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Cornerstones for the Success of Global Workforce Restructurings and Layoffs

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Cornerstones for the Success of Global Workforce Restructurings and Layoffs

Abstract
[Excerpt] In today's competitive environment, companies from time-to-time have to go through major global workforce restructurings and layoffs in order to adapt to evolving market conditions. For the successful implementation of such measures, it is imperative to have a good understanding of the critical factors involved in them. Baker & McKenzie has substantial experience in dealing with transnational workforce restructurings and layoffs.With this summary, we would like to share our experiences with you in order to help you succeed in any restructuring efforts you might undertake.

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BAKER & McKENZIE

Cornerstones for the Success of Global Workforce Restructurings and Layoffs

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In today's competitive environment, companies from time-to-time have to go through major global workforce restructurings and layoffs in order to adapt to evolving market conditions. For the successful implementation of such measures, it is imperative to have a good understanding of the critical factors involved in them. Baker & McKenzie has substantial experience in dealing with transnational workforce restructurings and layoffs. With this summary, we would like to share our experiences with you in order to help you succeed in any restructuring efforts you might undertake.

A. Careful Planning

The first step for a successful implementation of a global workforce restructuring program is thorough planning in order to be able to deal with the complexities and intricacies of the various legal and cultural settings around the world.

1. Consider the Legal Frameworks in the Countries Affected

Any planning of a major restructuring has to be based on a very good understanding of the numerous legal settings in the countries around the globe which provide for rules and regulations to realize downsizings. Therefore, it is helpful to have a closer look at the various geographic areas around the world.

1.1 Europe

The legal and practical frameworks for the implementation of workforce restructurings in Europe are as diverse as there are countries. However, based on our experience in most European countries, the following three subject areas should be taken into account in any restructuring and downsizing effort:

This may qualify as "Attorney Advertising" requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

1.1.1 Consultation and other Procedural Requirements

Most countries have enacted legislation which requires an employer to inform and consult with employee representatives prior to effecting collective restructurings and layoffs. This derives from a long-standing EU Directive on Collective Redundancies which is applicable to all member states. The time periods for the consultation procedures can significantly delay the implementation of any measure. The extent of the employee representatives' powers to delay the process varies from country to country.

The requirements are usually triggered when the number of contemplated redundancies exceeds a specified threshold over a specified time period. The threshold differs between jurisdictions, but can be triggered in some jurisdictions when the number of contemplated redundancies is as low as two employees over a period of 30 days.

The matters usually to be covered in the information and consultation process will include: the reason for the contemplated measure, the numbers and categories of employees involved, proposed selection criteria, and the possibility of avoiding collective redundancies or reducing the number of workers affected and of mitigating the consequences, for example by recourse to accompanying social measures aimed at helping redeploy or retraining employees made redundant. The information and consultation must begin in good time prior to the measures taking effect. In many countries it is imperative to involve the employee representative bodies even prior to the decision on the restructuring being taken in order to give them, at least theoretically, the possibility to influence the decision. Certain jurisdictions provide for specific timeframes for the information and consultation period, which can be three months or more depending on numbers. The rules in the specific jurisdiction should be checked. The employer must also notify "the competent public authority".

Generally, the appropriate body to inform and consult with will be the recognized union(s) or the existing works council(s), if there are any in respect of the affected employees. Otherwise, national laws may also provide for additional bodies to be involved.

In some jurisdictions, a failure to consult can render the measure void. In others, the sanctions are limited to financial penalties or compensation for the employees concerned. In some countries, unions or works councils could also seek preliminary injunctions to stop the process.

In addition to collective consultation requirements, the majority of countries impose additional procedural requirements on employers going through restructurings, even where a single redundancy is being effected. Rules differ significantly and should be taken into account for the relevant jurisdictions. There may also be company-specific contractual requirements which the acquiring company inherits from the seller.

If the company has a European Works Council (EWC), it may have to be involved as well depending on the nature of the contemplated measure. European and national proceedings have to be intertwined which can pose substantial challenges.

1.1.2 Selection Criteria

Most, if not all, countries have rules about what type of selection criteria an employer must reasonably apply when selecting candidates for redundancy. Some jurisdictions, such as the United Kingdom, give considerable scope to the employer. Others are very formulaic and will strictly apply, for example, a "last in, first out" rule. A number of jurisdictions, like Germany, require employers to take social factors into account, such as whether the employee is the sole earner and whether he/she has children or other dependents. Certain categories of employees for example works council members, may also be protected from dismissal.

Employers should also take care to avoid discrimination claims in relation to redundancy selection criteria. The financial ramifications of discriminatory dismissals in terms of individual compensation awards can potentially be significant.

1.1.3 Severance Payments

Most countries require employers to make severance payments to employees who are dismissed for reason of redundancy. The formulae for calculating the level of payments vary significantly. In many countries, they are derived from social plans to be negotiated with the employee representative bodies. In addition, most employees will also have the right to a minimum period of notice of termination of their employment, either under their employment contracts or under local legislation. Again, there may also be company-specific contractual severance pay entitlements which need to be taken into account. Local country age discrimination rules may also be relevant to determining whether redundancy severance payments are lawful.

1.2 North America

1.2.1 United States

There is relatively little employment protection legislation in the United States (when compared to Europe and Latin America), either at the Federal or State level. Thus, an employer has considerable flexibility to restructure or downsize the workforce.

The majority of US employees are employed "at will" and, consequently, downsizings and restructurings can normally be achieved easily through terminations. However, there are still some key issues that should be considered in each case, as described below.

1.2.1.1 WARN and other Notice Requirements

The Worker Adjustment and Retraining Notification Act (WARN) is one piece of US legislation that gives employees a degree of protection against the loss of employment (outside of discrimination legislation). The WARN Act applies to an employer which employs 100 or more people. Under WARN, the employer is obliged to give the affected employees or their representative (e.g. a labor union) at least 60-days' notice of a plant closing or mass layoff and to notify certain state and local officials.

For a plant closing, notice is required if an employment site will be shut down and that shutdown results in an employment loss for 50 or more employees during any 30-day period. For a mass layoff, the employer must give notice if the layoff will result in an

employment loss during any 30-day period for 500 or more employees, or for 50-499 employees if they make up at least 33% of the workforce. The employer is also required to give notice when separate but related layoffs occur within a 90-day period that in the aggregate meet the above criteria for mass layoffs.

There are some exceptions to these general standards, and ways for an employer to structure the downsizing so that WARN is not triggered. For example, the employer can offer to transfer a portion or all of the affected workforce if certain requirements are met. Also, in some cases business emergencies will excuse a failure to provide the 60-days' notice.

When the sale of part or all of a business is involved and the sale by a covered employer results in a plant closing or mass layoff, the seller is responsible for providing notice of any plant closing or mass layoff that occurs up to and including the date/time of the sale, and the buyer is responsible for providing notice thereafter.

Many states, especially those with a large manufacturing industrial base in the Northeast US, have their own state WARN acts (mini-WARN) that must also be consulted and followed. Oftentimes the mini-WARN acts are more expansive and operate at a lower threshold than the federal WARN Act (e.g. applying to employers with fewer than 100 employees or laying off fewer than 50 employees). Moreover, there are other notification requirements that may arise under State or Federal law in the event of dismissal, such as the obligation to notify employees of their rights to obtain unemployment insurance or to purchase group health plan insurance under COBRA. Failure to properly pay out accrued vacation time or other paid time off, or to pay accrued commissions, can also result in litigation, often with the employer having to pay attorneys' fees in addition to the wages due.

1.2.1.2 Contractual Rights

If the employer has a collective bargaining agreement with any union relating to the affected employees, it is almost certain that aspects of the collective bargaining agreement will have an impact on any proposed restructuring or layoffs. Collective bargaining agreements commonly include provisions dealing with redundancy selection criteria, notice or advance consultation requirements, and severance payments. The terms of these agreements should be followed to the letter. In addition, the employer should ensure that its actions are consistent with the National Labor Relations Act.

Although the majority of US employees are employed at will, some employees will have written employment contracts that give them contractual rights in the event of a restructuring or collective dismissal. Those contractual rights need to be considered in the context of what is being proposed by the employer. For example, some employees (particularly senior managers) will have contracts of employment that give them the right to a specified period of notice or a severance payment in the event of a dismissal. The contract may also contain a change of control clause requiring payments to be made in the event of certain restructurings.

Contractual rights can also arise from policies and staff handbooks. Most commonly, these rights arise in the context of grievance or layoff procedures or the promise of guaranteed benefits contained in a handbook. These documents should be checked carefully. Any company-wide communication regarding benefits should be coordinated through the legal and human resources departments. Additionally, contractual rights may also arise from one-off communications between the employer and employees. Senior management should avoid off-the-cuff remarks and comments relating to the RIF. Moreover, all comments directed to the workforce regarding the RIF should be reviewed by the legal and human resources departments.

Where the employee is being dismissed, the employer must also ensure that it complies fully with its obligations under the employee benefits plans to which the employees belong, particularly in respect of retirement benefits. Further, COBRA requires that the employer offer employees a 60-day election period in which to choose to continue their health benefits for a period of time after they would have otherwise lost coverage. Again, to avoid any off-the-cuff comments, human resources should communicate any employee benefit information.

1.2.1.3 Discrimination

When implementing any restructuring, employers must be conscious of the potentially discriminatory impact of any proposed measure (which can be inadvertent as well as conscious). In support of its decision, the employer should develop a vision of what the new company structure and workforce will ultimately look like and base its retention decisions on that model.

The main types of discrimination claims resulting from RIFs involve disparate impact allegations in which the employer used seemingly neutral criteria to cull its workforce. For example, age discrimination can be a particular problem where an employer uses salary cost as a basis of making redundancy selections. Commonly, it will be the most senior (and hence the eldest) employees who are the most highly paid. Using such criteria, however, may lead to claims of discrimination. Similarly, a decision to eliminate part-time employees can have a greater impact on female employees, which may give rise to claims of sex discrimination. It is advisable to use a fair and objective procedure when going through a dismissal exercise and to ensure that the process is properly and thoroughly documented. That documentation will provide the paper-trail necessary to defend any allegations of discrimination that may arise. Moreover, the employer should ensure that no layoff decisions are made final until a disparate impact analysis is completed on the workforce to determine if the criteria used would make the company susceptible to litigation. The disparate impact analysis can be completed quickly and, in some cases, through the use of online tools. Moreover, the use of a disparate impact evaluation may reveal that criteria originally selected are in fact not work-related.

1.2.1.4 Severance and Releases

Employers in the US minimize the chance of litigation in layoffs by using waiver and release agreements. These agreements typically require the departing employee to release the

employer from all potential claims in exchange for severance benefits. The employer must provide severance benefits in excess of benefits the employee would ordinarily be entitled to receive under standard company policy. In addition, the employer must carefully draft such a waiver and release agreement to ensure its enforceability.

Of particular concern are the provisions applying to the waiver and release of age discrimination claims, which are typically the most common type of challenge to a workplace restructure. Age releases require preplanning, because under the Older Workers Benefit Protection Act (OWBPA), employees are allowed 45 days to consider the release, and are entitled to detailed information regarding the name, age, job title, and selection criteria applicable to the reduction. Employees releasing age claims also have seven days after signing the release to revoke their agreement.

1.2.2 Canada

In Canada, employers are governed either by Federal or Provincial employment law, depending on the nature of their business. Broadly speaking, Canadian employment legislation can be seen as a hybrid of the European Union and US approaches.

The laws relating to downsizing in Canada are similar to the laws in the EU, although less burdensome. Employers are required to notify employees in advance and, in some Provinces, to notify state authorities. There may also be consultation requirements in applicable collective agreements. As in the US, employers should use valid and objective selection criteria in order to avoid suggestions of discrimination. There are also certain protected classes of employees who cannot be dismissed, such as those on maternity leave, or who are subject to a garnishee order. In addition to the right to notice (or pay in lieu), employees have the right in certain Provinces to a severance payment if they are dismissed without cause.

1.3 Latin America

The rules for collective restructurings and layoffs vary from country-to-country in Latin America ("LA"). Because most countries have experienced a similar history of labor relations, there is one common feature, which is that the rules are very protective of an employee's rights. The rules have also not been substantially changed over the years so that they still place a substantial burden on employers.

In general, terminating employment requires a very formal procedure, usually concluded before a government agency or ministry. As in Europe, employees enjoy substantial termination protection. Nobody is "at will." Companies that do not follow mandatory procedures described in their local laws for terminating employment may end up in litigation.

Employees who are dismissed without cause (in most LA jurisdictions, restructuring and layoffs are not considered "good cause" for terminating employees) are entitled to a severance payment, which is generally calculated based on the employee's seniority. Seniority is very important in LA countries, not only for severance purposes but in some cases (i.e., Venezuela) for determining the prior notice to be given to employees in the event of termination.

In general, one of the common features in most LA countries is that in redundancy situations the employer has to adhere to certain employee selection criteria. The specifics of such criteria do, however, differ from country-to-country. In Argentina, employers cannot discharge the employee's council representative. Pregnant women in Chile and Brazil can not be terminated.

In most LA jurisdictions, membership in labor unions is voluntary and in general terms unions are freely organized. However, unions take a very important role when a company decides to conduct a downsizing or restructuring of its operations. Therefore, although there is no mandatory consultation in most countries, it is recommended to approach in advance the union representative in this type of situation and follow any special rule established in the applicable collective bargaining agreement, if any.

1.4 Asia Pacific

The rights of employees who are laid off or made redundant vary significantly across Asia. Given the disparity in legal systems and employee rights among Asian jurisdictions, reducing one's workforce can be a significant task that should not be approached lightly. For example, unlike the US, where the termination process is straightforward and "employment at will" allows employers to downsize without incurring mandatory severance costs, labor laws and market practice in many Asian countries require employers to make significant payments and/or comply with strict procedural requirements when carrying out terminations.

In countries such as Korea and Japan, layoffs can be extremely problematic and employers may be required to prove "just cause" for the termination or make large payouts. In China, downsizing must meet statutory requirements to be justifiable. Restructuring in other countries such as Hong Kong and Singapore is relatively straightforward in comparison.

In almost every Asian jurisdiction, employees will be entitled to the following: notice or payment in lieu (except for the Philippines where payment in lieu is not allowed), accrued but unpaid wages, and annual leave and expenses incurred on behalf of the employer. Some jurisdictions also require a pro-rata payment of any contractual bonus. Entitlement to, and the amount of, any severance payment will vary depending on the jurisdiction, the employee's length of service, terms of employment, and, in China, the type of legal entity of the employer (such as a Foreign Investment Enterprise or Representative Office).

In jurisdictions where termination on notice is allowed, the minimum notice period is usually one month, but can vary from one day to eight weeks. In some jurisdictions, such as Australia, India, Malaysia and Singapore, the legislation applies only to specified categories of staff and the rights of senior employees are governed by the relevant contract of employment. In Vietnam, senior staff are entitled to "reasonable" notice which can vary depending on age, rank, industry practice, and years of service.

It is not generally necessary to consult with employees prior to termination, but certain countries require local labor authorities to be notified if more than a certain number of employees will be made redundant. In some countries, unions or employee representatives must be notified or consulted prior to termination. In this regard, new developments in China need to be taken into account.

The level of unionization varies across Asia. Unions are much stronger in Indonesia and Korea (and are becoming stronger in China) than they are in Hong Kong and Singapore, for example. In all countries, if there is any collective bargaining agreement in place and that agreement requires union consultation before termination, the requirement will be upheld.

2. Take Cultural Sensitivities and HR Considerations into Account

In global restructurings and layoffs it is not only important to include the legal environments in the planning process but to also take the cultural sensitivities and HR considerations into account which differ from region-to-region and may even differ from country-to-country.

As a result, employers in many countries often prefer to adopt the "voluntary redundancy" approach, meaning that the employer either solicits resignations from employees or agrees with employees on voluntary separation contracts in exchange for payment of a settlement amount. This method of downsizing is recommended in jurisdictions where it is otherwise very difficult to terminate employees, such as many European or LA countries, China, Indonesia, Japan, or Korea, and also in those countries where unilateral terminations are very negatively perceived from an HR and labor relations standpoint, like many of the Asian countries. Employers which are conducting a multi-jurisdictional exercise may therefore wish to adopt this approach throughout any given region though care should be taken to ensure that the method of soliciting the resignations of employees or entering into voluntary agreements does not, in itself, lead to further liabilities.

3. Clear Definition of the Goals to be Achieved

Given that many major restructurings require substantial information to and consultation with the appropriate employee representative bodies in many countries, it is very important to define the goals to be achieved by the contemplated restructuring. Otherwise, there is a substantial risk that employee representatives may use inconsistencies in the reasoning of the restructuring to slow down the processes and thus make implementation more difficult.

In general, the goal to be achieved by a certain measure could either be a "cost goal" or a "strategic goal." A "cost goal" is usually much more difficult for an employer to argue than a "strategic goal." As regards a "cost goal," employee representatives will often attempt to reason that the figures presented were questionable and start a debate on the appropriateness of those figures. In some jurisdictions, the employee representatives may even have the right to request alternative methods of computation of the underlying figures, for example by use of an external expert. Where possible, it is therefore advisable to try to define a goal as "strategic."

4. Clear Documentation and Communication of the Reasoning for the Restructuring

Given the information and consultation rights of employee representatives in many countries, it is important not only to define the goals of an upcoming restructuring but also to communicate them in a consistent way. This issue is usually highly underestimated. It has been proven helpful in most cases that the employer operates from a common "song sheet" outlining the basic goals and parameters of an upcoming restructuring. Such a "song sheet" should serve as a joint basis for the information and consultation process in the countries affected and can, where needed, then be localized as per the practices in the respective countries. In addition, all the necessary background information should be communicated to the subsidiaries in the various countries so they can carry out the necessary information and consultation processes based thereon. The better the employer is prepared, the easier it is to comply with these requirements; at least it can shortcut the proceedings substantially. Any confidentiality restrictions based on legal requirements or cultural background need to be taken into account and balanced against the speed of the process.

5. Decision on Whom in Management to Involve

Experience shows that difficulties in conjunction with the implementation of restructuring processes often stem from potential disloyalties at the management level (often in the countries affected). It is therefore critical for those who plan a restructuring to decide early on who should be involved in the planning process. Loyalty issues can prove critical in the furtherance of a restructuring.

6. Definition of Realistic Timetable

It is vital to define a realistic timetable. Corporate pressures are often such that the timing is done on relatively short notice. This pressure, however, may contradict the legal and practical requirements in many countries. In order to make a restructuring project successful it is therefore imperative to balance the available timeframe with the legal and practical requirements in the various countries. Restructurings which are rushed into can often prove to be impossible to achieve, and at the least will be very expensive.

7. Determine Timing of Information

It is crucial not only to define an overall timetable but also to determine the various times at which certain types of information are to be released to works councils, unions, supervising bodies, as well as the public. These steps have to be coordinated in the countries affected by the restructuring in order to secure consistency. In this context, potential SEC disclosure requirements need to also be taken into account, worded properly, and timed and coordinated with all other information requirements. This coordination can sometimes be a challenge and requires careful attention.

8. Advance Planning to Create Preconditions for Justification of Employee Terminations

Not only are consultations with unions and works councils required in many countries but also, as shown above, individual employee terminations often have to be justified. Where needed, these justifications should be prepared in advance. This preparation speeds up the implementation. In some cases, pre-restructurings are needed to create preconditions for business-related terminations.

9. Preparation of a PR Strategy

In high profile cases, it is important to have a PR strategy prepared before the restructuring is publicized. In many countries, substantial downsizings are the focus of the press and the media. Companies are well advised to plan for that.

10. Careful Budgeting

Any restructuring and downsizing requires a realistic budget. Accordingly, all legal and practical considerations to achieve the restructuring need to be taken into account. The benchmark for calculating the figures should be the best practices in the countries affected. Very often, the figures used in prior restructurings can be used. Companies should nevertheless investigate all levels for cost reduction in that respect. Experience shows that there is a correlation between the volume of severance payments and the speed of the implementation of the restructuring. The two should be balanced against each other.

11. Establish a Clear Decision-Making Structure

We have seen many restructurings run aground because the decision-making structures within companies for such project have not been well defined. In order to maintain consistency in the planning process and later in the implementation of the restructuring, it is imperative that the decision-making structure be clearly set out. It is also helpful to have outside consultants included in the decision-making process at the earliest stage possible in order to get the best input, knowledge, and experience to accompany the company's internal decision-making.

B. Clear Definition of the Negotiation Strategy

After the planning process is finalized, the negotiation strategy for discussions with the employee representative bodies needs to be defined. Without such a strategy, many negotiations have a high potential of faltering.

1. Determine Leverage Potential on Works Councils, Unions, and the Public

In order to bring any negotiations with employee representatives to a positive result for the company, it is important to define which leverage potentials are available to achieve the

desired outcomes and to counter excessive claims or pressure scenarios from adverse parties. Practice has proven that the highest leverage is usually available where the company starts the negotiation from a worst case scenario (from an employee perspective) in terms of, for example, the severity of the contemplated restructuring, the number of employees affected, or the volume of the eventual social plan or severance packages. Whether such an approach, however, is desirable needs to be evaluated on a case-by-case basis. A potential downside of a worst case scenario could be contested negotiations, which in turn could lead to negative HR effects, morale issues, or negative public relations. The bargaining process itself may also be made more difficult. If, for these or other reasons, such a worst case scenario is not available, alternative options and their leverage potential as well as their impact on employees and the public need to be considered.

2. Determine Weaknesses and their Implications for Strategy

As well as determining the leverage potentials, it is important for the company to be realistic about its own weaknesses (like, for example, delivery obligations which could be affected by strikes) and their implications for the strategy. Only a realistic assessment of the situation can be a legitimate basis to determine the negotiation strategy.

3. Determine Sensitivities of Adverse Parties and their Implications for Strategy

Any party at the negotiation table has sensitivities which the other side needs to take into account. Otherwise, no realistic result is achievable. For example, the sensitivities on the side of the works councils and unions need to be carefully evaluated. In particular, it is important to determine which are the "hard to swallow" issues for works councils/unions and how they can be overcome. In addition, the company should determine whether there are certain "no go" positions on the side of the employee representatives which might need to be taken into account.

4. Determine Acceptable Compromise Potential in Works Council/Union Negotiations

No negotiation will be successful without acceptable compromises. The works councils/unions also need their "wins," like, for example, a less severe scope of the restructuring, fewer numbers of employees affected, or better severance packages. Also, compromises outside the scope of the specific restructuring might lead to the acceptance of additional agreements on other matters important for the works councils or unions, such as, for example, the implementation of flexible working time methods etc. (if also acceptable to the company). The availability of such potential compromises should have already been taken into account when determining the company's starting position in the negotiations (see B 1 above).

5. Composition of the Negotiation Team

It is important to have the right mix of people on the local negotiation team. It should not be too large or too small. In addition, the roles on the negotiation team need to be defined upfront.

C. Try to Secure Political Support for the Restructuring or, at least, Try to Minimize the Risk of Negative Governmental/Political Influence

High-profile restructurings are likely to be the target of political pressures and governmental influences. In order to reduce these pressures, it is usually helpful to try to secure political support for the restructuring upfront. The governmental relations department and the PR department need to be closely involved in this process.

D. Stay in the Driver's Seat for the Works Council and Union Consultations

Experience shows that the more companies stay in the driver's seat of consultations and negotiations with works councils and unions, the more they are able to achieve positive results. This control, however, requires a couple of steps.

1. Timing of the Consultations

In many cases, the timing of the announcement of any restructuring can prove to be critical. Any such timing decision should take into account factors like upcoming works council or union elections; recent developments in the company or at the plant level which may have a negative effect on the upcoming restructuring; and at least in high-profile cases, upcoming general or local elections in countries concerned which could make it more difficult to realize the restructuring within an acceptable timeframe and at an acceptable cost.

2. Stay the Course with Acceptable Flexibility

From a company perspective, negotiations will be successful only if the local negotiation team stays the course and is not derailed by the other side. For example, in our experience, local negotiation teams often have a tendency to be too conciliatory vis-a-vis the employee representatives in order to maintain a good working relationship and achieve quick results. The mid- or long-term effects of such an approach could, however, be very costly. Local negotiation teams must therefore be given clear instructions to adhere to the company's position throughout the process. Nevertheless, the local teams should also have the necessary flexibility to achieve acceptable compromises. The rules for such flexibility need to be clearly set forth in the planning process and adhered to in the local negotiations. The local negotiation strategies need to reflect such pre-defined mix of firm and conciliatory approaches.

3. Clear and Concise Documentation of the Negotiations in Light of Possible Litigation

In some legal environments, it is essential to document the ongoing negotiations in order to be prepared for potential labor litigation. This has to be done in a clear and concise way. Often one member of the negotiating team is assigned to this role.

4. Build Up Trust Between Members of Both Negotiation Teams

Experience shows that the potential to achieve positive results in negotiations is enhanced where there is a high level of trust between the members of both negotiation teams. Such trust has to be built up over time. Where possible, one-to-one discussions with members of the negotiation teams should be considered.

E. Coordinate the Actions in Various Countries

It is essential that in the case of global restructurings and layoffs that the actions in various countries are coordinated. Only with such coordination can consistent approaches be secured, timelines met, and the preconditions be achieved to bring the contemplated restructuring to success. Such project management is one of the key tasks of the coordination team and it needs to be set up within the framework of a clear decision making structure in order to successfully implement the project. Experienced outside consultants can play a very valuable role in this process.

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About Baker & McKenzie

Over the years, we have assisted many of our clients in implementing global or regional restructuring and layoff projects. Such experience includes not only legal advice but also guidance on the HR considerations and project management. We have over 400 practitioners in 70 offices around the world who practice employment law and have assisted international companies with global restructurings.

Our clients include many of the world's most recognized large corporations, as well as small to mid-size companies, each with its own unique needs. We can draw on our wealth of experience in corporate restructurings and adapt this experience to each client's individual needs in order to provide the guidance and advice tailored to a specific situation.

We place significant emphasis on client service and usually recommend a single point-of-contact for your global restructuring project. This approach allows us to provide our "best team" servicing. We designate one client relationship partner to help coordinate workflow and help each client take advantage of the extensive Baker & McKenzie network. In this way, our clients always have someone to contact, day or night, regarding any issue with respect to a restructuring project. In addition, the client relationship partner would be your introduction to all of the different services and capabilities we offer.

For those jurisdictions where we do not have an office, we have an existing relationship with many correspondent firms that have provided advice to us before. However, if a client prefers that we use a particular firm or firms with which they have an existing relationship, we would be happy to do so. Regardless of which approach you choose you can always be assured that you will get the best legal and practical advice to make your restructuring project a success.

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