite extensive, regulates the labour market and the European level and the transposition of these legal frameworks into the national systems. These legal frameworks provide a basis for representation and consultation, as well as the opportunity to go beyond the minimum provision which they set.

The rise in populism is undoubtedly strongly influenced by the restructuring movements. Europe is based on a social economy whereas other parts of the world, such as the United States, evoke a market economy. Even if the specific social protection in Europe makes us less competitive, the European Union and the Commission are

endeavouring to preserve this dimension, while being realistic about the consequences of the crisis we are going through. One of the lines on which we are trying to act as a matter of priority is the mobilisation of investments. We all have in mind the European strategic investment fund devised by Mr Juncker, but nearly three years later, it is clear that the investment leverage has not yet reached the expected level. Consequently, we are providing maximum support for it to be released and put in the service of the transition that will make it possible to develop the green economy and to create jobs. We would thus reach the growth objectives fixed under the Europe 2020 strategy.

The other action plan which recently led to a package of measures deals with the competence of European workers. A minimum level of skills must be acquired, in line with the current employment market. Ten measures are proposed with the New skills Agenda for Europe in three areas of priority, in particular the action plan for sectoral agreements to achieve better cooperation at the transnational level. At issue is to develop skills and anticipate improvements and adjustments. The European Union is determined to be at the forefront of the transformation of labour economics on the one hand with regard to the collaborative or green economy, and on the other in supporting transitions in the most affected sectors.

Will the response be legislative, or will it come from the side of finance? Should other instruments be considered? These are questions that we will have to address collectively.

◆ **Edouard Martin**, MEP, France

The discussion is about anticipation. But do we know why we want to anticipate? First in order to avoid restructuring. Although there are interesting information and consultation tools, we can only note that they are weak. To be sure, we get minimum information. We are at times consulted, but that is where the obligation of companies stops. Once we are informed about the closure, the margin for negotiation, our margin of manoeuvrability, is already very restricted. In the case of Florange, our role consisted of negotiating the social plan, that is to say the way of disposing of staff. Whereas our initial idea was to find together tools to avoid the closing and maintain added value in the territory.

The Florange law was proposed by trade union circles at the outset, even if it was gutted of its initial meaning. Each time, an entrepreneur or a multinational decided to close a production site because it was not sufficiently profitable. But as the company is a public good, and there was no reason that the State, the public force, should abandon it. Thus, the Florange law requires a multinational that wants to close a site to look for a buyer. The period is obviously short (2 months), but this law has saved 110 companies in France, the last one being KME, where 300 jobs were saved.

The different anticipation tools include those used for the sustainable development of the production of basic metals. The border carbon adjustment and the European policy on the decarbonisation of the economy are part thereof. At first glance, the Juncker plan also provided guidelines, except when it recommended implementing the border carbon adjustment to fight against unfair competition from countries that have no environmental criteria, the Commission was opposed by saying that it was against WTO regulations. They were shown that the argument was false on several occasions, but replied that they planned to “think about it.” What is therefore the real “direction” that was taken? Should it be to consider the competitiveness rate of European companies as a matter of priority? Let us be clear: the only question is how to bring the cost of labour as low as possible.

It is not prohibited to invent new (social, fiscal, environmental) criteria. But if we continued to put the competitiveness rate at the forefront, one country would make us all agree, China, because everything is cheaper there. When we delve on the recognition of market economy status for China, we understand that the danger we are facing is imminent. Some 4 million industrial jobs could be threatened – “only 400,000” according to the trade commissioner. Let assume that she is right. Can Europe still afford to lose so many jobs?

Everyone has to compromise with all of his opponents. Europe is conservative and liberal. That is a fact. Nevertheless, when a bill that called for introducing a European minimum wage was rejected very recently, particularly because of Nordic trade unionists, questions arose. Can we still federate European trade unionism? Evidently, everyone can hold the Council and the States responsible, as they have difficulties agreeing, but there is another reality, and that is the need to build European trade unionism without respite. We must get out of this vision where everyone defends his territory, his country and adopt a macro-economic and macro-social vision.

There are many who advocate the idea of making the presence of representatives in boards of directors compulsory so as to anticipate restructuring operations. A slew of elected official, liberals and even socialists, are against it, because some think that trade unionists already have too much power. The trend is to remove the power

from companies. There is a real collusion on the part of all European countries on this point. And some add – and I agree with them – that we cannot impose a single model to all of Europe. In fact, whereas it is true that the Germans manage their model of social relations with co-management very well, not all countries seem either apt or prompt to make certain choices like them. Are French trade unionists capable of stating that this or that subsidiary has to be closed because it is not profitable?

It would be interesting to see which changes the representatives of workers would make through their participation in the company's strategic choices. For example, one of the Strategic choices of Europe is to decarbonise the economy, particularly in the energy generation sector, but some countries are still dependent on coal. This is the case of Poland, where the inhabitants rightly ask what will become of their minors. They must be heeded and draw lessons from the past. For Poland, the project is geared to 2030. We cannot accuse Europe of having acted hastily this time. In thirteen years' time, we must find ways and means to train the staff who are working in the coal industry and see how we can maintain wealth in the territories. At times, we hear vague talk that renewable energies will create jobs, 400,000 to 500,000, by where exactly? Is the problem solved if they are created 3000 kilometres from the workers concerned?

To be sure, it is necessary to exploit existing networks first. Then, in order to disengage from traditional tools (European works councils, boards of directors), workers' representatives will have to have their rightful place to anticipate better for one, and a way will have to be found, through policies decided (at European or national level) to have sufficient visibility and outlook in the medium and long term so that the trade union world and the business world look at the situation and talk to each other. This will make it possible to anticipate. For instance, the social-industrial divide could be avoided by diversifying the activity.

One of the Commission's priorities is digital technology. The €315 billion of the Juncker plan are not forthcoming, because there are no public investments any more. Companies invest only where profitability is assured, i.e. in public guarantees. Loosening the reins on austerity and relaunching public investment would be a good thing from this point of view. For example, many research centres in Europe focus on the production of mechanical parts in 3D, but there is a plethora of small and medium-sized companies that make mechanical parts and do machining and assembling. If the technology of production of parts in 3D is mastered tomorrow, that segment is going to disappear. We could for once organise this sector at European level to anticipate technological advancements and explore with the workers and public authorities (whether local, national or European) the best way to monitor this development.

I fear that we are witnessing a series of social plans and plant closures because we will not have managed to pursue this line of thinking in the long term. Everyone knows what is going to happen. We must address the issue, because one of the greatest resources of the European economy is at stake.

GENERAL DISCUSSION

◆ Anne Demelenne

The German trade unionists have taught us that we need to qualify the effectiveness of *co-determination* because many report they are disappointed at having served as guarantee for policies which were not at all favourable to workers.

By bringing the financial and budgetary stability of the euro zone, austerity measures, and structural reforms systematically to the fore, Europe speaks only of the competitiveness of companies. It thus favours the juiciest among them, which pay greater attention to remunerating shareholders than to investment practices or salaries, or to the contracts of workers. Radical reactions, such as Brexit, are above all an expression of exasperation with that Europe which has scarcely any social dimension left. And yet, social protection should be at the forefront, for otherwise, the European project will lose all probability.

Which strategies will reverse the trend and portend a social model worthy of that name in a Europe that has regained its balance? Should we act exclusively in the euro zone, with the danger of excluding countries that are factors for destabilisation for Europe in a series of sectors? We cannot ignore social dumping, but we cannot function from the principle of exclusion. In this respect, the enhanced cooperation agreements could get the 27 Member States to move forward and take another direction at European level.

The best means of fighting against the rise of social inequalities in Europe is to combat this feeling of insecurity among not so young as well as younger workers, by focusing on the creation of quality jobs. To prevent disasters in the case of restructuring or closing, we can try to supervise the process to the maximum, but social devastation is inevitable. Conversely, promoting the creation of quality jobs is a way to anticipate effectively who would come up against the gradual deregulation of the labour market and the increase of flexibility to the detriment of minimum security.

The conclusions drawn from the analysis of the Juncker fund are surprising, because although he doubled the wager, the projects are not forthcoming – in any event, not the industrial initiatives, and even less so job creation. Consequently, this pan, which was intended to give impetus to the economy and make it possible to address an entire series of strategic investments in the described sectors (digital or energy) has come to nought. It would appear that it is a simple windfall effect, because the investments in questions could have been granted at the banking level. A second problem: the Juncker fund puts forward the possibility of investment in the private sector, and even more serious, social investments in the private sector. In parallel, the States are unfortunately prohibited from this type of expenditure through public investment in the social sector, in the name of a balanced budget. That the Juncker fund puts public investments aside is problematic considering what an important factor they constitute for recovery and economic impetus, not only in terms of infrastructures, but also in terms of challenge for mobility. There is an enormous gap. Finally, the fund is used to lend to the Member States who have no such need, particularly to Germany, where the budget surplus increases every year. The Juncker plan has certainly reversed the trend, because there is less talk of austerity and more of investment, but we need something else for real economic governance that would lead to job creation.

Taxation, the fight against tax havens, the increase in taxation of capital gains and the tax on machinery are lines of action to reverse the trend. On development and innovation, it is worth noting that the European funds have transited through the Walloon region to support research on the production of plastics from biomass. Total Mechanical received €9 million that made it possible to produce high quality plastic. There is a small detail: production will not be in Belgium or in Europe, but in China. There is no constraint to these public funds which are normally used to trigger private investments, relaunch production and create quality jobs. From the moment we care about a Europe worthy of the name, we must be able to level criticism when needed.

◆ **André Gauron**

We are talking tirelessly of the trade union movement and very little about employers. We are behaving as if they have a natural anticipation capacity. Let us take the example of 3D parts. Do you think that employers in France are capable of thinking as to how to restructure in the face of technological advancements? Our concerns show that most of them have no idea of what digital technology would entail. The next generation is bound to ask this question, but for those of the generation in business at this time, it is a non-issue. We are not talking necessarily about big companies here. The employers at issue do not necessarily have the engineers to address their shortcomings at this level.

Restructuring operations are the consequences of a short-term vision on the part of employers. Do we have the authorities we need? Perhaps in Germany, with the Industry 4.0 programme, which provides a real anticipation capacity, but outside that there is no longer any reflection at the sectoral level in Europe. So, there is no place for an overall approach to problems looming on the horizon. And yet, a tool like this would enable employers who do not have the training, time and resources to become aware of what awaits them in the near future. Even in the Fnac-Darty case, they have the intuition of a problem that lies before them, but they have no strategy or idea on the development of digital technology. Everything is done on a day-to-day basis through permanent restructuring operations.

Stakeholders capable of mastering the subject and devising coherent strategies so that an anticipation dialogue between employers and trade unions could produce results are solely lacking on both sides. An examination of the shortcomings of employers might also perhaps help to denounce them, because at times we tend to let them appear excessively in a good light.

◆ **Udo Rehfeldt**

I do not think that the German trade unions were unhappy with the co-determination system. It certainly elicits displeasure from certain employer segments. Their official position is to demand the replacement of joint co-determination by a negotiated co-determination, with only subsidiary prescriptions that would guarantee a co-determination of 1/3. But the German system is far from being homogeneous: there are major companies in which there is joint co-determination, where management plays the game, but also small and medium-sized companies that

are hostile.

The problem is the increasing number of Germany companies that are trying to circumvent co-determination by using other forms of corporate rights to avail themselves of foreign law. At times, the directive on the European company is used to freeze the co-determination rights when they approach the threshold of 2,000 employees, a stage from which joint co-determination would become mandatory. They thus try to retain only the internal co-determination system.

◆ **Christian Dellacherie**

We have a tendency to overestimate the capacity of employers to look ahead. For that matter, the market asks them to be profitable in the short term, as strongly and as rapidly as possible. The fundamental flaw occurs even earlier, from the moment when 1/3 of the graduating class of a prestigious French engineering school opts for the financial sector to make crummy calculations that bring the economy to the ground. Since everything is interconnected, we have to break with that habit first. The underlying problem is political.

◆ **Maryse Huet**, Member of LaSaire, France

The organisation of the ecological transition, which consists of going to renewable energies, calls for ambitious objectives. Jobs will be created in promising sectors. But the digital development plans adopted by the Commission seem to take priority from the European perspective. There is a sort of disconnection between a highly economic policy programme and social policy.

A meeting on the theme of the ecological transition took place recently between the big companies from the energy sector, including Total, and the European Commission. Each time when such structuring operations are considered, the social dimensions should be included. Some companies already do so, such as Engie, with the transnational agreement to organise the mobility of workers and their training. We need to obtain as global a vision as possible of these restructuring operations and to combine it systematically with a social ambition. Would it be possible to boost the globalisation adjustment fund to that end?

◆ **Edouard Martin**

The reorganisation of the sector would make it possible to avoid having employers say that they were not aware of global changes. First of all, very small companies are often concerned, and the employers keep their noses to the ground. They are not unaware of current events either, the CGPME exists, the MEDEF exists, and I would cite as proof that they come regularly to seek funds, in particular European funds, for this or that digitisation project. When we say that they do not have a strategy, we should mind what we say. It is true that there are companies which do not have a strategy because the small employer does not necessarily have the means and resources to examine what his activity will be like in five or six years. But to let a company sink is also a strategy at times. It suffices to get the turnover to drop so as to justify closure subsequently. If we know the charted public policies in advance, we cannot act surprised afterwards. Digital technology is a priority in Europe, as is the energy transition and decarbonisation. In the case of Poland, European funds are paid. It is even the main beneficiary country for the energy transition (ca. €3 billion). But Europe leaves Poland the choice to broach change in its way.

If we wish to anticipate as far upstream as possible, then seats must be reserved for workers' representatives in the boards of directors of companies. It is not merely a matter of copying the German model, which is circumvented by a number of companies in any case. In fact, there are more than 2,000 companies incorporated under European law which are no longer based in Germany and act as simple mail boxes.

◆ **Olga Martinez de Briones**

Numerous issues resound with the Commission's political determination, which has opted to turn Europe into a figurehead. More specifically, a package of legislative measures, including funds, financing and ideas is put together, and then society and the Member States must make the best use of it. In the same way, when the Commission gives forecasts for digital technology or energy, it is to outstrip these transformations.

Whereas we speak of competitiveness, we do not speak of the cost of labour. In a social economy, the cost of labour cannot be the centre of competitiveness, because it is in opposition with a certain security, quality of life and employment. We aim at added value of the labour force, i.e. skills, research, innovation, new industries and digital technology. The Agenda adopted this year provides measures to anticipate the skills we will need to help with the

transition, for instance in pilot sectors (automobile, manufacturing industry, defence, security).

The Commission often worked in silos and the dossiers were not very interconnected, but the creation of employment and the social dimension of transition will henceforth proceed hand in hand. The packages of measures adopted on 30 November for renewable energy are an example. If we hope for this new approach to bear fruit, we must also be realistic and recall that the initiatives of the Commission must be adopted by the European council and the various governments.

To improve the protection of workers, we have established frameworks so that corporations or companies will stop playing this double game which consists of embarking on a restructuring whilst trying to capitalise on the most advantageous system, at times even outside the European Union (relocation). In the action plan aimed at putting in place a union of capital markets, a directive was created to guarantee the coherence of the insolvency frameworks, so that we can also resort to preventive restructuring in the case of such procedures. By homogenising a minimum of frameworks, we can avoid the cases of fraudulent insolvency and unfair competition that are installed between the Member States. We had made an effort to bring together financial legal experts and experts in labour law who speak little to each other at the national level. We also want to see coherence in this initiative in terms of labour law and job security.

◆ **Anne Demelenne**

It was during a discussion on the strategic choices in terms of investments that a representative of IG Metall pointed out that our vision of their positioning in the board of directors was far from ideal. They did not weigh as much as could be said on the strategic choices, particularly on the relocation of decision-making centres by different methods and by their minority position. Conversely, there was no question about the financial control that they can exercise.

A discussion of this type had also taken place about salaried shareholders. The more information we have, the better we fare, since we can bring more weight to bear. But the decisions are up to the shareholders and their representatives on the board of directors. In the Europe of today, which is largely liberal, with a rationale for profits, we can bring back a bit of social justice and try to get a fair distribution of the wealth produced. Therefore, we will not hold the reins tight, but we are free to counter attack as well as possible.

◆ **Edouard Martin**

What exactly are the social criteria for work quality that the Commission proposes? For my part, I know the fourth rail package well, a proposal from the Commission. It is the obligation to open up the passenger transport market. Not only are there no social criteria, but the Commission refuses to take into account what the trade union organisations request, namely the obligation of taking over the employment contract when a new company wins a market. This will be put to a vote next week in Strasbourg. The MEPs could turn down the proposal. Those who know MEPs can warn them in time so that the blame is not put on Brussels subsequently.

International agreements can be approved only if adopted by Parliament, pursuant to the Lisbon Treaty. The council, and huts the heads of state, must also be held responsible of course, particularly because none of them was able to take a position against market economy status for China. This is one of the weaknesses of Europe: in this type of case, it no longer exists. The Chinese have understood as much. They know how to say to the French government that their position could influence the sales of Bordeaux wine. In Germany, they mirror the figures of Volkswagen vehicles; in the United Kingdom investments in power plants, and so on. In reality, the European Parliament will have the final say, fortunately. As we saw in the employment committee during the vote against CETA, the civil society and trade unions can make a difference.

But what is the objective of the Commission? These are criteria for the obligation to open markets, the obligation to issue invitations to tender, but the companies that win them are always the least costly. The Chinese are also starting gain market shares increasingly more often because they are penetrating through Eastern Europe, through Poland, Bulgaria, etc. And yet, Chinese employment contracts are not the most exemplary for the rights of workers and wage income.

CONCLUSIONS

◆ **Joël Decaillon**, Vice-President of Lasaire, France

By way of provisional conclusions, here are some issues to raise. First of all, we need to delve deeper into the notion of strategy. Restructuring operations are necessarily carried out in a context that has to be taken into account. In Germany, Volkswagen acquired Nokia because there is a vision of the German automobile that has been thought out. The manufacturers have considered that mastering digital technology was necessary, whereas French manufacturers are not even talking about it. Let us imagine what the Slovenes or Lithuanians think about that to realise how complex advice on this subject is. Similarly, when the German opted to limit nuclear energy on their territory, it was as part of an overall strategy, which did not concern only that sector. They have pursued a strategy of insulating their homes and buildings for years, like the Scandinavian countries. It is said that electricity is cheaper in France than in Germany, except that the Germans consume two times less electricity than the French. Strategies are charted for the long-term and according to the characteristics of a country, in particular its size. All this leads to training, qualification and negotiation strategies but also to financial stabilisation.

Ever since the first reference study on climate change and employment (2007), we have come time and again back to the problem of Italy or Spain. Everyone knows that construction serves to launder the money of the mafia. So we cannot look at things only through employment. If the Commission wishes to commit itself, it must tackle all the issues. Recognising that jobs are not all equal and promoting quality jobs constitutes a first step. Industrialists of the green economy had stated during a colloquium that they wanted to make profit like others, and that the social dimension was not necessarily their priority. It is not because we give preference to a virtuous economy that the social dimension will be at the same level. Let us be weary of hasty judgements and look at things from up close. For example, the coherence of strategy and restructuring, particularly on training and research problems, should be worked on since the study by Syndex and ETUC raises the problem of collective expertise.

Do you think that financial time is compatible with the time of a social democracy where reflection and strategy would show their mettle? I think that the management of restructuring poses a problem for the use of time. The determination to devise strategies and the use made of financial time are quasi incompatible for everyone, including the employers. In fact, the financial time as we know it is almost anti-democratic, full stop. The problem of democracy and its enlargement then arrives, not its shrinking, as cited in connection with restructuring operations. How will we broach this issue? With a certain number of rights to do with works councils and expertise.

On the social pillar, we thought that we would go to a smooth communication from the Commission, but it is necessary to obtain rights and in particular to build a right to information. Sanctions may be multiplied and completed by provisional measures, requisition rights, and greater transparency on the shareholders concerned and public investments. We have to have demands. For example, I had to deal with multinationals in Brussels, particularly under the Reach regulation, which contains the border adjustment. The commission for hazardous chemicals accepted the border adjustments, so it is a system of organising external relations. I had moved forward on the subject saying that if we proceeded to border adjustment on chemical products, there was nothing in the way of doing so on the environment and social problems also.

Our economic systems are very sophisticated and their standards extremely elaborate. Why not apply similar ones to the financial field and to social law? The “social dialogue” is one of the most practical expressions, all the more so as it entails no obligation to recover the negotiating rights or effective means. It would appear, however, that we would stand to gain on the effective part of means. Whether it be extravagant salaries for some executives or taxation, we come back to the question of added value. Will social taxation be imposed on social value? Or on employment? Whereas it was easy to apply unemployment in the 19th and 20th centuries, these are quite ponderous questions today. Having spent hours on a directive on endocrine products, we saw multinationals get the upper hand, whereas there were reasons to be opposed to them. So we are well placed to know how complex the issue is. We are ready to accept this reality, but it is out of the question to drop the ball on the social front. In the face of this political battle, we need law, and effective instruments. They can be put in place under restructuring operations and perhaps more broadly in the territories that are key elements in those strategies.

It is desirable to enhance the rights in the board of directors and European works councils, but if we want to have a perception of movements and things, we will also need local committees with sufficient rights. The trade union representatives are not necessarily better informed than the others. That is why we need very articulated systems. Although we are told that working on the global level we will no longer have guarantees and advancements, we know that will not suffice. We are entitled to call for accountability of the systems, especially when we see that in all multinational groups, the IT procedure is ideally designed to monitor the results, including in public administrative authorities.

A senior executive spends two hours on his computer every morning to justify things that were done the day

before. In the current state of affairs, the assigned objectives are clearly financial. Furthermore, studies conducted in companies show that a senior executive who is promoted through internal agreement and who has extensive knowledge is not of interest to management, because he will pose a problem. Owing to his in-depth knowledge, he is aware that he is being asked to operate in a keen financial situation and to meet financial criteria. This system is extremely disquieting. But we can change it by relying on trust, expertise, collective work and a vision of the company that has a real local and territorial function requiring rights to be attained.

Rights have been weakened, and not only in Europe, as the situation is not any better in Australia or in New Zealand. We will continue to work on efficiency and sanctions, during the upcoming seminars in Italy, then in Romania and Frankfurt. The work of men and women on these sanctions will be translated in political terms. Let us bear in mind a saying by Berthold Brecht, so often used in Europe by the elites or trade unions, which is self-sufficient: "if the people vote wrongly, dissolve the people." Put another way, when the people do not agree with us, it is because they have not understood right. This formula contains very dangerous things for the future of humanity and I hope that our work will stand in the way of it getting the upper hand.