

Statement for the American Bar Association Conference, Paris, May 2005

## Outsourcing and Flexicurity

1. *Old challenges, new dynamics, different focus.* Globalization and Outsourcing: both are not new. But, not at least driven by information and communication technology, their pace has quickened and their scope has broadened. So old prophecies reappear in new costumes: In the U.S. there are China for manufacturing and India for services now mentioned as upcoming superpowers, which will leave few good jobs in the Old West. It has not been a hot topic in Europe, especially Germany, until now. Here the political focus is on relocation to central Europe and cheap labour at home. The U.S., leading again?
2. *A vicious or virtuous circle?* Outsourcing as a political term was created in the U.S in the year 1989, when Eastman Kodak contracted out its information and communication technology to IBM and DEC. A wave of downsizing and job losses in profitable big corporations during the 1990s followed and an increase of risk and rewards especially in Asian countries. This was new in history: restructuring and growth as two sides of corporate strategy. A vicious circle in consumer good manufacturing was a result. Not American ITT or German Grundig, but Korean Acer and Chinese Lenovo-IBM, are today's new players. But is this critical? Will a virtuous circle of new jobs and wealth in the service sector compensate for the pain?
3. *Rethinking free trade.* The free trade mantra is: Open trade, free of tariffs, quotas, subsidies, or other government distortions improves the well-being of nations. But this only makes sense, if everyone plays the rules – which was and is not the case in the newly industrialized countries. And if the far lower-wage countries capture advanced industries, a win-win situation will not be guaranteed, as Nobel laureate Paul Samuelson recently concludes. So, what are the options?
4. *Deregulation and austerity in Germany:* After painful reforms, the question now is: “Is the sick man of Europe recovering?” Not only for executives of U.S. American firms in Germany the labour market is still overregulated and a key failure factor ([AmCham 3/2005](#)). But delocalization of production to low-cost countries, especially “near shore” to Middle and Eastern Europe on the one hand and growth in sales, marketing and research & development on the other is a structural change, you will also find in similar developed economies with different types of regulation, like U.S. and Japan. And there are other possible causes for stagnation like the EU economic austerity policy, which is followed by a strong Euro. The success of countries like England and Sweden, who didn't join in that point is giving some evidence for that. So is deregulation going too far?
5. *Effective institutions.* As Mancur Olson, another Nobel laureate argues, the efficiency of companies and industries depends on comprehensive collective action in the relevant institutions. So a comprehensive social policy, a well-balanced pyramid of legal norms of laws, collective agreements on industry level by unions and employers associations and agreements at the company level with works councils is effective for managing change. Is this argument, supporting a Rheinisch Capitalism path against the Anglo Saxon model, featured by famous [MIT-Study](#) in the 1990's, relevant today? There is an enormous pressure on this position, arguing standardization is needed in a globalized world. But how much disintegration and local responsiveness is needed to create effective and democratic institutions? This debate has not come to an end, as critics of Czech president Václav Klaus in case of the EU-25 constitution recently shows.

6. *Balance flexibility and security.* Something very strange is happening in organisational management. On the one hand, people never tire of saying that human capital is a crucial success factor, but on the other the very opposite policy is pursued, destroying bonds and organisational cultures through restructuring, outsourcing and downsizing. - writes Jeffrey Pfeffer in his book on "Building Profits by Putting People First". In such situations it is important to achieve a balance between the two aims of security and flexibility. Flexicurity it's called, another artificial term like outsourcing. The aim is to harmonize the systems without leaving the employees worse off; to guarantee the level of income rather than how it is made up; safeguarding employment (through reductions in working time, use of the internal job market etc.) rather than preserving specific jobs. These "[Pacts for Employment and Competitiveness](#)", which are currently characteristic for the industrial relations in Europe, provide a degree of security that is essential for organisational change. They are proof of corporate social responsibility and an antidote to the 'greed cycle' of pure shareholder capitalism - not just appropriate in legal terms, but also economically effective.
7. *Change by participation.* Corporate responsibility in Germany is enforced by a statutory and representative approach to participation. There is a dual system, with collective agreements (negotiated between unions and employers) legally taking precedence over plant-level agreements (negotiated between works councils and management). Works councils are guaranteed by law and elected by all employees. This system exhibits considerable built-in-flexibility and is open to new ideas. A committee of employers, trade unionists and academics, set up by the Bertelsmann and [Hans-Boeckler Foundation](#), have come to the conclusion that co-determination, the specific form of individual and collective participation, is an institution that creates value and efficiency. Co-determination is no longer a federal issue which it used to be, but rather an element of self-organisation within society which requires further development.
8. *A pragmatic approach to outsourcing.* From this background it is not astonishing that labour in Germany follows a pragmatic approach to outsourcing. It is not only because offshoring has had little relevance until today, compared to U.S. and Great Britain. Historical and language barriers may also be reasons. It is also an effect of the institutional system. Of course the more radical metal workers union [IG Metall](#) condemns the pressure on labour conditions from far lower wage countries. As Uwe Hück, works council chairman of Porsche, concludes: "Employers act on U.S. executive payments and employees' wages should lean towards the Chinese." But the union is looking for pragmatic solutions: The [ILO Declaration](#) on Fundamental Principles and Rights at Work should be part of the WTO and GATS agreements and a prerequisite for subsidies to promote fair trade. Traditional corporate agreements following paragraphs 111/112 Works Constitution Act - about alterations and reconciling of interests - "Standort" (location) guarantees, redundancy payments, qualification etc. - are the recommended core tools.
9. *A balanced way.* To conclude: Free markets need effective institutions to develop fair trade. The political dilemma managing globalization is that those people in developed countries who are endangered most from the market forces are the same, which fall through the social security net, which in turn is weaker for the same reasons. Those who need more will get less. If purpose, trust, hope and results are not provided we experience a crisis of leadership, which also affects our institutions negatively. So we have to listen, learn and to look for alternatives to keep reforms going on. And get results.

*Epilogue.* A well known metaphor on conferences to explain the need for revolutionary change is the frog on the oven, which will die, if the temperature is raised only incrementally. But this is not always true: "Krauts" study revolutions – but they never pursue them. Bad experience!