

Good Practice Note

Managing Retrenchment

Whether it is the pursuit of new markets or the desire to improve performance or productivity, companies must periodically review and adjust their business plans and processes. The injection of new capital, changes in ownership, or changing economic circumstances can often lead to reorganization and restructuring within a company. It is not uncommon for job losses to result, and in some cases it may be the only way for a company to move forward and thrive. Loss of employment may be caused by a range of factors from technological change to privatization to total closure of a workplace.

No one single international definition or universally used terminology exists to categorize such job losses. Terms used can include: retrenchment, redundancy, downsizing or lay-off. Throughout this Good Practice Note, we use the term “retrenchment,” which can cover a wide range of dismissals that do not essentially relate to the conduct or capability of the worker. These include

- ▶ the closure of a plant, factory, mine, or other workplace, with the total or near-total loss of jobs
- ▶ job losses arising from a reduction in staffing requirements due to efficiency gains or falling demand for the company's products or services
- ▶ job losses arising from a downsizing in operations or restructuring of the workforce following, for example, privatization.

Retrenchment may sometimes be a necessary part of securing future employment for large sections of

the workforce. However, the key to a good outcome lies in developing and implementing a retrenchment procedure that achieves the commercial aims of the process while minimizing the impact of job losses on workers and communities. Such a procedure, often encapsulated in a retrenchment plan, should be founded on widespread consultation (particularly with workers and their representatives) and should seek to ensure that the selection of workers for dismissal is based on principles that are fair and transparent and do not discriminate against particular groups. During the course of the process, efforts should be made to reduce the number of jobs that have to be lost and to mitigate the effects of the job losses on individuals, groups, and communities.

The aim of this Good Practice Note is to provide guidance to IFC clients and the wider private sector operating in emerging markets on how best to plan and manage significant job losses. A well-managed process can help avoid a host of problems and result in better outcomes for the company, its employees, and the wider community. This note contains a range of good practice measures that can help companies think through the key issues, avoid common pitfalls and hidden problems, and design a comprehensive retrenchment plan. The development of such a plan is a requirement for IFC-financed investments where a significant number of job losses is expected.

Environment and Social Development Department



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Managing Retrenchment

A poorly executed retrenchment process can lead to loss of productivity, low morale, and decreasing economic performance.

The Case for Getting It Right

■ **Morale and Productivity**

It is evident that retrenchment will have a substantial impact on the workers involved. However, the effect can be much more widespread. Those employees who are left behind and managers who deal with the retrenchment can be affected by the process, especially if it is badly handled or creates unnecessary conflict. A poorly executed retrenchment process can lead to loss of productivity, low morale, and decreasing economic performance. While it will always be difficult to maintain employee morale during a retrenchment exercise, there is likely to be a better response to a process that appears to be based on clear grounds that employees and their representatives can understand and contribute towards.

■ **Legal and Reputational Risks**

Every country has basic national rules for dealing with collective job losses and reorganization. An important aspect of developing and implementing a retrenchment plan is ensuring compliance with national laws and the terms of collective bargaining agreements. This not only ensures that the employer is doing the right thing, but also minimizes the legal risk arising from the retrenchment process. Minimizing risk is an important factor to bear in mind from both a financial and a reputational perspective. Key aspects in this regard include severance payments to individual employees and the nature of consultation carried out with trade unions and other stakeholders. Also important are the transparency and fairness of the selection criteria used to select employees for dismissal. A company's risk of being sued for discrimination, unfairness, or a range of other causes is much higher if the rationale behind

selecting a particular individual over another cannot be explained and justified.

■ **Avoiding Misinformation**

Sound retrenchment practices should be as transparent as possible. A good communications strategy and clear information will both enable the consultation process to run smoothly and make it much more likely that employees, their representatives and other stakeholders will be able to come up with alternatives to job losses or indicate ways in which the effects of job losses can be mitigated. Full and frank disclosure of information helps to avoid rumors and misinformation, which again can fuel low morale and lack of productivity in the workplace. A transparent process that engages key stakeholders early on decreases the likelihood of resistance to changes in the longer run.

■ **Efficiency**

It is much easier for a company to manage a retrenchment program that has clear rules and boundaries than one that is open to subjective manipulation. If the process is fair and objective, challenges to the process are also much less likely.

Key Steps in Planning and Managing Retrenchment

■ **Ensure Retrenchment Is Necessary**

One of the first questions to ask during any retrenchment process is whether there are alternatives to job losses. Quite often, workers and their representatives will come up with alternative and innovative ways to deal with particular economic situations so that a large number of

people will not lose their livelihood. It is always worth verifying whether the level of job loss proposed is necessary or whether there are alternative ways of achieving the changes sought.

■ Look for Alternatives to Job Losses

There are several instances where reducing the number of individuals directly employed by an organization seems to be the most obvious way to achieve necessary savings. However, further consideration and consultation may reveal that alternatives to job losses might be possible. Options to consider include

- ▶ a freeze on new hiring
- ▶ enforcement of retirement ages
- ▶ reduction in hours worked by existing staff
- ▶ outsourcing of particular activities
- ▶ an end to using agency and contract workers
- ▶ internal transfers and redeployment
- ▶ transfer of employees to third party organizations
- ▶ reduction in salaries
- ▶ active performance management
- ▶ staff involvement to find productivity gains.

It is important to consider whether any of these alternatives is viable in the circumstances of each retrenchment exercise. Of course, fewer options exist in the case of a total closure of a workplace. Even then, however, there may be opportunities to relocate some workers to a sister company or outplace them to another local employer.

■ Gather Preliminary Information

Decisions should be based upon full knowledge of all the relevant facts and the legal and economic context in which the organization is operating. Companies need this initial information in order to

start forming a picture of the options available. This includes gathering information to answer the following questions:

- ▶ What are the workers' rights and obligations in relation to job loss, not only in terms of the content of their contracts of employment and their entitlement to payments upon retrenchment, but also with respect to collective agreements and local and international rules?
- ▶ How employable are the workers to be retrenched and what is the job market like for the types of skills they possess?
- ▶ From what areas and groups of workers will the cuts come?
- ▶ What is the gender and ethnic breakdown of the workers to be retrenched versus those who are to be retained?

■ Commence Consultation with Key Stakeholders

- ▶ Begin consultation with key stakeholders early. Engage workers and their trade unions or other representatives. Consultation may also include local, regional, or national government agencies (most frequently the Labor Ministry).
- ▶ Reach an agreement with stakeholders on process for consultation. One of the easiest ways to ensure problems with any process, particularly one as difficult and contentious as retrenchment, is to leave unions and other stakeholders feeling that they have no say in relation to the process. (See *"Consultation is Critical"*, p. 5.)

One of the first questions to ask is whether there are alternatives to job losses.

Managing Retrenchment

Prepare the tools and procedures to effect the retrenchment.

Decide on the Nature of Retrenchment and Establish Procedure

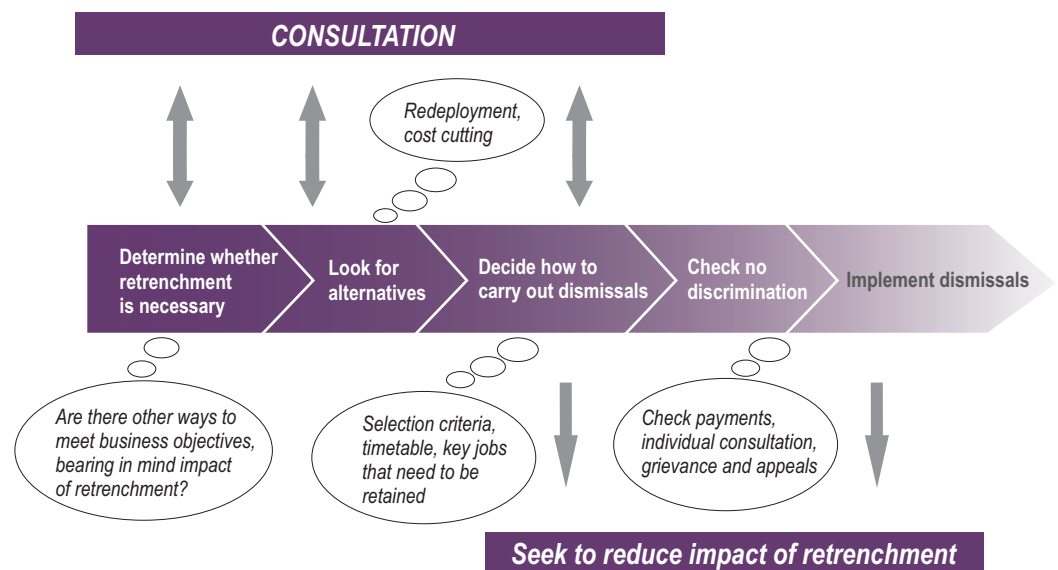
Form a committee or group within the organization to manage the process of retrenchment. The role of the committee will be to

- ▶ determine the revised shape of the workforce.
- ▶ plan in detail the numbers of workers required in each division of the organization and the skills required for each post.
- ▶ determine a draft timeframe for implementation to ensure there is a clear timeframe for each stage of the retrenchment process and enough flexibility to allow for changes in the process so as to reflect ongoing consultation.
- ▶ start to develop the criteria by which workers will be chosen for dismissal, keeping in mind potential discrimination and other legal issues.
- ▶ consult on the criteria for selection.
- ▶ determine budgets for each course of action, including costs associated with retraining, redeployment, early retirement, and financial implications of community impact.

- ▶ reach a decision on the appropriate course of action in light of all the information available.

Implement Retrenchment Plan

- ▶ Prepare the tools and procedures to effect the retrenchment, including an appeal or grievance mechanism.
- ▶ Once consultation has occurred on this point, announce the number of dismissals that will take place and the manner in which employees will be selected for dismissal.
- ▶ If possible, carry out interviews with every person affected by the retrenchment, and be prepared to review individual selection in light of any particular information learned.
- ▶ Make severance payments in a timely manner.
- ▶ Carry out assistance programs (e.g., training outplacement, job assistance, and economic development opportunities), for retrenched workers. In some cases these programs may be extended to the families of employees and the local community.



Consultation is Critical

Consultation on both the development and the implementation of a retrenchment plan is critical. Without consultation, companies run the risk of not only getting key decisions wrong, but also of breaching legal rules and collective agreements and alienating workers and the community. Workers can often provide important insights and propose alternative ways for carrying out the process to minimize impact on the workforce and the broader community.

■ Choosing Whom to Inform and Consult

Determining whom to inform and consult is the first issue to address. The most obvious group of people will be the workers who are likely to be affected by the proposed retrenchment. Other groups may also be important.

Trade Unions and Worker Representatives. If there is a recognized trade union either at the workplace or named in the national law, this will be one of the key consultees. Even when no ongoing relationship with a trade union exists, if workers wish a trade union to be consulted on their behalf, this may well be the appropriate course of action to take. Each country will have different rules on whether consultation with trade union representatives is obligatory. However, it is important to identify the appropriate group to consult or, failing this, either elect worker representatives or consult with everyone in the workplace individually. This latter option can be time-consuming and difficult, so an appropriate form of collective consultation is normally the best route.

Government Authorities. Usually, notification of either the local, regional or national government

Common Pitfalls

- ▶ not providing sufficient information to unions or workers early in the process
- ▶ failing to adequately consult with unions or workers' representatives
- ▶ assuming that retrenchment is the only alternative without looking for other ways of dealing with the problem
- ▶ choosing final selection criteria too early, without considering implications or alternatives
- ▶ failing to seek government or other third party support to either reduce or mitigate the number of job losses
- ▶ concentrating solely on how much severance to pay.

authorities is required where a large-scale loss of jobs is anticipated. The purpose behind this requirement is to allow the relevant state bodies to engage in economic regeneration, training, or other forms of intervention. Government may be a good partner when looking at alternative forms of economic activity for workers who are to be dismissed. They may also be able to provide resources for training or other support.

Community Leaders. Where the closure of a workplace has substantially wider ramifications (for example, where the company is a major provider of healthcare, social services, transport, or housing), consultation with the wider community through its traditional leaders or elected representatives is important. However, in some countries where this may not be possible or is insufficient to get to the heart of issues affecting particular parts of the community, it may be appropriate to consult local non-governmental organizations (NGOs) and other civil society groups.

The first issue to be determined in relation to consultation is whom to inform and consult.

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The timing of the initial provision of information about proposed job losses is crucial.

■ Timing Issues

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crucial. On the one hand, it may be harmful to disclose the information before there is a clear idea of what the likely proposals are, both in the sense of bad publicity and in the sense of damaging the employer's financial stability. On the other hand, the earlier workers and others know about what is likely to happen, the more they may be able to contribute in terms of avoiding job losses, looking for alternative economic solutions, or ensuring that those selected for redundancy receive fair and equitable treatment. Companies are well-advised to make sure there is a clearly formulated proposal for carrying out the retrenchment before they commence consultation. This will allow for effective engagement with trade unions and other stakeholders around a concrete proposal, rather than just preliminary hypothetical conversations. This is not to say that information sharing and consultation should not come as early as possible.

Not all information has to be released at the same time. Good practice encourages a phased release of information and consultation on a staged basis. This means not having to announce immediately that "there will be 2,000 jobs lost and these are the names of the individuals." For example, an announcement of the need to reduce headcount may take place reasonably early in the process, followed by a consultation and discussion about the alternatives and likely numbers. Subsequently, the proposed final numbers and the proposed means of selection for dismissal may be announced followed by a consultation about selection.

Participatory Process: The Case of Côte d'Ivoire Railways

The restructuring and privatization of Côte d'Ivoire railways illustrates both good and bad practice. In the early 1990s, the railway was restructured without union consultation. It soon became clear that there had been too many redundancies in some key areas. The company found itself having to pay overtime, so much so that the potential for restructuring to lead to a sound financial footing was undermined.

A second phase of restructuring from 1993 onward, in which the union was more effectively engaged, produced better results, with changes in commercial attitudes, reduction of fraud, and a clear increase in the availability of locomotives. The second phase also created a more conducive labor relations climate.

However, a subsequent breakdown in communications and consultation produced further avoidable problems. A union request for information about how further labor restructuring would be carried out was ignored. This led to a strike and other direct actions. Details of the envisaged redundancies were provided eventually, but the union had managed to negotiate severance terms equal to 14 months of wages, double the initial offer. In addition, the number of years of contributions required to entitle an employee to an early retirement package was reduced from 20 to 15.

During the subsequent negotiations, the union proposed a plan to enable workers to establish their own businesses after retrenchment. The concession company that took over operational responsibility for the railways agreed in principle to favor companies created by former workers. Subsequently, track maintenance, company car fleet management, and printing of timetables and tickets have been contracted out to firms set up by former workers. When recruiting new staff, preference was also given to workers made redundant in 1995.

Source: Martin and Micould, "Structural Adjustment and Railways Privatization: World Bank Policy and Government Practice in Ivory Coast and Ghana." (1997)

■ Confidentiality Issues

In order to let worker representatives know what is happening early in the process, it may be necessary to require that they keep the information confidential until, for example, disclosure has been made to markets, other financial partners, or shareholders. This can be a difficult route to take, as the representatives may feel an obligation to talk with the workforce to try to gauge their reaction.

■ Content of Information Disclosed

The type of information to disclose to worker representatives includes the

- ▶ number of workers or particular categories of workers likely to be dismissed
- ▶ total numbers in each worker category
- ▶ proposed timeframe for dismissals
- ▶ economic, technical, or organizational reasons behind the decision
- ▶ proposed severance package
- ▶ alternatives to retrenchment that have been considered.

The sort of information to provide to communities includes the

- ▶ timeframe for retrenchment
- ▶ anticipated impact of retrenchment on the community
- ▶ proposed remedial measures that the company anticipates taking.

National and Legal Requirements

There will inevitably be some national rules dealing with the question of mass dismissals for economic reasons. The rules may be found in national, state, or regional legislation or within the terms of collective

agreements negotiated with trade unions on either a sectoral or an undertaking basis. Examples of issues that will be covered in such rules include

- ▶ minimum severance payments for each worker dismissed
- ▶ requirements for consultation with employee representatives
- ▶ requirements for notification of national authorities
- ▶ prohibitions on dismissals based on particular defined criteria, such as discriminatory criteria or trade union membership.

Although compliance with national law is essential, in some instances good practice may dictate going beyond the minimum standards set out in national legislation. For example, most national legislation provides that minimum amounts of severance be paid to each worker dismissed in a retrenchment. However, there is rarely any legal obligation to provide funds to pay for retraining of workers to find new employment—although such a provision may be found in some collective agreements. For social, reputational, and/or business reasons, however, many socially responsible companies choose, either on their own or with relevant governmental or other partners, to organize and fund retraining and other assistance for workers affected by the retrenchment process. (See *“Beyond Compensation: Assisting Workers”*, p. 17.)

Additionally, the consultation requirements may lead to requests and agreement to carry out particular actions to mitigate the effects of the retrenchment. If companies enter the consultation process with an open mind, they must be prepared to accept that the results of the consultation may lead to their doing things that are over and above their minimal obligations under national law.

Good practice encourages a phased release of information and consultation.

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IFC-financed investments are expected to comply with applicable local, national, and international laws.

IFC Requirements

The IFC has a defined set of Social and Environmental Performance Standards that it applies to its financing. During appraisal, IFC identifies the performance standards and guidelines applicable to a potential investment. In addition, IFC-financed investments are expected to comply with applicable local, national, and international laws. *IFC's Performance Standard and Guidance Note on Labor and Working Conditions* contains specific requirements in relation to retrenchment.*

IFC Performance Standard Requirements on Retrenchment.* The relevant part of the policy states that the client will develop a plan to mitigate the adverse impacts of retrenchment on employees, if it anticipates the elimination of a significant number of jobs or a layoff of a significant number of employees. The plan will be based on the principle of non-discrimination, and will reflect the client's consultation with employees and their organizations, and where appropriate, with the government.

IFC Guidance Note Language on Retrenchment.* If it anticipates the elimination of a significant number of jobs or a layoff of a significant number of employees, the client will develop a plan to mitigate the adverse impacts of retrenchment on employees. The following elements apply:

- ▶ Retrenchment means the elimination of a significant number of jobs or the dismissal or layoff of a significant number of workers by an employer, generally by reason of plant closing or for cost savings. As used in the Performance Standard, retrenchment does not cover isolated

* At the time of printing, IFC's Board had not yet approved the new Performance Standards. Please refer to: www.ifc.org/enviro for the latest policy language and guidance notes.

Legal Checklist

When planning retrenchment, it is important to take either external or internal legal advice as to the various requirements placed on an employer by national legislation and collective agreements. Below are some of the important questions that need to be considered:

- ▶ Is the undertaking/sector covered by a collective agreement and, if so, what are the provisions with respect to collective dismissals/retrenchment?
- ▶ Is governmental permission required to proceed?
- ▶ What are the requirements for consultation with trade unions or other employee representatives over retrenchment and downsizing?
- ▶ Is voluntary severance/early retirement a possible legal alternative?
- ▶ How are minimum severance payments to be calculated?
- ▶ How much notice must be given to each employee?
- ▶ What are the individual requirements that must be complied with in relation to each worker's dismissal?
- ▶ Is there specific legislation dealing with women or other protected groups, such as minorities?
- ▶ What legislation, if any, covers unemployment insurance and other aspects of social security, and regulates joint welfare funds, pension funds, and other such systems of workplace-social supports?
- ▶ What rights do workers have in the event of transfers of employment to other employers and outsourcing?
- ▶ What state agency procedures exist that relate to disputes resolution, including arbitration (binding and non-binding), conciliation, and mediation?
- ▶ What laws are in place related to the rights of workers in "atypical" or "contingent" employment, including temporary, part-time, and self-employed workers?
- ▶ What is the position in relation to public and private pension arrangements, and their portability between employers?
- ▶ Are there any rules that require preferential treatment for retrenched employees in respect to any future employment?

cases of termination of employment for cause or voluntary departure.

- ▶ In many countries, national law requires advance notice to affected workers, communities and/or governments of plant closings or layoffs above specified numerical thresholds. Some national laws require that retrenchments must be negotiated with workers' organizations through collective bargaining. Severance payments to affected workers may be required by national law or existing collective bargaining agreements.
- ▶ When significant layoffs cannot be avoided, the Performance Standard requires the development of a plan to address the adverse impacts on workers and their community. The retrenchment plan should address issues such as the schedule of cutbacks, retrenchment methods and procedures, selection criteria, severance payments, offers of alternative employment or assistance in job placement and retraining efforts.
- ▶ The plan will be based on the principle of non-discrimination.
- ▶ Selection criteria for those to be laid off should be objective, fair and transparent. The Performance Standard requires that the retrenchment not be based on the basis of personal characteristics unrelated to job requirements.
- ▶ The plan will reflect the client's consultation with employees and their organizations, and where appropriate, with the government. It is also required under the Performance Standard that clients consult with employees and their organizations in developing the retrenchment plan to consider their concerns as well as their ideas about ways to avoid or minimize layoffs,

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criteria for selection, and compensation payments. Where national law or an existing collective bargaining agreement stipulates that retrenchment is a subject for collective bargaining, the client should allow time for good faith bargaining as well as to implement the terms of applicable collective bargaining agreements. Any legal requirements specifying a period of advance notice must be followed. It is good practice to establish grievance mechanisms to deal with claims that any provisions in the retrenchment plan were not followed.

- ▶ It may be necessary in some projects for clients to consult with governments where required by law, where the scale of layoffs can have a significant effect on communities, and where government assistance may be available to help address the impacts.

■ When Is Retrenchment “Significant”?

There is no single numerical threshold for when the numbers involved in a retrenchment exercise become sufficiently “significant” to trigger the need to have a plan under IFC Performance Standards. However, the greater the impact a retrenchment program has on workers, the local economy, and communities, the greater degree of planning, review and forethought the Performance Standard requires. This will vary with the circumstances.

Factors to consider when determining whether a retrenchment is significant include the

- ▶ total number of workers being retrenched
- ▶ number of retrenched workers as a percentage of the total workforce
- ▶ number of retrenched workers as a percentage of the working population in a town or community
- ▶ characteristics of the current job market combined with the skill sets of the workers being retrenched, i.e., how easy or difficult it will be for

The IFC has a defined set of Social and Environmental Performance Standards that it applies to its financing.

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IFC requires a retrenchment plan where the client anticipates laying off a significant number of employees.

retrenched workers to find equivalent-paying jobs elsewhere

- ▶ level of diversification in the local economy and/or the level of dependency of the local community on the company for employment as well as infrastructure and services
- ▶ anticipated secondary impacts of unemployment on local businesses and other providers of goods and services.

It is always best to assume that a retrenchment plan of some kind will be necessary if multiple dismissals are due to take place at the same time. The more dismissals there are, or the greater the impact of those dismissals, the more detailed the plan may have to be.

Determining Selection Criteria

Once it has been established that there is no alternative to losing jobs, it is important to move on to determining the method and criteria for selection of those employees who will be chosen for dismissal. (This of course applies to situations other than a total closure of the workplace.) There are several ways in which a selection process can be organized, but it is important to ensure that it is

- ▶ transparent
- ▶ based on fair, objective criteria
- ▶ applied consistently
- ▶ contains an appeal or grievance procedure.

When developing selection criteria, one should assess which criteria will best serve the future requirements of the organization. For example, what balance of skill sets and functions will be needed? Also, in certain cases, a particular criterion

may be required either by national law or by some form of collective agreement with trade unions.

Once the criteria have been either decided upon or determined by reference to agreements and national rules, the next step is to consult with employee representatives over their proposed implementation. This will involve clearly setting out the proposed criteria, explaining how they will be implemented, and listening to any concerns or suggestions. Subsequently, a management procedure should be put in place to ensure that the criteria are accurately applied to all employees considered for dismissal.

■ Typical selection criteria

Much as criteria such as “worker potential” and “commitment to the business” may seem attractive, they are almost always based on a subjective assessment of an individual without the back-up of objectively verifiable facts. More typically, selection criteria involve one or a combination of the following factors:

- ▶ length of service
- ▶ performance record
- ▶ disciplinary record
- ▶ absence record
- ▶ skills
- ▶ knowledge.

■ Voluntary measures

Voluntary severance may be an appropriate way to deal with selection of employees for dismissal in a retrenchment scenario. Advantages of this approach include:

- ▶ **Speed.** Selecting workers to be dismissed from a pool of volunteers will be much faster than selection by other methods.

ILO Termination of Employment Convention No. 158

The ILO Convention on Termination of Employment (No. 158) was adopted in 1982 and has so far been ratified by some 33 countries. The Convention requires states to specify the grounds upon which a worker can be terminated from employment. Employment may not be terminated by the employer unless there is a valid reason connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking. Union membership, filing a complaint against the employer, acting as a worker representative, race, color, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, social origin, absence from work during maternity leave, or temporary absence for illness shall not be valid reasons for termination.

The Convention provides that when the employer contemplates the introduction of major changes in production, program, organization, structure or technology that are likely to entail terminations, the employer should consult the workers' representatives concerned as early as possible on, among other things, the introduction of such changes, the effects they are likely to have, and the measures for averting or mitigating their adverse effects.

In order to enable the workers' representatives concerned to participate effectively in these consultations, the employer should supply them in good time with all relevant information on the major changes contemplated and the effects they are likely to have.

The Convention is supported by the ILO Termination of Employment Recommendation, 1982, which contains further specific guidance with regard to retrenchment situations.

The Recommendation suggests that the measures which should be considered with a view to averting or minimizing terminations of employment for reasons of an economic, technological, structural or similar nature might include restriction of hiring, spreading the workforce reduction over a certain period of time to permit natural reduction of the workforce, internal transfers, training and retraining, voluntary early retirement with appropriate income protection, restriction of overtime and reduction of normal hours of work.

The Recommendation suggests that where it is thought that a temporary reduction of normal hours of work would be likely to avert or minimize terminations of employment due to temporary economic difficulties, consideration should be given to partial compensation for loss of wages for the normal hours not worked, financed by methods appropriate under national law and practice.

The Recommendation also has some advice as to the appropriate criteria for selection of those workers to be dismissed, suggesting that the selection by the employer of workers whose employment is to be terminated for reasons of an economic, technological, structural or similar nature should be made according to criteria, established wherever possible in advance, which give due weight both to the interests of the undertaking, establishment or service and to the interests of the workers.

With regard to the question of rehiring those who have been dismissed following a retrenchment or reorganization, the Recommendation states that such workers should be given priority if the employer again hires workers with comparable qualifications, subject to their having, within a given period from the time of their leaving, expressed a desire to be rehired. However, it is accepted that such priority of rehiring may be limited to a specified period of time. It is provided that the criteria for the priority of rehiring, the question of retention of rights—particularly seniority rights—in the event of rehiring, as well as the terms governing the wages of rehired workers, should be determined according to national law, collective bargaining or other appropriate workplace rules.

On the issue of the mitigation of the effects of termination, the Recommendation suggests that, in the event of termination of employment for reasons of an economic, technological, structural or similar nature, the placement of the workers affected in suitable alternative employment as soon as possible, with training or retraining where appropriate, should be promoted by measures suitable to national circumstances, to be taken by the competent authority, where possible with the collaboration of the employer and the workers' representatives concerned. Also where possible, the employer should assist the workers affected in the search for suitable alternative employment; for example, through direct contact with other employers.

With a view to mitigating the adverse effects of termination of employment for reasons of an economic, technological, structural or similar nature, consideration should be given to providing income protection during any course of training or retraining and partial or total reimbursement of expenses connected with training or retraining and with finding and taking up employment which requires a change of residence.

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Grievance mechanisms should be in place to deal with any claims that appropriate procedures were not followed.

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It is important to assess which criteria will best serve the future requirements of the organization.

► **Less conflict.** Selection from a volunteer population will normally be much less damaging to morale and less likely to lead to individual or collective disputes than will compulsory dismissals.

Disadvantages of taking the voluntary route include not having any control over which workers put themselves forward for selection. The most skilled workers, for example, may volunteer as they are the ones who have most confidence in their ability to find new employment. However, to avoid this scenario, one may designate only certain groups of workers as eligible to volunteer while those who are of most value to the organization are deemed ineligible. Or the plan may require that volunteers

be approved for retrenchment. If possible, the first option is preferable as it avoids the morale problems that arise when an employee volunteers but is then told that he or she cannot go and cannot receive a payment.

■ **Early retirement**

Another commonly used alternative to compulsory dismissals is asking for volunteers to take early retirement. This has many of the advantages associated with voluntary measures and may also provide opportunities for younger workers to advance into new roles. However, sometimes it means that the organization loses substantial skills and experience. The effectiveness of this option also depends heavily on the ability of the pension

OECD Guidelines on Multinational Enterprises

These guidelines apply to multinational enterprises operating in or from the OECD countries, plus Argentina, Brazil, and Chile. The chapter on employment and industrial relations contains much guidance relevant to socially responsible downsizing or retrenchment. Examples include

- respecting the right of workers to form and take part in the activities of trade unions and engage in collective bargaining
- not discriminating among workers
- providing facilities to employee representatives as necessary to assist in the development of effective collective agreements
- providing employee representatives with information needed for meaningful negotiations on conditions of employment
- promoting consultation and cooperation between employers and employees and their representatives on matters of mutual concern
- providing information to employees and their representatives that enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole
- observing standards of employment and industrial relations not less favorable than those observed by comparable employers in the host country.

On the specific issue of downsizing and retrenchment, the guidelines state that "in considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, [multinational enterprises should] provide reasonable notice of such changes to representatives of their employees, and, where appropriate, to the relevant governmental authorities, and cooperate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects. In light of the specific circumstances of each case, it would be appropriate if management were able to give such notice prior to the final decision being taken. Other means may also be employed to provide meaningful cooperation to mitigate the effects of such decisions."

The guidelines further suggest that employees should not threaten to move operations out of one country in order to influence the course of labor negotiations and also that the managers conducting labor negotiations should have sufficient authority to make decisions on the issues to which the negotiations relate.

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arrangements to cover the cost of accelerated pension payments.

Non-Discrimination

Selection criteria for retrenchment must be based on the principle of non-discrimination. To avoid discrimination against particular groups during the retrenchment process, it is necessary to assess the impact of the overall retrenchment and particular aspects of the process on defined groups. In particular, attention should be paid to

- ▶ gender
- ▶ trade union membership
- ▶ race or color
- ▶ national origin or ethnicity
- ▶ religion
- ▶ disability
- ▶ age.

Although discrimination rules are different throughout the world, some common principles can be discerned—most notably, that decisions based directly on any or most of the above characteristics will be unlawful. Therefore, choosing someone for dismissal in a retrenchment process merely because of national origin or trade union membership will not be acceptable.

■ Impacts of Criteria on Certain Groups

More frequently, however, the issue is not flagrant discrimination but rather the adoption of a particular practice that has an adverse impact (often unintentional) on one particular group. This may be because a particular group has less qualifications than other groups or because other characteristics are less prevalent. In such cases, it will not be unlawful or inappropriate for a client to use criteria such as type of employment (part-time vs. full-time), worker

Retrenchment in China

The State Council's document published in the *People's Daily* on 23 June 1998 states that

- ▶ enterprises should consider workers' living standards before making decisions on who should be made redundant. For example, they should not lay off both husband and wife from the same family.
- ▶ local governments should encourage the rural labor force to find jobs within rural regions and the size of rural migration should be controlled.
- ▶ every enterprise with redundant workers should set up a re-employment service center, which will distribute living allowance and other benefits, as well as pensions and unemployment and medical insurance for redundant workers.
- ▶ the re-employment centers will take care of redundant workers for no more than three years. The living allowance for redundant workers should gradually be reduced over the three-year period, but to no lower than unemployment benefit.
- ▶ redundant workers should be encouraged to set up small businesses of their own. Those who do so should enjoy three years' tax-free status. Financial institutions should provide loans for these businesses.
- ▶ redundant workers, regardless of whether they were re-employed or not, should enjoy the same pension benefits and housing arrangements.
- ▶ enterprises with vacancies should give employment preference to redundant workers, especially female workers.
- ▶ redundant rural migrant workers are not eligible for any of these benefits.

qualifications, or length of service. However, there will need to be objectively justifiable reasons for the client to select in this manner. Examples include

- ▶ **Part-time employment.** Selecting part-time employees as first candidates for retrenchment is in itself, gender neutral; in many societies, however, this choice is likely to disproportionately affect women. Therefore, companies must show good reasons for adopting this criterion rather than others that are available. For example, if it can be shown that the nature of the work is such that part-timers are proved to be less productive—which will often not be the

Selection criteria for retrenchment must be based on the principle of non-discrimination.

Managing Retrenchment

Some selection criteria may disproportionately disadvantage women.

case—or that the administrative burdens attached to part-time employment are disproportionately high, then the company may succeed in making a case for using the criterion.

- ▶ **Qualifications.** An important principle for selecting which employees should be dismissed during a retrenchment exercise is to try to retain those individuals who will contribute most to the business in the future. Therefore, using worker qualifications may be an obvious guide to the skills of employees. However, clients should consider whether qualification requirements disproportionately affect particular groups, for example, ethnic or national groups. There is nothing wrong with using worker qualifications as a criterion if they genuinely reflect necessary skills for a post. However, the skills should be actually used in the job. Moreover, other tests may be available that can be used to determine which workers are most skilled in their job.
- ▶ **Length of service.** A common criterion in selecting for redundancy is to dismiss those with least service in the organization, i.e., last in, first out. Although this has the apparent advantage of “fairness,” minorities and women are often those with the least length of service in the organization. Therefore, it is necessary to determine the real benefit to the organization of adopting this route. For example, length of service may be the agreed method for selecting workers for retrenchment in a collective agreement. Or it may be that those with longest service have the most skills and experience. Finally it could be that it is more expensive to dismiss those with longer service, due to enhanced severance payments.

For more information, refer to IFC's *Good Practice Note: Non-Discrimination and Equal Opportunity (Forthcoming)*.
www.ifc.org/enviro/publications

Addressing Gender Impacts in Privatization of Kenya Railways

As part of the privatization of the Kenya Railways Corporation, a procedure was developed for retrenching a group of temporary workers which complied with all legal requirements. However, an analysis of the workforce revealed that all retrenchees in this “temporary worker” category were women. The group was relatively small but was identified as facing serious economic problems after retrenchment. Many of these women were single heads of households raising several children. Many had outstanding loans of amounts exceeding the retrenchment payments. While some were re-employed by the KRC on social grounds (i.e., consideration of their family situation), others faced difficulties in finding new jobs, particularly if they were older.

Through its Advisory Services, IFC worked with the client to try to reduce the negative social impacts on this category of workers by proposing the following recommendations:

- ▶ Consider the total length of service of the workers when calculating the severance payment. They could invest the funds in a small business or in further education or training, which would help bridge the transition period.
- ▶ Provide counseling.
- ▶ Offer training in business management courses for three months to those over 40 so that they could gain skills to start small businesses.
- ▶ Offer training in administration, business, accounting or HR to those under 40, to increase their chance of finding jobs.
- ▶ Consider the use of job placement or temp agencies to help retrenched workers find employment.

Gender Considerations in Retrenchment

In assessing the overall impact of retrenchment on both the workforce and community, it is good practice to consider the potential gender impacts of the process to ensure that it does not disproportionately disadvantage women. For example:

- ▶ Women may occupy lower grades within an organization or may have less service compared to men as a group overall. If this is the case, then selection criteria dismissing lower paid workers or those who have been with the company for the least amount of time may disproportionately affect women. The criteria should be evaluated to decide whether they are appropriate and/or truly the best way to carry out the retrenchment process.
- ▶ Where there is a predominantly male workforce, there are still substantial gender impacts to be considered. The loss of income from a large-scale retrenchment will have major impacts on families and communities. It may be that there are issues related to spouses that need to be considered. For instance, there are some examples of ensuring that spouses know the full amount paid to workers in severance payments; of the payment being made to a joint account of both the worker and the spouse; and of training being made available to spouses as well as workers to promote economic development, new skills, and job opportunities.

Appeals and Grievances

Although the retrenchment process is a collective exercise, each individual has the right to put forward reasons why he or she should not be selected for dismissal or to raise complaints about the way in which the process has been handled. Having an appeal and grievance procedure ensures the sense of fairness and consultation reaches down to an individual level. It also means that the right people are more likely to keep their jobs and that the right people are selected for retrenchment. It may also mean that other ways of avoiding job losses, or at least mitigating their effect, are identified.

Key elements of an effective appeal or grievance procedure are as follows:

- ▶ The process should be transparent and communicated to workers in writing.
- ▶ All workers should have the right to initiate the procedure.
- ▶ The process should be completed promptly.
- ▶ Where possible, a manager other than the one who effected the dismissal should hear the appeal or grievance.

Appeal hearings, like dismissal interviews, must be conducted fairly. It is often useful to make sure another person is in the room in addition to the manager and the worker. The appeal process should involve reviewing the decision to select the individual for retrenchment and checking the way the selection criteria were applied to the worker. It should also consider any factors that the employee puts forward against his or her selection for dismissal.

*It is important that
appeal hearings are
conducted fairly.*

Managing Retrenchment

Severance payments are the key instrument of mitigation.

Severance Pay

When retrenchment occurs as part of a project, severance payments are the key instrument of mitigation. They are important from the standpoint both of complying with relevant national legislation and ensuring that workers and their families have some form of financial compensation to cushion the often harsh effects of losing their livelihood. The terms of a severance payment will often vary within an organization, depending on an individual employee's length of service, wage or salary level, performance, or special hardship payments. Although laws, regulations, and collective agreements vary among countries, the main elements of severance payments typically include

- ▶ **statutory or collectively agreed termination benefits/severance payments.** National law or relevant collective agreements normally establish payment of a minimum number of weeks' wages in accordance with a worker's length of service.
- ▶ **notice period or payments in lieu of notice.** Employees should be fully compensated for their notice period. If not required to work during this time, workers should receive payment that reflects the wages they would have earned if they had been working.
- ▶ **gratuity benefits.** These are payments that can be made at certain triggering events, including retirement, dismissal, and death.
- ▶ **pension benefits.** Care should be taken to ensure that any payments relating to pension benefits are made on termination and that all workers are clear as to how their future pension benefits will be affected and calculated.
- ▶ **unused earned leave.** Payment should be made for any holiday leave that has been earned

by workers but not taken prior to termination of employment.

- ▶ **payment of salary or wages in arrears.** Any salary or wages owed to the workers on termination of employment should be fully paid. Any monies owed to the employer that are deducted from final payment should be clearly identified and this should only be done if permitted by the contract of employment and national law.

Any such payments should not be delayed. It is good practice to ensure that payments are received by the employee on his or her last day of work. However, circumstances (e.g., when the money is not yet available) may make it necessary to provide the payments in stages over a period of time. If this route is taken, it is important to ensure that employees and their representatives understand what is happening and know when payments will be made. There should be a means for complaint about late payment.

Calculating the appropriate amount of payment for each employee requires accurate information on the salary and wage levels in the company and information about service and other criteria. It is important to ensure that this information is correct, particularly where the retrenchment scenario arises after a privatization, sale, or other change in legal ownership.

■ Issues When Making Payments

There are several issues to be considered regarding the way in which payments are made and the information given at the time of payment. The aim of severance payments is to ensure that the worker and his or her family are financially secure for the immediate future. However, such payments,

together with accrued earnings, in some cases may add up to a substantial amount of money—more money than workers have ever had in their hands at one time. The temptations associated with large sums of money—particularly where there are a number of individuals in the locality who have been paid severance money—can be great. Recipients may spend the money in a way that does nothing to alleviate the impact of the retrenchment on families and communities. Additionally, the danger exists of their being exposed to possible fraud and theft. The following are important questions to bear in mind:

- ▶ Is there a secure method for paying the money to workers?
- ▶ Do workers have bank accounts? If not, are there financial institutions that can assist workers set up accounts?
- ▶ Is counseling available to advise workers on the best ways to invest or spend their money?

- ▶ Is the way in which the payments have been calculated fully transparent to each worker?
- ▶ Are workers' spouses aware of the amount of money that has been paid and when it has been paid?

Beyond Compensation: Assisting Workers

Companies may take a range of steps that go beyond severance payments and compliance with basic legal requirements to demonstrate corporate social responsibility in relation to retrenchment. Whenever a worker is dismissed, his or her ability to find new sustainable routes to livelihood is essential to cushion the effects of retrenchment on both the individual and the community. Companies are often in a good position to use some resources to seek to improve the work and life chances of those workers that they have placed in precarious

It is good practice to ensure that payments are received by the employee on his or her last day of work.

Type of Retrenchment	Key Issues	Additional Issues
▶ Total closure of plant	<ul style="list-style-type: none"> ▶ Social impact assessment ▶ Consultation with workers and community ▶ Measures to lessen impact on workers and community ▶ Retraining ▶ Promotion of new businesses 	<ul style="list-style-type: none"> ▶ Retrenchment payments ▶ Housing ▶ Infrastructure ▶ Financial management
▶ Reduction in numbers due to reduced sales	<ul style="list-style-type: none"> ▶ Clearly defined selection criteria ▶ Consultation ▶ Non-discrimination in selection ▶ Retraining 	<ul style="list-style-type: none"> ▶ Retrenchment payments ▶ Ensuring best work force remains behind
▶ Streamlining following privatization	<ul style="list-style-type: none"> ▶ Consultation about dismissals ▶ Defined selection criteria ▶ Non-discrimination ▶ Retraining ▶ Outsourcing to retrenched workers 	<ul style="list-style-type: none"> ▶ Retrenchment payments ▶ Pensions payments
▶ End of construction phase	<ul style="list-style-type: none"> ▶ Social impact assessment ▶ Effect on migrants ▶ Funds to effect resettlement of workers 	<ul style="list-style-type: none"> ▶ Payment of back pay and benefits ▶ Construction issues addressed through SIA

Managing Retrenchment

Consideration should be given to developing training programs which provide the employee with new skills and opportunities.

situations as a result of the retrenchment process. These may include one or a combination of the following:

- ▶ training
- ▶ career and financial counseling
- ▶ promotion of local economic development opportunities
- ▶ outsourcing
- ▶ assistance with finding new employment.

■ Training

On occasion, the type of work a retrenched worker has been doing is readily available at another employer within the locality. Most often, however, this is not the case. Therefore, consideration should be given to developing training programs that provide the employee with new skills, hence widening the opportunities potentially available to him or her. Consultation with trade unions, other stakeholders, and the employees themselves will indicate the types of training most demanded. Local government authorities and other agencies may be able to indicate what assistance is available for training.

Kinds of training that may be considered include

- ▶ training in new skills that fit available job opportunities
- ▶ training in small business development
- ▶ basic literacy and numeracy training.

Most commonly, the person who receives retraining or counseling on establishing micro-enterprises or other ventures is the worker who has been let go. In some instances, however, it may be appropriate to offer this training option to a proxy who will receive the training or advice as a way to reduce the impact on communities and families. For example, in a Care Project operating in



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Southern Africa aimed at mitigating the impact of mine closures, retraining and business development were also made available to the partners of mine workers (see p. 24). This approach takes into account the fact that in the communities where the mine workers' families live there may be greater opportunities available to women than to the male mine workers. Good practice would be to make such training and counseling available to workers and their partners.

■ Financial Counseling

The loss of income and livelihood, coupled perhaps with a relatively large severance payment, can amount to a real shock to many retrenched workers. They may be receiving more money than they have ever had at one time yet their longer-term financial outlook may be bleak. Therefore, it is important to find ways to counsel workers on how to manage their finances. Examples of actions could include

- ▶ employing an independent advisor or NGO to work with employees to explain financial matters
- ▶ supporting a local advice center
- ▶ supporting trade union financial advice projects
- ▶ working with local banks and community-based financial projects.

■ Finding New Employment

A significant part of any retrenchment plan is a strategy to help workers find new employment. Generally, it is far easier to find employment while still employed, so ideally the help should be available before the worker's contract has ended. This involves assisting the worker to get information about alternative jobs and opportunities.

Below are some examples of actions that employers can take to assist retrenched workers to find alternative employment at another workplace when no suitable alternative job is available with the same employer:

- ▶ Contact state or private agencies that will be aware of job opportunities in the region.

- ▶ Contact other employers, explaining the skills and abilities of the workforce.
- ▶ Consider employing outplacement consultants to help the individual with skills development and job search, or to actually seek out alternative work for the worker.
- ▶ Provide focused help for particularly vulnerable groups, such as those over 40, to develop their abilities to seek new employment.
- ▶ Help all workers to develop their skills.
- ▶ Offer workers travel subsidies to go to other areas to look for work or to assist with relocation.

Evidence shows that workers are much more likely to use counseling and retraining facilities if they are available before contracts are terminated.

Key Points in Helping Workers Find Other Work

- ▶ **Launch assistance programs early.** Evidence shows that workers are much more likely to use counseling and retraining facilities if they are available before contracts are terminated.
- ▶ **Ensure that redeployment services are driven by demand rather than by supply.** This approach may give workers a choice between training and severance pay, and may build in a cost-sharing element through the use of vouchers and other instruments.
- ▶ **Target services to workers for whom such services are most cost-effective.** Younger workers with basic educational levels and skills are most likely to benefit and improve their chances in the labor market. Effective targeting requires taking a survey of workers to obtain a clear profile of worker characteristics and needs.
- ▶ **Develop a good understanding of the labor market that workers will be entering.** A labor market survey and consultation with other parties need to be undertaken as early as possible.
- ▶ **Develop good counseling and advisory services.** Such services help match workers to relevant retraining and other programs.
- ▶ **Foster competition and efficiency in the delivery of services.** Bring in a wide range of institutions, including trade unions and non-governmental and private institutions to offer services. Use performance-based contracting arrangements, where appropriate, to improve incentives and efficiency.
- ▶ **Give workers access to information about training and other service providers' performance.** This information can help workers make better selection among courses and services. Allowing workers to make their own choices increases the likelihood that programs selected will be more relevant and demand-driven.
- ▶ **Provide support to help workers set up their own small businesses.** This approach will empower workers to be more self-sufficient instead of merely equipping them with skills for jobs in the formal sector.
- ▶ **Engage effectively with stakeholders.** Consultation is critical for success.

Managing Retrenchment

The effects of company downsizing can lead to wider unemployment throughout the local economy.

■ Promoting Local Economic Development

Small business development

In situations where alternative employment is not readily available, it is often appropriate to help retrenched workers establish new small businesses or co-operatives as a means of livelihood. To do this, companies may consider putting money into a fund to support new businesses or working with local governmental and non-governmental organizations to help provide start-up capital and technical assistance.

Outsourcing

Where the cause of the retrenchment lies in a business decision to outsource a particular part of the organization's activities, then it is good practice to first consider whether outsourcing is the best approach. If it is, a company should consider helping the employees working within that section to set up a business to bid on the contract to carry out the work in question. If the workers are to lose direct employment, it is a better outcome for them to continue their work, but to do so through a contract they have established for themselves and in which they have a stake rather than being left without employment.

Addressing Impacts on Communities

Although the effects of downsizing are most acutely felt by the workers and their immediate families, a large-scale retrenchment or closure of a major plant or industry can have significant impacts on communities. The effects of company downsizing on secondary and tertiary enterprises can lead to wider unemployment throughout the local economy. Local businesses, dependent on the



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patronage of workers and their families, can be hard hit as well. Socioeconomic impacts can be especially severe in cases where a company is the main employer in the area or where local communities have grown dependent on the company not only for their livelihood but also for social services and facilities such as health care, housing, education, sanitation, water supply, electricity, and maintenance of the transport or communications infrastructure.

■ The Need for Social Impact Assessment

It is good practice for a company to undertake a Social Impact Assessment (SIA) when large-scale retrenchment or closure is expected to have adverse impacts on the broader community. The SIA can be an important planning tool for companies seeking to manage the process in a socially responsible manner. The SIA provides information on existing socioeconomic conditions, predicts potential impacts, engages a range of stakeholders including communities, local governments, and NGOs in defining priority issues; and generates means for cushioning negative

impacts and assisting communities during the transition. Issues to be considered as part of an SIA may include the following:

- ▶ **Range and severity of retrenchment or closure impacts on local communities.** A good social assessment process will identify and engage key stakeholder groups and identify impacts that might otherwise be overlooked. Having a comprehensive picture of the scope and degree of impacts allows a company to prioritize and target mitigation and assistance efforts.
- ▶ **Impacts on vulnerable groups including women, older workers and migrant workers.** Certain groups within a community may be affected differently and may require special assistance or consideration. For example, migrant workers who comprise a significant portion of the workforce may often come from a cluster of towns or villages in particular regions

Outsourcing Functions to Retrenched Workers

In a beverage company in Latin America, IFC helped promote sustainable business practices in several ways. The impacts of closing less efficient plants were mitigated by outsourcing the logistics, distribution, sales and marketing functions to retrenched workers in order to alleviate the effect of job losses on the affected communities. Seed capital for these micro-enterprises came from severance packages provided by the company which also hired an external expert to provide the training the retrenched workers needed to set up and manage their own businesses. The program has created direct employment for over 100 persons and indirect employment for nearly 8 times that number. The company too has benefited by outsourcing functions that can be undertaken more efficiently and at a lower cost by these micro-enterprises.

or countries and may need assistance in returning home. Additionally, the effect on communities dependent upon remittances sent by these workers (coupled with the return of large numbers of community members without obvious means of subsistence) can be significant. (See box on p. 22.)

- ▶ **Impact of a sudden and large injection of cash into the local economy as a result of severance payments.** The risks associated with workers receiving large lump sums of cash need to be considered and measures put in place, where feasible, to promote sustainable outcomes.
- ▶ **Level of dependency of communities on social infrastructure and services provided by the company.** This is most common in “one industry” towns, remote areas, or situations where companies have taken on government roles or responsibilities due to lack of capacity at the local level.
- ▶ **Food security.** In some rural areas, it is not uncommon for workers to give up agriculture or fishery for cash wages. This may decrease food security and self-sufficiency in the medium to long-term as communities use cash incomes from company employment to purchase part of their food supply externally. The impacts of closure in this context may need to be assessed.

For more information on Social Impact Assessment, refer to IFC's Good Practice Note: *Addressing the Social Dimensions of Private Sector Development*, December 2003. www.ifc.org/enviro

What Companies Can Do

- ▶ **Extend eligibility for skills training and entrepreneurship development opportunities to family members** of retrenched workers or, where feasible, the community at large.

The SIA can be an important planning tool for companies seeking to manage the process in a socially responsible manner.

Managing Retrenchment

Where there is a large-scale retrenchment and large numbers of migrant workers, there will inevitably be some degree of social dislocation and a need for remedial action.

- ▶ **Extend eligibility for financial counseling** regarding savings and the use of severance payments to the spouses of retrenched workers. Promoting the facilitation of savings and investment in alternative livelihoods can be a valuable service for affected communities.
- ▶ **Convert company facilities, infrastructure, and land post-closure to productive economic and social uses for the community** and, in conjunction with local government and communities, plan the rehabilitation of the area around future

economic use of the land and facilities.

- ▶ **Avoid and limit dependency** by considering post-closure sustainability of services and infrastructure provided by the company to local communities at the earliest stages of planning. In industries where closure or downsizing can be predicted in advance, it is critical to build ongoing capacity within local government, NGOs, and communities to enable them to take over responsibility for infrastructure and services.
- ▶ **Work with local and regional governments** as important partners in assisting

Migrant Workers

One of the most vulnerable groups of workers, in terms of susceptibility to the negative effects arising from retrenchment and to labor rights violations in general, are migrant workers. Where there is a large-scale retrenchment and large numbers of migrant workers, there will inevitably be some degree of social dislocation and a need for remedial action to help those workers find new jobs in the locality or to relocate back to their countries of origin.

Wherever a substantial number of migrant workers are employed within a project, a retrenchment plan should take this into account and look to develop support mechanisms to ensure that migrant workers have adequate housing, health care, and other social support if they are remaining in the country; or that they are given sufficient logistical and financial support to return to their countries of origin. There are many examples of employers carrying out this kind of activity, and there are also organizations such as the International Organization on Migration, which can provide programmatic and financial support.

Where an employer is developing a plan to deal with issues related to migrant workers, it is important

to try to consult with either the workers or representatives of their community to determine the appropriate measures in these circumstances. For example, it may be that the focus of efforts should be to enable the migrant workers to regularize their situation in the country. This may involve working with local or national governments to ensure that an appropriate safety net is put in place to keep these workers from drifting into unregulated, poorly paid work and living in substandard housing. Alternatively, the best response may be to establish training and job search arrangements within the countries of origin of the migrant workers and assist them with the cost of traveling home.

One situation where there will almost inevitably be a large number of either internal or international migrants is where there is a large-scale construction project in operation. At the end of a construction phase, even though this will not strictly amount to a retrenchment under the IFC labor policy, good practice would be to seek to ensure that the migrant workers are able to return home should they wish to do so and that this is done in an orderly, safe, and socially responsible manner.

communities affected by unemployment. These partners may help provide social programs and subsidies for retraining and, in some cases, take over service delivery and infrastructure maintenance roles. While companies must do their part to try to ease the impact of job losses on the local population, it is a primary responsibility of government to coordinate social and economic planning and development at the regional and local levels.

- ▶ **Partner with NGOs** or civil society groups that can be a valuable resource to companies in

trying to assist local communities. Depending on their particular focus and skills, these organizations may play an important facilitation role in the transfer of company resources to local communities, provide training and counseling services, or help in the design and delivery of alternative livelihood and micro-enterprise development.

Zambia: Promoting Local Economic Development

Konkola Copper Mines (KCM), an Anglo-American project, was formed as a result of the privatization and splitting up of the state-owned mining company Zambia Consolidated Copper Mines (ZCCM) in 2000. Prior to vesting, ZCCM retrenched a considerable number of employees from the operations now owned by KCM who subsequently had to undertake further downsizing.

Rather than return to their home districts, many ex-employees opted to remain on the Copperbelt, especially due to the sale of mine houses by ZCCM to local employees. This resulted in retrenchment having greater localized impacts on the communities in the immediate vicinity of the mining operations.

Apart from their retrenchment packages, most workers had no alternative sources of income and became increasingly dependent on family support and subsistence farming. Given the economically depressed situation in the Copperbelt, neighboring communities were highly dependent on the revenue

generated and services provided by the mine. KCM agreed to a dialogue with government and civil society to look for ways to lessen the effects of retrenchment and reduce dependence on mining. This included encouraging the retrenched workers to establish their own commercial enterprises and/or use their skills to enhance the capacity of established local businesses.

The KCM SME Supplier Development Program

KCM and the Africa Project Development Facility (APDF) of the IFC forged a partnership, in November 2002, establishing a pilot supply chain linkage program for SMEs doing business with KCM. Under the partnership, the IFC through APDF would undertake capacity building in business management skills and KCM would provide the market for SME services and commodities.

Twenty-three participants in the pilot program were selected from SMEs that were

considered to have the potential to increase and diversify their business. These SMEs were engaged in supplying business to KCM in the areas of mining, metallurgical, engineering, safety and horticulture.

The following were amongst the program's achievements:

- ▶ Employment increased from 2142 to 3084, an increase of 44%.
- ▶ Total turnover for the SMEs participating in the program doubled from US\$9.5 million to US\$19.0 million.
- ▶ KCM Procurement of services/commodities grew from US\$5.3 million to US\$11.4 million, an increase of 115%.
- ▶ SMEs' Service/Commodity business to other companies other than KCM grew from US\$4.2 million to US\$7.6 million, an increase of 80%.
- ▶ During 2003-2004 the SMEs recapitalized to US\$2.5million and total asset base increased by 118%.
- ▶ Over 200 people were trained in business management.

Managing Retrenchment

Training and Assistance Programs in South Africa



W. Dunn

In October 1999, the mining multinational, Placer Dome, retrenched 2,560 workers from its South Deep Mine in South Africa. The company provided support for the retrenched employees and their families. Following consultations with the workers themselves, the company launched the Care Project whose focus was on mitigating the effects of the retrenchment at the household and community level. It sought to do this by identifying local opportunities for small business development, providing skills training, and facilitating start-up capital for viable ventures. The second phase of the project also sought to benefit miners who were unable to work because of the HIV/AIDS pandemic and provided counseling and income generation support to the victims of the disease and their families. Several problems had to be overcome such as finding the workers who had returned to their countries, overcoming widespread skepticism, and dealing with low levels of literacy before starting a training program.

Project workers hired from within the ranks of retrenched mineworkers were trained and employed to work directly with the retrenched mineworkers and their extended families. These workers provided counseling on skills training options and local economic opportunities, such as home appliance repair and solar panel installation. Skills and vocational training was then organized, including the provision of travel and accommodation at the

The Care Project's 'Open Days' provided retrenchees with an opportunity to see and experience innovative income and economic ideas in locations close to where they lived. Here a group of women in Lesotho are learning about a solar cooker.

training center during courses, which could last up to four months.

The following are a few examples of businesses started under the auspices of the project:

- ▶ In Lesotho, a young woman opened an electronics repair shop and a school to teach others her skills.
- ▶ Several ex-miners in Mozambique decided to grow vegetables for market after taking the financial skills course.
- ▶ Another worker went back to his village an hour away from the nearest retail outlet and opened a small general store in his house, making a living for himself and sparing local women and children a long walk to purchase supplies.

The Care Project ended in December 2003, after virtually all the laid-off miners had been contacted. Outreach workers had made 3,251 home visits and registered 2,232 participants. 56 percent of the workers were still making at least \$100 per month in October 2003—well above the subsistence-level wages common in the rural areas where they lived.

A unique feature of the Care Project was that a retrenched mineworker could nominate a proxy from his immediate or extended family. In this way, the benefits of the project were extended beyond the original retrenched worker, who for various reasons might have been unable to benefit from the program. In the courses, about 40 percent of the trainees were women, nominated by their husbands. This was the first time that women had been able to benefit directly from retrenchment benefits in the South African gold mining industry.

Source: Wayne Dunn, *Stanford Social Innovation Review*, Winter 2004.

Tigar Michelin, Serbia: Enterprise Development

In 2001, IFC invested in equity and finance for Tigar Michelin Holding in Serbia, in a joint venture with Michelin, the region's largest producer of tires and rubber goods. In order to turn around the poor performing divisions, it was anticipated that some 800 workers would be made redundant. Therefore, Southeast Europe Enterprise Development (SEED) was engaged to provide technical assistance by developing feasibility studies for several new business ideas to help Tigar's redundant employees seek alternative income replacement opportunities. SEED is a \$25 million initiative managed by IFC to strengthen small and medium-size enterprises (SMEs) in Albania, Bosnia and Herzegovina, FYR Macedonia, Serbia, and Montenegro.

The SEED interventions can be categorized as follows:

- ▶ New SME Development—including mini livestock farming, medicinal herb processing, and laundry operation.
- ▶ Outsourcing—splitting non-core activities into individual business units to minimize the social impact of restructuring.
- ▶ Tire distribution—creation by the holding company of a separate legal entity to perform this operation because the joint venture did not take over the domestic retail operation. SEED worked with Tigar to improve its operation to sustain continued employment.
- ▶ Feasibility studies—undertaken for projects such as herb plantations, picking wild herbs, and mini cattle farms.

Macedonia: Developing New Business Ideas

Southeast Europe Enterprise Development (SEED) has worked on programs to try to ensure that large-scale retrenchment exercises lead to positive results and generate sustainable new business. For example, with one company in FYR Macedonia, it was decided that it was necessary to effect redundancies following privatization. A consultant from SEED looked at the business to determine the optimum structure. The consultant took the view that in addition to restructuring some parts of the business, it would be possible to build a logistics function that did not previously exist, therefore, redeploying some workers who would otherwise have lost their jobs.

SEED also has tried to develop a systematic way of developing new business ideas with several companies. Part of the program is aimed at training local consultants to enable them to deliver advice in a sustainable manner on the establishment of new businesses. The most innovative part of the program is that money is not simply made available to workers

and their ideas discussed and decided upon. Rather, the company, supported by SEED, sponsors a series of feasibility studies on a range of projects with the potential new businesses being narrowed down from a long to a shortlist. These projects are then considered further and their prospects assessed in terms of both financial viability and potential employment impact. Once it is felt that any of the projects are likely to be both sustainable and beneficial, then discussions are opened with the workforce to determine whether employees wish to engage in developing the projects as new businesses. For example, for Tivkes Winery in Macedonia, which expects to lay off a few hundred employees, feasibility studies are being conducted for such projects as snail farms, eco-tourism, egg trays, souvenir shops, and a bed-and-breakfast facility.

Once the businesses are established, there are defined modules that support and provide training on a range of subjects and issues related to establishing and developing businesses.

Managing Retrenchment

A strategy to assist workers in finding new employment is an important part of any retrenchment plan.

Cost of Training

The costs of training can vary depending on the nature of the intervention, but per capita figures for some middle income countries (in US dollars) are as follows:

- ▶ Czech Republic \$265
- ▶ Hungary \$500
- ▶ Poland \$300
- ▶ Turkey \$200

Source: Fretwell, *Mitigating the Effect of Privatization and Enterprise Restructuring*. World Bank Working Paper, January 2002.

Preparing a Retrenchment Plan

Preparing a retrenchment plan can be the best way to ensure that all potential problems and issues have been considered and that appropriate responses can be devised and implemented. The plan also provides a clear program on which to base consultations. It should then be revised in the light of issues raised by employees, trade unions, community representatives, and other stakeholders.

■ In Cases of Past Retrenchment

Where retrenchment precedes IFC's involvement, the client is normally requested to submit a description of the retrenchment done to date. Clients should provide a description of past retrenchment, including

- ▶ characteristics of the labor force (number of men and women employed by skill level and type of contract)

- ▶ size of the retrenchment (number of men and women affected by skill level and type of contract)
- ▶ retrenchment methods (e.g., voluntary retirement, severance packages, lay-offs, etc.)
- ▶ consultation and negotiation processes (with labor organizations, workers' representatives, community organizations, NGOs, etc.)
- ▶ impacts of the retrenchment on retrenched workers
- ▶ other impacts (e.g., in the local community)
- ▶ compensation paid and assistance provided to retrenched workers
- ▶ evidence that the redundancy or severance payments and the early retirement schemes complied with national legislation.

■ In Cases of Ongoing or Future Retrenchment

Where retrenchment has not yet occurred but is anticipated to be significant in scale or impact, IFC requires the client to prepare a retrenchment plan.

Details on the information to be included in a retrenchment plan are provided on the next page as a sample *Table of Contents*.

Table of Contents for an IFC Retrenchment Plan

A retrenchment plan prepared for IFC may address some or all of the various aspects of the retrenchment process given below depending on the nature and scale of the situation. Clients are normally expected to report periodically on the implementation of the plan.

1. Description of Anticipated Retrenchment and Rationale

- ▶ anticipated magnitude, rationale, and timeframe
- ▶ characteristics of the labor force (number of men and women employed by skill level and type of contract)
- ▶ adequacy of current staffing levels and need for retrenchment from a business point of view
- ▶ size of the planned retrenchment (number of men and women to be retrenched by skill level and type of contract)
- ▶ retrenchment schedule.

2. Relevant Economic Context

- ▶ situation of the local economy, as it relates to the retrenched workers' ability to find new jobs or start new businesses
- ▶ importance of the firm/enterprise in the local economy
- ▶ main trends in the sector in which the firm operates (e.g., projected growth, level of employment, wages, foreign and domestic investment).

3. Retrenchment Methods and Procedures

- ▶ methods anticipated (e.g., voluntary retirement, severance packages, lay-offs)
- ▶ consultation and negotiation (e.g., with labor organizations, workers' representatives, community organizations, government representatives, and NGOs)
- ▶ selection criteria for worker dismissal
- ▶ strategies to prevent the disproportionate representation of a social group (e.g., women or members of a particular ethnic or religious group) among the retrenched workers.

4. Management Arrangements

- ▶ person or people who will direct/supervise the retrenchment process
- ▶ grievance and appeal procedures.

5. Legal/Institutional Framework

- ▶ legislation that applies to early retirement, provision of severance packages and lay-offs

- ▶ legal role of trade unions or other representative bodies in the retrenchment process
- ▶ relevant agreements with labor unions or other labor representatives
- ▶ compliance of planned retrenchment with applicable legislation and agreements
- ▶ coverage of retrenched workers by unemployment insurance or any other welfare programs
- ▶ eligibility of part-time or contract workers to receive benefits or assistance.

6. Anticipated Impacts on Retrenched Workers and Communities

- ▶ prospects for retrenched workers (market demand for their skills and alternative sources of income/employment)
- ▶ eligibility of retrenched workers for unemployment or other benefits
- ▶ impacts on wider communities and remedial measures proposed.

7. Compensation and Any Additional Assistance to Be Provided to Retrenched Workers

- ▶ compensation anticipated by skill level and type of contract
- ▶ training programs
- ▶ career counseling
- ▶ assistance to set up micro-enterprises.

8. Monitoring of the Retrenchment Process

- ▶ indicators to be monitored (e.g., situation of the retrenched workers, payment of entitlements, outcomes of assistance provided)
- ▶ frequency of monitoring activities
- ▶ party or parties that will carry out the monitoring activities.

9. Supporting Documentation

- ▶ References of written materials, record of consultations with affected workers, tables, and the like included in an annex.

Managing Retrenchment

Acknowledgments

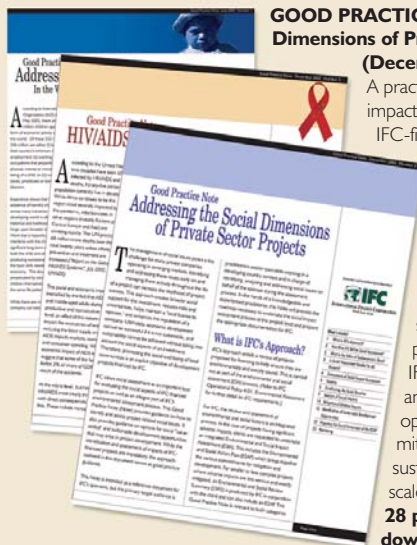
"Managing Retrenchment" is the fourth in a series of Good Practice Notes developed by the Environment and Social Development Department of the International Finance Corporation. The work was carried out under the direction of Rachel Kyte (Director) and prepared by a team led by Debra Sequeira (IFC Social Development Specialist), and comprising Steve Gibbons (Director, Labor Rights) and Alastair Usher (Research Director) of Ergon Associates. Designed by Vanessa Manuel. Printed by Master Print, Inc.

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For more information, please contact:
International Finance Corporation
Environment and Social Development
Department
2121 Pennsylvania Avenue, N.W.
Washington, D.C. 20433
USA

Good Practice Publications available at www.ifc.org/enviropublications



GOOD PRACTICE NOTE: Addressing the Social Dimensions of Private Sector Projects (December 2003)

A practitioner's guide to undertaking social impact assessment at the project level for IFC-financed projects. This Good Practice Note has been written by IFC social development specialists based on years of private sector experience across industry sectors and regions. It covers issues from scoping and baseline data collection to impact analysis, mitigation and monitoring of social impacts. Social assessment is presented as both an integral part of IFC's environmental assessment process and as a tool for identifying value-adding opportunities that go beyond traditional mitigation measures to promote sustainable development on a broader scale.

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Sets out the international provisions of non-discrimination in the workplace and draws on good practice examples to indicate circumstances where companies may take positive action both to prevent discrimination and encourage previously alienated or overlooked groups to participate in the labor market. The Good Practice Note provides guidance to IFC clients and other employers in emerging markets on promoting both equality and diversity, and overcoming discriminatory practices, while acknowledging that this can often be a controversial and difficult issue.

Useful References

International Labor Organization
www.ilo.org

Global Compact
www.unglobalcompact.org

OECD Guidelines for Multinational Enterprises
www.oecd.org

ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
www.ilo.org/public/english/employment/multi/index.htm

Labor Issues in Infrastructure Reform Toolkit — The toolkit provides practical tools and information to help policymakers and practitioners design, implement, and monitor labor programs in infrastructure reforms. Available from the Public-Private Infrastructure Advisory Facility (PIIAF), a multi-donor technical assistance facility aimed at helping eliminate poverty and achieve sustainable development through private involvement in infrastructure.
www.ppiaf.org/Reports/LaborToolkit/index.html

"Restructuring with Workforce Reduction," by Esser and Ozoux, ILO (2004).
Provides guidance on managing the restructuring process in a socially sensitive manner.

IFC Good Practice Note: Non-Discrimination and Equal Opportunity (Forthcoming). The fifth in the series of Good Practice Notes provides IFC clients and the wider private sector operating in emerging markets with guidance on avoiding discriminatory practices in the workplace and promoting diversity through equal opportunity.
www.ifc.org/enviro

The Management and Corporate Citizenship Programme, Job Creation and Enterprise Development Department, ILO.
Contact: Dr. Nikolai Rogovsky at rogovsky@ilo.org

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The purpose of the Good Practice Note series is to share information about private sector approaches for addressing a range of environmental and social issues. This Good Practice Note provides guidance and examples of basic good practice approaches that businesses have successfully applied in their operations. IFC has not financed all the projects or companies mentioned in the Good Practice Note. Some of the information in the Note comes from publicly available sources such as company websites. IFC has not verified the accuracy of such information nor the companies' practices.

This Good Practice Note does not represent a commitment by IFC to require projects it finances to take certain or all of the actions specified in the Good Practice Note. Instead, any issues arising in an IFC-financed project will be evaluated and addressed in the context of the particular circumstances of the project.