

DÁIL ÉIREANN

AN COMHCHOISTE UM POIST, FIONTAIR AGUS NUÁLAÍOCHT

JOINT COMMITTEE ON JOBS, ENTERPRISE AND INNOVATION

Dé Máirt, 16 Deireadh Fómhair 2012

Tuesday, 16 October 2012

The Joint Committee met at 1.30 p.m.

MEMBERS PRESENT:

| | |
|------------------------|--------------------------|
| Deputy Dara Calleary, | Senator Deirdre Clune, |
| Deputy Áine Collins, | Senator David Cullinane, |
| Deputy Anthony Lawlor, | Senator Mary M. White. |
| Deputy Peadar Tóibín, | |

In attendance: Deputy Michelle Mulherin.

DEPUTY DAMIEN ENGLISH IN THE CHAIR.

Business of Joint Committee

Chairman: Apologies have been received from Deputy John Lyons and Senator Feargal Quinn. We will go into private session to deal with correspondence and other housekeeping matters.

The joint committee went into private session at 1.35 p.m. and resumed in public session at 1.50 p.m.

Scrutiny of EU Legislative Proposals: COM (2011) 778 and COM (2011) 779

Chairman: You are all welcome. This meeting is for the purpose of the scrutiny of EU proposals COM (2011) 778 and COM (2011) 779 by officials from the Department of Jobs, Enterprise and Innovation. I welcome Mr. Pat Houlihan, Ms Marie Dempsey and Mr. John Moynihan from the Department of Jobs, Enterprise and Innovation. They are here to brief the committee on COM (2011) 778, a proposed directive on the statutory audits of annual accounts and consolidated accounts, and COM (2011) 779, a proposed regulation regarding the statutory audit of public interest entities. The committee deems these proposals significant and therefore worth further scrutiny. I am pleased the officials are in a position to brief us on them and to talk us through them.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable. By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If you are directed by the committee to cease giving evidence in respect of a particular matter and you continue to do so, you are entitled thereafter only to a qualified privilege in respect of their evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against any person, persons or an entity by name or in such a way as to make him, her or it identifiable. I call on Mr. Houlihan to begin the briefing on COM (2011) 778 and COM (2011) 779.

Mr. Pat Houlihan: I thank the Chairman for the kind welcome and I thank the committee for the invitation to appear before it to discuss these EU Commission proposals on audit. The EU Commission proposals on audit arise from the financial crisis. There are two draft instruments, a directive on statutory audits of annual consolidated accounts and a regulation on statutory audit of public interest entities. The overall objective is to restore confidence in EU audits through enhanced audit quality.

I may give a short preamble before we get to the slides. In some sense, this summarises the first three bullet points. Credit institutions were the institutions worst affected by the financial crisis and in the aftermath of the crisis, the EU and other jurisdictions addressed the situation as it pertained to the intrinsic activities of these institutions - liquidity, solvency and, in many

cases, recapitalisation. In the case of the European Union, the second wave of the activity in the wake of the crisis relates to audit. Hence the proposals we are examining here today.

It was a source of surprise to many that many entities, particularly credit institutions, began to send out major distress signals a short time after receiving clean audit reports at the time of the financial crisis. While I do not apologise for auditors, certain factors, such as the so-called expectation gap contributed to this. An expectation gap is where there is an expectation of something from the audit process that the process itself does not deliver. There are those who would argue that the expectation exceeds the legal expectations of the audit. Therefore, there is a gap. These proposals intend to address this in part by closing or eliminating the gap. Impairment of loans may also have been a factor, arising from the strict application of international financial reporting standards, IFRS.

Another set of factors run parallel to the crisis as much as being intrinsic to it. These are issues that have been on the European Commission's radar for some time, such as features of the audit market, where at the upper end the so-called "big four" have a vast global monopoly. The sense that this impacts on competition is manifest. The Commission has also expressed a concern on many occasions with regard to what will happen if one of the "big four" fails, as we will be in a situation where there is practically no competition in the market place, not to mention dealing with the fall-out from such a situation. These considerations are of abiding concern to the Commission. Another concern is the length of tenure of many audit contracts, some of which span generations. It is almost like having a sitting tenant in one's house. This is a concern with regard to true independence. Unsurprisingly, these kinds of considerations crop up in the proposals the Commission brought forward late last year to address the audit system and those entities and elements which comprise it.

It might be helpful here to go over the various players involved in the audit system. I have already referred to the "big four", which are a key element of the auditor part of the equation and which have global reach. They are constituted as networks. To the man in the street, this is a bit like McDonald's or a car dealership, which has a presence in all member states or globally. This is not an attempt to denigrate any of the entities mentioned, the audit firms or the others. Down the line from the top echelon, there is a clear second tier set of audit firms. These would be distinguished in terms of size and capabilities from those under them, but their reach does not extend up to the level of the "big four". The third tier would be audit firms and individual auditors.

There are an estimated 3,500 practising auditors in Ireland and public interest entities are audited by nine of the cohort of audit firms. Therefore, only a small number of audit firms audit public interest entities. The entitlement to audit comes from membership of a recognised accountancy body. There are six of these bodies in Ireland and they derive their recognised status from the public oversight authority. In Ireland, this authority is known as the Irish Auditing and Accounting Supervisory Authority, IAASA. Together, IAASA and the layers I have mentioned constitute a kind of pyramid with IAASA at the top. This is the kind of structure with which we are dealing and some of the proposals address the totality or various strands of that structure.

The proposal for the draft directive is to amend Directive 2006/43 on statutory audits of annual accounts and consolidated accounts. The particular focus of the proposal is on the audit of non-publicly accountable entities. This is distinct from the regulation, which expressly addresses that cohort. One of the key areas covered is independence. This concerns independence of the auditor from the firm. Other forms of independence are concerned also. The oversight body is not, as of the present draft, permitted to have audit practitioners. Also - we will come to

this point later - the public oversight body is being asked to assume certain functions which up to now have been carried out by the recognised bodies themselves, in terms of regulating audit firms and auditors.

We will discuss the issue of liberalisation of ownership rules of audit firms later, as it is an issue that is the subject of criticism from certain quarters. One of the effects of liberalisation is, for example, to enable firms to have an inflow of capital. Up to now, a majority of members in an audit firm were required to be auditors, but now it is proposed to change this. Other proposals are proportionate audit for medium sized companies and where member states require an audit for entities, small companies can conduct the audit as well. This is of interest to the lower end of the audit market. There will be enhancement of cross-border activity, thereby allowing audit firms to perform audits in other member states either on a temporary or permanent basis. I already touched on the issue of the reallocation of functions currently carried out by auditor bodies to the public oversight system. As of now, only two of those functions are deemed as appropriate to be retained by these recognised bodies, namely, approval and registration.

The final and key proposal of the directive is the extension of the definition of public interest entities. In the directive this one purports to amend, there is a relatively clear and concise definition of public interest entities. The core of these would be listed and systemic entities, such as credit institutions, insurance undertakings and the like. Now there is a proposal to extend significantly the coverage of public interest entities. This means that those in the category of public interest entities are subject to the rigours of the regulation, which is obviously more demanding than the directive. This is an area about which Ireland has some “hesitations”, a mild way of expressing its position.

The regulation sets out specific requirements with regard to the statutory audit of public interest entities. As I mentioned, the core element of these would be credit institutions, insurance undertakings and listed companies. However, there is a long list of other categories. I will list these later in the presentation when we get to the point of the issues arising from this. There are new requirements with regard to the appointment of the auditor and there is a significant role for the audit committee. The regulation deals with the performance of the audit and audit reporting, including to prudential regulators. Articles Nos. 14 to 18 and so on include various provisions and requirements with regard to the performance of audit and reporting to prudential regulators. In Ireland’s case, this would be the Central Bank for companies that are credit institutions or under the regulatory remit of the Central Bank.

The next key area in the regulation is the new EU co-operation framework. Article 45 provides for investigations and so on. If something goes awry with a company that has a number of operations in various member states, there will be a need for co-operation and collaboration among the relevant authorities in those member states to investigate what exactly has gone on. Significant elements of such a system are already in place under the 2006 directive. This will enhance them. The European Securities and Markets Authority, ESMA, has a kind of co-ordinating role in this regard. I will deal with that agency later in this presentation.

The next key area is transparency reporting by auditors of public interest entities. If one is auditing a public interest entity, considerable disclosures are required. One has to put a great deal of information on one’s website about one’s audit firm and about what one is auditing. That facilitates the oversight of how those who audit these entities are constituted and provides details on other relevant matters such as the incomes of audit firms. There would be a public interest in having this information.

One of the core elements of the proposed new structure is the enhanced role of the audit committee, which is involved in the appointment of auditors, as I have said, and in many other areas relating to audits. This is one of the strengths of the proposals. At least it directs itself at the process. Arguably, some of the others could not get to the core of the thing, whereas this one does.

The next key area is the prohibition on the provision of non-audit services. Essentially, these proposals are seeking to restrict the provision by auditors of audit-related services, and in certain cases to prohibit the provision of non-audit services, with a view to ensuring the independence of those auditors. There are three categories of service - audit services, audit-related services and non-audit services. The last of those categories is being placed pretty well on the black list. Audit services are fine and a percentage stipulation of 10% applies in the case of audit-related services. This provision is being introduced to ensure auditors are independent. The Commission seems to share the feeling some people have, which is that auditors that have been supplying audit-related services and non-audit services in addition to audit services are being unduly influenced by the non-audit aspect of the revenues they are obtaining. That is why the Commission is seeking to curtail these activities. It is an interesting attempt to ensure there is independence. It is difficult to be absolutely certain that these ancillary activities are having an influence in the manner that has been suggested. That is the proposal the Commission has made.

I have summarised the two measures - the directive and the draft regulation - so I will move on to the discussions of these matters at European Council working group level in Brussels. At a later stage, I will set out where those discussions are and where the Parliament is on the issue. As I usually represent the Department at the European Council working group discussions, I will comment on the matters that have arisen at that forum. The question of whether there is a proper legal basis for the proposed regulation is being examined by the Council and Commission legal services. Many of the bigger member states, in particular, have hesitations and doubts about the proportionality of the use of a directive in this instance. They claim the criteria that normally apply when the Commission introduces a regulation might not be present on this occasion. It is an interesting debate. At one of the recent meetings of the committee in Brussels, the Council legal services issued an informal adjudication to the effect that the criteria are probably met. That is not the end of the matter; I think it will be considered again at some future time.

The second matter that has arisen in this context - the question of the subsidiarity and proportionality of these measures - borders on the matter I have just set out. Many people would prefer if some of the measures in the proposed regulation could be relocated to the directive. Some of the bigger member states get a bit jittery when something is included in a regulation because that means it has direct application, as the committee is aware. They feel it might be a heavy instrument to bring to bear in these cases. They have not been awfully happy with it for that reason. The other thing is that there are 72 draft articles in the regulation, whereas the directive is a much more sparse document. Perhaps some member states want to balance the two documents. I am not too sure.

Ireland shares the misgivings of many member states about the proposed expansion of the scope of the definition of "public interest entities". Article 1.2(d) of the draft directive, which is where the proposed expansion is provided for, would expand the definition to include investment firms, payment institutions, undertakings for collective investment in transferable securities, electronic money institutions and alternative investment funds. We have expressed

concerns about this rather expanded definition of “public interest entities” compared with the original directive. We believe the clarity needed to pinpoint exactly what entities will be covered by the definition is missing from the directive. The Department has established a contact group of relevant interested parties, and we keep them abreast of developments.

Chairman: Are there many countries in that group? Is the UK in it?

Mr. Pat Houlihan: It is purely a national group. We may expand our horizons at a future time. The group helps with our internal deliberations on these issues. We have established a little sub-committee to attempt to unravel what precisely constitutes the new attempt to define “public interest entities”.

Chairman: Do other countries have the same concerns?

Mr. Pat Houlihan: Yes, they do. I am going through some matters of general concern. Ireland is one of a number of countries that are concerned about this matter. We are trying to elucidate the content of this bag of assorted items. We want to see what we are dealing with in the bag and decide whether we like what is included in it. I suspect we do not. I estimate that the number of public interest entities in this country under the existing definition is approximately 250. I suspect that this enhanced version could increase that number by a significant amount. That is definitely a point of concern for Ireland.

The next general concern that has been expressed at the committee in Brussels relates to the proposal for further liberalisation of the ownership rules of audit firms. Ireland is not unduly concerned about this aspect of the proposal. It is unclear whether some member states prefer the *status quo* because they are not keen to depart from the idea that an audit firm must be what it says on the tin - that its governing body must consist of auditors, etc. That is one of the issues that have arisen, but it is not an issue for Ireland, as such.

The next issue that has arisen relates to the role of the competent authority in the public oversight of statutory auditors and audit firms. We have an issue with the extent to which it is allowed to delegate its tasks to professional bodies. I briefly adverted earlier to the fact that the current proposal envisages approval and registration only. We would like to think we have a fairly effective system. I described its pyramidal structure at the outset. The recognised bodies regulate their members. IAASA, which is at the top of the pyramid, supervises how the process is carried out. In addition, if those functions are moved upwards, as is proposed, there will be budgetary implications for our Department. IAASA receives 40% of its funding from Exchequer resources and 60% of its funding through contributions from audit firms. If IAASA’s core function is to do most or all of this stuff, people will want the Department or the Exchequer to defray all of that cost. For practical reasons the bodies have a long tradition of regulation that works pretty effectively and we are happy enough to see that continue. A number of other member states have a difficulty with this one as well, so that would be something Ireland-----

Deputy Dara Calleary: Sorry, Chairman-----

Chairman: We will have questions and answers shortly.

Mr. Pat Houlihan: The prohibition on non-audit services and the limitation of audit-related services is an area where the Commission is striving for independence and competition. Reference is made to the implementation of international accounting standards at member state level rather than EU level - these are accounting standards drawn up by an independent body. In the former directive, there was a provision which provided for the adoption of these standards at

EU level and the proposal in the current articulation of the directive is that member states would adopt them themselves. People feel it is better from the point of view of homogeneity of application that they are adopted at central EU level, which is one of the issues.

On the content of the audit report, some feel it is too detailed. Paradoxically, a specific comment made by delegations is that the audit report is being limited to four pages or 10,000 characters, which seems a bit arbitrary. For example, if one is in the middle of saying something important, the guillotine comes down and one is obliged to stop at that point, and many member states are unhappy with this.

I described earlier some aspects of the role of the European Securities and Markets Authority, ESMA. In addition to facilitation and co-operation with the national authorities in terms of investigations and so on, this body is intended also to advise, give guidelines and issue standards in the audit area generally. However, the details are not clear as to how exactly this will work in practice and member states are unhappy and need more clarity. Another concern is that this body is essentially operating in the financial markets area. Up to now, the audit system operated in its own silo and a body in Brussels, called EGAOB, looked after its activities. Now, it is proposed to remove that link, to link in the audit aspect from the regulation in particular and to give the remit to this group, ESMA. However, only three member states have audit entities that are linked in and affiliated to ESMA so there is an issue in terms of what ESMA is supposed to be doing, how it will reach out and what link can be created between ESMA and the audit fraternity in all of the member states.

With regard to current proposals, consideration has been ongoing at the EU Council level for practically a year now. It is a slow process and has gone along fairly sedately so far. While the current Cypriot Presidency has the ambition to perhaps achieve a general approach on the Council side, we feel it probably will not achieve that. It will certainly come over into Ireland's Presidency and it is just a question of how many of the parts will come over to us to be dealt with - quite a number, I suspect. The proposals are being considered by two committees of the European Parliament - JURI, which deals with justice issues, and ECON, which is our departmental equivalent in the Parliament. They are progressing it but, again, it is uncertain as to when their deliberations will be finalised. One of the dates that has been suggested is 27 February of next year, so that pitches it a good distance out in terms of the Parliament coming to some finality on it.

It is very hard to forecast how this will play out but the indications are that Cyprus may just move it along to a particular point and then hand it over to Ireland to try to achieve a general approach, which is the agreement of the Council component in the "trilogue". For its part, the Parliament will then attempt to get its consensus on it, and the two parties will then lock horns, as it were, and attempt to come to a mutual agreement that will result in adoption. It is very difficult to say how long that process will take. The one thing I would predict with a fair degree of certainty is that Ireland will be intrinsically and fundamentally involved in carrying the process along in the new year.

Chairman: I thank Mr. Houlihan for a detailed presentation, which is what we want. It was useful to tease through the information. I call Deputy Calleary.

Deputy Dara Calleary: I thank the officials for attending and for providing all of that detail. This is a sham, quite frankly. It will not do anything. While Mr. Houlihan mentioned an effective system of current oversight authorities and their long tradition, it is that effective system and long tradition that have us where we are today. We were depending on the auditors?

systems as a system of robust audit on bank accounts. Shareholders around this country who have been cleaned out in regard to bank shares and other shares were dependent on those same auditors when they put their life savings into bank shares. It is too late for them, unfortunately, and many people are in very serious situations because they were let down by what they thought were independent and effective auditors. That was their expectation gap and they are now paying for that gap.

What we want now is something robust, new and challenging that changes the goalposts completely in favour of some system of independent financial guarantee on the state of any company. Unfortunately, the jist of what I am getting from the witnesses' negotiations is that it will be all right on the night. However, there is a big row about the legal basis of the proposal for a regulation and there are people having a row as to whether we should have a regulation or a directive.

One of the most striking comments Mr. Houlihan made was in clarifying he was not comparing audit companies to car salesmen or to takeaways. I know Mr. Houlihan is trying to do a job here but this directive will do nothing to restore public confidence in the audit system. The lack of urgency with which the negotiations are proceeding at EU level is not good enough. It is reflective of a leadránach kind of response to a situation that has caused devastation for companies and for hundreds of thousands and probably millions of people across the EU.

This will not be completed during the Cypriot Presidency and Mr. Houlihan said Ireland will play a major part in bringing it aboard. Has he specific aims to bring this aboard before the end of our Presidency next June or will it pass on to the next Presidency and then pass on to the Presidency after that? What sanctions are being discussed? There are many fine academic proposals here but what sanctions are being discussed for the breaching of any of these regulations? There was an issue at Council working party level about the mandatory rotation of audit firms. Is that being queried or contested by some companies?

No offence to Mr. Houlihan, who is working with all he has. However, frankly, these regulations will not stop us from coming back in 20 years to another crisis of confidence in the system. I referred to the expectation gap. Everybody was assured that these big name companies - I will not bother mentioning their names - were giving guarantees about the financial stability not just of our banks but of big PLCs, but they did not deliver. Mr. Houlihan spoke about the audit chain in companies and banks being difficult to judge. That is exactly it. We depended on auditors in PLCs to report properly on impaired loans but the whole chain collapsed. What this directive needs to do is ensure that chain is robust enough and strengthened enough for it not to happen again. I am afraid nothing in what Mr. Houlihan has outlined would give me any confidence we are actually going to fix our audit system.

Chairman: We will have an opportunity to prepare our own comment on this, which we can send directly to the Commission. We can decide that at the end of the meeting. I call Senator Cullinane.

Senator David Cullinane: The best I can say is that I welcome the fact we are at least having a discussion and that the COMs are here before us. We need an awful lot more discussion and debate on this because we have to work through the detail of it. We all have to accept the whole system of auditing in Ireland is a mess and needs to be reformed. We must not repeat the mistakes of the past. There is no doubt failures in auditing played a big part in what happened in the banking sector and in some of the property companies as well. There is and has been for a long time an unhealthy relationship between auditing companies and their commercial masters,

especially banks. The mindset is that the auditors are there to keep the clients happy rather than doing what they should be doing, which is ensuring that sharp practices or accountancy tricks are not being carried out either by financial institutions or other companies. Unfortunately, the reality is that the necessary safeguards and checks and balances were not in place.

Accountability is one issue; we want to see improvements in accountability in this area, but liability is also crucially important. It seems to be very much missing from the EU legislative proposals before us. We must ensure that when audit companies stand over the accounts of big financial institutions, corporations and banks that it is a true and fair view of a company's position. Currently, they are not legally liable for the accounts on which they sign off. I wish to comment on a recent report by the Financial Reporting Council on international standards in auditing in Ireland and the United Kingdom. It identified an anomaly in the legislation in this country where company law qualifies the idea of a true and fair view with the addition of the words "in accordance with the applicable financial reporting framework". The Nyberg report outlined that the auditors clearly fulfilled this narrow function according to existing rules and regulations. They did not, however, generally report excesses over prudential sector lending limits to the Financial Regulator. We are talking about lending. When it comes to the banks speculating and lending one would imagine that the auditors would be well placed to spot dangers in this area but, unfortunately, that did not happen. There was a system breakdown both at that level and in terms of reporting back to the Financial Regulator. Our view is clear; while we would support improvements in accountability we must also address gaps in legislation which do not allow for audit companies to be liable for the accounts they stand over. I would welcome a response from Mr. Houlihan on the point.

Deputy Anthony Lawlor: When one considers the banking reports in this country and across Europe one of the fascinating points is that we are stuck with four main audit companies. Less than ten years ago we had five but the situation with Enron reduced the number by one. Nothing in the proposals encourages more companies to come forward and take on the mantle. We must broaden the base of existing audit companies. We found that each of the four audit companies was involved in some way or another with the banks in this country. The sad fact is that there is nothing in the proposals that would encourage other companies to be able to compete at a major level. If we do not have competition at that level, everyone gets stale and we get the negative reports we have been getting in recent years on the banking sector in various locations. I hope we will include something in the legislation to encourage smaller and medium audit companies to develop. We need competition. We do not want to have only the big four companies.

I am fascinated by the fact that the big four audit companies have their fingers in many pies in terms of the non-audit services they provide. It is evident at Government level also. They are employed as consultants to compile various reports and assessments. What are the implications for them with regard to the provision of non-audit services and audit-related services? I suspect the companies would not be happy with the regulation that is proposed by the EU.

Reference is made in the proposals to the liberalisation of the ownership rules of audit firms. We do not seem to have a problem with the issue. Could Mr. Houlihan indicate why we should not have a problem in that regard? I am fascinated by the stances taken on various aspects of the proposals. We should question the ones where it is suggested that we do not have a problem because they are the ones that got us into trouble previously. Reference has been made to appropriate legislation. I would like a response in that regard.

Could Mr. Houlihan identify the three member states of ESMA, the European Securities and

Markets Authority? They may be shining lights and we might learn something from them but if they are not then we might learn from them about faults.

I am interested in the length of time we will have before we deal with the proposals as legislation. An issue such as this should not be presented to us quickly. This is a measure we will put in place for the next 20 years or 30 years and we must be able to confidently assure the public that the people who will examine banks, major corporations and companies are trustworthy. The problem currently is that I do not trust any of the big four companies although they are big employers in this country. I am sceptical about everything they say because they have not proved to us that they are worthy of our trust following on from their failures that have resulted in the current position for this country in terms of signing off on bank accounts in recent years.

Chairman: If Mr. Houlihan is agreeable I will take questions from two more speakers.

Mr. Pat Houlihan: Okay.

Deputy Áine Collins: I welcome the fact that we are having a discussion on the proposals. As someone who operated as an auditor for many years the first point we should discuss is the role of the auditor. The role of the auditor is to report on a true and fair view of the set of accounts and also to identify any fraud if they discover it in the process of carrying out their audit. The role of the auditor is not to find fraud. Various checks and balances are carried out in the process of doing an audit. Various analyses are carried out. If one finds something then one digs a bit more in order to find third party evidence. It is not the role of the auditor to go into a company and find fraud but if fraud is discovered then the auditor must report it. It is important to clarify the position. If one has a company that is working against one and is hiding fraud at a deep level it can be difficult to find it, as we have discovered to our detriment in recent years. It is important to clarify the point in the context of the report. It is a good idea to have a mandatory requirement to change auditors every three to five years. That change would be welcome. However, I am concerned that because we have only four large auditing firms that companies would only be going from one to the other. Everyone knows everyone else in such small circles. That could be an issue to examine.

On the issue of having more small to medium sized audit firms taking on big audits, they are not in a position to do it. First, one must have a large number of people, which costs a lot of money. In addition, employees will not stay in smaller firms as they want to work in the big four. They want to travel and to get experience. That is where they aspire to be, as that is where they will get the most experience. Small to medium sized organisations do not have the capability to carry out some of the big audits and they would not be sufficiently independent. I qualified as an auditor in 1996 and since then a significant amount of change and new regulation was introduced and the responsibilities on auditors have become onerous to say the least.

Deputy Peadar Tóibín: One of the major problems seems to be the split responsibility of an auditor with regard to the clients and the reporting of a true and fair situation within a company. An important element of that is the ownership of the organisation and the liberalisation of ownership would have an influence over the corporate direction of some of the organisations. There is an old saying that if one wants to find out what a person thinks then one should find out who they work for, to a certain extent, as that would have an influence.

Another issue is members are approaching this from an extremely difficult position. Many of the problems faced by all Members in this present Dáil stem from an era in which auditors partook in the groupthink and herding with other institutions within the financial make-up of the

State. If we are to proceed with this, cognisance must be taken of this almost being the foremost issue to be resolved, rather than merely taking the view that matters are not too bad as they are. Does the Government have its own plans to regulate this sector in the near future? I acknowledge there is almost a lack of confidence in Irish society in dealing with such issues ourselves. The view is perhaps such issues should be migrated to a European level. While I believe that where business and functions take place on a transnational basis, there should be some level of transnational regulation, as a State we should not decide we do not have a responsibility to develop better systems of regulation in this area in the future. In addition, Sweden was mentioned as having misgivings with elements of this proposal and that some countries considered it to be disproportionate and perhaps an invasion of national responsibilities. Mr. Houlihan might tease out and reflect back to members some reasons other countries have indicated that.

Chairman: I also wish to add a couple of questions. The Department has expressed a concern regarding proportionality in respect of small and medium-sized businesses. It is a big issue that while the same rules really should not apply in this regard, they do. Aside from small businesses, other companies, which in reality operate as charities, sporting organisations and so on, are also hit by audits each year. In the context of what an audit actually does, it is hardly fair that such organisations operating on a not-for-profit basis are obliged to pay €2,000 or €3,000 on an annual basis for an audit that at their level does not really achieve much. Can this issue be addressed in this regulation or is it more of an issue that must be considered on a national basis?

Deputy Áine Collins touched on my other point, which is that people's perceptions of what auditors should do and what the actual job of an auditor entails are very different. These proposals do not deal with that perception either and it is imperative to broaden out what we expect or what we would wish an auditor to do. Can this be dealt with at a European Union level or, again, is this a matter that must be pursued nationally? In an audit, one can assess a company's accounts for two years and even though one might know the company will be in trouble in the following year, one really cannot comment on that as one is simply performing an audit on the accounts. There is no assurance and this directive does not ask for that. My question is whether it should have sought it.

Deputy Áine Collins: I apologise for interrupting the Chair but there is such an assurance. If one believes the company has going concern issues, one must report that in the audit report. There are several different things one can do in the audit report.

Chairman: Yes, but even in this directive, I point out no such assurance on future viability is being sought. Moreover, it does not really comment on the management of the company. The problem over the years is that for a lot of the major entities, the non-executive directors have not really done their jobs. A grey area existed as to what is their job and while it is to be a voice and to watch over matters on behalf of external stakeholders, that does not really happen either. I seek Mr. Houlihan's comments in this regard. Can we go further with it at this point? I acknowledge he has a lot to take on and invite him to do his best to tease his way through it. He is welcome to revert to the committee with notes and information subsequently. I imagine we will go further with this issue and will make direct proposals to the Commission and, consequently, we can append any information Mr. Houlihan provides at a later stage.

Deputy Áine Collins: On the companies with limited guarantee, that is, the charities to which the Chairman referred, I thought different regulations were to be applied to them and that they would be exempt from audit after this year.

Chairman: That is the reason I sought clarity on the issue.

Mr. Pat Houlihan: I thank the Chairman and those members who have made contributions on the debate thus far. First, I must come clean with an omission of my own. Somehow or other, mandatory rotation seemed to slip through the cracks. I probably delayed members for so long that I scuttled my finishing line. In any event, the proposal on mandatory rotation in the regulation is that it should occur every six years and were one to have a joint audit, one could add a further three years to that. As I stated, the European Parliament has not yet made up its mind on this subject. However, on foot of exploratory contacts, the indications are it may be thinking of a longer period. However, I perceive it to be one of the key elements of the proposal.

Obviously, in the kind of time I understood to have available to me, I could not get into the meat and the detailed substance of the proposal. However, I certainly direct those members who have commented on perceived superficiality in terms of the audit process itself to Title III, Article 31 of the regulation. Were one to read on from there, one would find there is quite a lot of substance and meat in there that, if these measures are acted upon, will allow people to gain far greater assurance in the future than may be the case at present.

I will attempt to summarise and address the comments made by the various speakers. If I miss a point or a speaker, members should feel free to come back, assuming they have the time to so do. It is not discourtesy but my handwriting is poor and my notes are jagged. I will do the best I can but members should come back to me if I missed something.

Deputy Calleary drew attention to the absence of mandatory rotation and I believe I have just covered that point. I also mentioned what in substance is contained at Title III of the regulation, if one wades through it. We would need another session to go through that and for our part, we would be happy to participate if a further session was needed, as well as to go through the meat of it and pick out what we might wish to discuss the next time. As I took this meeting to be a form of general run-through, I did not want to bog it down.

Chairman: We might take up Mr. Houlihan on that offer. I think the joint committee will take this matter further as there is a lot to it.

Mr. Pat Houlihan: As for what Deputy Calleary had to say, as I saw it, he pointed the finger at audit deficiencies. I am no apologist for audit firms or the like. The Department has policy responsibility for this area and neither fears nor favours any of the operators therein and we do not show any favouritism. Consequently, I am speaking in a neutral way here but none of the various reports on the financial crisis has been able to finger audit failure. A critique has even been made by the European Parliament of the impact assessment performed by the European Commission on these proposals and it pointed out that while audit was indicated or semi-alleged to have been a contributor in this regard, it was not actually pinpointed that it was. I reiterate I am not being an apologist but having dealt with these issues over a number of years, my feeling is the Commission has had these ideas in its head for a long time and to an extent, the financial crisis has given it the opportunity to air these matters, put them out there, get them considered and so on. There is an element of this and I reiterate I am not aware of any absolutely open-and-shut case of an audit being single-handedly responsible for the failure of credit institutions.

I must state the main failed credit institutions here were regulated by the Central Bank and it is not clear on whose side fault lies. While I do not apportion fault to anyone, they were supervised. Any prudential individual would not rely on a single strand such as audit. I imagine such individuals would have a second strand to their bow and would supervise and act as a prudential supervisor. This in no way is pointing a finger at the Central Bank but in some senses, it is a rebalancing of the equation. That is about as much as I would say for it.

In addition, there is an internal audit function in all these institutions. They also have responsibilities and it is not clear that they fulfilled or discharged their responsibilities. I am just throwing this out there.

Deputy Dara Calleary: The external audit is supposed to be the check on the internal audit. It is supposed to act as one's brake.

Mr. Pat Houlihan: Yes there is that, but I am not sure that if they were-----

Chairman: Internal audit also was a problem.

Mr. Pat Houlihan: Yes, if there were deficiencies in internal audit, maybe they went unseen or whatever in terms of the external auditor.

Senator David Cullinane: It is fair to point out that much of the commentary was not simply in respect of the failures of auditors but on a systemic problem generally that involved the Central Bank and the Financial Regulator. That is what the Nyberg report stated, namely, it was not simply in respect of auditing. Consequently, members' comments should be put into that context. I believe there was a failure in respect of auditing because of the unhealthy relationship that exists between the bigger auditing companies and the bigger banks in this country.

Chairman: We will let Mr. Houlihan finish and then we can come back in at the end; there is no problem. In fairness, we are straying into the whole area of the banking inquiry, which is not Mr. Houlihan's job.

Deputy Peadar Tóibín: I understand, but I wish to make one point.

Chairman: I have made it clear now but you can come back in at the end. Is that okay? We have gone somewhat astray. I call on Mr. Houlihan to continue.

Mr. Pat Houlihan: With regard to Senator Cullinane's point, there is a question of eggs in baskets as well as prudential supervision and auditors. There was a disproportionate sense in which these institutions were lending to particular niches of the economy and we know what occurred.

Deputy Calleary called for more robust and challenging proposals. I see these as reasonably robust and challenging but if Deputy Calleary has any suggestions that could make them more robust and challenging at this point in the negotiation process, we could see if we could champion them. Arguably, they are fairly robust and challenging. If we have another outing we could roam over them to see what people think and we may get to put the mirror up to them or see them in the looking glass such that we can see them properly. People's attitudes may change.

Senator Cullinane called for more discussion and debate. Our side is perfectly happy with that and if this is the forum the Senator has in mind for more discussion we are happy to carry it on. He stated that audit is a mess, but perhaps my comments have addressed that already.

Chairman: We might do that at the next presentation and as well as the Department we could bring in some of the relevant stakeholders, including the auditing authority. It is unfair to call on Mr. Houlihan to comment on all of these issues and he is not really in a position to do so. We will give people a chance to go through their grievances with the more relevant bodies.

Deputy Dara Calleary: Yes.

Chairman: To be fair, Mr. Houlihan is going through the detail and it is not for him to answer for everyone.

Mr. Pat Houlihan: I appreciate that. Senator Cullinane referred to the true and fair view. I was not absolutely clear about it but it is incumbent to give an opinion in respect of the true and fair issue for auditors. He then referred to the Financial Reporting Council anomaly, as he termed it. I gather what he had in mind may have been an article in *The Irish Times* yesterday. Is that correct? Two issues arose in the article. My colleague John Moynihan is an accountant and he can correct, add to or subtract from what I have to say after I have made my comments. There appear to be two issues. One relates to deferred recognition of impaired loans. Auditing standards have a trigger point in terms of when one can begin to recognise loans that will become impaired. Apparently there was a practice some time back among credit institutions and perhaps other entities of smoothing out the flows in their accounts in terms of recognising early or recognising later, according to when it suited, such that the overall appearance was of a smooth set of accounts. The international standard maker moved to amend that. In this instance it would appear that the trigger should have been pulled earlier than it was but, as I understand it, there is a set time for the trigger to be activated and in many of these cases that point would not have come. This meant that loans that would become bad loans were there for people to see but the mechanism of the accounting standard was not triggered or the criteria were not met and therefore the process could not have been activated at that point.

The second issue is the conjunction of the true and fair view with accounting standards. Mr. Moynihan may wish to expand on this. From my quick reading of the article yesterday I understand the author was suggesting that auditors were standing behind certain covers put in front of them. The reality is that accounting standards are intrinsic to the production of accounts. Accounting standards are underpinned by Regulation (EC) No. 1606/2002. Any individual standard adopted would be under that rubric and would have been vetted by many institutions in the EU and by member states. Mr. Moynihan and I attend meetings at which these things are finally adopted. They go through a rigorous process and they have a legal status. One must take account of these standards. The true and fair view is arrived at by the application of these standards. There is no sense in which auditors were attempting to seek refuge behind something in this instance. As far as we are aware that was not the case. If the committee requires further clarity Mr. Moynihan will be pleased to supply it.

Reference was made to the issue of the Central Bank supervisor - that certain reporting should have gone to the supervisor, but this did not happen in cases in which it should have happened and so on.

Senator David Cullinane: My main point was the distinction between accountability and liability.

Mr. Pat Houlihan: I do not have a note on that. If Senator Cullinane will amplify the point, I will establish whether Mr. Moynihan or I can deal with it.

Senator David Cullinane: The report in *The Irish Times* and the Nyberg report referred to a failure of auditors to be liable for the accounts they stand over and publish. It is one thing to be accountable but another to be legally liable for the accounts that one signs off on. Is this something we should have examined in the context of reforming this area?

Mr. Pat Houlihan: Mr. Moynihan may have some thoughts on that.

Mr. John Moynihan: Some of what has been said is based on the premise that the accounts in question were effectively wrong. They may not have been wrong. It is possible for a set of accounts to be right at a given point but to be overtaken by events subsequently. Further, auditors can be sued by the shareholders. It may not be easy to do so successfully but it is there, it can be done and it has been done. In addition, the premise that those accounts were wrong is not necessarily valid, or at least it has not been demonstrated.

Deputy Peadar Tóibín: The auditors were supposed to indicate whether a bank would be a going concern for the following year. Some of the banks covered were audited and within six months they had collapsed. This demonstrates that the auditors did not fulfil their responsibilities. That is beyond a shadow of doubt and it is a costly fact.

Mr. John Moynihan: It is difficult to speak about a particular case, but things can happen quickly in six months. One is attempting to look into the future. The going concern determination is in place to underpin the basis of valuations used in accounts. It is not an absolute guarantee. If it is not deemed appropriate to use the going concern determination or if the going concern is in doubt, the reaction would be to value a company's assets in the balance sheet on a break-up basis. That is a fairly drastic next step to take. One would be very brave to take that step with a financial institution because one could set off a run on the bank and on other banks, something one would hope to avoid.

Deputy Peadar Tóibín: We are trying to indicate some level of regulation with regard to auditing on an EU-wide basis. There is no doubt that either the auditing by those individual auditors was wrong, or the system was wrong. We are in the aftermath of what occurred. Mr. Moynihan stated that it is impossible for people to see into the future, but we need to create a system whereby auditors and the State have some understanding of the health of these organisations and of their future health. That is what we are trying to do today.

Mr. John Moynihan: The auditor is giving a view not so much on the health of the entity but on the truth and fairness of the financial statements. In the case of a bank, the auditor is not looking at the entire financial system; he or she is primarily looking at the bank being audited. These banks are all interlinked like a house of cards and it is difficult for the auditor of one of those cards to state that the card is going to go.

Deputy Peadar Tóibín: Okay.

Chairman: We are going into even more depth and it is difficult to tease it out. I agree that there are more questions than answers. Does Mr. Houlihan want to continue?

Mr. Pat Houlihan: Moving along to Deputy Anthony Lawlor's contribution, Deputy Áine Collins answered one of the questions he raised more eloquently and effectively than I could possibly hope to do, that is, the aspiration that middle tier and smaller audit firms would be able to snaffle some audits from the bigger entities. I am told that it just does not happen owing to size, scale, resources and capabilities.

Deputy Anthony Lawlor: The big four are so named because they gobbled up all of the smaller and medium entities over a number of years. That is why they became the big four or big five. Surely there should be mergers of audit firms to be on a par with them. This is something we should encourage to increase competition at the top end of the market.

Deputy Áine Collins: There is nobody stopping them.

Deputy Anthony Lawlor: I know that, but we should be encouraging it as much as possible.

Mr. Pat Houlihan: That has not happened. I have met representatives of the second tier firms also and asked is this a way forward. I have not been met with rapturous applause for making the suggestion. There is a different league involved. Perhaps they are happy in their niche. I am told that often when audits are offered, second tier firms do not bid for them.

Deputy Anthony Lawlor: Have we reached a point where they are too big to fail now?

Mr. Pat Houlihan: The big four?

Deputy Anthony Lawlor: Yes.

Mr. Pat Houlihan: That may be the case. That is part of what underpins the Commission's concern about only having four entities. It is wondering what exactly will happen if one of them goes. Equally, one could argue Arthur Andersen went and the number reduced from five to four and the world did not fall asunder. What will probably happen is that it will merely aggrandise and the employees will be cannibalised by the remaining big three. I accept it is not healthy, but it is difficult to know what to do. The UK Office of Fair Trading is examining whether the audit market is open, fair and unbiased, etc. Following that evaluation, it is due to come forward with a preliminary announcement some time in November. That may be part of the reason the dossier is moving a little more slowly than it might otherwise do because people may want to be informed what the UK competition body has to state in the matter to see whether there is a suspicion of malpractice or that there is something going on that is not quite appropriate.

Deputy Áine Collins: From an auditing point of view, taking on any financial institution is hugely onerous. None of the small to medium-sized companies would even want to be in that market because of what is involved in carrying out audits. One would not want to do it.

Chairman: Is it that they would not want to or could not do it?

Deputy Áine Collins: They would not want to do it because the risk would be too high. Even in the case of a credit union - we have all seen what happened in credit unions - one would see many medium-sized auditing firms carrying out such audits, but they are extremely onerous. Even as time passes, the big four are doing more because they have the expertise which is gathered in continuously carrying out audits in the same environment. That would be a big issue.

Mr. Pat Houlihan: That corresponds with our experience in the matter. One would imagine that if second tier firms were to specialise in dealing with certain matters and were then to seek to amalgamate and merge, it might help, but that has not happened. Nobody can force them to do it. It is as simple as that.

Deputy Anthony Lawlor referred to the liberalisation of ownership rules and wondered why we did not have a problem. We do not have a problem because there are checks and balances to ensure nothing inappropriate can occur. There are independence criteria that would always be applied to an entity that one audits as between the auditor and the audit entity; one certainly would not have Coca Cola buying into one of the big four and then being audited by that firm. That simply could not happen. We do not have a strong view on the matter. If it enables these entities to capitalise themselves - if that is what they want to do - there are enough checks and balances built in to prevent the scenario about which the Deputy is thinking from occurring.

The Deputy asked about three member states and the ESMA. I must admit I do not know the names, but Luxembourg may be one of them. To be honest with the Deputy, I am not sure what the significance is. The ESMA is in the finance area, to put it in very broad terms, and I am not sure what significance should be attached to the fact that these three member states have an audit that is linked. What will have to happen in order that other member states can agree that the ESMA can have the role the Commission wishes to apportion to it is that a genuine link will have to be made between the undertaking of audits in the member states and the ESMA in order that there will not be one body operating in the financial sector making rules and regulations and giving edicts to audit entities in terms of the governance structures in place. That is our take on the point at issue.

The Deputy commented on the length of time involved. In one sense, there are mixed views. We need to get it right - I think the Deputy himself made this point - because it could be with us for a long time and we do not want to hurry on it, but, equally, we do not want to delay because one loses impetus.

Let me reassure the Deputy on Ireland's prospective stewardship of these dossiers. We will be keen, if at all possible, to bring them to a conclusion and adoption. The indications are not all that hopeful at this stage, but we will work hard. We have had approximately 12 meetings of the working group to move matters along. I can assure the committee that we will give it everything we have in this regard.

Deputy Áine Collins who rode to our rescue in one sense - I am being jocular - placed the emphasis on the apportioned role of the auditor as distinct from the role others might imagine an auditor should play and had some useful statements to make. On mandatory rotation every three to five years, it will be interesting to see how this plays out. Obviously, there will be many big players involved and it could come down to a tight contest in terms of what period will be picked. I imagine that the voting rights of member states will be called into play on this issue because it is a tie-breaker in dealing with the entire dossier. The Deputy clarified the point on medium-sized auditors.

Deputy Peadar Tóibín referred to the liberalisation of ownership rules. I am not sure there is such liberalisation. I have already referred to this issue. I do not think there is a risk. If somebody points out to us where it is, we will certainly seek to ameliorate it.

As I cannot read my writing, I am not sure whether there was another question. Was another question put at the end?

Deputy Peadar Tóibín: I asked how this proposal would solve the problem, or are there plans within the Department of Jobs, Enterprise and Innovation to develop legislation for the State to ensure the collapse with regard to auditing and the banks will not be repeated?

Mr. Pat Houlihan: I am sorry for forgetting the Deputy's original point. The 2006 audit directive that the proposed directive is seeking to amend put in place a quasi-homogenous audit Community-wide in order that, whether one was in Ireland, Italy, France or Spain, the rules and regulations that applied were homogenous. Up to now we did not see the need to put in place particular provisions in Ireland that were not to be found in the directive. If people make representations and a strong case, obviously, we are always open to consider them. The directive was posited on having in place a quasi-homogenous audit throughout the Community. The directive is less binding to the extent that with a directive a member state will perceive itself as having a degree of discretion. With a regulation, however, it has direct effect and what the

regulation says is what has to be done. If the regulation is followed through, in its present complexion, with its 72 articles, we will have comparable, if not identical situations throughout the community. It is a reasonable piece of work, in my view. I am not sure if there are other areas that need to be covered but if people point any out to us, we will certainly seek to do that. It is pretty comprehensive and if the regulation comes into force then no member state will have any option but to implement it. That is exactly how the Commission wants it to happen. The Commission said that it found some discrepancies in how member states implemented the 2006 directive. Ireland was not called to account on that score, so we must have done it reasonably well, but other countries were called to account. That forms part of the rationale for bringing forward a regulation in this case, so that there will be no crevices or gaps in any given member state. It will be a community-wide system, applied by everybody in the same way.

Deputy Peadar Tóibín: What was in the 2006 directive and what is potentially in this directive that will prevent the mistakes made in auditing during the banking crisis?

Mr. Pat Houlihan: Again, as I have said, nobody has identified anything that would stand up in a court of law, in terms of the fundamental responsibility of an auditor *vis-à-vis* the plight of the financial institutions. That link has not been made. However, if we meet the committee again in the future and someone digs something up in the meantime that fingers an auditor or a firm of auditors, we would like to hear about it, discuss it and determine where the flaw or fault lay. As of now, however, nothing like that has been identified.

One thing that I have not mentioned so far, that is currently in train, is quality assurance. I do not know if all members of the committee are familiar with that term, although I know at least one member is. Embedded in the regulation is an obligation to have quality assurance for public interest entities, in particular, which is operated by the oversight authority in each member state, which is the Irish Auditing and Accounting Supervisory Authority, IAASA, in our case. We are progressing along the route of instituting a quality assurance system which IAASA will operate, having recruited ten or 11 highly-qualified people to do so. Effectively this will be an inspection system whereby the audit of public interest entities will be invigilated and inspected, not by the body to which the auditor or accountant belongs, but by IAASA. In essence, IAASA will call to practitioners, ask for the files on audits, examine them, question the practitioners about them and so forth. That is one of the most important elements of the regulation in terms of improving the whole area of auditing and hopefully we, as a country, will have our quality assurance system in place sooner rather than later.

Deputy Áine Collins: I wish to make a comment regarding the banking crisis.

Chairman: It will not be possible to have an in-depth discussion today.

Deputy Áine Collins: Window-dressing is a term that we use in auditing which basically involves propping up the accounts at the end of the year, which is exactly what happened at Anglo Irish Bank. Money was loaned by Irish Nationwide and Trustee Savings Bank to Anglo Irish Bank at the very end of the year, to prop up the balance sheet.

Chairman: We cannot get into that now. We are not having a banking inquiry today.

Chairman: I am sorry, Deputy Collins, but-----

Deputy Peadar Tóibín: I appreciate that and I understand what Mr. Houlihan has said, that legally, under the current framework, nobody can point to the fact, in a court of law, that these auditors were wrong. However, outside of the law, we know that they gave banks a clean bill

of health for a year and six months later those banks were under a banking guarantee.

Chairman: Again, I have to say that these issues are not really for the witnesses before us today. We will have an opportunity to discuss them further but-----

Deputy Peadar Tóibín: It is relevant though, because if this regulation does not deal with these issues then-----

Chairman: There is an opportunity for this directive to be added to or changed. That is what this debate is for and that is why we will have more hearings on it. We will have ample time to discuss it because it will not be completed under the current Presidency. We will have a chance to do more work on this and I have no problem with dealing with it again before Christmas and inviting the relevant stakeholders to a meeting. However, we cannot have a full investigation here and now or give our opinions on what went wrong. There is a certain, formal way of doing that. There is no problem with going further with this matter and we will have a chance to summarise our concerns and highlight what we would like to see added to the directive. That work is not for today, however.

I thank Mr. Pat Houlihan, Mr. John Moynihan and Ms Marie Dempsey for attending. We had a good start in terms of scrutinising this directive today but, as we have discovered, it was only a start. We will probably have three or four meetings on this and will invite the witnesses to appear before us again. I thank the witnesses for assisting us in teasing out the contents of the directive. This meeting has proved that it is a worthwhile exercise to go through some directives in detail. We will be in touch with the witnesses again and perhaps when they go through their own notes and review the transcript of today's meeting, they might make note of any questions that were not answered, with a view to answering them at a future meeting. Once again, many thanks.

Ireland-US Economic Relations: Discussion with American Chamber of Commerce Ireland

Chairman: We will now have a discussion on the findings of the report entitled, "The Irish-US Economic Relationship 2012" by the American Chamber of Commerce Ireland. I welcome Mr. Peter O'Neill, Mr. Brian Cotter and Ms Joanne Richardson. I apologise for the delay in starting but we ran over in our discussions on a very interesting topic. I am sorry that we could not organise this meeting for an earlier date to coincide with the launch of the aforementioned report but our diary would not permit it.

Members are reminded of the long-standing parliamentary practice to the effect that they should comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable. I ask Mr. Cotter to make his presentation, after which we will have a question and answer session.

Mr. Brian Cotter: Good afternoon. The American Chamber of Commerce Ireland would like to thank the committee and its chairperson for the invitation to discuss the Irish-US economic relationship and specifically to discuss the critical role of US companies here. As our report on the Irish-US economic relationship launched on 4 October shows, the positive impact on Ireland of the strong economic relationship with the United States of America is, quite simply, stunning and encouraging. Even since the global crisis started the economic relationship

between Ireland and the US has grown even stronger and this investment is still growing in 2012. This year and last year have seen strong, net job growth from US investment. This investment continues to play a vital role in Ireland. The latest figures from our report show that US investment in Ireland soared by nearly 20% in 2011. At \$188 billion, it now is five times greater than it was ten years ago. To put this into perspective, US investment in Ireland is well in excess of that in Germany, at \$107 billion, or France, at \$89 billion. It is also significantly ahead of China, at \$54 billion, and India, at \$24 billion. It is heartening that there has not been a shift in the geographical preferences of US foreign direct investment, which remains directed towards Europe in general and Ireland in particular. The strongest statistics illustrating the importance of this relationship to Ireland is that with a total output of \$58 billion, US business in Ireland now accounts for almost one quarter of our GDP.

Especially welcome in this report is the news of stabilisation and a modest growth in employment in the manufacturing sector. The sector has seen positive growth between 2009 and 2011 and overall 12,000 net jobs have been added by US companies in Ireland since 2000. This leaves the total direct employment number at a record high of 107,000 or approximately 6% of the workforce. It is vital to the sustainability of a strong economic relationship between the two countries that it remains very much a two-way relationship. Irish companies in the US have a total investment of €25 billion and employment levels remain strong. Such companies are estimated to employ 120,000 employees in their operations and last year they generated \$42 billion in US sales through their US operations.

Ireland's position in Europe is central to our ability to attract investment. Our report finds much to be optimistic about in Europe's future ability to attract investment to our shores as it remains one of the largest economies in the world. Europe continues to account for 30% of global consumption. It is for access to this wealthy market that US companies are in Ireland.

The report predicts benefits accruing from Ireland's close proximity to what the report refers to as "the best business opportunities on the planet", specifically the growing markets of eastern Europe, the Middle East, north Africa and Russia and her satellites, a geographical area whose combined output is greater than that of China. The report advises that Ireland needs to continue to manage its cost base and be conscious that other jurisdictions are becoming more competitive from a taxation perspective. In addition, the number of technology-capable countries competing for investment has dramatically increased. At the same time, the US has done much to reduce costs domestically and has become more competitive.

The report states that Ireland must ensure our niche in the global value chains of US multinationals. While Ireland's to-do list is long, rising to a challenge is something at which the country excels. In partnership with the US, our economic relationship is expected to remain robust and mutually beneficial. It is important to remind ourselves that since the start of 2012, US companies have publicly announced investment worth \$2 billion which will create more than 6,000 new jobs in what could be seen as a healthy diversity of industries, business activities and regional spread. Investment by these firms has been instrumental in helping to create and develop a world-class labour force, critical in dispensing technology and innovation capabilities across the economy and key in expanding the global reach of indigenous firms. The past two years have been the strongest two-year period of inflows from the US on record, with a surge in capital and confidence by US investors in Ireland. This investment has bestowed macroeconomic benefits not only on the country in general but also in respect of building our research and development and, increasingly, commercialisation capacity.

This report is one of the American Chamber of Commerce's contributions to building up

Ireland's reputation as an attractive business location for investment. It will be used to grab the attention of would-be investors in order that they fully examine the reasons their peers are here and continue to invest. This year's report concludes that despite a number of stiff headwinds, the ties that bind Ireland and the US remain sound and, while showing some cyclical strains, remain structurally strong.

Deputy Peadar Tóibín: Bhí an cur i láthair sin an-suimiúil. It goes without saying that the relationship between Ireland and the US is of great importance, as is the success of Ireland in attracting foreign direct investment and of US companies operating here. This relationship must be strengthened and developed. It is startling to note that 107,000 people are employed by US firms, while Irish firms employ 120,000 people in the US. I hope the balance will improve. The reason the figure is so startling is that we tend to believe the relationship is much more proportionate to the sizes of the respective countries.

I could focus my entire contribution on the positive relationships between Ireland and the US where much that is good is taking place. However, one aspect of my role is to highlight issues that could be resolved by the Legislature. Between January and August last year, exports to the US amounted to €14 billion. Over the same period this year, the value of exports to the US declined by €2 billion. The issue of the so-called "patents cliff" has given rise to much discussion here because approximately 60% of our exports are in pharmaceuticals and chemicals. Is there any relationship between the reduction in exports to the US this year and the patents cliff and, if not, can the delegation assist in identifying the reasons for the decline?

All the main parties in the Dáil, including Sinn Féin, support Government policy on corporation tax, which has been important in attracting US investment. However, the State does not focus sufficiently on improving other potential competitive advantages. I am concerned that we may become a bargain basement tax location rather than a country that trades on competitive advantages such as high levels of productivity, low energy costs and good access to export markets, all of which are important for companies. We know how Ireland's tax policies play on the economic front, including with the American Chamber of Commerce. However, as we approach the presidential election in the US, we must bear in mind that they also play on the political front. I note startling figures indicating that €27.8 billion of profits were generated by US companies operating in Ireland and €28 billion in royalties were repatriated. The so-called double Irish taxation system and other issues have also arisen. *The Irish Times* recently reported that the effective corporation tax rate here is 4% when one takes account of the various activities companies engage in - logically, from their perspective - to reduce their tax liabilities. In highlighting these issues, I stress that they are only one aspect of an enterprise relationship with the US that is, for the most part, successful, positive and growing. I ask the delegation to respond.

Ms Joanne Richardson: I will respond to a couple of the Deputy's points on taxation. We all agree that the cornerstone of Irish industrial policy for the past five decades has been our corporation tax. We always reinforce the point that the jewel in the crown of Ireland's offering remains our 12.5% corporation taxation rate and overall corporate taxation policy. This is what gets us to the table when companies are considering world investment decisions. Any uncertainty or greyness around our corporation tax can be very damaging in terms of retention and growth of US investment.

Mr. Cotter referred to assets held by US companies in Ireland. Consistently for the past seven years, including this year and last year, 70% of all of new investment in this country has come from companies that are already based here. The opportunity for future investments - the

badge of honour or advantage we have - is the 600 global companies that are located here.

As the statistics speak for themselves, I do not propose to repeat what Mr. Cotter said about jobs, investment and so forth. On the US side, we are mindful of highly damaging commentary that is made about Ireland's tax status - for example, when the country is labelled as a tax haven. While there are some cases of aggressive tax practices, they all come within the ambit of approved taxation policies.

Ireland is in the highest international tier, according to the OECD and has tax treaties with 60 countries, including the United States of America. There is an onus on industry, the Government and all of those speaking to the international media to ensure that Ireland is not branded as a tax haven. We are in full compliance and we must all remember that having a highly compliant, transparent and open taxation system remains a big jewel in our crown. We are all aware of the forthcoming US presidential election and tax codes always features in election debates. However, all of our multinational companies are global and need bases outside the United States of America. Europe is our biggest market and will be for the foreseeable future. In that context, Ireland, the Netherlands and the United Kingdom are the top three destinations for US investment flows into Europe, while approximately 50% of all US investment still flows into Europe. Therefore, we need to ensure that Ireland continues to be positioned as a global location for foreign direct investment and what keeps us at that table is our corporate tax rate of 12.5%

Chairman: Does Mr. O'Neill have anything to add to that?

Mr. Peter O'Neill: Most companies, when deciding to make investments, look at the long term rather than the short term and critical in that is the question of certainty. In fairness to successive Governments, they have been very consistent on this issue and have recognised that it is a cornerstone of our economic policy and will stay that way. My own experience and that of other CEOs I have spoken to indicates that the competition for foreign direct investment is intensifying all of the time. Not only are some countries improving their game, others which did not have the capacity to compete in the past are moving up the value chain as well. If there was any hint of uncertainty around our corporate tax rate, other countries would play on that to our disadvantage. That is why it is very important that we are rock solid on that issue.

Apart from the tax rate which, as Ms Richardson said, is the key foundation, there are other policies that we also need to work on. The mandates of a lot of companies in Ireland have been changing and evolving in recent years. For example, the whole issue of research and development and the attractiveness of doing it in Ireland is critically important. Indeed, last week we had the announcement from an Irish company, Kerry Group, that it has decided to locate a research and development facility in Ireland. That is a very important issue, as is the issue of talent and the ability to attract skilled workers, which we would be very happy to discuss further.

Deputy Peadar Tóibín: Could the delegation respond to my question on exports?

Mr. Brian Cotter: I will finish on the issue of tax and then go on to that question. In terms of the history of Irish tax policy, the corporate tax rates were even lower at one stage but Ireland did not attract the same level of investment as it does now. Today we have a combination of a strong competitive position, particularly with the talent that we have here, and a very good business proposition, with the certainty surrounding the 12.5% rate. There are other locations that have lower rates but we are not advocating any change. We want certainty, which is a very valuable commodity.

Regarding the patents cliff in the pharmaceutical sector, the Deputy has a very perceptive insight into the industry and this is an issue that has been predicted for some time. The large pharmaceutical companies have had a gap in their research and development platforms for some time. It was always known that at the end of the last decade or the beginning of this one, their product portfolio would look a little weaker and hence, they have been acquiring a lot of companies. I do not know if the committee is aware of the life sciences task force, established by the IDA and Forfás, which is very interesting.

In recent years we have seen a strengthening of the pharmaceutical sector although there is no doubt that a transformation is under way. Companies are making major decisions about their product mix. Some, whose products are going off patent, are still interested in competing in those markets, while others are not. In terms of the number of companies in the sector, new ones have come into Ireland in recent years, like Amgen and Mylan. The sector looks quite dynamic and there will be some churn there, but that is no different from any other sector which has transformed over recent decades. Companies are doing very different things now to what they were doing ten or 20 years ago. That is something that we will all have to watch. It is heartening, however, that from a policy perspective, this change is well understood and is under constant examination to determine how we can strengthen those companies in the longer term.

In terms of the aforementioned value chain, some of the pharmaceutical companies, such as MSD, for example, are looking at other opportunities in their business, beyond manufacturing. Some are considering research and development opportunities and indeed, research and development activity is expanding quite healthily in Ireland. Other issues like centralised services, European headquarters, IT development, finance and so forth are being considered and the companies in question are expanding in many different ways within the sector. That is all playing to the strengths of Ireland as a location for international businesses to set up and run their regional headquarters. There is a lot to be optimistic about and the sector is definitely one to watch.

Deputy Peadar Tóibín: Is that \$2 billion reduction in exports representative of a trend and, if so, to what do we ascribe it?

Mr. Brian Cotter: I have not analysed that \$2 billion but in terms of exports to the US, one must look at the mix of products and also look at the figures over time to determine whether there are seasonal factors at play or a more fundamental change in the supply chain. We must also determine whether Irish companies are doing more business through their subsidiaries in the United States. I cannot answer the Deputy's question directly as to whether there has been a fundamental change. However, one thing that is clear is that the sector is quite active in terms of employment and business opportunities, which is healthy and very important for the wider economy.

Senator Deirdre Clune: It is good to have an opportunity to discuss the report from the American Chamber of Commerce Ireland, which we received earlier in the week. In the context of the US presidential campaign, I am conscious of much commentary around the notion of bringing jobs back home. I have also heard it argued that the environment in the US is better for setting up businesses now, with improved competitiveness, reduced energy prices and so forth. The witnesses made the point that a European base will always be important but is there a trend towards establishing bases in the United States in preference to Europe? Are the aforementioned arguments having an effect?

I also wish to raise the issue of skills, to which Mr. O'Neill referred earlier. There has been regular commentary from the chamber on the skills needs of its member companies and on our

education system and I ask the witnesses to elaborate on that area.

Mr. Brian Cotter: Regarding the issue of re-shoring, our report emphasises the fact that the way US companies do business and drive their export platforms is through foreign direct investment. Europe will still remain a very significant part of business for US companies. For the United States, Europe represents over 50% of world economic activity. It is a strong market place and US companies will still want to do business here for the foreseeable future. The last two years have seen the strongest investment flow to Ireland on record, based on the fact that not only do we have a very good business proposition but also great experience built up within the operations and great talent, in terms of leadership. Those people are at the most senior level within their organisations, which provides us with great opportunities. We will always have to respond to competitive challenges and there is no doubt that the mid-to-lower end of manufacturing and the energy-rich industries in the US will become more competitive over the next decade, mainly because of changes in the labour market and lower energy prices in the US. We must be sensitive to that and address it. It is interesting that in many of our member companies, one hears commentary around skills gaps in the United States, which still exist. That is critical and will play to our advantage if we can address it. Ireland is often mentioned in the same breath as Singapore. Ireland is to Europe what Singapore is to Asia and we must capitalise on that and build on the investment that has come in.

Mr. Peter O'Neill: To address the question of skills, there are a number of metrics in terms of how Ireland is positioned on skills and there are many positive points. While there are several positive points in terms of the number of children participating in third level education, we have also noticed warning signals for several years. We have been vocal about the need to be cognisant of these signals.

In regard to the changing mandates of companies located here, we are all trying to move up the value chain. While this is great in terms of the quality of the jobs offered, it also means they will increasingly be skills based. The demographic changes that will take place in Europe in the coming 15 to 20 years offer Ireland an opportunity to become an attractive hub if we have the right quality of people available. It is a question of putting in place long-term educational policies to reform everything from the junior cycle programme to third level, balanced with shorter term tactical actions because, obviously, we will not see the college outcomes of junior cycle programme reform for another eight years.

Deputy Anthony Lawlor: I enjoyed reading the report which was very concise. Is the positive message about the number of jobs Ireland generates in the United States being heard in that country? I know we are a gnat on a big buffalo, but Irish companies have generated 120,000 jobs in the United States.

Ms Joanne Richardson: Our report will be widely distributed in the United States to promote that fact. I visited that country recently to attend a global conference of American chambers. Inward investment is high on the US agenda. Ireland was the tenth largest investor in the United States, which is a very positive position. In respect of the general public relations game about investment in Ireland and international messaging, part of the chamber's job is to promote awareness that the flow of investment moves in two directions. This two-way relationship benefits both nations.

Deputy Áine Collins: It is great to hear a positive story for a change. How can we attract greater foreign direct investment in Ireland and is there anything the Government can do to help? Can our guests offer advice on how we can develop entrepreneurship in Ireland?

Ms Joanne Richardson: Last year was one of the strongest for investment in Ireland. The €30 billion that came into the country was greater than the amount US companies invested in Asia, including China, and this year 6,200 jobs will be created if one counts the five announcements made today. Some 70% of this investment has come from the existing base of countries. We should focus on retaining existing investments.

The Economist Intelligence Unit issued its annual report on foreign direct investment at the end of March. More than 315 US multinationals operating in the United States, Europe and Asia were surveyed and the report projects further investment of €7.7 billion and that 20,000 new jobs will be created by US companies by 2014. The projections are positive in a global context and Ireland remains well positioned thanks to our existing base and IDA Ireland's focus on attracting newer companies for sales, marketing and support functions in Europe.

In regard to retaining investment, our corporation tax rate is critical, but the biggest issue concerns our skills base. Mr. O'Neill has been proactive on this issue during his presidency of the chamber. There is a big pull on global talent, particularly in the short term, and while good policies are being developed for the medium and longer term, we face an immediate need to recruit persons with particular skills in Ireland. We produce a work activation survey on 6 July every year to correspond with our 4 July event. On that date more than 2,500 positions were vacant across multiple sectors of industry and 53% of these positions will have to be filled from outside the country. That figure was higher a couple of years ago and, while we would like it to decrease further, companies are indicating the need for certain tactical positions and actions to be taken to address immediate skill requirements.

Mr. Peter O'Neill: To reply to Deputy Áine Collins's second question, we have great strengths in particular clusters such as information technology, pharmaceuticals and medical devices, and finance. It is a question of deciding where we go from here. More recently we have seen considerable investment by Internet companies. Perhaps we need to do more to attract start-up and smaller entrepreneurial companies. The other clusters have already achieved good penetration rates, but there is a limit to the number of additional companies which can be attracted to Ireland.

Deputy Áine Collins: Can Mr. O'Neill offer any advice on how we could achieve that objective?

Mr. Peter O'Neill: It has to be high on IDA Ireland's agenda. Many of our member companies have developed linkages with Irish start-up companies. At one stage Digital Equipment Corporation released statistics which indicated that more of its former employees were working in Ireland than it employed at the time. That is another good spin-off from the location of US companies in Ireland.

Ms Joanne Richardson: The fact that we have companies such as Google, Facebook, LinkedIn and Twitter is a big advantage for Ireland when smaller companies in this sector look for hubs in Europe.

Deputy Peadar Tóibín: How can we better integrate foreign direct investment with Irish suppliers?

Chairman: That is a slightly different question. I ask our guests to stick to the same topic before addressing Deputy Peadar Tóibín's question.

Mr. Brian Cotter: Deputy Peadar Tóibín's question is relevant because when one considers

the interface, the issue of linkages and opportunities arises. Enterprise Ireland and IDA Ireland are investigating this area with a view to identifying opportunities. In general, it is necessary to find out what is driving the multinationals. One of the trends in the past ten years has been consolidation of supply chains. Irish companies must ask whether they are fit for the purpose of supplying multinational companies on a global basis rather than just locally. In some cases they will need to upgrade their skills and technology. There is a greater understanding of this issue and I hope the current programme Enterprise Ireland and IDA Ireland are running will identify opportunities.

Multinationals are increasingly drawn into Science Foundation Ireland's programme of investment in research and development. Current trends such as the convergence of sectors suggest there will be better opportunities for collaboration in the research and development space as we progress from research to development and commercialisation. Irish companies can take advantage of these opportunities to become involved with multinationals at that level. The investments Irish companies are making in research and development through Enterprise Ireland should allow for a confluence of entrepreneurship. The university-led programmes around the centres for science, engineering and technology will need that injection of entrepreneurship if we are to make their research outputs more commercially applicable. We will see more development opportunities and jobs. Perhaps in ten or 20 years we will be talking not about indigenous or foreign companies but about Irish-based companies. That is probably where we would want to go to in the conversation, namely, to have a mix of ownership and management which would be world class in their fields.

Senator Mary M. White: I welcome the delegation and congratulate Mr. Joseph Quinlan on his excellent report and for pointing out the two-way economic relationship between Ireland and the USA that most, perhaps 99% of, Irish people are unaware of.

The 12.5% corporation tax rate is the cornerstone, as was said, but we are an English speaking country and Governments of whatever hue are in support of multinational investment into Ireland, which is very important. We heard the Sinn Féin representative, Deputy Tóibín, eloquently supporting the 12.5% corporation tax rate. That is refreshing and important because, as was said, confidence in the future is critical before any company will invest.

One of the points I find very satisfying is the transfer of management skills. In the 1980s many of the chief executives of multinationals in Ireland were American ex-pats whereas we now have Mr. O'Neill and all of this Irish management. We were an agriculture-based country but we were dragged into economic development by the multinationals, in my opinion. Much of my personal life is tied up with all of this.

I have two questions. First, page 81 of the report states:

...there is a better-than-fair chance that a transatlantic free trade agreement between the EU and the United States could be up for serious discussion after the US presidential elections, with both Republican candidate Mitt Romney and President Obama in favour ... of such of an agreement. As a bridge to both the US and Europe, Ireland would benefit from a trade agreement that would deepen the commercial ties between both parties.

What role can the American Chamber of Commerce in Ireland and fellow American chambers of commerce in other EU countries play in promoting such an agreement from here on?

Second, the report states at page 86: "Ireland's "to do list" is long; put another way, the race to remain globally competitive never ends." We take that for granted. If the witnesses could

pick one, which would they say is the most important item on the “to do” list?

Ms Joanne Richardson: I will take the first part. To pick up on two points, and Mr. Cotter and Mr. O’Neill will back me up on this, there is wide recognition and appreciation among all of our members around the country of the importance of cross-party support for our 12.5% rate. This has come very much to the fore since the troika came in and, in the last year and a half, has almost become a national strategic issue for us all, publicly, politically and in business. There is wide recognition and appreciation of that.

The second point is also well put. Nearly every US company in Ireland is now run by an Irish person and many of them now have global mandates. We have many global vice presidents where the company or the facility here in Ireland has become a global centre of excellence. That is why, in recent years, we have seen so much reinvestment by companies here.

On the transatlantic trade agreement, we are aware this will probably come to the fore after the elections. We have already had discussions with Mr. Tom Donohue, the chief executive and president of the US Chamber of Commerce, who is a very great friend to Ireland and has been to Ireland many times. There have also been discussions among the AmChams in Europe, where there are 39 or 40 AmChams. There is an infrastructure in place through our AmChams in Europe and our connections with our US chamber colleagues. Locally, the support of the Irish presidency of American Chamber of Commerce in Ireland will be to get behind and be vocally and physically supportive of pushing that trade agreement forward.

Mr. Brian Cotter: On the trade deal, it is estimated the current tariffs that exist broadly between the US and the EU are between 3% and 4%, although they vary depending on the products and sectors. There is an opportunity in this regard. The main challenges are the non-tariff barriers such as bureaucracy, getting regulation on both sides working together and being cognisant of both sides when rules are being made so we create a move towards a more internal market. There have been estimates from the US Chamber of Commerce and a group called the Business Roundtable in Washington that this could add between 1% and 2% to GDP growth in both economies, which is not an insignificant amount.

With regard to the wish list, we are currently starting a process we undertake every autumn of meeting multinationals. In the next couple of days we will meet approximately 150 CEOs of multinationals, having started this morning in Dublin. Central to our approach to meetings with Ministers in the last couple of months is that, while we understand what needs to be done in terms of the fiscal adjustment and the targets that are set out, there is great concern about the costs of employment, which goes back to a number of points we have made today. One of the strong pillars of what we have in regard to foreign direct investment is the experience, leadership and talent we have in our people. These people are highly mobile, however, and it is a fragile resource. We need to be very conscious of this when we look at the costs of employment either directly, in terms of marginal income tax or the income tax burden, or indirectly, in terms of changes in the social welfare code that might apply in regard to sick leave and so on. We ask Deputies and Senators to be cognisant of this in the upcoming preparations for the budget and in any proposals being considered.

Mr. Peter O’Neill: I endorse that in terms of the feedback of our members. We met with approximately 50 CEOs this morning in the first of our forums. Top of their agenda is this whole question of attraction and retention of talent and, therefore, of personal taxation. In fact, one example quoted this morning came from a company which is trying to persuade a particular key individual to move from the US to here. Given a marginal tax rate of 35% in the US versus

52% here, it is a difficult sell if one is trying to persuade a key individual. As Mr. Cotter said, while recognising the overall fiscal challenge over the next number of years, we need to be very careful that we do not impose any further burden.

Senator Mary M. White: That is a very hard issue to deal with. My personal opinion is that we should be taxing higher pay, although that may not be my party's view. The cuts are so devastating that it might be fairer to tax people on higher incomes. That is where I come from. Is that really a matter of life and death?

Mr. Brian Cotter: I ask the Senator to consider that we have to make strategic choices at this time. A strategic choice we are laying out here is the investment platform that is strongly based on track record, which is one of the pillars used by the IDA when it sells Ireland. That track record is built on experience but it is a fragile resource. We need to be strategic about this, understanding there are trade-offs. We are just asking the Government, Deputies and Senators to consider this point, knowing there are tough choices to be made. Our proposition goes no further.

Deputy Michelle Mulherin: I would like to be associated with the words of welcome. I apologise as, while I saw some of the presentation on screen, I was caught up with another meeting.

I will be brief. It is great to see the fluid and flexible nature of the business relationship and the enthusiasm to bring it along and to encourage more foreign direct investment into this country, hopefully to our mutual benefit. We know that is business and that business requires reciprocal benefits on each side. In all manner and means, we are very geared towards that here and I know it is something the Minister, Deputy Bruton, in particular, pursues doggedly. At a certain level we have agreements and arrangements but in the context of Irish citizens in the United States who do not have permits and are not there legally, would it be worth considering that American citizens should get work permits for this country? A reciprocal arrangement could be set up to our mutual benefit. I am surprised that approach has not been pursued. For example, we issue 50,000 working visas to the US and it does the same for us in exchange. A similar arrangement is in operation with Australia. Citizens immediately know a programme exists of which they can avail.

Senator Clune referred to skills shortages in the ICT sector. At times there are difficulties obtaining work permits, although I accept there is a high success rate. Unfortunately, it seems that key personnel fail to transfer. I accept the skilled workers we want are not confined to the US but we could take it to the next level and allow US citizens to come to this country to work, if that is what they want, rather than always going there to ask for help. We are a small open economy and the United States is a good friend. If we take such an approach on a reciprocal basis perhaps it would be more appealing to the US Government and the various interests in that country. It would also mean that American citizens could follow their investment money.

Mr. Peter O'Neill: It is not a specific proposal that we have considered but it would merit strong consideration. We support the principle that we must make it easier and more attractive for people to come to this country. It is not just an Irish phenomenon; there is a worldwide shortage of ICT skills. Anything we could do to make this country a more attractive and easier location to attract talent is well worth considering.

Deputy Michelle Mulherin: We would also be helping our emigrants which is part of the remit of the committee.

Chairman: Problems obtaining visas arise frequently. It has been said that companies only fill approximately half of job vacancies from among Irish people. Are there problems or delays in obtaining visas for foreign workers? The committee wants to help with such issues.

Ms Joanne Richardson: We have consulted with our member companies in recent months and, as Mr. O'Neill indicated, as recently as this morning at our CEO forums. There are company-specific issues around visas. There is an *ad hoc* route via the IDA for individuals. However, what was taking four months a year and a half ago is taking six to nine months once the person has been identified and the company has carried out its due diligence and offered them a job. What happens in the world we live in is that with such a delay either the project is gone or the person is gone. Companies have real life examples of where investment has been lost. We have officially made representation on the issue. One aspect is the processing of visas and the other side on which we have more work to do ourselves is opening up the visa system and welcoming people with certain skills into the country on a green card system to build a pool of skills. We must build such a pool in the short term.

Deputy Peadar Tóibín: Reference was made to comparative marginal tax rates between the United States and this country. What are the comparative effective tax rates between both countries? Am I correct in saying the Netherlands receives the greatest level of FDI as per the report? It has one of the highest marginal tax rates in the world. I wish to get a better understanding of the issue. We are having an important debate coming up to the budget. We hear it said that if we touch the marginal tax rate in this country we will affect the level of investment and jobs created. It is important for us to be able to provide an evidence base for our policy. Is there research of the job versus the marginal tax ratio internationally?

Mr. Brian Cotter: I believe there is but I do not have it as it is not necessarily something on which we focus in great detail. There is quite a bit of research on this and the Department of Finance has it. We would be happy to forward it on to the Deputy.

Deputy Peadar Tóibín: It would be good if we could all get our hands on it.

Chairman: We are starting to get the evidence but there is a perception from the companies we are dealing with that it is an issue, even in the feedback from the witnesses. Even if the issue is not serious, there is a perception around it and it is important to tease it out.

Mr. Peter O'Neill: It is not just the marginal rate but also the stage at which it kicks in, in terms of the income curve.

Deputy Peadar Tóibín: The key issue is what comes out of one's pocket.

Chairman: Are any other barriers emerging from interaction with companies? I accept the top one or two have been addressed, but are there other issues on which the committee could work to ease the pain? We have dealt with problems for member companies last year such as the US gap and changes in accounting rules. The engagement was slower than would normally be the case with Irish companies, which come straight to us with a problem much more quickly. I am conscious that there might be issues with which help is required. The companies could engage with the committee on a more regular basis. We wish to tease through problems and make it easier for people to create employment in the country.

If there are no other comments we will conclude the meeting. I appreciate the attendance of the witnesses. It was good that they could come before the committee. I welcome ongoing engagement with the American Chamber of Commerce. We are here to help.

BUSINESS OF JOINT COMMITTEE

Business of Joint Committee

Deputy Peadar Tóibín: I have a small request on a separate issue. At the previous meeting there may have been a perception among the representatives of the Department of Jobs, Enterprise and Innovation that we were blaming them. I walked past them outside and one comment I overheard was that one would swear they were responsible for the situation. It might be useful for us to send a letter saying that the robustness of the questions related to the issue and did not in any way apportion blame to them. They were definitely taken aback by the meeting.

Chairman: I appreciate the point. That was the reason at the time I asked the Deputy to come to a halt. I am happy with where the Deputy wanted to go but we must do it in a different forum.

Deputy Peadar Tóibín: It was the views of those individuals that I was trying to get more than anything else.

Chairman: We will go into private session.

The joint committee went into private session at 4 p.m. and adjourned at 4.05 p.m. until 1.30 p.m. on Tuesday, 23 October 2012.