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from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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to:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	Annex to the Communication from the Commission to the European Parliament , the Council, the European Economic and Social Committee and the Committee of the Regions "EU Quality Framework for anticipation of change and restructuring"

Delegations will find attached Commission document COM(2013) 882 - ANNEXES 1 to 2

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EUROPEAN
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ANNEXES 1 to 2

ANNEX

to the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**EU Quality Framework
for anticipation of change and restructuring**

ANNEX I

EU DIRECTIVES ON EMPLOYEE INVOLVEMENT AND PROTECTION IN RESTRUCUTURING SITUATIONS

The protection of employees in the event of the insolvency of their employer:

- the Directive on employer insolvency (2008/94/EC) aims to provide minimum protection for employees in the event of the insolvency of their employer. It obliges Member States to establish a body (a guarantee institution) to guarantee the payment of employees' outstanding claims. Moreover, Member States must take the necessary measures to ensure that non-payment of compulsory contributions due from the employer, before the onset of its insolvency, does not adversely affect employees' benefit entitlements in as much as the employees' contributions were deducted at the source from their remuneration;

The information and consultation of workers at national level:

- the Directive establishing a general framework for informing and consulting employees in the European Community (2002/14/EC) seeks to strengthen dialogue within enterprises and ensure employee involvement upstream of decision making with a view to better anticipation of problems and the prevention of crises. It applies to undertakings with at least 50 employees or establishments with at least 20 employees and provides for employee representatives to be informed and consulted on developments in the undertaking's economic situation, the development of employment and decisions likely to lead to changes in work organisation or contractual relations;
- the Directive relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses (2001/23/EC) provides that rights and obligations that arise from a contract of employment or employment relationship that exists on the date of a transfer, shall be transferred from the transferor (the party that ceases to be the employer), to the transferee (the "new" employer, in short). The Directive further provides that the transfer must not constitute grounds for dismissal by either the transferor or the transferee. In addition to the protection of workers' rights, the Directive on transfers of undertakings, businesses or parts of businesses provides that both the transferor and transferee must provide specified information to the representatives of employees affected by the proposed transfer and, if either party envisages measures in relation to the employees, their representatives must be consulted with a view to reaching agreement;
- the Directive relating to collective redundancies (98/59/EC) provides that an employer which envisages collective redundancies must provide workers' representatives with specified information concerning the proposed redundancies and must consult with the workers' representatives in good time with a view to reaching an agreement. These consultations should cover ways of avoiding or of reducing the redundancies, and of mitigating their consequences by recourse to social accompanying measures aimed, in particular, at aid for redeployment and retraining of the redundant workers. The Directive also provides for the public authorities to be notified of any projected collective redundancies, and requires that these redundancies cannot take effect earlier than 30 days after this notification;

The information and consultation of workers at transnational level:

- the Directive providing for the establishment of a European Works Council (EWC) or a procedure for informing and consulting employees in Community-scale undertakings and groups (94/45/EC, recast by Directive 2009/38/EC) applies to undertakings or groups with at least 1,000 employees and at least 150 employees in each of two Member States. It allows for the establishment of a European Works Council, representative of employees in the Member States where the group has operations, to be informed and consulted on the progress of the business and any significant changes envisaged;
- three Directives provide for the involvement of employees (i.e. information, consultation and in some cases participation on the supervisory board or board of directors) in companies adopting the European Company Statute (Directive 2001/86/EC) or the European Cooperative Society Statute (2003/72/EC) or deriving from a cross-border merger (2005/56/EC).

RECENT INITIATIVES IN THE FIELD OF ANTICIPATION AND MANAGEMENT OF CHANGE AND RESTRUCTURING

In recent years, the European Commission launched several specific initiatives in the field of anticipating and managing change and restructuring (e.g. the creation of the Restructuring Forum, where many examples of innovative practices were discussed). In 2002 and 2005, two rounds of consultation of the European social partners took place, leading to a set of "Orientations for reference in managing change and its social consequences"¹. The text, however, did not provide for any appropriate dissemination and implementation mechanism and remains largely ignored.

The European Commission also financed numerous studies on this topic² and supported the Joint European Social Partners' Work Programme which is including also an integrated project on restructuring in the EU27 countries.

A useful collection of best practices existing in Europe on anticipation, preparation and good management of restructuring was published by the Commission in 2009 under the title "Checklist for Restructuring Processes"³. This Checklist should be seen as supplementing and completing the set of best practices outlined in the proposed QFR.

Also the Eurofound's ERM database on support instruments for restructuring⁴ provides information on about 400 measures in the Member States of the European Union and Norway. National governments, employers' organisations and trade unions are among the bodies providing support for companies that need to restructure and the affected employees. The support instruments are described in terms of their characteristics, involved actors, funding sources, strengths, weaknesses and outcomes. The aim is to inform governments, social partners and others involved about what kinds of support can be offered.

In 2012, the European Commission Green Paper on Restructuring⁵ has identified successful practices and policies in the field of restructuring and adaptation to change in order to promote employment, growth and competitiveness as part of the Europe 2020 strategy.

Finally, The European Parliament adopted on 15 January 2013 the Cercas Report with specific requests to the Commission to act in the field of restructuring.

¹ <http://ec.europa.eu/social/main.jsp?catId=782&langId=en>

² See for example the project funded by the European Parliament's pilot project "Accompanying workers during industrial change" and managed by the International Training Centre of the International Labour Office (ITC-ILO, Turin) with a comprehensive description of EU 27 national systems of anticipation and management of restructuring in <http://ec.europa.eu/social/main.jsp?catId=819&langId=en>

³ <http://ec.europa.eu/social/main.jsp?catId=782&langId=en>

⁴ <http://www.eurofound.europa.eu/emcc/erm/supportinstruments/>. See also "Public instruments to support restructuring in Europe - ERM Report 2011", <http://www.eurofound.europa.eu/publications/htmlfiles/ef1165.htm>

⁵ (COM(2012) 7 final), <http://ec.europa.eu/social/main.jsp?langId=en&catId=699&consultId=9&furtherConsult=yes>

ANNEX II

EU GUIDANCE ON GOOD PRACTICES ON ANTICIPATION AND MANAGEMENT OF RESTRUCTURING IN THE AUTOMOTIVE AND STEEL INDUSTRY

CARS

The CARS 2020 Action Plan has been adopted by the European Commission on 8th November 2012 lists a number of specific policy measures to be taken in the coming years. The Commission subsequently launched **the CARS 2020 Expert Group to monitor the implementation** of the Action Plan.

With particular reference to the issue of industrial adjustment, the CARS 2020 Action Plan stress that good social dialogue at all levels (company, local, national and EU levels) is a key element in the anticipation and good management of restructuring processes. The restructuring process is mainly the responsibility of the industry, yet there is a complementary role for the Commission, Member States and local authorities. In particular, the Commission has committed to:

- continue to monitor/review restructuring activities as regards to their strict compliance with EU legislation, in particular concerning state aid and internal market rules.
- identify good practice and promote an anticipative approach in restructuring in consultation with representatives of the automotive-intensive regions, employment authorities and the sector's stakeholders, including the social partners.
- re-launch the inter-service task force to study and follow up the main cases of automotive plant closures or significant downsizing. The task force has been active and highly efficient in past cases in the automotive industry. The task force would streamline the use of the relevant EU Funds (by providing technical assistance, reducing waiting time, advising on the most effective use of resources, monitoring and reporting).
- for the cases of plant closures and significant downsizing, invite the Member States to consider using the European Globalisation Adjustment Fund (EGF).
- encourage Member States to make use of labour flexibility schemes and their co-financing by ESF in support of the suppliers who might need additional time to find new clients following a closure/downsizing of an automotive plant.

STEEL

The **Steel Action Plan** has been adopted by the European Commission on 11th June 2013⁶. It lists a number of specific policy measures to be taken in the coming years. The Commission subsequently launched **the High Level Expert Group on Steel to monitor the implementation** of the Action Plan.

In this framework, the Commission has invited Member States to:

- explore the possibility of using together with regional authorities, the European Social Fund (ESF) for workers' **retraining and re-skilling**, including by setting up a specific funding measure related to the steel sector,
- explore the possibility of using **structural funds**, together with regional authorities, in the next programming period, with a view to alleviate the social impacts of restructuring in the steel sector,
- facilitate **dialogue between social partners** in view of reaching an agreement on temporary initiatives to maintain jobs, such as the possibility of introducing **labour flexibility schemes**, with regard notably to cyclical adjustment.

The industry was invited to:

- play an active role to **remedy the skills gaps** and shortages,
- continue the necessary **adaptation of the industry** in accordance with best practices on anticipation of change and restructuring, including through social dialogue and proper involvement of regional stakeholders,
- examine **restructuring needs** and possible **capacity adjustments** in view of the future demand of key sectors, taking into account the need to deal differently with structural and cyclical trends,
- **co-operate with other stakeholders**, especially national and regional authorities in ensuring that cyclical **overcapacity** is dealt with through **publicly supported temporary measures** preserving employment in the long run.

⁶ http://ec.europa.eu/enterprise/sectors/metals-minerals/files/steel-action-plan_en.pdf