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Anticipating and Managing restructuring Luxembourg

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Executive summary

The Luxembourg economy has undergone important structural changes over the last 30 years. The two main events in the development of the national economy during this time have been the crisis in the steel industry and the development of the financial sector. Employment was rising steadily up to 2008 and most newly-created jobs have been taken up by cross-border workers from France, Germany and Belgium.

With the onset of the financial and economic crisis in Luxembourg during the last quarter of 2008, numerous cases of restructuring have taken place in industry and in the financial sector, including the banking sector. Cost control policies have dominated and a number of redundancy schemes (collective dismissals) have been put into action. The ongoing international consolidation of the financial sector, during which mergers and acquisitions, along with a reduction in the number of personnel, are to be expected, carries the risk of further consequences for the financial sector in Luxembourg.

The unemployment rate in Luxembourg has risen, despite the widespread use of part-time working (“partial unemployment”) as an instrument for smoothing the effects of the crisis. It was 5.6% in August 2009 compared to 2.4% in 2002, and is expected to rise to 7% in 2010.

There is a tradition of social dialogue in Luxembourg characterised by the existence of multiple trilateral bodies of social consultation. Tripartitism, bringing together the government and social partners, is seen as a defining characteristic of Luxembourg’s social model. At national level there is the Tripartite Coordination Committee which discusses social and economic trends. For example the Tripartite Coordination Committee approved in March 2009 an anti-crisis programme designed to support household consumption and business activity. Traditionally Luxembourg is considered to be a country with a low level of social conflict, where bargaining predominates over strikes and other forms of confrontation.

Anticipation of restructuring and of economic change in general in Luxembourg covers different fields of activity and instruments. Continuous and vocational training is an important part of anticipating trends in the economy, as well as strategies aimed at diversifying Luxembourg’s economy and the authorities responsible for monitoring the trends in its economy and its competitiveness.

Anticipation of the short-term consequences of restructuring at company level consists of reducing the negative impact of restructuring on workers, the labour market and the economy, in particular by avoiding dismissals. One dimension of a strategy for anticipating restructuring is the practice of informing and consulting employee representatives in the enterprises. Employee committees and particularly joint works committees provide a basis for discussions and information on decisions taken or about to be taken by companies. In the event of economic hardship, the job retention plan aims to prevent layoffs and keep workers in employment. Through social dialogue a job retention plan can be negotiated by social partners with a view to finding alternative solutions to redundancies. The primary objective of the job retention plan is to outline solutions envisaged by the company for avoiding redundancies such as voluntary part-time work; part-time unemployment; temporary loaning of manpower; or early retirement. After an initial reluctance to initiate job retention plans, the number of job retention plans

increased with the onset of the economic crisis. At the time of writing plans for formalisation of the establishment procedure of the job retention plan are being announced.

Under Luxembourg law, in the event of collective dismissals a redundancy scheme (*plan social*) must be negotiated with employee representatives and, where a collective agreement applies, trade unions. The goal of the redundancy scheme is to avoid or reduce the number of job losses or mitigate their effects. It is an agreement containing all the measures taken by the company at the moment of redundancy, and is designed primarily to facilitate the redeployment of redundant employees and mitigate the consequences of dismissal by granting various forms of financial compensation. Redundancy schemes allow workers to receive more than the redundancy pay stipulated by law, and often include measures to assist redundant workers, the most commonly implemented being: creation of a reclassification cell with a role of assessment, guidance and advice to the employee over his or her professional and personal situation and expectations; bonus incentives for voluntary redundancies; retraining agreements; aid for geographic mobility; aid for business creation; and specific measures for older employees or for employees whose social characteristics or qualifications make their return to work particularly hard.

For an evaluation of anticipation and management instruments for restructuring, the following points can be highlighted:

- At national level there exist in Luxembourg a number of institutions and instruments that allow for tripartite exchanges between government, employers and unions. Bodies such as the Economic and Social Council, the Tripartite Coordination Committee or the Competitiveness Observatory facilitate a rapid flow of information and anticipation of trends in the economy. The small size of the country and the high number of multi-positioned actors create a certain level of trust between industrial relations actors. A potential source of tension may reside in the development of tensions between the various bargaining levels, for example between national collective bargaining and company level bargaining. With the start of the economic crisis in late 2008, a number of instances of sometimes contentious, or potentially contentious, restructuring have taken place in industry, often involving downsizing, closures or relocation of production units; on the other hand social dialogue at the national and especially tripartite levels seems less contested.
- At enterprise level, anticipation processes still seem to be less developed than management processes for restructuring. It appears that social dialogue on anticipation of restructuring does not necessarily take place in all enterprises. The informing and consultation of employee representatives on the strategies of companies is unevenly developed. Whereas some companies seem to have a tradition of structured social dialogue, other companies seem reticent in communicating information on strategic company options to employee representatives.
- During negotiations on redundancy schemes there still seems to be a predominance of a culture of financial compensation over other measures such as training. But it is true that in the absence of mid- and long-term studies on trends in the labour market in Luxembourg, it is difficult to say which kind of training brings employees real added value.

Introduction

This paper provides an account of the main measures devised to anticipate and cope with industrial restructuring in Luxembourg, following a brief overview of recent trends and developments in the domestic employment and economic structure and in restructuring. Some specific cases of anticipating and managing change and industrial restructuring will then be presented, in order to provide a more detailed account of actual experience. The concluding remarks will provide an overall assessment of the effectiveness of the various measures presented and address the transferability potential and the scope for reform.

A detailed analysis and discussion of the issues raised by restructuring seems particularly timely during a period when the European economies are facing a substantial downturn in the levels of both activity and employment, the consequences of which for medium-term growth prospects and the production structure could be significant.

In this paper restructuring is to be understood as referring to any organisational change that has effects on the composition of the workforce. In most cases restructuring implies some form of transition or change at the individual level, most often a transition to another job, within or outside the organisation. There can be different types of restructuring; it can be closure of a workplace or plant, workforce reduction, or outright dismissals. Restructuring can also occur for different reasons, for example because of financial turmoil, changes in the organisation of work, bankruptcy, downsizing in the framework of continuous rationalisation, mergers and acquisitions, outsourcing, off-shoring, and so forth. In this study the main focus is on restructuring that gives rise to announcements of redundancies leading to dismissals, independent of the reason for the restructuring.

The Luxembourg economy has gone through important structural changes over the last 30 years. The two main events in the development of the national economy during this time have been the crisis in the steel industry and the development of the financial sector. Different governments have tried to influence the economic development of Luxembourg by diversifying the economy, attracting foreign economic operators, and investing in research and development. Certain of these measures have had some success, but Luxembourg has basically remained dependent on the financial sector after having been dependent on the steel industry.

Since the onset of the financial and economic crisis in Luxembourg during the last quarter of 2008, numerous cases of restructuring have taken place in industry, often including redundancies and sometimes closure of production facilities. The banking sector, which has for long been the motor of job creation in Luxembourg, has also seen a number of redundancy schemes.

Luxembourg, officially the Grand Duchy of Luxembourg, is a small landlocked country in western Europe, bordered by Belgium, France, and Germany. It has a population of under half a million people in an area of approximately 2,586 square kilometres. It was a founder member of the European Union, NATO and Benelux, reflecting the political consensus in favour of economic, political, and military integration. The city of Luxembourg, the capital and largest city, is the seat of several institutions and agencies of the European Union. Luxembourg lies on the cultural divide between Romance Europe and Germanic Europe, borrowing customs from each of the distinct traditions. It is a trilingual country; German, French and Luxembourgish are the official languages.

1.1 Luxembourg's GDP and sectoral distribution of total added value

With an average growth rate of its GDP of more than 5% between 1985 and 2007, as well as a strong increase in employment, Luxembourg has exhibited a strong economic performance over recent years. From 2007 the growth rate in GDP started slowing down. During the last quarter of 2008 the international crisis hit the economy. GDP growth became negative during the last quarter of 2008, falling by 4.5% from the previous quarter. In almost all sectors, growth rates in added value became negative according to the national statistical agency STATEC: falls of 14.8% in manufacturing (in comparison to the fourth quarter of 2007), 6.2% in financial services and supporting business services, and 5% in trade, transport and communications. The estimated GDP trends were flat for 2008, -4% for 2009 and +1% for 2010, according to STATEC.

Financial services (financial intermediation, insurance, finance and insurance auxiliaries) have been the driving sector of Luxembourg's economy in recent years. Their part in the national economy has markedly increased since 1994 in total added value, and they continue to occupy a dominant position in Luxembourg's economy. In 2007 the financial sector represented 29.7%

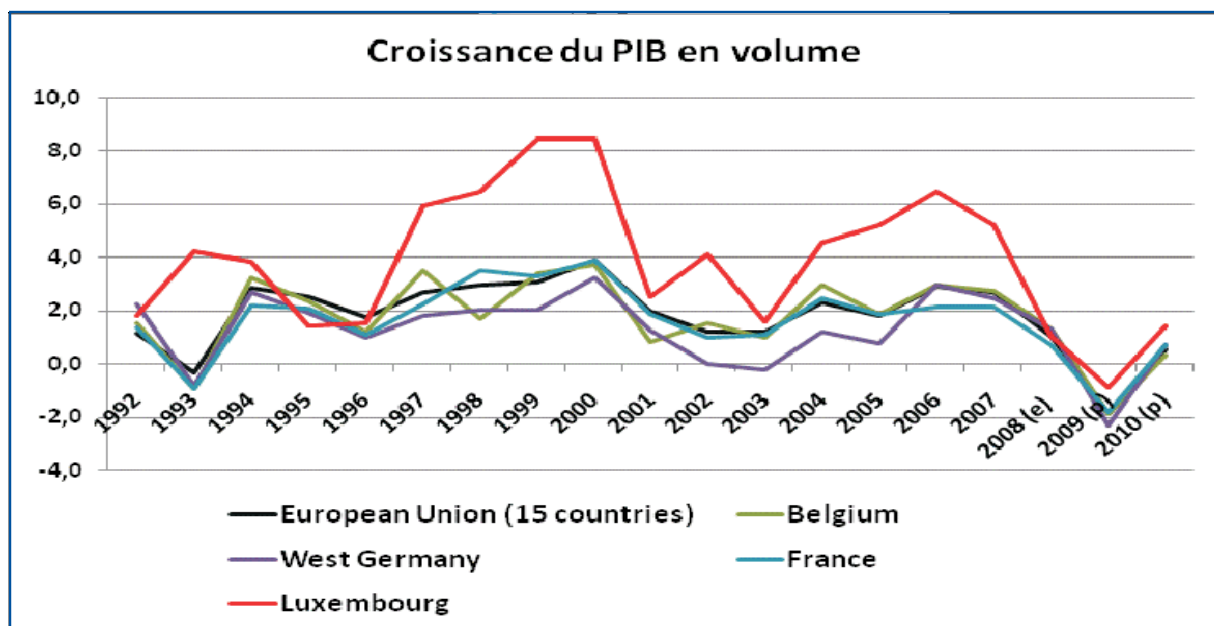
of total added value according to STATEC. The interbank market, private banking and mutual funds are at the centre of Luxembourg’s financial activities. More recently, insurance activities have also been developed.

The proportion of manufacturing in the economy has decreased. In 1985 it still represented one-quarter of total added value, but by 2005 the proportion had dropped to one-tenth (9.7%) despite the many efforts aimed at diversifying the economy. The business services support sector overtook industry into first place before the financial sector took over. The other sectors of the economy are relatively stable, with the exception of agriculture, which has declined.

More recently the government has placed emphasis on developing new sectors such as ICT, e-commerce and media, automotive components, materials and plastics, logistics, health, and environmental technologies. Luxembourg has for example become home to some important companies in the ICT sector. AOL, Amazon, eBay, Skype, PayPal, Digital River, Napster and iTunes all chose Luxembourg as their European headquarters. Luxembourg has also become a location for first- and second-tier suppliers to the automotive industry. Owing to its geographical position Luxembourg offers access to various European car manufacturers and assembly plants. Transport and communications represented another dynamic branch in terms of growth, their share of total added value increasing by one-third between 1985 and 2006.

A specific characteristic of Luxembourg’s economy is the relatively high number of small and medium firms (SMEs). There are almost 47 SMEs per 1,000 inhabitants in Luxembourg, exceeding the EU-27 average of about 40, and accordingly the importance of Luxembourg’s SMEs in the overall economy is also above the EU average, particularly in respect of value added in which SMEs account for almost 70% of the national total.

GDP Growth:



Source : AMECO

1.2 Trends in employment

Luxembourg's population was 493,500 inhabitants in 2009. Within the last three decades the population of the country has increased by 120,000 persons, mainly through immigration. In 2008 43% of all people living in Luxembourg were foreigners. Since 1983 internal employment has steadily increased, mainly due to the influx of cross-border workers who today occupy 43.7% of jobs in Luxembourg.

The number of jobs in Luxembourg increased from 161,100 in 1985 to 333,000 in 2007. Between 1985 and 2008 the annual growth rate in employment in Luxembourg was 3.3%, compared to the average of 1% in the EU-15. The employment growth rate peaked in 2008 at 4.7%. In 2009 it was estimated to be 1% and in 2010 0.7%.

Industry lost only 0.3% of jobs in absolute terms between 1995 and 2005, thus remaining relatively stable. The service and construction sectors exhibited employment growth rates of 56% and 27.9% respectively between 1995 and 2005.

Employment by sector of activity in Luxembourg (1985-2007):

	Employment (by thousand)		Percentage of total employment	
	1985	2007	1985	2007
Agriculture	6.8	5.0	4.2	1.5
Manufacturing industry, including energy	38.2	37.2	23.7	11.2
Construction	14.2	36.8	8.8	11.0
Trade, restaurants and accommodation, repairs, transport and communication	46.9	86.6	29.1	26.0
Financial intermediation, real estate, renting and business services	19.9	93.3	12.4	28.0
Other service activities	35.0	74.4	21.7	22.3

Source : STATEC

Salaried Employment per sector of activity (March 31, 2008):

Sector of activity	Number of people
Agriculture	1,703
Manufacturing industry	34,643
Energy and water	1,125
Construction	36,074
Trade, restaurants and accommodation, repairs	53,320
Transport and communication	30,287
Financial intermediation	41,033
Real estate, renting and business services	53,852
General government, education, health and social services, coll. and ind. Social services	76,739
Total	328,776

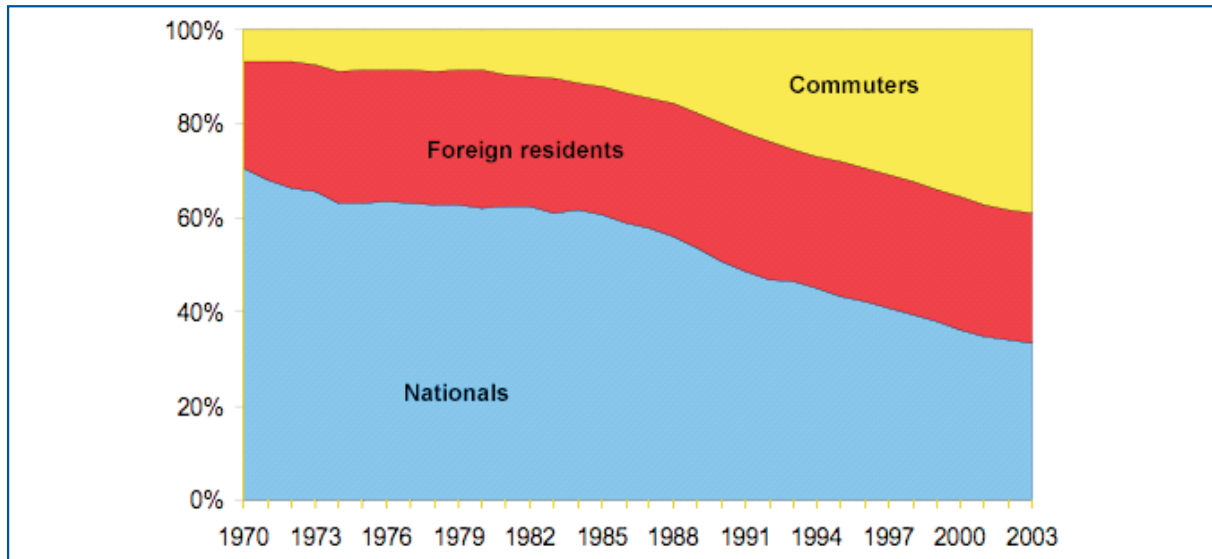
Source: *Inspection générale de la sécurité sociale*

The labour market in Luxembourg has a strong cross-border dimension, owing to the presence of a large number of cross-border workers coming from the different parts of the Greater Region to work in Luxembourg. The Greater Region is composed of Luxembourg, Saarland and Rhineland-Palatinate in Germany, the Lorraine region in France and Wallonia in Belgium. In 2008, according to the EURES-ADEM unit 205,000 persons in the Greater Region crossed a border each day to go to work, and in January 2009 at least 138,716 cross-border workers came to work to Luxembourg from France, Germany and Belgium. In recent years roughly two-thirds of newly created jobs in Luxembourg have been taken up by cross-border workers, the proportion of whom among the total working population is 43.7% according to STATEC (21.9% from France, 11.3% from Belgium and 10.5% from Germany). The high unemployment rate in the Greater Region of 7.6% in 2007, as well as Luxembourg's higher salaries, have accounted for the attractiveness of Luxembourg, which is surrounded by regions affected by the downturn in the industrial sector. Indeed Lorraine, Saarland, Rhineland-Palatinate and Wallonia all have growth rates weaker than for the respective nation states as a whole of which they form a part.

Salaries in Luxembourg are generally higher than in the neighbouring countries. According to *État*, the average gross annual earnings in industry and services of full-time employees in enterprises with ten or more employees in Luxembourg was €45,284 in 2007, whereas in France it was €32,413, in Germany €40,200 and in Belgium €38,659¹.

¹ GDP per capita is a problematic indicator in the case of Luxembourg, as it has to take into account the fact that commuters contribute to producing the GDP but are not taken into account in the calculation of GDP per head. If they were into account, GDP per head would be less high.

Composition of the workforce by nationality and residence (1970-2003):



Sources: STATEC and Migration information source

Since the beginning of the 20th century, immigration has been an important component of the labour market in Luxembourg. Immigrants make up close to one-third of the labour force. They mainly come from Portugal, Italy, Belgium, France, Germany and, more recently, from ex-Yugoslavia. This trend has continued over recent years.

Net migration (1998-2007):

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Luxembourg	3815	4461	3431	3319	2649	5419	4396	6106	5353	6001

Source: Eurostat 2009

The open-ended work contract seems still to be the norm in Luxembourg, except for young people. In 2006 nearly 18% of young people aged 15-29 years and 33% of young people aged 15-24 years have worked under a fixed term contract (*Contrat à durée déterminée*), whereas only 6% of the total working population (15-64 years) works under such a contract. At the level of the European Union, the proportion of fixed term contracts in the same year was 42% for the 15-24-year age group and 15% for the total working population².

The number of interim workers has been steadily rising in recent years. In 1999 there were 3,737 interim workers: in December 2007 there were 10,634. The proportion of TAW in salaried employment was 2.5% in the ten first months of 2007. According to the 2006 edition of the inquiry on the structure of wages (*Enquête sur la structure des salaires*), 82% of interim workers are cross-border workers, 14% are foreigners living in Luxembourg and 4% nationals living in Luxembourg. In 2006 the majority of interim workers (69%) were living in France, 8% in Belgium and 5% in Germany.

² Bulletin du STATEC Nr. 7, 2007, "Les jeunes face au marché du travail".

Interim work has been severely reduced under the impact of the crisis. During the first quarter of 2009 interim work fell by 28% in comparison with the first quarter of 2008. This has had an impact on the trend in domestic employment. The fall in interim work diminished employment growth by 0.8% during the first semester of 2009; without the fall in interim work, the increase in employment would have been 3.5% instead of 2.7%. The sectors where interim work was most reduced were industry and construction. In the services sector tradable services (*services marchands*) reduced the number of interim workers by 30% and financial services by 26%³.

The overall employment rate in Luxembourg has been increasing over the last years, mainly because of the positive trend in the employment rate for women. The employment rate for older workers shows a slow positive trend (the apparent sudden increase in 2006 may however be due to statistical errors). The economic crisis will however have a negative impact on the employment rate.

Employment rate 15-64 years (percentages):

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Total population	61.6	62.7	63.0	63.8	62.2	62.5	63.6	63.6	64.0	63.8
Women	48.7	50.1	50.8	51.8	50.9	51.9	53.7	54.6	56.1	55.4
European union (25 countries)	62.0	62.4	62.8	62.8	62.9	63.3	64.0	64.9	65.8	66.3

Sources: STATEC, EUROSTAT

Employment rate 55-64 years (percentages):

	2004	2005	2006	2007	2008
Total population	30.4	31.7	33.2	31.7	34.8

Source : STATEC

³ STATEC, « Conjoncture Flash », August 2009.

1.3 Trends in unemployment

The labour market in Luxembourg has been characterised by a parallelism, often characterised as “paradoxical”, between a strong trend in creation of jobs on the one hand and a rise in unemployment on the other. Newly-created jobs have been mainly taken up by cross-border workers, at the same time as unemployment, although remaining at a relatively low level, has been steadily rising. This situation risks becoming a political problem in the context of rising unemployment of less-qualified residents who are often more demanding regarding salaries than are cross-border workers⁴.

The unemployment rate in Luxembourg was 5.6% in August 2009 compared to 2.4% in 2002. In the context of the economic crisis, according to a STATEC estimate in May 2010 unemployment was expected to rise to 7% in 2010. Unemployment has been rising particularly among poorly-qualified residents, and Luxembourg counts a high number of such individuals among its unemployed; according to the public employment service 51.5% of job seekers have accomplished only the first three years of secondary education and 34.8% the second cycle of secondary education⁵.

As regards the unemployment figures it should be noted that cross-border workers who lose their jobs in Luxembourg are not counted among the unemployed in Luxembourg. There have recently been discussions in the Luxembourg media on whether or not job losses due to the crisis impact mainly on cross-border workers. But in the absence of statistical evidence it is difficult to comment on these discussions.

One must also take into account the number of people in part-time working (“partial unemployment”) due to the economic crisis (both the French expression *chômage partiel* and the German expression *Kurzarbeit* are used in Luxembourg). A considerable number of companies have used the instrument of part-time working to smooth the effects of the significant fall in demand during the last quarter of 2008 and during 2009. In early 2009, the number of requests from companies to go into part-time working reached new highs and part-time working accounted for nearly 2% of domestic employment. The number of cases of collective dismissals would probably have been higher had it not been for the job retention instrument.

The data on requests to go into part-time working shows that, while economic activity has remained relatively steady during the first two quarters of 2008 (only seven applications submitted), the decline in activity in neighbouring countries and major trading partners (Germany, France, Belgium) slowed Luxembourg’s economy from the summer months of 2008 onwards. The real turnaround came however during the last quarter of 2008, with an acceleration in the decline of activity and a decline in demand in the automotive market, causing a sharp increase in applications for part-time working. In 2008 93 applications for part-time working were received against 38 in 2007.

⁴ Brosius, J. (2005): « La différence de demandes salariales comme source des écarts de taux de salaire entre frontaliers et résidents luxembourgeois. », *Cahiers PSELL*, Nr. 147.

⁵ ADEM, « Bulletin de l’emploi », September 2009.

Requests for part-time working in 2008:

Months	submitted	granted
Januay	2	2
Febuary	3	2
March	1	-
April	2	1
May	2	1
June	2	1
July	1	1
August	2	2
September	3	2
October	3	3
November	16	16
December	56	44
TOTAL	93	75

Source: Ministère de l'Economie et du Commerce extérieur

Types of requests for part-time working granted - 2008 :

Year 2008	Part-time working of conjuncture (competitive) origin	Part-time working of structural origin	Part-time working – in cases of force majeure	Part-time working – link to economic dependence	Total
January	-	-	-	2	2
Febuary	1	-	-	1	2
March	-	-	-	-	-
April	-	-	1	-	1
May	-	-	1	-	1
June	-	-	1	-	1
July	-	-	-	1	1
August	1	-	-	1	2
September	2	-	-	-	2
October	3	-	-	-	3
November	13	-	-	3	16
December	21	3	1	19	44
TOTAL	41	3	4	27	75

Source : Ministère de l'Economie et du Commerce extérieur

In the month of August 2009, the Conjoncture Committee received 133 requests from companies to qualify for part-time working. The committee gave a favourable answer to 128 enterprises. Of these enterprises 26 have worked part-time on structural grounds, 52 on competitive grounds and 51 because they are dependent on a sector in crisis. The maximum number of workers eligible for part-time working was 9,950. Experience nevertheless shows that

not all enterprises applying to work part-time make full use of the facility. The number of workers actually on part-time work is thus less high.

In the month of July 2009 the public employment agency listed 1,269 vacancies declared by employers to the public employment service, down 1,289 from July 2008. The sharpest downfalls were recorded in the categories “Office clerks” (*Employés de bureau*) and “Other services”⁶.

1.4 Restructuring in Luxembourg: issues and frameworks

1.4.1. SOCIAL DIALOGUE

Luxembourg has numerous trilateral bodies of social consultation. Tripartitism, bringing together the government and social partners, is regarded as a defining characteristic of Luxembourg’s social model. At national level there is the Tripartite Coordination Committee which discusses social and economic trends. Other structures through which the involvement of social partners in decision-making is facilitated are the Professional Chambers (*chambres professionnelles*), the Economic and Social Council, and other other tripartite bodies such as the National Committee of Work and Employment (*Comité permanent du travail et de l’emploi*).

In close consultation with social partners, represented in the Tripartite Coordination Committee, the government approved in March 2009 an investment programme designed to promote household consumption and business activity.

Traditionally Luxembourg is considered to be a country with a low level of social conflict, bargaining taking precedence over strikes and other forms of social confrontation.

1.4.2. INFORMING AND CONSULTING EMPLOYEE REPRESENTATIVES

One dimension of an anticipation strategy of restructuring is the process of informing and consulting employee representatives in the enterprises. Both employee committees and joint works committees provide fora for information and discussions on decisions taken or about to be taken by companies. In particular the law on joint works committees contains regulations that are important in this respect.

Joint Works Committees (*comité mixte d’entreprise*) with co-determination rights are present in private enterprises with at least 150 employees over three successive years. Composed of equal numbers of employees and employee representatives, the joint works committees are presided over by the head of the enterprise. According to a law of 1974, a Joint Works Committee has co-determination rights over company policy in areas such as recruitment, transfer and

⁶ ADEM, « Bulletin de l’emploi », July 2008 and July 2009.

dismissal, working rules, and information and consultation rights on issues such as management decisions on technical changes, working methods, and labour requirement forecasts. Information on financial and economic decisions which may have an important impact on the structure of the enterprise or on the level of employment has to be provided. In principle such information should be provided in advance but in practice this is not necessarily the case (for example if the information and consultation process risks impeding the management of the business or undermining the achievement of a planned operation). The legislation thus gives the joint works committees important missions and prerogatives. But in reality the employer's control over the agenda and access to technical expertise may mean that in practice employee influence is not so great.

All public limited enterprises employing 1,000 or more employees for three successive years must have a board of directors with one-third employee representation. The same applies, whatever the size of the workforce, to public limited companies in which the State holds at least 25% of the shares.

The employee committee (*délégation du personnel*), which is mandatory in private-sector enterprises with more than 14 employees, has to be kept informed by the employer on the economic situation of the enterprise. However the relevant law of 1979 does not stipulate any obligation in respect of information and consultation on planned restructuring.

The competences of the employee committees, joint work committees and the representative unions (if there is a collective agreement) are brought into action if collective dismissals are planned. Here there is an obligation to negotiate. The negotiations have to be closed within 15 days. This ensures rapid closure of the negotiation process and reduces the period of uncertainty for employees, but it also limits the time-frame for expertise and for discussion of possible alternatives. The law stipulates that negotiations on a redundancy scheme have to address the possibility of avoiding or reducing the number of redundancies, as well as the prospects for attenuating the consequences of redundancies.

The legislation on employee representation in the workplace was due to be reformed by the new government which took office after the legislative elections of June 2009. The government's programme cites the necessity of "democratising the economy" and of "modernising" instruments dating from the "industrial age".

1.4.3. RESTRUCTURING IN THE BANKING SECTOR

According to the STATEC, the banking sector saw the number of jobs fall during three consecutive quarters (by 0,9% during the first quarter of 2009, 0,4% during the second quarter, and 1,1% during the third quarter). Recruitment plans have been in decline, investment projects cancelled, and costs reduced. During the first quarter of 2009 personnel costs in the banking sector were virtually flat compared to 2008. In this context of cost control priorities, overhead costs were reduced by more than 3% during the same period. Fixed term contracts are often not renewed and banks now only rarely make use of interim firms , according to the STATEC.

The annual report of the Ministry of Employment and Labour for 2008 indicated that most of the redundancy schemes signed in 2008 in the financial sector were a consequence of the international financial crisis (American Express, State Street and IFDS, West LB, Glitnir, Sella

Bank, IKB). Other firms have dismissed employees for economic reasons without establishing a redundancy scheme (Crédit Agricole Private Bank – ex Bank Sarasin, Dresdner Bank, Commerzbank, Fidelity, HVB, IQ Solutions, Landesbank Berlin etc). The islandic banks Glitnir, Kaupthing and Landsbanki were placed under the regime of suspended payments (*sursis de paiement*), an alternative to liquidation or bankruptcy, at the beginning of October 2008.

According to the trade union of the financial sector ALEBA (Luxembourg Banking and Insurance Employees' Union), 19 redundancy schemes were negotiated between April 2008 and July 2009 in the sector, with 545 jobs lost (*Luxemburger Wort*, 06.08.2009).

The general director of the Commission de Surveillance du Secteur Financier (CSSF) said in August 2009 that there was a risk of the number of employees in the financial sector falling over the next “1-2 years” by up to around 10% (*Neue Zürcher Zeitung*, 25.08.2009). The international consolidation of the financial sector, with concomitant mergers and acquisitions and reductions in the numbers of personnel, held a risk of adverse consequences for Luxembourg's financial sector, according to the general director of the CSSF.

	Number of banks	Employees
1995	220	18 283
2000	202	23 068
2005	155	23 227
2006	156	24 752
2007	156	26 140
2008	152	27 205
September 2009	146	26 499

Sources : CSSF, Banque centrale du Luxembourg

1.4.4. RESTRUCTURING IN THE MANUFACTURING SECTOR

Besides the banking sector, other sectors have also been touched by the crisis, in particular the industrial sector (most of all heavy industry and the producers of components for the automotive industry) and the transport sector.

The industrial sector has been severely hit. Figures from the STATEC show a decrease in manufacturing since the second quarter of 2008. The magnitude of the decrease in industrial production is also due to the size of Luxembourg's steel industry, which was particularly hard hit by the crisis. The downward trend in industrial production was stopped in the third quarter of 2009 (rise of 3.4%) mainly because of the end of the destocking process, even though production still was significantly lower than before the crisis.

Restructuring has taken place in different enterprises in manufacturing. Redundancy plans were put into place in a number of enterprises, sometimes with a high level of public attention, for example in the case of the ceramics manufacturer Villeroy et Boch. The largest employer in Luxembourg, the steel manufacturer Arcelor-Mittal, has also implemented job reductions.

1.5 Data on restructuring: the European Restructuring Monitor

Some information on restructuring in Luxembourg can be gathered from the European Restructuring Monitor (ERM), edited by the European Monitoring Centre on Change. It provides data on company restructuring in Europe which it has been monitoring since 2002. The data is gathered through reviews of national newspapers and online sources.

The ERM covers instances of restructuring that : 1) affect at least one EU country; 2) entail an announced or actual reduction of at least 100 jobs; **or** involve sites employing more than 250 people and affecting at least 10% of the workforce; **or** create at least 100 jobs. In the case of a small country like Luxembourg, these quantitative criteria can be quite demanding. Many recent closures of enterprises in Luxembourg have for example entailed job losses of fewer than 100 jobs owing to the small size of the firms and sites concerned - employing fewer than 250. The number of restructuring cases covered by the ERM is thus limited.

For the seven-year period 2002-2008, the ERM lists 13 cases of restructuring (two at Arcelor Mittal and two at Villeroy & Boch). The ERM distinguishes between different types of restructuring, and for Luxembourg, the following types are listed: Internal restructuring (5 cases)⁷, Offshoring/Delocalisation (3 cases)⁸, Bankruptcy/Closure (4 cases)⁹ and Other (1 case).

The number of job losses entailed by the restructuring measures recorded in the ERM during the period 2006-2008 are:

ERM: Planned job reductions in Luxembourg

2006	1 445
2007	484
2008	479

Source : *European Restructuring Monitor*

⁷ When the company undertakes a job cutting plan which is not related to other types of restructuring.

⁸ When the activity of the company is relocated or outsourced outside of the country's border.

⁹ When an industrial site is closed or a company goes bankrupt for economic reasons not directly connected to relocation or outsourcing.

The anticipation of restructuring – and of economic change in general - covers a wide field of activities and instruments. This chapter focuses on anticipation of the short-term consequences of restructuring and of the longer-term trends in the economy. Anticipation of the short term consequences of restructuring at company level consists of reducing the negative impact of restructuring on workers, the labour market and the economy, in particular by avoiding dismissals. At the overall level of the economy, anticipation can be realised through the monitoring of developments in the labour market and of skill requirements in the economy. The system of continuous and vocational training plays also an important part in the preparation and anticipation of economic change. The strategies aimed at diversifying Luxembourg's economy and the authorities responsible for monitoring the trends in and competitiveness of the economy are also part of the overall anticipation policy relating to economic development.

2.1 Anticipating restructuring at company level

2.1.1 JOB RETENTION PLAN (*PLAN DE MAINTIEN DANS L'EMPLOI*)

The job retention plan aims at preventing layoffs and keeping workers in employment through anticipation of the effects of restructuring by companies. It aims to find solutions through social dialogue so that employees threatened with dismissal do not actually become unemployed. In the framework of the job retention plan, information on redundancies is centralised and a new phase, prior to the collective dismissal phase, is introduced. During this phase a job retention plan can be negotiated by social partners with a view to finding alternative solutions to redundancies.

The job retention device was introduced by law on 22 December 2006 with a view to anticipating economic hardship in companies for cyclical reasons and to avoid the implementation of redundancy schemes. It entails implementation of a series of measures that were discussed by the government, employers and trade unions during the Tripartite Coordination Committee meeting of 28 April 2006.

The new regulations introduce a requirement that employers who regularly employ at least 15 workers should issue a notification of any redundancies made for non-personal reasons (that is, dismissals for reasons not personally connected with individual workers). The centralisation of information is operated by the Conjoncture Committee (*Comité de Conjoncture*). This committee is a tripartite unit set up under the Ministry of the Economy and Foreign Trade, is chaired by either the Minister of the Economy and Foreign Trade or the Minister of Labour and Employment, and meets once a month. The committee can, at the initiative of one of its members, invite the social partners at the appropriate levels to begin discussions with a view to establishing a job retention plan within the company concerned. In general it may do this at any point, but it is obliged to do so as soon as there has been notification of more than five redundancies within a reference period of three months, or of eight redundancies within a reference period of six

months in the same company. The initiative to begin discussions on a job retention plan can also come from the social partners.

The Conjoncture Committee is entitled to ask for an examination of the economic, financial and social situation of a company in order to make a decision on the necessity of establishing a job retention plan. If the company agrees, this examination can be done by an external expert.

The primary objective of a job retention plan is to outline the solutions envisaged by the company concerned for avoiding redundancies. Such solutions could include the following measures:

- reorganisation of working hours;
- reduction of interim missions and of fixed term contracts;
- voluntary departures (including the de-fiscalisation of financial compensations, if the Conjoncture Committee so decides);
- financial support to workers who are re-employed in less well-paid jobs (*Aide au reemploi*)¹⁰;
- voluntary part-time work;
- use of time saving accounting systems;
- part-time working;
- reduction of working hours with the possibility of participating in continuing training or retraining during the time freed up;
- temporary loaning of manpower¹¹;
- outplacement;
- early retirement¹².

Most of these measures can also be enacted in the absence of a job retention plan, but the companies who put such a plan in place may benefit from improved public financial support for the enactment of some of the measures. Additional public support for measures included in a job retention plan relates to financing of support for workers re-employed in less well-paid jobs in the framework of temporary loaning of manpower; support to employers who hire an older worker (+ 40 years) from an enterprise that has concluded a job retention plan; and support for continuous training or retraining.

The job retention plan may also include employees whose dismissal during the three- or six-month phase has prompted the Conjoncture Committee to act.

¹⁰ The Employment fund provides aid for reemployment of employees who have been, or are faced with the threat of being, dismissed for economic reasons, and who accept a job with a lower salary than their previous salary. The financial support is intended to provide recipients with a level of pay corresponding to 90% of their previous pay during the first 24 months in their new employment and to 85% during the following 24 months of their employment.

¹¹ The temporary loaning of manpower permits employers, if authorised by the Minister of Labour and Employment and on the advice of the public employment agency, to put their employees at the disposal of another employer.

¹² In case of economic difficulty the employer can ask for the early retirement of his employees. The employees included in early retirement will receive an early retirement allowance, the costs of which will be shared by the employer and the Employment Fund depending on the financial and economic situation of the company.

The job retention plan is signed by the social partners at appropriate levels, and forwarded to the secretariat of the Conjoncture Committee. The secretariat submits the job retention plan for approval to the Minister of Labour and Employment, acting on the advice of the Conjoncture Committee.

It should however be noted that the social partners are under no obligation to conclude a job retention plan. If they do not reach agreement, a report on the discussions has to be transmitted to the president of the Conjoncture Committee.

The Minister of Labour and Employment noted in February 2008 that « up to now we observed a reluctance of social partners and especially enterprises to embark on this new approach [of the job retention plan] »¹³. With the onset of the economic crisis, the number of job retention plans has nevertheless increased. During the first semester of 2009 the Minister of Labour and Employment approved 30 such plans. However the government intends to evaluate and adapt the job retention plan instrument. It intends in particular to formalise the establishment procedure for a job retention plan. Another possibility being discussed is making discussion of a job retention plan mandatory prior to any discussion of a redundancy scheme (*Luxemburger Wort*, November 5, 2009).

At the time of writing there did not exist, to our knowledge, any detailed analysis of the strengths and weaknesses of the job retention plan.

2.1.2 PART-TIME WORKING

Companies experiencing economic difficulties can put their employees on part-time working (“partial unemployment”). Under the provisions of such working, working time is reduced in the company and grants may be allocated to companies which resort to it rather than to redundancies, undertake to maintain the employment contract and pay compensation to employees. Applications for part-time working are granted by the Minister of Labour and Employment and the Minister of the Economy, on the advice of the Conjoncture Committee; and they need to be signed by the employer and a staff representative.

Four part-time working regimes are possible, depending on the nature of a company’s difficulties: non-structural (*conjoncturelle*); structural; *force majeure*; or arising from an economic dependence link. Part-time working can be put into effect if all other possible alternatives such as a reduction of the number of interim workers, or a recuperation of supplementary working hours or unused holidays, have been explored. Part-time working for business-cycle reasons can be granted if the enterprise belongs to an economic sector that the government has declared to be in crisis. It is important to note that in the case of part-time working for business-cycle reasons - as in the case of *force majeure* or an economic dependence link (that is if an enterprise depends on a number of enterprises operating part-time working) - the enterprise is not permitted to dismiss workers for economic reasons. In the case of part-time working on structural grounds, dismissals for economic reasons are possible under certain conditions.

For the years 2009 and 2010, the Government’s economic stimulus package has extended the system of reimbursement for part-time working. Employees affected by part-time working receive

¹³ http://www.mte.public.lu/ministre/commentaire/20080225_commentaire7_maintien_emploi/index.html

in principle 80% of their salary (reimbursed by the State up to 250% of the minimum wage). If employees affected by a part-time working measure participate in a training measure during their period of part-time working, the rate of pay compensation increases from 80% to 90%. The salary compensation is paid for by the State in the case of non-structural difficulties, *force majeure* or an economic dependence link. If the company has concluded a job retention plan with staff representatives which has been approved by the government, the costs of structural unemployment are also compensated for by the State. The permitted periods of application of part-time working have also been made more flexible for the years 2009 and 2010 to provide greater adaptation to the economic crisis conditions (extension of the eligibility period to 24 months and annualisation of the provision that part-time working should not exceed 50 % of normal working hours).

2.2 Anticipating the trends in the economy

A number of government policies are being carried out to attract new companies to Luxembourg and diversify the economy. One important goal of economic public policy in Luxembourg during recent years has been restoration of the economy through proactive encouragement of investment in innovation and modernisation. This is being pursued through implementation of various action plans (logistics, health, environmental technologies), development of new infrastructure (business parks, telecommunications) and implementation of new mechanisms to support innovation, entrepreneurship and creation of new activities.

2.2.1 CONTRIBUTING TO THE DIVERSIFICATION OF THE ECONOMY: CLUSTERS AND PUBLIC SUPPORT FOR RESEARCH AND DEVELOPMENT

In order to diversify its economy, the Luxembourg Government has in particular chosen to concentrate its efforts on a few sectors offering high growth potential. The “clusters” programme is designed to stimulate technological collaboration between companies around the concepts of “key technologies” and the building of clusters. Launched by the Ministry of the Economy in 2002, the clusters have been designed to strengthen collaboration in various technological sectors in Luxembourg; they consist of firms of various sizes as well as public research institutions, and they develop cooperative relations. This programme has given birth to several clusters for which Luxinnovation acts as a facilitator in coordinating and organising the monitoring work. Luxinnovation is an Economic Interest Grouping created in 1998, composed of six private and public-sector partners in Luxembourg : the Ministry of the Economy and Foreign Trade, the Ministry of Culture, Higher Education and Research, the Ministry for the Middle Classes, Tourism and Housing, the Fedil (Business Federation Luxembourg), the Luxembourg Chamber of Commerce and the Luxembourg Chamber of Skilled Crafts. Clusters that have emerged are SurfMat (treatment technologies and coating and development of new materials), InfoCom (ICT), Aerospace (Aeronautical and Space), BioHealth Science and Technology of Health and Ecodev (environmental technologies and sustainable development). Logistics is also one of the sectors that the Government aims to develop within the framework of its economic

development policy and it therefore encourages all initiatives that strengthen Luxembourg's position as an intercontinental logistics hub in Europe. The Cluster for Logistics was thus created in June 2009. Clusters mainly allow networking between different actors, and the Cluster programme is generally welcomed by employers and employee representatives as a means of diversifying the economy and as meeting the need to identify new sectors of growth. The potentialities for interregional cooperation are also sometimes highlighted.

Subsidies can be granted to enterprises to encourage innovation. The type of State support varies according to the nature of the project promoter: for example, private-sector companies may be eligible for the R&D incentive schemes offered by the Ministry of the Economy and Foreign Trade and the Ministry of Middle Classes, Tourism and Housing, with the possible addition of an innovation loan provided by the National Credit and Investment Corporation (SNCI). Public-sector researchers, on the other hand, may be entitled to assistance from the Ministry of Culture, Higher Education and Research and the National Research Fund (FNR). The law of 5 June 2009 on public support for research and innovation targeted in particular small and medium enterprises (SMEs).

2.2.2 LUXEMBOURG BOARD OF ECONOMIC DEVELOPMENT

Public authorities try to attract new companies to the country. The Luxembourg Board of Economic Development (BED) provides assistance to investors to help them assess investment opportunities in Luxembourg (investment-related information, information on wages and taxes, advice on Government support programmes and regulations, tailor-made support for investment or R&D projects).

2.2.3 THE NATIONAL CREDIT AND INVESTMENT CORPORATION (SNCI)

The SNCI is a bank specialising in medium- and long-term financing of investments by Luxembourg-based companies. Created in 1977, it is a public-law banking institution wholly owned by the Luxembourg State. SNCI's financing instruments are investments in fixed assets, innovation and export. SNCI also grants start-up loans to newly incorporated SMEs. It may also finance investments abroad by Luxembourg companies. It thus plays a role in the structural development of Luxembourg's economy.

The SCNI engages in equity loans to limited liability companies under Luxembourg law for which the main place of business is the Grand-Duchy, with the purpose of promoting the creation, extension, conversion, reorientation and rationalisation of industrial, craft and commercial enterprises. It also engages in innovation loans with a view to financing expenditure on research-and-development programmes, on projects aiming to introduce new products or services, or on developing new manufacturing or commercialisation processes.

2.2.4 THE ECONOMIC AND SOCIAL COUNCIL (*CONSEIL ÉCONOMIQUE ET SOCIAL*)

The Economic and Social Council (CES) is a longstanding tripartite body with a consultative function. Created in 1966 and composed of representatives nominated by the government, trade

unions and employer's organisations, it serves as a forum for continuous discussion between these different actors and thus possesses networking qualities; moreover it edits documents on the general economic and social situation which mainly contain shared recommendations addressed to the government. Nevertheless today the CES is somewhat in the shadow of the Tripartite Coordination Committee which has a stronger profile.

2.2.5 COMPETITIVENESS OBSERVATORY (*OBSERVATOIRE DE LA COMPÉTITIVITÉ*)

In May 2003 the Tripartite Coordination Committee of Luxembourg recognised a need to create a structure dedicated to observation of the economy's competitiveness. This decision resulted in July 2003 with the introduction of the Competitiveness Observatory within the Ministry of the Economy. The Observatory's mission is to assist the Government and social partners in defining the direction and content of policies that support competitiveness. The Observatory is also responsible for the national implementation of the EU Lisbon strategy and coordinates the work with different ministries and authorities through the "Lisbon network". Through a website, publications and conferences, the Observatory contributes to discussion of the competitiveness of Luxembourg's economy.

The missions of the Competitiveness Observatory include collection, analysis and comparison of data on competitiveness (using 80 indicators of competitiveness established in collaboration with trade unions and employer's organisations), and coordination of the work on and preparation of the National Reform Programme (NRP) under the revised Lisbon Strategy, based on contributions from various ministries, departments and agencies. The Observatory contributes to benchmarking the national economy and takes a position *vis-à-vis* existing competitiveness rankings. It also plays a role in setting the agenda of the Tripartite Coordination Committee. From its position in the Ministry of the Economy, the Observatory has access to a network of social partners for furthering social dialogue and stimulating an exchange on economic problems, but it also has a role of assessment of the economic situation as a high level institution within the Ministry. This mixture of networking functions and an assessment role is a considerable challenge.

2.2.6 THE ADVANTAGES OF A SMALL-SIZED STATE

The Economic and Social Council, the Tripartite Coordination Committee, and the Competitiveness Observatory, often regroup the same actors with multiple responsibilities. This permits a quick flow of information and a high level of trust among actors. The small size of the country and the large number of multi-positioned actors thus favour the creation of social networks which create a concentration of confidence conducive to consultation between policy makers, union leaders and employers. Additionally, the small size of the State and the level of confidence between actors facilitates a high capacity for adaptation, with a lower degree of bureaucratisation and greater reactivity of the administration and government¹⁴. One possible source of weakness of this interlinking is the risk of a diminution of the autonomy of the different actors, and in particular of unions and employers.

¹⁴ See Patrick Thill and Adrien Thomas, « Le "modèle social luxembourgeois" au défi de la crise. » *Gouvernance et Emploi*, Nr. 12, December 2009.

2.3 Anticipating trends in the labour market

2.3.1 THE INQUIRIES “THE SKILLS OF TOMORROW”

FEDIL - Business Federation Luxembourg - has conducted surveys since 1997 in the industrial and information technology and communication sectors. These surveys, published under the title “The skills of tomorrow” (*Les qualifications de demain*), quantify on a two-year horizon the needs of companies for manpower (replacements and new posts) and their expected skill levels. The surveys are conducted in cooperation with the Luxembourg Bankers’ Association (ABBL), the Luxembourg Confederation of Commerce, the Chamber of Commerce and the Ministry of National Education and Vocational Training, with support from the European Union programme on Vocational Training Leonardo da Vinci and EURES. Surveys are conducted every two years, alternating their focus between industry and the area of information technology and communication. The objective of the studies is to provide guidance to parents and youth on their choice of courses, as well as to encourage public authorities and professional training actors to promote a balance between business needs and training.

The investigations have led to concrete achievements. Following the detection of a need for manufacturing workers, training courses for jobseekers were organised through a partnership between public authorities (ADEM, Department of Labour and Employment, Department of Education and Vocational Training, National Centre for Vocational Training), FEDIL and some private companies. Additional training has been implemented for security officers, Vocational training measures have also been organised in the construction sector. Specialised training in information technology has been implemented in schools. The University of Luxembourg has finally organised specific courses in the field of technology.

2.3.2 OBSERVATORY OF CONTINUOUS VOCATIONAL TRAINING

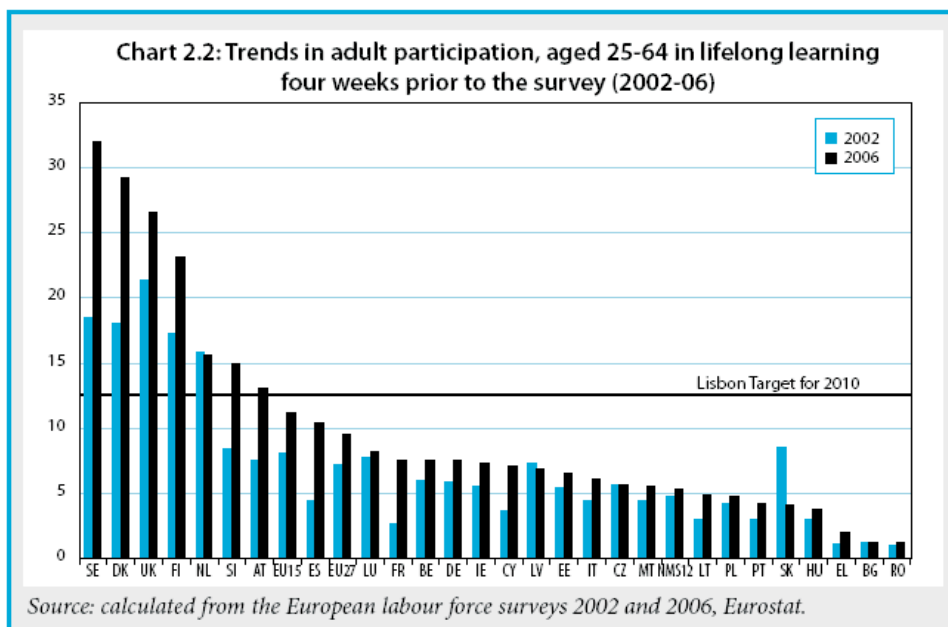
There is a lack of objective indicators on vocational training in Luxembourg. In order to address this shortcoming, an Observatory of Continuous Vocational Training is to be created in Luxembourg. For the time being the launch of this Observatory is being prepared for by the National Institute for the Development of Continuous Vocational Training which is a State institution under the supervision of the Ministry of National Education and Vocational Training. The goal of the projected Observatory is to provide information on continuous vocational training to both political decision-makers and private sector actors. Particularly in the field of vocational and further training, there exists a lack of information on professional career paths, as well as on trends in skills and skill requirements. The Observatory will aim to improve and quicken reactions to changes in these fields, and as a first step will produce information in a longitudinal study of the transition from education to employment by young people coming out of vocational technical secondary education.

2.3.3 CONTINUOUS AND VOCATIONAL TRAINING

Luxembourg is in the process of adapting its school system which over recent years has exhibited a number of weaknesses. The results of the *Programme for International Student Assessment (PISA)*¹⁵ have repeatedly demonstrated relatively weak performance by Luxembourg. The weaknesses of Luxembourg’s education system are an overall qualification level that is too low; an over-rigid selection system; too early orientation of students into different education systems¹⁶; neglect of professional training; weak crossover possibilities between different educational tracks; and an insufficient number of people obtaining university degrees. To remedy the problems of Luxembourg’s education system, professional training is to be strengthened and the progressive combination of skills and competences through alternation of school education and real-life work experience is to be developed.

Several new legislation features have been introduced in recent years to strengthen continuing education opportunities. One distinguishes in Luxembourg between collective access (aid to enterprises) and individual access to continuing vocational training (for individuals). The law on vocational training from 1999 (Act of 22 June 1999, the purpose of which is support for and development of lifelong learning) has in recent years been complemented by other instruments which have introduced *inter alia* a right to paid or unpaid training leave.

Luxembourg has been lagging behind other European countries in the area of participation in lifelong learning.



¹⁵ MENFP/SCRIPT (2002): PISA 2000: Comparaison internationale des compétences des élèves. Rapport national Luxembourg; MENFP/SCRIPT (2004): PISA 2003: Comparaison internationale des compétences des élèves. Rapport national Luxembourg; MENFP/Université du Luxembourg (2007): PISA 2006: Rapport national Luxembourg.

¹⁶ At age 12 students are oriented in two types of education: the more valorized “classical” secondary education and the less valorized “technical” secondary education

2.3.4 COLLECTIVE ACCESS TO CONTINUING VOCATIONAL TRAINING

The collective access to vocational training takes place within the company. The details are determined by a training scheme or a collective agreement. The state encourages the collective access to vocational training through co-financing of training and subsidies for Luxembourgish language courses.

The Law of June 22, 1999, which entered into force on January 1, 2000, introduced a system of funding and financing of vocational training in enterprises. Companies established in Luxembourg may receive financial assistance from the state for their investments in vocational training if they respect certain criteria. Financial assistance concerns an amount of 14.5% of the taxable annual expenditures related to the implementation of training policies by enterprises.

To be eligible for financial support, enterprises must develop a plan or project for training. The training plan must involve training activities undertaken in close relation with the activities of the enterprise and which concern the adaptation, conversion or promotion of employees. At least half the training time must take place within the normal working hours. Periods of learning taking place outside normal working hours qualify either for compensatory time off equal to 50% of the hours of continuing professional training, or a financial compensation calculated at the rate of normal working hours.

The state also provides grants for educational courses of Luxembourgish given within the company.

The National Institute of Continuing Professional Education (INFPC) is the reference body, appointed by the MENFP, for assisting businesses wanting to apply for State co-financing under the law of June 22, 1999.

2.3.5 INDIVIDUAL ACCESS TO CONTINUING VOCATIONAL TRAINING

Individual access to vocational training supports employees' access to training and learning through special leave and financial assistance. The objective is to enable recipients to undertake the training of their choice. The means of facilitating access to vocational training are: leave without pay for training; individual training leave; language courses; and accreditation of work experience.

Agreement on individual access to vocational training

An agreement between OGBL and LCGB, on the one hand, and the National Union of Luxembourg's Enterprises (*Union des Entreprises Luxembourgeoises*) on the other, which was made generally binding by the Grand-Ducal Regulation of 30 March 2006, regulates individual access to vocational training. Leave without pay for training was introduced in this framework. This leave allows pursuit of vocational training while releasing the worker from his professional obligations for the duration of the training. The agreement applies to private sector employees in post for two years with their employer, under any type of employment contract. The employer

may refuse to grant leave under certain conditions. The combined total unpaid leave for training per employer is two years.

Individual training leave

Leave for individual training was introduced under the Law of 24 October 2007 which came into force on 1 January 2008. The goal is to provide access to vocational training and to allow employees and self employed, as well as professionals, time off for training for a maximum of 80 days during their career. Over a period of two years the maximum permitted number of training leave days is 20. Training must be offered by institutions issuing certificates recognised by the public authorities.

During training leave the employee receives compensation paid by his employer, equal to his wage. The employer is then reimbursed for the amount of compensation and the employer's social contributions by the Ministry of National Education and Vocational Training.

Language leave

The Law of 17 February 2009 on linguistic leave introduced a special leave facility to allow employees of all nationalities, as well as self-employed or professionals, to learn Luxembourgish and perfect their knowledge, so as to facilitate both their social integration and their integration into the labour market. The training envisaged by the legislation is provided by recognised institutes.

To qualify for linguistic leave employees in the private sector need to have worked at least six months in their company, this condition also applying to those engaged in self-employment or as professionals within Luxembourg. The total leave time allowed for language courses is 200 hours.

Employers of employees taking language leave are entitled to reimbursement of salary for each hour of leave taken.

Accreditation of work experience

The Law on Vocational Training of 19 December 2008 developed the concept of accreditation of work experience in respect of certificates and diplomas in technical secondary education, patents level above the technical secondary education and the master craftsman. Thus adults, including those with low levels of initial training, have the opportunity to request validation and recognition of skills acquired during their professional activities. To apply, they must have practised an activity for a total of at least three years and the activity should correspond to the degree for which they seek validation. The application is examined by a validation committee that analyses the past and present activities of the candidate against the requirements of the degree and eventually leads a discussion with the applicant or observation of him or her at work.

Debate held during the National Seminar: Key insights

A long term strategy for anticipating economic change is missing. In the absence of a longer-term vision, it is difficult to construct strategies for skills building and skills evolution. To facilitate professional transition, anticipation of lay-offs is important.

Investment in innovative sectors is considered crucial in the context of economic diversification, as along with investments in Research and Development. The renewable energy sector is considered to have high potential for job growth, as have the general requirements of the “greening” of the economy and the creation of green jobs. A priority has to be the creation of new and high-quality jobs. In an innovation context, the role of clusters is generally regarded as positive, as they are seen as key instruments in creation of new jobs.

Social dialogue can be an important tool in anticipating and managing restructuring, if there exists a willingness by all concerned parties to engage in a search for solutions. The time factor is crucial in anticipating future developments. The fact that decisions concerning developments in Luxembourg’s enterprises are taken in head offices geographically removed from Luxembourg is seen as a potential obstacle to developing anticipation strategies.

The importance of the legal co-management framework was highlighted by trade unions as an instrument for anticipation in times of crisis. The importance of finding solutions in good time, as well as the need to establish scenarios, was highlighted as key in facilitating anticipation of upcoming developments.

The job retention plan is sometimes difficult to put into place owing to time constraints. Parties are free to find solutions which may be innovative if actors in enterprises so wish. The voluntary component is considered central to the job retention plan. The concepts of corporate social responsibility and of the commitment of firms to their workforces (in particular in small and medium sized firms) are also mobilised in this context. It is however difficult to evaluate experience with the job retention plan properly as there is a lack of experience with this relatively recent instrument.

The inquiries “The skills of tomorrow” constitute an orientation tool for families and for choosing vocational training. They are however not an appropriate instrument in the context of restructuring.

Individual access to continuing vocational training is important. If companies are generally sensitised to the usefulness of continuous training, small and medium enterprises are not necessarily using all the programmes at their disposal.

In cases of restructuring entailing job losses there exist certain instruments designed to reduce the adverse effects. Such measures might include help in retraining and finding new jobs, but also financial compensation paid to workers (amounts workers are legally entitled to and surplus payments). From dismissals for reasons not personally connected with individual workers through to bankruptcies, the legislation defines employers' obligations and employees' rights. There are also a number of public support instruments which can be used by enterprises.

The main objective of the social support measures available in the event of restructuring which entails job losses is to prevent people from becoming unemployed through finding new employment or through self-employment or early retirement benefits. A number of measures can be provided to help workers find new employment including information on job opportunities, assistance in job search, and help with writing CVs and preparing for interviews. Outplacement services can be provided and in some cases enterprises contact other companies to find jobs for those made redundant. Workers can also be compensated for taking up less well-paid jobs in the framework of the job retention scheme. Companies may also receive public support for organising training for workers appointed to new positions within a company as part of the job retention plan.

3.1 Managing restructuring on the company level

3.1.1 INDIVIDUAL DISMISSALS FOR ECONOMIC REASONS

There does not exist a precise definition of dismissal for economic reasons. In most cases jurisdictions quote the EU Directive of 27 February 1979 (modified by the Directive 98/59 of 20 July 1998) stipulating that dismissals are economic if they take place for reasons not personally connected with the worker. Dismissals for economic reasons do not necessarily have to be related to economic difficulties. They may also be related to a reorganisation of the company or to the use of new technologies.

The courts have repeatedly laid down the principle that the employer controls the organisation of his company, and can freely decide on restructuring leading to job losses, including cessation of activities, provided he does not act irresponsibly (*légèreté blamable*). The courts do not require that the company suffers financial difficulties, even if evidence of such difficulties justifies the serious step of this or that dismissal for economic reasons. In most cases the courts believe that today the employer is not required specifically to justify why one employee rather than another has been dismissed, but that he can freely make that decision (provided that there is no discriminatory treatment).

As part of an individual dismissal for economic reasons, the employee will receive the statutory notice of two, four or six months, and severance pay equivalent to up to 12 months depending on seniority. Certain collective bargaining agreements provide for prolonged periods of notice in cases of dismissal on grounds of reorganisation, restructuring or closure.

It now follows from Article L.511-27 of the Labour Code that every employer who employs at least 15 employees and who dismisses an employee for reasons not connected with his person, is required to notify the Conjunction Committee of this dismissal. The Conjunction Committee prepares a monthly list of notifications received and centralises information on layoffs due to economic hardship.

3.1.2 REDUNDANCY PAY

Redundancy pay has to be paid to employees dismissed for economic reasons and who have more than five years' seniority. Redundancy pay, which is exempt from taxes and social contributions, gradually increases with seniority. It corresponds for example to one month of salary in the case of seniority between 5 and 10 years or to 2 months of salary in the case of a seniority between 10 and 15 years. The employer employing fewer than 20 persons can opt for an extended period of notice in the case of a redundancy, as an alternative to redundancy pay.

Seniority	Redundancy pay
5 to 10 years	1 month
10 to 15 years	2 months
15 to 20 years	3 months
20 to 25 years	6 months
25 to 30 years	9 months
30 years and more	12 months

Collective agreements or redundancy schemes may provide higher levels of compensation. In the banking sector, for example, the current collective agreement provides for redundancy pay in the case of rationalisation, reorganisation or closure as follows:

Seniority	Redundancy pay
1 to 7 years	1 month
8 to 12 years	2 months
13 to 17 years	3 months
18 to 22 years	6 months
23 to 27 years	9 months
28 years and more	12 months

3.1.3 NOTICE OF TERMINATION OF THE EMPLOYMENT CONTRACT

Termination of an employment contract of indefinite duration (open-ended contract) does not take effect until after a specified period of notice. The contract terminates on the expiry of a notice period of two, four or six months for employees with a length of service in the enterprise of respectively less than 5 years, more than 6 years or more than 10 years. The exception is in the case of bankruptcies, in which event employment contracts are automatically terminated with the bankruptcy.

The notice period may be extended in the case of a collective dismissal, when individual notices of dismissal may not be issued until a redundancy programme has been signed or a National Conciliation Memorandum signed, and they do not take effect until a period of 75 days has elapsed (the Ministry of Labour and Employment may extend this period to 90 days). Collective agreements or redundancy schemes may provide longer periods of notice.

In the banking sector, for example, the current collective agreement provides the following periods of notice for redundancies in the case of rationalisation, reorganisation or closure: four months for length of service of less than five years, eight months for length of service between five and ten years, and 12 months for length of service of more than ten years.

3.1.4 COLLECTIVE DISMISSALS AND REDUNDANCY SCHEMES

Under Luxembourg law, in case of collective dismissals a redundancy scheme (*plan social*) must be negotiated with employee representatives and, where a collective agreement applies, trade unions. The goal of the redundancy scheme is to avoid or reduce the number of job losses or mitigate their effects. The redundancy scheme is an agreement containing all the measures taken by the company at the moment of redundancy. It is designed primarily to facilitate the redeployment of redundant employees and to mitigate the consequences of dismissal by granting various forms of financial compensation. The redundancy scheme allows workers to receive more than the redundancy pay stipulated by law.

One speaks of a collective dismissal when a company plans to dismiss at least seven persons for economic reasons over a period of 30 days or at least 15 dismissals over a period of 90 days. In the case of a collective dismissal the company is under obligation, before notifying any dismissals, to negotiate with employee representatives (employee committee, joint work committee or trade unions in the case of a collective agreement) on measures to reduce the number of redundancies or mitigate their consequences, and thereby conclude a redundancy scheme.

In the absence of the prior conclusion of a job retention plan, negotiations must cover at least the points that have to be discussed under such a plan. In the event that a job retention plan exists for the company that intends to resort to layoffs, the social partners are exempt from the mandatory bargaining items were already discussed during the negotiations on the job retention plan, provided that the plan was approved by the Ministry of Labour and Employment less than six months before the start of the negotiations on the redundancy scheme.

The redundancy scheme is a measure that aims to limit the number of redundancies and facilitate redeployment of staff subject to dismissal. The establishment of a redundancy scheme more or less favourable to the employees of the restructuring company depends on the outcome of the negotiations between management and staff representatives. To limit the number of dismissals, several measures may be applied, among which are reductions or adjustments of working time; voluntary part-time work; reclassifications, whether internal or external to the enterprise (with the possibility of public support through the Employment fund¹⁷ if the reclassification involves loss of salary). Early retirement may be publicly supported through the

¹⁷ The Employment Fund is placed under the authority of the ministry of Labour and Employment. It provides among other things assistance to the unemployed and to workers made redundant.

Employment fund, depending on the financial situation of the enterprise and on the existence of a job retention scheme.

The collective dismissal procedure begins with a written communication to the staff representatives including the reasons for the proposed redundancies, the number and categories of employees concerned, the criteria for selecting employees for dismissal and possible compensation measures. The project must also be notified to the public employment service. On this basis, a negotiation period of a maximum of 15 days starts. At the end of this period either an agreement on a redundancy scheme has been reached or it has not. In the latter case a conciliation procedure before the National Conciliation Office (*Office national de la conciliation*) is scheduled.

Only once a redundancy scheme is signed (or a record of non-conciliation is established) is the employer entitled to notify the individual employees concerned of the dismissals. The employer has to respect the requirement of a minimum of 75 calendar days' notice (or 90 days if an extension is approved by the Minister of Labour and Employment), unless the legal or conventional period of notice is longer (*inter alia* for employees with at least five years of seniority).

Redundancy schemes often include measures that will assist the redundant workers. Among the most commonly implemented are the creation of a reclassification cell which has a role of assessment, guidance and advice to the employee on his or her professional and personal situation and expectations; bonus incentives for voluntary redundancies; retraining agreements; aid for geographic mobility (*aides à la mobilité géographique*)¹⁸; aid for business set-ups; and specific measures for older employees or for employees whose social characteristics or qualifications make their return to work particularly hard.

3.1.5 BANKRUPTCIES

Under the impact of the economic crisis of 2008-2009, the number of bankruptcies has risen. According to "Creditreform", there were 353 bankruptcies during the first six months of 2009. This represents an increase of 24% in comparison with the first six months of 2008 (there were 601 bankruptcies in total during the whole of 2008).

Once the bankruptcy of an employer is declared, the employment contracts of all employees of the company are automatically terminated with immediate effect. Employees are entitled to their wages for the month of occurrence of the bankruptcy and for the following month, and to an allowance equal to 50% of the compensation they would have been entitled to in the event of dismissal. Depending on the closure of the bankruptcy and if the company does not have sufficient assets to pay all creditors, the Employment Fund intervenes to guarantee the salaries of the last six months of work and the money due in relation to the termination of the contract up to a ceiling equal to six times the minimum wage. Employees have a preferential claim to have their outstanding pay and entitlements settled, and thus have priority over all other creditors and preferential claims.

¹⁸ The public financial support (through the Employment Fund) for the geographical mobility of job-seekers may take the form of a monthly allowance for travel expenses, maintenance of two homes or a payment for removal and resettlement expenses.

The governmental programme adopted in 2009 indicates that the protection of workers in the event of a bankruptcy should be enhanced. There have in fact been discussions on the inequality in compensation paid to dismissed workers in cases of bankruptcy *vis-à-vis* that applying under collective dismissal.

3.1.6 TRANSFER OF UNDERTAKING (*TRANSFERT D'ENTREPRISE*)

In the case of a change in the legal identity of the employer through an inheritance, sale, merger, formation of a partnership or conversion into a limited company, all existing contracts are continued with the new employer. After the transfer, the transferee must maintain the pay, employment contracts and conditions stipulated under the applicable collective agreement. If an employment contract is terminated because the transfer has resulted in a substantive change to the disadvantage of the employees, it is deemed to have taken place at the initiative of the employer. The employee committee or the workers (in the absence of an employee committee) have to be informed by the transferor and the transferee of the reasons of the transfer, the legal, economic and social consequences for employees, and the measures envisaged with respect to the employees.

3.2 Managing restructuring on the labour market

3.2.1 TAILOR-MADE TRAINING MEASURES

Tailor-made training measures as a form of active labour market policy constitute a response to an identification process that highlights a lack of qualified workforce in a particular economic activity sector, federation or company. Tailor-made measures for unemployed individuals can be applied transversely to nearly every economic sector, company or business federation that diagnoses a particular need for more highly skilled workers in the context of company expansion or general economic growth.

In Luxembourg the background that led to the design of tailored training measures can be traced back to the 1996 Tripartite Coordination Committee negotiations. They were shaped at a time when Luxembourg's employment rate was still well below the level experienced by the country more recently and when, on a wider scale, the European Union launched its first efforts to bring its national employment policies under a coordinated European umbrella. Luxembourg's 1998 National Action Plan (PAN), enshrined in law by the 12 February 1998 law on implementation of the PAN, also led to the setting up of measures via a range of legislative texts stipulating far-reaching employment policies.

Owing to the interaction of private (i.e. companies, federations, etc.) and governmental agencies or departments addressing vocational training or employment, tailor-made training measures have required the informal cooperation and strong effort of many actors. Generally speaking, the architecture of tailor-made training measures for unemployed people rests on the following key procedure: when a lack of skilled workers is identified either by companies, a particular business

federation or an economic activity sector, the basic skills required are defined and the National Employment Agency proceeds to pre-selection of possible candidates from their list of registered jobseekers who are able to commence a work-based, business-orientated training scheme or an internship in a company in which the shortage has been pinpointed¹⁹.

3.2.2 THE “ABBL JOB MARKET”

The “ABBL Job Market” was established in October 2008 by the Association of Banks and Bankers of Luxembourg (ABBL) to maintain in employment persons dismissed for economic reasons (the project ended in November 2009). The ABBL website contained vacancies in ABBL members of and in the Association of the Luxembourg Fund Industry (ALFI). Job seekers who worked in the financial sector and lost their jobs for economic reasons could also ask to have their CV placed on the extranet. A company active in career management evaluated the jobs and checked the profiles of people registered on the website to ascertain if there were suitable matches. If a profile did not correspond completely to the requirements of the employer, the candidate could take additional training in the training institute of the banking sector. The project was funded by the Ministry of Labour and Employment. A follow-up project was put into place by the ABBL and the training centre of the financial sector IFBL under the title “fit4job”. This project aims to offer support and training possibilities to persons who have lost their jobs in the financial sector.

Debate held during the National Seminar: Key insights. In the event of restructuring it is considered essential to use any available funds for training programmes. The prevalence of financial compensation over training measures and other measures aimed at easing professional transition was noted. Employers insist in this regard on the necessity of a change of mentality. Concerning financial compensation, questions have also arisen concerning their financial sustainability. The costs of some of these forms of compensation could thus be diverted to other purposes by firms (for example for accompanying measures and other active labour market tools, particularly for vulnerable groups and low skilled workers).

In times of economic crisis, management of restructuring becomes more difficult with a prevalence of redundancies and higher pressure to cut costs. In times of crisis the degree of urgency becomes pressing and it becomes more difficult to structure and discuss priorities.

There are also differences between sectors as regards industrial relations. There are for example different traditions and constraints in the banking and industrial sectors in respect of restructuring.

Among passive labour market instruments, early retirement is thought to have been a useful instrument in the iron and steel industry. In general the need for a flexible approach to managing restructuring was highlighted, along with the benefits of good cooperation between the parties involved. The importance of the willingness of all actors in industrial relations to engage in a search for innovative solutions was also highlighted.

¹⁹ For an evaluation of tailor-made training programs in Luxembourg, see Patrick THILL's report: http://www.mutual-learning-employment.net/Downloads/Host_country_discussion_paper_LUX_finalversion.pdf

3.3 Restructuring in action: three case studies



1) Villeroy & Boch

Villeroy & Boch is a large manufacturer of ceramics. The company's main seat is in Mettlach, Germany. It started life in the tiny French village of Audun le Tiche, where François Boch set up a pottery company in 1748. Later, the company moved to nearby Luxembourg. In 1801 the company moved to the nearby town of Mettlach, Germany. On 14 April 1836, the Jean François Boch company merged with that of a competitor, Nicolas Villeroy, and became Villeroy & Boch.

In March 2009 the board of Villeroy & Boch stated that global demand for its products in the first two months of 2009 had fallen by 20%. Despite recording an increase in turnover of 3.8% in the first half of 2008, a subsequent sharp decline in demand left the company facing a fall of 1% over the year. The board signed off a package of measures it claimed would increase the ceramic manufacturer's competitiveness. They included specialisation at production sites, creation of what it called "centres of competence" and accelerated introduction of automated production lines. But it also included cutting some 900 jobs in its global workforce of 9,250. The company stated that once the full package of measures had been implemented, it would result in annual savings of some €50 million per year. But the cost of implementing the measures would be €60 million in 2009.

In March 2009 Villeroy & Boch announced that the production facility for ceramics in Luxembourg would be closed at the end of June 2010. 230 jobs would be made redundant (210 in production and 20 in administration). The average age of workers was 47 years and average seniority 22 years. No redundancies were to take place before January 2010.

The Villeroy & Boch production unit in Luxembourg had already undergone two waves of restructuring in earlier years. The first, in 2003, led to 195 redundancies. Then in 2006 179 workers were made redundant, after difficult and contentious negotiations.

Reactions to this announcement were negative. Media reported that the Minister for the Economy Jeannot Krecké was "angry" at the news, and that he had a feeling that Villeroy & Boch was using the crisis as an excuse to execute plans already made to shut down the manufacturing plant in Luxembourg. The trade unions said that their priority was to negotiate the conditions under which workers would stay in employment and to establish a programme to help the workers find new jobs under a progressive redundancy programme offering retraining opportunities. The company emphasised structural causes as the main reason for its decision to cease activities at its Luxembourg site. Rumours were however circulating that the site's closure was connected with a real estate transaction.

In June 2009 a job retention plan was signed. Workers were placed under part-time working, and were granted an extra six days of leave to allow them to attend interviews and training courses (€1,500 per worker could be used for training). Job fairs were also to be organised by Villeroy & Boch in order to help the employees find new jobs. It was furthermore agreed that each employee who found a new job would be relieved of his duties, and would still receive the benefits negotiated under the job retention plan. There were however a series of differences between management and unions on this issue. Villeroy & Boch indeed said that many of its

employees could not leave immediately because they were in “key positions” in the production process.

An internal redeployment unit (*cellule de reclassement*), composed of representatives from the OGBL and LCGB unions and of two representatives of Villeroy & Boch, would also assist workers in finding new employment and there would assistance for writing CVs and job applications. Villeroy & Boch would also look at “insourcing” some services that were previously performed externally to allow workers to remain in employment as long as possible.

The negotiations on a redundancy scheme started on 14 October 2009, and finished without agreement on 28 October. The negotiations were accompanied by tension and demonstrations by the workers of Villeroy & Boch. Unions and management finally failed to agree on the amount of the redundancy payments. Unions claimed that the extra-legal redundancy payments had to be comparable to those paid in the previous redundancy scheme in 2006. The National Conciliation Office is now trying to propose an agreement. In the case of non-conciliation, strike action might be organised.

Sources: PaperJam, March 2009 and April 2009, Luxemburger Wort June 26, 2009, Eurofound.

 **2) Arcelor-Mittal**

Arcelor-Mittal is the largest steel company in the world, with 315,867 employees in more than 60 countries. The company was formed in 2006 by the merger of Arcelor and Mittal Steel. It ranks 28th on the 2009 Fortune Global 500 list. The company has its headquarters in Luxembourg City, the former seat of Arcelor. In June 2009 the company had 6,378 workers in Luxembourg, in which it was the largest employer.

On 19 December 2008, after 19 negotiation meetings, representatives of Arcelor-Mittal, the two trade unions OGBL and LCGB, and the government reached agreement in the framework of the “steel” tripartite body. This agreement provided a plan for the future of the steel industry within the Arcelor-Mittal Group in 2011. The plan, called LUX 2011, provides a plan for industrial production sites in Luxembourg, arrangements for the organisation of work and on management of the process of reducing overstaffing. Arcelor-Mittal committed itself to investing €75 million in Luxembourg sites by 2011. The steel plan LUX 2011 will also have social consequences; overstaffing in Arcelor-Mittal units in Luxembourg is expected to total between 570 and 660 people at the end of 2011, compared to late 2008 .

The tripartite agreement provided for support measures for the management of this overstaffing. Planned accompanying measures included different mechanisms for early retirement, part-time working and a redeployment cell (*cellule de reclassement* - CDR). The redeployment cell will collect workers whose jobs are made redundant for structural or non-structural reasons. Workers placed in the CDR can be occupied in a variety of maintenance jobs in the company (including jobs on different production sites), be lent out to other employers or undergo training. The workers placed in the CDR received a guarantee that they will not be made redundant and will receive their full salary. The Employment Fund takes over part of the costs of the redeployment cell. The time savings account (*compte épargne temps*), which may be used in the case of economic difficulties, is increased to 40 days.

The agreement also includes support measures for the 400 administrative employees of the “corporate” and support functions for which Arcelor-Mittal Luxembourg announced a voluntary separation scheme in November 2008. A job retention plan has been devised that includes associated measures for voluntary departures. It includes among other things a reemployment guarantee within 2 years if former employees are made redundant for economic reasons by their new employer, as well as financial support for workers re-employed in less well-paid jobs (*Aide au reemploi*). The compensation payments range from six months' salary for those employees with less than five years seniority, up to 18 months' salary for those with over 25 years of seniority.

It was further decided that the “steel” tripartite body will meet annually to review progress on implementing the LUX 2011 plan and the associated measures.

Trade unions considered this agreement in a joint press declaration on 22 December 2008 as guaranteeing the “model of the Luxembourgish steel industry in its entirety”. The model is usually perceived as combining flexible adaptation of production structures with a high level of protection for workers.

Debate held during the National Seminar: Key insights

During the national seminar Luc Scheer, general manager of human resources of Arcelor-Mittal Luxembourg, explained that the management of redundancies of Arcelor-Mittal in Luxembourg took place in the framework of Luxembourg's model of industrial relations characterised by a tripartite approach, a long-term industrial and social commitment to Luxembourg as a production site, and a commitment to social peace.

During the discussion of the Arcelor-Mittal case study, further elements were highlighted: the considerable financial involvement of the State in the financing of the management of redundancies at Arcelor-Mittal; the production workers' difficulty in re-acustoming themselves to working in shifts following a prolonged period of daytime work; the importance of the use of early retirement (which is financially expensive); the flexibility of employees who are willing to move between jobs within the company; the innovativeness of trade unions and of Arcelor-Mittal in seeking solutions outside the established legal framework; and the capital-intensity of the Luxembourg-based production sites of Arcelor-Mittal which made relocation less of an option.

3) Dexia BIL

Founded in 1856, Banque Internationale à Luxembourg (BIL) claims to be the country's oldest bank. In 1991 Crédit Communal de Belgique became BIL's majority shareholder. The merger of Crédit Communal de Belgique and Crédit Local de France led to the foundation of the pan-European banking group, Dexia, in 1996. After launching a buyout bid for the bank's shares, the Dexia group holds 99.3% of the capital of BIL. In May 2000 BIL, by then one of the Group's three main operating banks, adopted the name Dexia Banque Internationale à Luxembourg (Dexia BIL). Dexia BIL's business activities in the Grand Duchy cover the fields of retail banking, private banking, trading on financial markets, and fund management and fund administration for which it has Group responsibility. Dexia BIL is represented in Luxembourg through a network of 40 branches spread over the territory. In September 2008 the Dexia group received State support during the financial crisis. The Belgian, French and Luxembourg governments said they would invest €6.4bn in keeping Dexia afloat.

In September 2009 Dexia BIL announced, following a meeting of its joint work committee, a restructuring plan which excluded compulsory redundancies. The restructuring plan provided for the elimination of 143 jobs (around 10% of the total number of employees). The plan was part of a job reduction plan conducted in the Dexia group in the course of which 602 positions were to be suppressed, including 445 in Belgium, 14 in France and 143 in Luxembourg. In Luxembourg a further 128 posts were to be suppressed at Dexia BIL during the period 2010-2011. The remaining 15 job losses concerned the Asset Management in Luxembourg, the company life insurance Dexia Life & Pensions and Dexia Technical Services. The departures were to be accomplished through natural departures, early retirement and part-time working. Voluntary departures were to be accompanied by compensation packages. 78 positions had already been eliminated earlier in 2009 at Dexia BIL (announcement of this restructuring plan on 29 April 2009).

The CEO of Dexia BIL Frank Wagener said that the distribution of effort in the framework of the cost reduction programme between the various entities of the Dexia group was balanced. The president of ALEBA (the Luxembourg Banking and Insurance Employees' Union) Marc

Glesener said that he was “surprised” by these new measures: “At the time of the first announcement of cuts, there was no indication that there would be a sequel. Quite the contrary. We felt that Dexia BIL has paid its dues to its parent.” The union also has concerns about the implementation of this new programme. “I think it will be very difficult to find volunteers this time,” said Marc Glesener who feared that these departures were finally not so “voluntary”.

The CEO of Dexia BIL stated that fifty people are “eligible for retirement or early retirement schemes, which greatly reduces the task to be accomplished.” Moreover in 2009 the bank made more than the 78 announced cuts. Therefore “the effort needed in 2010 and 2011 is greatly reduced” according to Frank Wagener.

Source: *Luxemburger Wort*, September 29, 2009.

- At **national level** there exist in Luxembourg a number of institutions and instruments that facilitate tripartite exchanges between government, employers and unions. Bodies such as the Economic and Social Council, the Tripartite Coordination Committee or the Competitiveness Observatory allow a quick flow of information and anticipation of trends in the economy. The small size of the country and the high number of multi-positioned actors create a certain level of trust among industrial relations actors. One possible source of weakness of this interlinking of the actors is the risk of diminished autonomy of the different actors, in particular of unions and employers. A potential source of instability may reside in the development of tensions between levels of bargaining, that is between national collective bargaining on the one hand, and bargaining at company level on the other. With the start of the economic crisis in late 2008, various examples of sometimes contentious or potentially contentious restructuring have occurred in industry, often involving downsizing, closures or relocation of production units.
- As discussed during the national seminar, the **Competitiveness Observatory** is an anticipation instrument addressing broader macro-economic trends in Luxembourg. It was set up following discussions in the Tripartite Coordination Committee and it benchmarks the competitiveness of Luxembourg's economy using a series of indicators chosen in collaboration with trade unions and employer's organisations. The Observatory has adhered to the following definition of competitiveness: "It is in the end the capacity of a nation to improve lastingly the living standards of its inhabitants and offer them a high level of employment and social cohesion while preserving the environment". While it is grounded in Luxembourg's tradition of social consultation, the Observatory is certainly an instrument which could be transferred to other European countries with a tradition of macroeconomic consultations between the State, trade unions and employer's organisations.
- At **enterprise level** anticipation of restructuring still seems less developed than management of the same. Social dialogue on anticipation of restructuring does not seem invariably to take place in all enterprises. As discussed during the national seminar, the informing and consulting employee representatives on company strategy is unequally developed. Whereas some companies seem to have a tradition of structured social dialogue, other companies seem reticent to communicate information on strategic company choices to employee representatives. Whereas unions plead for institutionalised social dialogue and for a strengthening of the right of employee representatives to an element of co-determination, employers emphasise the need for *general* social dialogue while being unwilling to abandon the ultimate sole decision-making responsibility of the employer. In a context where competitiveness predominates, employers play a major part in restructuring and setting the agenda. The discussions on restructuring often seem to be conducted only when layoffs are about to occur. In Luxembourg there is a weak tradition of negotiation on restructuring, on possible alternatives or on industrial projects. This may be linked to a weak level of counter-expertise by unions and employee representatives on these subjects and to the physical distance from Luxembourg of the decision-making centres of many multinational enterprises. Multinational enterprises also have less knowledge and experience of Luxembourg's tradition of social negotiations and organisation of industrial relations, as participants in the national seminar observed.

As discussed during the national seminar, the experience of restructuring Arcelor-Mittal shows the potential strength of structured social dialogue, which facilitates the construction of relations of trust between trade unions and employers and the negotiation of innovative solutions

for management of restructuring. It also shows the role of public support in the management of restructuring and in the mitigation of its consequences. In terms of transferability it has of course to be taken into account that the steel industry and Arcelor-Mittal, as the largest employer in the country, hold a special position in Luxembourg which impels the government to invest heavily in social measures to accompany restructuring, but nevertheless the structured dialogue and bargaining at Arcelor-Mittal, with its intensive consensus-building processes and a high level of trust between the actors, can be regarded as of relevance elsewhere than in Luxembourg.

- The **shape and conduct of industrial relations** varies between sectors and enterprises. An important factor in anticipation is enterprise size. Whereas larger enterprises are willing and able to make use of anticipation instruments, smaller and medium sized enterprises do not necessarily have the means to engage in anticipation procedures, as was highlighted during the national seminar. The willingness of management and unions to co-operate is thus not necessarily homogenous, even if Luxembourg has a specific tradition of social dialogue which is often referred to as the “Luxembourg model” in which social partners are closely incorporated into the decision process via tripartite negotiations. But there remains a contentious aspect of restructuring which should not be denied. Restructuring impacts on both the development philosophy of the enterprise (under the impact of technological change, competition, etc.) and the livelihoods of the workers. As a number of participants in the national seminar emphasised, the smooth working of industrial relations in Luxembourg depends to some degree on trust and honest bargaining between social partners. Where this is not the case, individual cases of restructuring can become quite contentious. The future will show how far the pacification of social relations is due to the institutional structures of social dialogue or how far it is related to the relative economic prosperity experienced by Luxembourg over recent decades.
- **Participants in the national seminar agreed that it is difficult to evaluate the job retention plan** because of its short history (it was established in 2006). The job retention plan facilitates negotiation of measures between companies and employee representatives and at the same time gives an element of control to the government, given that certain State financial aid is conditional on approval of the job retention plan. It is criticised by union representatives as not binding enough. A recurrent critique is that some job retention plans are negotiated only to secure higher participation by the State in the financing of part-time unemployment and in early retirement measures. The negotiation of an acceptable job retention plan would largely depend on the goodwill of the employer; union representatives stress the importance of outside involvement in the negotiation of a job retention plan, among other things through the validation procedure of the job retention plan by the Conjoncture Committee. Union representatives in companies consider that some of the measures contained in the job retention plan are ineffective in times of economic crisis (voluntary departures, professional reorientation). During the national seminar employers’ representatives highlighted the fact that the negotiation process on the job retention plan should not be too formalistic; they prefer a flexible and pragmatic approach to bargaining between enterprises and employee representatives, without outside union involvement. The choice of measures to be included in the job retention plan should allow sufficient flexibility. Employers consider that the job retention plan should have led to a “change of mentality” by making possible greater flexibility and mobility of workers. One disadvantage of the job retention plan, from the point of view of employers, is that some of the measures included do not allow visibility of workforce trends (as the employer cannot be sure who will for example take up the offer of voluntary departure). If the establishment procedure of the job retention plan is too rigid, employers maintain that

they could just as well negotiate on a social plan. Both unions and employers criticise the fact that the job retention plan does not provide binding deadlines for the negotiations.

As far as transferability of the job retention plan is concerned, it should be noted that the high degree of government involvement in financing the measures provided by the job retention plan is linked to the state of public finances, which have so far been exceptionally favourable in Luxembourg but might become less so in the coming years. The same remark applies to the high degree of financial support from government for the restructuring of Arcelor-Mittal in the framework of the Lux 2011 plan. In that context it needs to be noted that there exists a strong “emotional” attachment to the steel industry as the once dominant production sector in Luxembourg, and the main actor of the modernisation-industrialisation of the country.

- The instruments contained in the job retention plan are more or less appropriate to a situation of **economic crisis**. Instruments such as the temporary loan of employees, for example, seem more difficult to put into effect during a time of crisis, as not many employers are ready to employ supplementary personnel.
- One instrument that could be considered interesting in the context of transferability is **part-time working** (“partial unemployment”). During the national seminar part-time working was considered by participants to be an efficient instrument. It was introduced into Luxembourg labour law in 1975 but in 2009 and 2010 was made more flexible so as to adapt it to the economic crisis conditions (extension of the eligibility period to 24 months and annualisation of the provision that part-time working should not exceed 50% of normal working time). The allowance for hours not worked has been enhanced to 90% of normal salary if the employee undergoes training. The specific question in relation to part-time working is of course that of the eventual outcome of such measures. Are they a means of maintaining employment and avoiding dismissals or are they merely a means of delaying dismissals? It remains to be seen how they work out in Luxembourg. Employers and trade unions see part-time working as a means by which enterprises can buy time in order to adapt to a changing environment or survive in a difficult period. It is thus considered that part-time working has made possible pre-empting of layoffs in a certain number of firms and has thereby allowed personnel to be retained with a view to eventual economic recovery.
- **Redundancy schemes** seem to be regarded mainly as a way of managing the social aspects of restructuring and of respecting the legal obligations of firms. Often the decision to reduce the number of workers seems already to have been taken and negotiations are only on implementation of the decision. During the national seminar it was highlighted that during negotiations on redundancy schemes there still seems to be a culture of financial compensation *vis-à-vis* measures such as training. To ensure that the funds invested in training measures in the framework of redundancy plans are well managed, the creation of an advisory board is considered useful. In the absence of mid- and long-term studies on labour market trends in Luxembourg, it is difficult to say what kind of training bring real added value to employees. As Luxembourg’s labour market could rely in the past on a steadily growing inflow of mostly young and qualified cross-border workers from neighbouring regions, the incentive to put training schemes in place for the local workforce was less strong. That might change in the context of rising unemployment among the local workforce. The study “The qualifications of tomorrow” of the FEDIL gives information on the hiring intentions of employers (which could be changed by economic circumstances) on a two-year horizon. It is also not easy for individuals to change their professional identify or accept a transition to a lower-quality job. And it is also well known that less-qualified workers make less use of lifelong learning measures than higher-qualified

workers. During the national seminar employers insisted in this regard on the responsibility of the individual worker. Small and medium-sized enterprises also make less use of training possibilities.

National Seminar: Key insights regarding transferability and effectiveness of measures

During the national seminar an exercise was conducted with a view to identifying priority themes according to the criteria of effectiveness and transferability .

The results show that among the **anticipation** measures and instruments the most effective is considered to be “clusters for R&D” and that this is also considered a tool with a high degree of transferability.

As regards **management** of restructuring, the results show that the most effective measure is considered to be the “part-time working” scheme, while “tailor-made training schemes” are considered to have the highest degree of transferability.

The exercise revealed a high level of homogeneity in the opinions and comments expressed by the participants.

Luxembourg's economy has undergone major changes over the past three decades. The transition from an economy characterised by the dominance of the steel sector to one dominated by the financial sector has been the main feature of the period. The downsizing process in the steel industry has been accompanied by a strong government presence in the management of the social consequences of the downsizing. Recently Luxembourg has introduced a number of instruments for anticipating economic developments at both macro-economic level (Competitiveness Observatory) and company level (Job Retention Plan). Efforts were also made in recent years in the field of vocational training. For the time being data on the anticipated qualification needs of enterprises is insufficiently developed, but the creation of the Observatory of Continuous Vocational Training should facilitate a future flow of data. As regards the management of restructuring, there still seems to exist a general predominance of financial compensation for redundancy over other measures, although attempts are being made to develop strategies for job seekers including training and coaching. Today it remains to be seen how social dialogue will evolve in the context of the management of the medium- and longer-term effects of the economic crisis. One difficulty is that anticipation of economic developments and of qualification needs seems not yet to have become a daily practice, whether at economic sector and sub-sector levels or at enterprise level. There is also at present some ongoing debate on the mandatory *versus* voluntary character of measures (for instance regarding the job retention plan), with trade unions pushing for mandatory measures but employers highlighting the need for flexible and voluntary measures and emphasising the notion of corporate social responsibility.

Debate held during the National Seminar: Key insights

The context of the crisis provoked discussions on the sustainability of public finances and of salaries in Luxembourg within the framework of debates on the competitiveness of the national economy. The points of views of employers and trade unions diverge on this subject, in particular on the issues of wage levels and indexation of salaries.

Participants at the national seminar generally agreed on the positive aspects of a well-functioning social dialogue. Structured social dialogue can be an important factor in an anticipation strategy if the requirements are accepted by all parties involved. Legislation on informing and consulting employee representatives is aimed in that direction.

Potential difficulties in social dialogue arise from the multinational character of Luxembourg's economy, with its high proportion of transnational companies. The physical location of decision-making on capital and resource allocation is thus often far removed from the physical locations where those decisions have their effects; decisions are more and more taken in corporate headquarters outside Luxembourg. It was noted that small and medium sized enterprises (SMEs) often have difficulty in anticipating economic developments.

The instrument of part-time working, combined with training measures targeted on the workforce, is considered positive because it gives companies a breathing-space and time to prepare for the post-crisis period. A high number of companies have sought authorisation to implement the tool of part-time working, which shows that it is an attractive instrument and that enterprises are willing to retain their workforces.

The prevalence of a culture of financial compensation over other types of measure such as training was highlighted. To ensure that laid-off employees, in particular low-qualified workers, find other employment, it is considered that training measures should be accorded higher importance.

The need for creative and innovative decisions was highlighted as regards management of restructuring. The crisis could be an opportunity for innovation in matters of social dialogue.