

# ARITAKE-WILD

Joint European Level Social Partners'

Work-programme 2006 – 2008

Joint Study on Restructuring in the “EU15”

Phase one

The Republic of Ireland

National Report

Prepared by:  
ARITAKE-WILD  
2007



**Joint European Level Social Partners' Work-programme 2006 - 2008**

**Joint Study on Restructuring in the "EU15" - Phase 1**

**The Republic of Ireland Report**

**Discussed at the national seminar in Dublin – 23<sup>rd</sup> and 24<sup>th</sup> April 2007**

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## **Introduction - the Purpose of the National Report**

This report on the role of the Irish social partners in restructuring was prepared following the discussion of an initial draft by the national social partners at a seminar held in Dublin on 23<sup>rd</sup> and 24<sup>th</sup> April 2007. The Irish national seminar was the first in a series of similar meetings to be held in ten European Union member states between April 2007 and June 2008, in the framework of the second Integrated Project of the European Social Partners<sup>1</sup>.

The report was prepared by the selected external expert for the Republic of Ireland, Mr Tom Hayes, working with the expert coordinator for the project, Mr Alan Wild. The document is presented as an “expert report”. It represents the views of the consultants involved in its preparation and does not purport to represent the views, either individually or collectively, of the Irish social partners or the Irish case study company representatives that contributed to it, or those of the European level social partner organisations that were responsible for its commissioning.

The prime purpose of the report is to contribute to the development of a synthesis paper that compares and contrasts the roles of the social partners in restructuring in the ten countries studied with a view to drawing lessons for the future and to help shape the activities and priorities of the social partners at the European level in this area. It also informs readers on the role played by the Irish social partners in the process of economic restructuring at the national, sectoral and enterprise levels. By the end of phase two of the integrated project of the European social partners, similar national reports will have been prepared and been discussed by the social partners in 25 European countries<sup>2</sup>. It is planned to develop an overall discussion document based on the role of the social partners in restructuring in almost every country in the European Union for consideration by social partner representatives from throughout the EU.

Frequently, studies of the role of the social partners in restructuring have focussed on well publicised cases where significant numbers of jobs have been lost in “household-name” companies. In this series of reports it is hoped to capture social partner influence on a broader range of restructuring activities that involve not only major job losses in private sector companies, but also what we have chosen to call “silent restructuring”. Silent restructuring includes change processes that have affected significantly the nature of work undertaken within a company or public sector organisation without major job loss. It also describes the changes taking place in small and micro enterprises that typically fall below the radar of official redundancy statistics. In this way the overall study will seek to capture how the social partners have influenced both the quantitative and qualitative effects of anticipating and managing economic restructuring.

The main body of the report is presented in three sections;

- ◇ Section one - A macroeconomic review of restructuring-;
- ◇ Section two – The role of the social partners in restructuring;
- ◇ Section three – Case studies.

A summary reflecting the key elements of the broader research and the content of the discussion that took place at the national seminar can be found at the beginning of each section. The reader seeking an overview of the issue need only refer to pages 4-6; 16; and 22.

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<sup>1</sup> The 2<sup>nd</sup> Integrated Project on Restructuring of the EU Social partners is divided in two phases. The first one will concern ten EU member states, notably Republic of Ireland; the Netherlands; Greece; Italy; France; the UK; Spain; Sweden; Austria and Denmark. The second phase will start in 2008 and cover Germany, Belgium, Finland, Portugal and Luxembourg. Finally, the EU social partners organisations ran a similar project which involved the 10 countries that joined EU in 2004.

<sup>2</sup> “EU 27” less Bulgaria and Romania

## Section one - A macroeconomic review of restructuring in the Republic of Ireland

### *Summary*

The following paragraphs summarise both the more detailed data below and the discussions during the seminar between the social partners. Performance of the Irish economy in recent years has often been described as an “economic miracle”. In the mid 1980’s the Irish economy was one of the most troubled in Europe. Today, as the following data show, it can be regarded as one of Europe’s most dynamic. While there can be no doubt that the Irish economy has performed outstandingly well in recent years, doubts have been raised about the sustainability of this performance in the years ahead.

- ◇ Ireland has the second highest GDP per capita, expressed in terms of purchasing power standards within the EU (after Luxembourg) at around 40% above the EU average. Based on Gross National Income (GNI), Ireland was in fifth place at around 20% above the EU average. GNI is often regarded as a better indicator of the productivity of a nation than GDP as it measures total output of goods and services produced by residents and non residents. Ireland has one of the EU’s largest differences between GDP and GNI because of the importance of Foreign Direct Investment (FDI) in its economic makeup. Investment in Gross Fixed Capital Formation increased by almost 43% over the period 1996-2005;
- ◇ The employment rate in Ireland rose from 56.1% in 1997 to 68.1% in 2006. The rate for women increased by over 14 percentage points and the rate for men by around 10 points. This improvement represents concrete progress against Ireland’s Lisbon agenda targets. The employment rate of persons aged 55-64 at 51.7% was higher than the EU average of 42.3% in 2005. However, only 37.4% of women in Ireland were in employment in this age range compared to 65.75 of men;
- ◇ Although Irish unemployment has risen from a low point of 3.6% in 2001 to 4.3% in 2006, Ireland still had the third lowest unemployment rate in the EU in 2006. Ireland’s unemployment was just over a half of the EU average of 7.9%<sup>3</sup>. The long-term unemployment rate in Ireland was 1.4% in 2005, considerably lower than the EU average of 4%<sup>4</sup>;
- ◇ Productivity in Ireland, measured as GDP per person employed, was the second highest in the EU in 2005. Ireland’s international trade competitiveness has however deteriorated since 2000, mainly due to increasing costs and an appreciating Euro;
- ◇ Ireland’s membership of the European Union has been extremely influential in driving its economic performance. EU membership has made Ireland an extremely attractive base for international companies seeking to locate in the European Union and EU structural funds played a major role in helping kick-start the country’s subsequently self-sustaining economic and social development.

The circumstances that led to Ireland’s “economic miracle” performance have changed in recent years. Ireland is no longer a low wage economy and other countries have mirrored its economic success recipe of low corporate taxes. The driver of Irish growth has changed from the traded sector to domestic consumption fuelled by higher wages and a boom in construction. Whilst Irish infrastructure support to the economy has improved, it has not kept pace with economic growth. A high wage, high productivity and service led economy makes huge demands on the education

<sup>3</sup> Source: Eurostat 2006 data.

<sup>4</sup> Source: Eurostat 2005 data

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system for people of all ages. If Ireland's economic performance is to be sustained in the years immediately ahead, then public policy will have to deal with a number of emerging challenges. More fully;

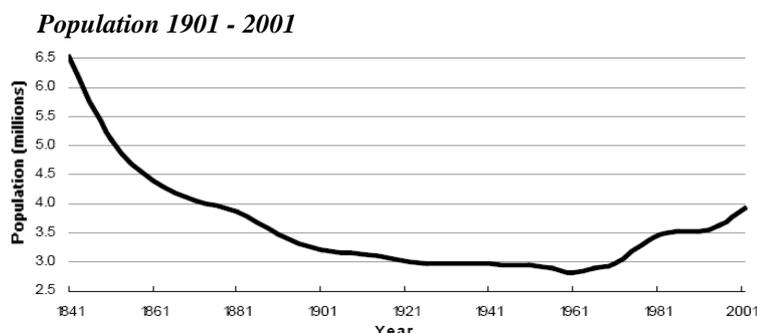
- ◇ Ireland's economic performance has, to a very significant extent, been driven by its low corporate tax policy. A tax rate of 12.5% on corporate profits acted as a magnet for foreign direct investment, making Ireland a particularly favoured location for US transnational corporations seeking a European base. Today, other EU Member States now offer similarly favourable tax environments, putting Ireland's "EU location of choice" reputation with foreign investors at risk;
- ◇ Throughout the 1990's Ireland's economic success was driven by the export-led traded sector. Since the early 2000's, growth has been fuelled by activity in the construction sector and by domestic consumer spending. This domestically driven economic growth has offset a parallel deterioration in Ireland's international economic competitiveness in the traded sector;
- ◇ The high level of dependency on the construction sector brings additional risks. The average loan to purchase a house in Ireland has risen by 400% since 1996 to a current level of €400,000. Escalating housing costs have changed wage expectations and a sudden downturn in the sector would have widespread and adverse economic consequences;
- ◇ Irish growth has been assisted in recent years by high levels of inward migration of skilled and unskilled workers. As elsewhere in Europe, there have been suggestions that immigration from the new EU member states is undermining established employment standards. While such claims may not be substantiated, they do arouse genuine fears in the general population. Inward migration has also resulted in "hidden pockets" of employment abuse and social deprivation among certain immigrant groups;
- ◇ Infrastructural bottlenecks could act as a long-term brake on economic development, though the recently published National Development Plan seems designed to tackle these problems.
- ◇ Unlike its past, the future of Ireland lies in moving up the global value chain. The twin challenges faced by the country are the related needs for a high and ongoing level of investment in research and development and improvements in the education system. Whilst Ireland has succeeded in attracting high levels of FDI in modern sectors it has been much less favourable in attracting research and development investment. Ireland's students have stubbornly refused to specialise in large numbers in science and technology subjects. The country does not invest enough in the education of those in the workplace. A robust national training and re-skilling framework is needed to assist employees to develop the competencies needed in new and emerging sectors. Retraining needs to be offered to employees who have already lost their job and employees in "at risk" areas to maintain their future employability. In a country with so many small companies, leaving this subject primarily in the hands of employers is unlikely to be sufficiently effective. Policy makers need to be sensitive to the cost and administrative burdens that training programmes impose on small and medium sized enterprises;
- ◇ An issue particular to the economy of the Republic of Ireland is cross border economic relationships with its Northern neighbour. An example of the complex interrelationship between the economies is the planned creation of a single market for electricity in November 2007. This subject is high on the agenda of the government and the social partners.

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## Republic of Ireland – key macroeconomic data and indicators

### Population growth

After years of persistent and substantial decline, Ireland's population has grown equally dramatically in recent years. Unusually in the European Union, the Irish population is currently growing at the rate of 1.15% (2006 est.)



Source - [www.pos.ie/releasespublications/documents](http://www.pos.ie/releasespublications/documents)

A significant part of the population growth has been fuelled by immigration. Most recently (since 2004) the abrupt increase in immigration has been from the newer EU member states of Central and Eastern Europe. This has posed both new opportunities and challenges for the economy and the country.

### Migration in and out of Ireland 1997 – 2006 (000's)

Year	Inward migration	Outward migration	Net migration
1997	44.5	25.3	19.2
1998	46.0	28.6	17.4
1999	48.9	31.5	17.3
2000	52.6	26.6	26.0
2001	59.0	26.2	32.8
2002	66.9	25.6	41.3
2003	50.5	20.7	29.8
2004	50.1	18.5	31.6
2005	70.0	16.6	53.4
2006	86.9	17.0	69.9

Source Central Statistics Office Ireland

### Employment

Employment in Ireland grew from around 1.6 millions in 1998 to more than 2.1 million in 2006, an increase of some 30%. In 2006 Irish unemployment was just 4.4%. In 2003, the general employment participation rate in Ireland was 57.5% - 47.5% for women and 67.4% for men. There remains an important untapped potential in the Irish labour market, particularly amongst the Irish female working age population.

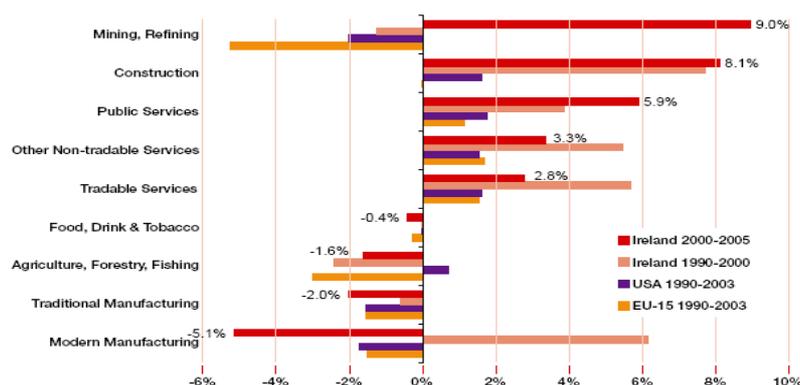
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## Employment and Unemployment (ILO) '000s

Economic Sector	1998	1999	2000	2001	2002	2003	2004	2005	2006
Agriculture, Forestry & Fishing	136.0	137.3	132.9	122.5	124.0	116.6	117.0	113.7	114.5
Other Production Industries	302.4	307.7	309.5	318.1	305.0	306.1	300.6	294.2	288.5
Construction	126.1	142.1	166.2	180.0	182.2	191.4	206.0	242.2	262.7
Wholesale & Retail Trade	211.1	222.5	235.2	247.8	246.8	251.6	260.2	266.9	284.4
Hotels and Restaurants	97.8	102.0	108.1	103.8	104.2	114.4	107.8	111.0	116.3
Transport, Storage & Communication	87.0	96.2	101.3	111.1	111.7	112.1	113.2	118.2	120.7
Financial & Other Business Services	171.1	194.6	210.8	217.1	228.9	227.1	237.0	257.1	267.3
Public Administration & Defence	70.9	74.5	78.4	81.3	90.6	92.4	89.5	98.2	105.1
Education	93.3	100.6	102.8	103.8	111.3	116.1	117.9	123.1	135.6
Health	113.9	120.3	133.0	144.0	159.3	169.9	177.0	188.0	201.2
Other Services	84.5	91.4	93.3	92.4	99.8	95.7	110.0	116.4	120.6
<b>Total in Employment</b>	<b>1,494.0</b>	<b>1,589.1</b>	<b>1,671.4</b>	<b>1,721.9</b>	<b>1,763.9</b>	<b>1,793.4</b>	<b>1,836.2</b>	<b>1,929.2</b>	<b>2,017.0</b>
Total Unemployed	126.4	96.9	74.5	65.1	77.0	82.1	84.2	85.6	91.4
<b>Total Labour Force</b>	<b>1,620.4</b>	<b>1,685.9</b>	<b>1,745.9</b>	<b>1,787.0</b>	<b>1,840.9</b>	<b>1,875.5</b>	<b>1,920.3</b>	<b>2,014.8</b>	<b>2,108.3</b>
Not in Labour Force	1,246.8	1,225.1	1,215.6	1,232.6	1,248.9	1,269.6	1,280.3	1,262.6	1,262.0
<b>Population 15 Years &amp; Over</b>	<b>2,867.3</b>	<b>2,911.1</b>	<b>2,961.5</b>	<b>3,019.7</b>	<b>3,089.8</b>	<b>3,145.1</b>	<b>3,200.6</b>	<b>3,277.4</b>	<b>3,370.3</b>

Source: [www.cso.ie/statistics/empdunempilo](http://www.cso.ie/statistics/empdunempilo)

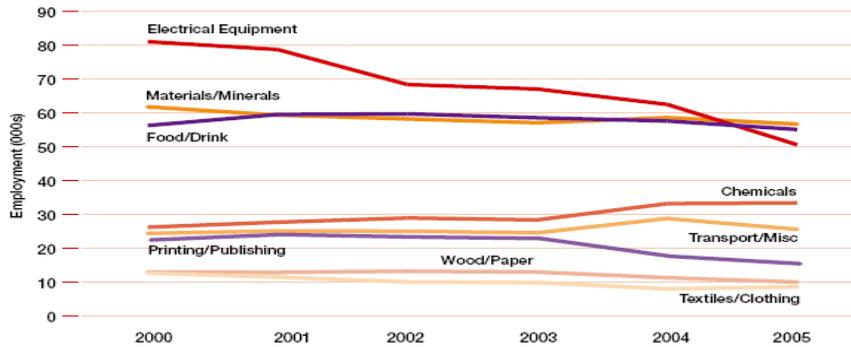
Ireland's employment growth between 1990 and 2000 was mainly due to increases in the construction, modern manufacturing (e.g. I.T, optical equipment and chemicals) and technology intensive market services sectors (e.g. financial services). Since 2000, however, modern manufacturing has contracted faster than any other sector. Employment growth has also slowed in market services but has remained strong in construction and accelerated in public services. The following illustration compares employment growth in Ireland over two periods (1990 to 2000 and 2000 to 2005) with data for the United States and the "EU15".



Source: Annual competitiveness report 2006

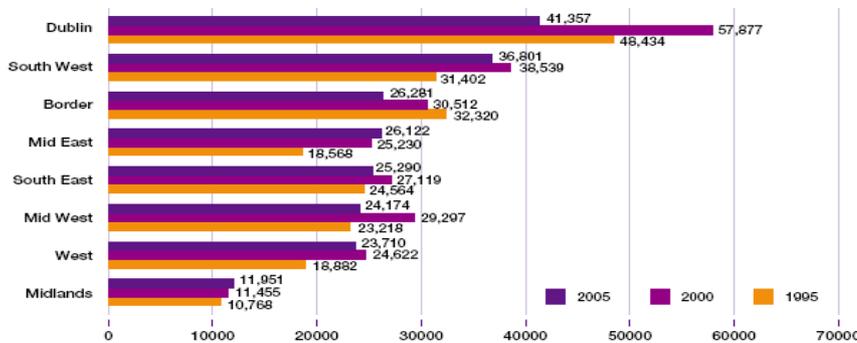
In overall terms, manufacturing employment has fallen by over 31,000 since 2000. This has been driven primarily by job losses in the electrical/optical equipment sector, but other areas in the sector have also sustained steady losses. Only in chemicals did employment increase during the period 2000- 2005.

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Source: Annual competitiveness report 2006

Not all regions have experienced similar declines in manufacturing employment. Most of the recent employment decline in manufacturing has been concentrated in the Dublin, Mid West and Border Regions. By contrast, employment in manufacturing increased in the Midlands and Mid East Regions over the period 2000 to 2005.



Source: Annual competitiveness report 2006

## Small businesses

In 2005 Ireland had the highest rate of small business start ups in the EU and ranked fifth in the OECD25 behind New Zealand, the US, Australia and Iceland.

The importance of the small business sector to Irish employment is summarised below. More than a half of Irish workers are employed in companies with less than 50 employees (the level at which works councils will eventually be capable of being triggered through the phased national implementation of the 2002 Information and Consultation Directive). More than one third of Irish workers are employed in micro enterprises with less than ten employees;

Table 1.1: Number of Enterprises by Level of Employment 2005

Business size	50+ employees	20-49 employees	10-19 employees	2-9 employees	1 employee	Total
No. businesses	7,000	4,000	6,000	85,000	131,000	233,000
Per cent	3.0	1.7	2.6	36.5	56.2	100
No. of employees	675,000	138,000	111,000	397,000	131,000	1,452,000
Per cent	46.5	9.5	7.7	27.3	9.0	100

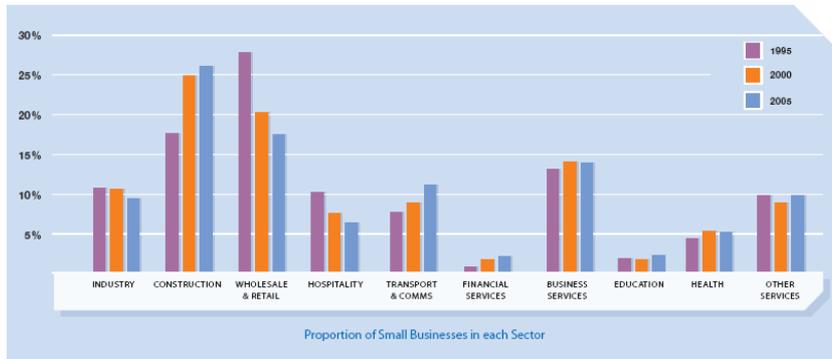
Source: CSO data. March-May 2005

Small businesses are most prevalent in the services and construction sectors. Whilst the growth of small business in construction increased significantly over the period 1995 to 2005, reflecting the increased construction activity in the economy, small businesses in wholesale and retail

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reduced equally substantially as a result of competition from major multiple retailers. The sectors in which small businesses operate are;

Figure 1.1: Sectoral Distribution of Small Businesses, 1995, 2000 & 2005

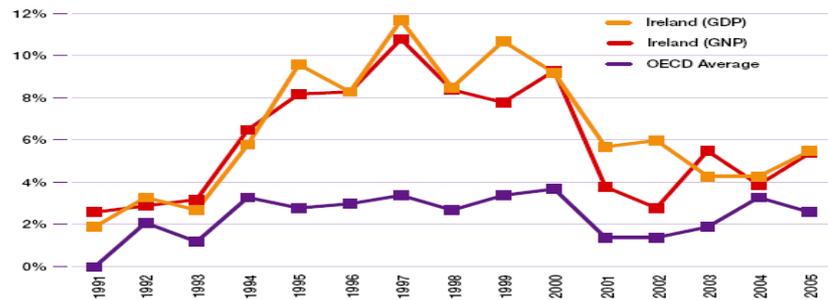


Source: CSO data. March-May 2005

## National Income

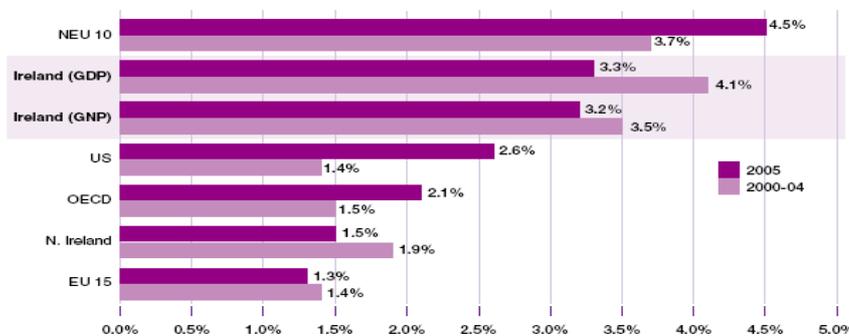
The chart below traces the pace of growth in the Irish economy during the period 1990-2005. It shows the extraordinarily high “economic miracle” levels of growth in Ireland, particularly between 1995 and 2000. While economic growth in Ireland has slowed recently, it was estimated to have been twice the OECD rate in 2005.

Growth in GDP & GNP in Ireland, Compared to OECD Average, 1990-2005



Source: Source: Annual competitiveness report 2006

Although, by its own recent standards, Irish GDP growth slowed in 2005, it exceeded growth in the US, the OECD and the EU 15. Interestingly, the ten new EU member states (NEU 10) did achieve higher growth rates than Ireland, and growth accelerated in 2005.

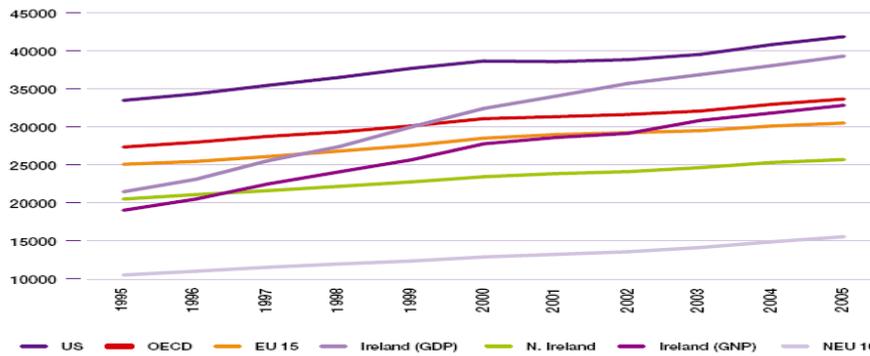


Source: Source: Annual competitiveness report 2006

## Per capita GDP

From a start point significantly below both the EU15 and OECD averages in 1995, Ireland's rapid economic growth since then has lifted GDP per capita to among the highest in the world.

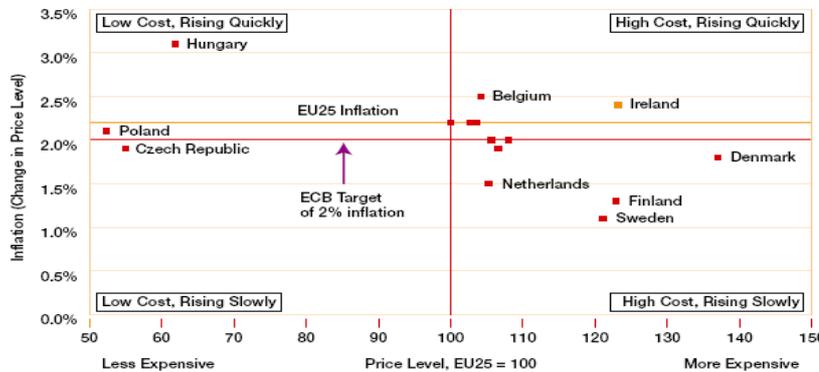
**Levels of GDP per Capita, Ireland and Selected Economies, 1995-2005 (US\$ PPP)**



Source: Source: Annual competitiveness report 2006

## Inflation

The latest rate of change in prices shows Ireland to be marginally above the European Central Bank target of 2% inflation and the current EU25 average rate of 2.2%. Ireland is also situated in the most expensive quartile among the benchmarked countries due to the combination of higher price levels and price growth.



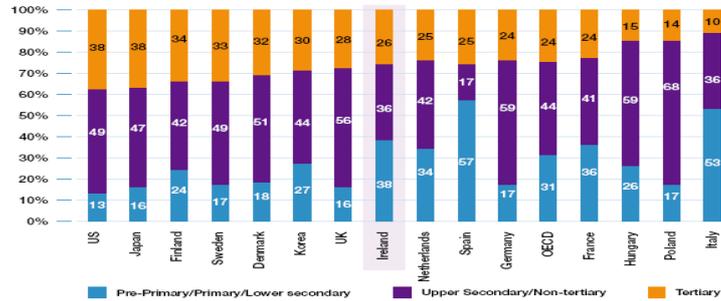
Source: Annual competitiveness report 2006

## Education

The following illustrations show clearly the recent and dramatic social effect of Ireland's economic growth. The first shows 38% of the Irish population only have lower secondary education, ahead only of Spain and Italy in the selected sample. The second shows that Ireland's current placement in the middle of the pack with 26% of the population having a tertiary qualification is a direct result of increasing wealth driving a rapid and recent growth in the university attending population.

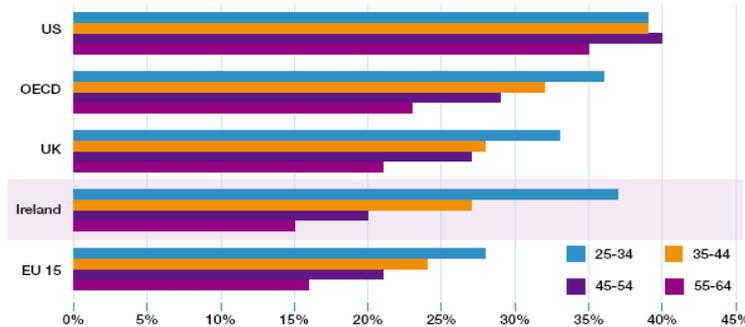
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**Educational attainment (2003)**



Source: [www.forfas.ie/ncc/reports](http://www.forfas.ie/ncc/reports)

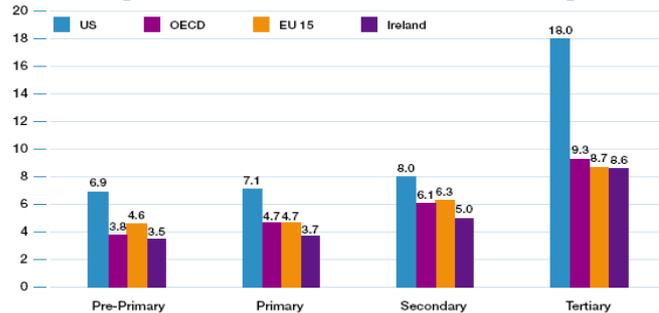
**Population by Age Cohort with at Least Third Level Education, 2003**



Source: [www.forfas.ie/ncc/reports](http://www.forfas.ie/ncc/reports)

Despite this recent improvement, Ireland still spends less per pupil at each level of education than the US and the OECD and EU averages.

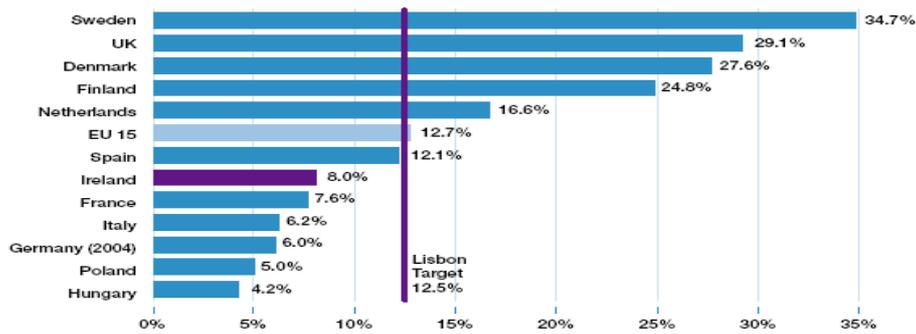
**Annual Expenditure on Educational Institutions – per Student (€'000s PPP), 2002**



Source: [www.forfas.ie/ncc/reports](http://www.forfas.ie/ncc/reports)

Life Long Learning is defined as all learning activity undertaken throughout life, with the aim of improving knowledge skills and competencies. The following illustration shows the percentage of persons aged 25 to 64 in receipt of a “learning experience” in the previous month and includes both formal and non formal education. Ireland still falls far short of the EU15 average and the Lisbon target.

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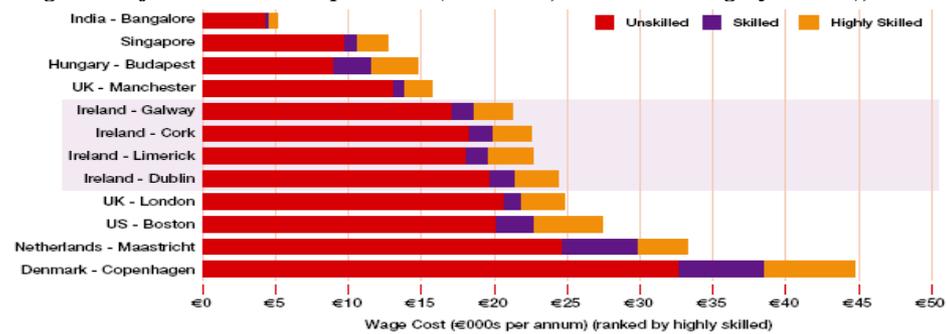
Source: Produced using data from "Participation of the employed in education/training 2004" – results from the Quarterly Household Survey 2004 – FAS 2004

*During the national seminar, the participants made specific reference to the shortage of university of graduates in maths, science and technology as a limiter on Irish competitiveness.*

## Wage costs

The illustration below shows the cost of an unskilled, skilled and highly skilled production worker in various key cities of the world. Whilst unskilled wage rates are relatively high in Irish cities, the "mark up" for skill acquisition continues to make it relatively more competitive at the high end of the job market.

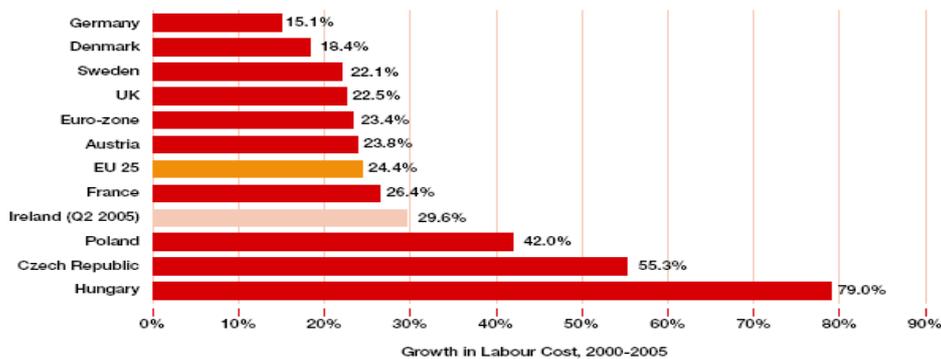
### Wage Costs for Production Operatives (Unskilled, Skilled and Highly Skilled), 2005



Source: Annual competitiveness report 2006

If recent changes in pay rates are considered, Irish labour costs are rising faster than in other Eurozone countries and than the EU25 average. Whilst Central and Eastern European countries have experienced much higher labour cost growth rates, these are from a significantly lower base.

### Growth in Labour costs 2000-2005

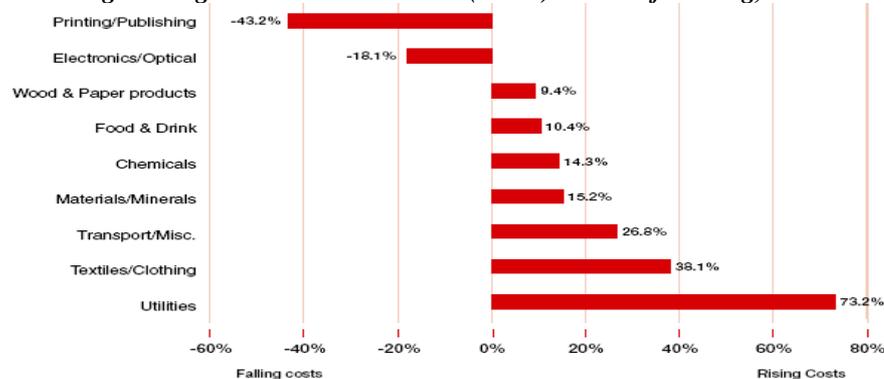


Source: Annual competitiveness report 2006

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Over the same period (2000 to 2005) changes in unit labour costs have varied widely sector by sector showing wide variations in relative competitiveness. Utilities (electricity, gas, and water), transport and textiles have experienced the most significant increase in unit labour costs.

## Percentage Change in Unit Labour Costs (ULCs) in Manufacturing, 2000-2005



Source: Annual competitiveness report 2006

This difference is reflected in the changes in weekly average earnings by sector in the following table.

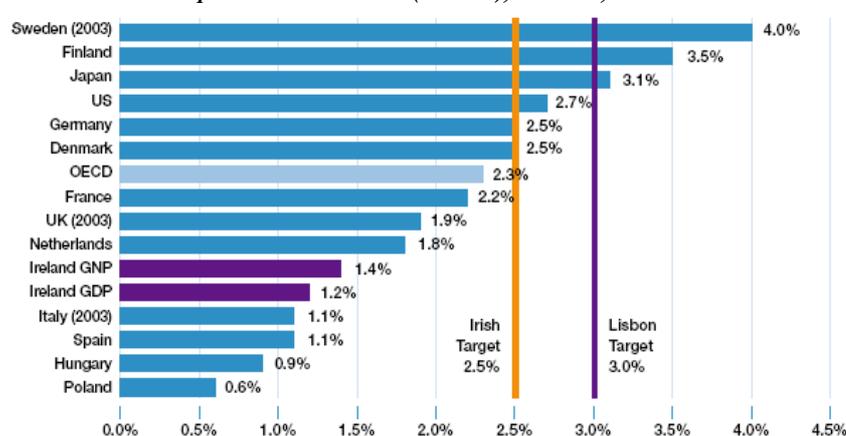
## Average earning (weekly in €)

Sector	1998	1999	2000	2001	2002	2003	2004	2005	% change
Industrial – male	428	453	477	512	538	664	588	609	42.3
Industrial – female	285	298	324	347	365	393	406	420	47.4
Distribution	417	440	489	534	567	596	620	647	55.2
Business services	456	480	513	551	561	585	619	642	40.8
Public sector	555	578	611	671	703	731	794	844	52.1
Banking & insurance	539	558	593	658	686	698	737	769	42.7

Source: Central Statistics Office of Ireland (CSO)

## Investment in Research and Development

### Gross Domestic Expenditure on R&D (GERD), % GDP, 2004



Source: Annual competitiveness report 2006

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## *Foreign Direct Investment*

The Irish economy has benefited significantly from inward Foreign Direct Investment, particularly from the United States. American companies have approximately €50bn invested in Irish based operations, equivalent to 7.6% of all US investment in the EU and 3.5% of US investment worldwide.

An estimated 100,000 people are directly employed in over 580 American firms in Ireland. Indirect employment in sub-supply and services has been estimated at over 225,000 – a total of more than 15% of the Irish workforce. American owned firms contribute over €2.4bn to the Irish Exchequer in corporate tax and a further €3bn in expenditure in the Irish economy in terms of payroll, goods and services employed in their operations. The US is Ireland's top export destination and American firms based in Ireland export an estimated €7bn of products and services from Ireland into world markets.

This is in part due to language and cultural factors, but is driven to a significant extent by the country's extremely low rates of corporation tax. The extent of Ireland's corporate tax competitiveness is summarised below.

	<b>Corporate income tax rate - 2006 (%)</b>
Denmark	28
Sweden	28
France	33.33
United Kingdom	30
Netherlands	29.60
Germany	38.34
Spain	35
Italy	33
Poland	19
Czech Republic	24
Belgium	33.99
Ireland	12.50

Source: OECD

## *The extent of restructuring*

It has proved tempting to focus on the loss of some 31,000 manufacturing jobs since the year 2000, many of them in high profile companies. For the reasons below, this is indeed a significant event, but 31,000 lost manufacturing jobs have to be set against an increased working population over the same period of more than 300,000.

Whilst just under 20% of the agricultural workforce has left "the land" over the last 10 years and manufacturing jobs have shrunk by around 5%, the major restructuring challenge facing the Irish economy has been one of coping with growth.

- ◇ Workers in construction have almost doubled over the last 10 years;
- ◇ There are 75% more health workers today than in 1998;
- ◇ Financial and other business service employment has increased by 68%;
- ◇ Public administration and education have increased by around a half ; and
- ◇ Retail and wholesale trades and hotels and restaurants have both increased by more than one third.

Four major restructuring issues probably merit special mention;

- ◇ Employment growth in the service sector at the high and low pay scale ends of the spectrum has been fed by inward migration of non Irish nationals. Most recently, the openness of Ireland (like the UK and Sweden) to workers from the new EU member

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states has supported growth at moderate rates of wage and price inflation. This has not however been universally welcomed. The Irish Ferries dispute of 2005 (where Irish crews were replaced with workers from the Baltic states) and concerns about a growing shadow economy (now popularly described as the “Polish Plumber syndrome”) have caused the government and social partners to reflect on how to prevent the more undesirable side effects of a generally positive inward flow of skilled and unskilled workers;

- ◇ Economic progress has been fuelled by an enormous growth in the numbers of people employed in small and micro enterprises generated by the booms in construction, retail, hospitality and business services industries. The government launched a Web site in 2003 ([www.startingabusinessinireland.com](http://www.startingabusinessinireland.com)) with the objective of streamlining and marketing the process of starting a business in Ireland. The extent of restructuring and the role of social dialogue in the management of these companies falls below the radar in that it is not picked up statistically other than in the most aggregate sense;
- ◇ The influx into Ireland of foreign owned “modern manufacturing” companies has brought much needed new skills and significantly higher levels of productivity into the economy. It has also set into relief the significantly lower levels of productivity in much of Ireland’s traditional manufacturing base. When US businesses suffered the “Enron and IT led” crises of the early 2000’s, their international subsidiaries were not immune to the rash of corporate cut-backs that followed. In particular, the economy was impacted by a large reduction in investment in the worldwide [information technology](#) (IT) industry. The industry had over-expanded in the late 1990s, and its stock market equity declined sharply. Ireland was a major player in the IT industry. In 2002, it had exported US\$10.4bn worth of computer services, compared to \$6.9bn from the United States. Ireland accounted for approximately 50% of all mass-market packaged software sold in Europe in 2002. This explains a significant proportion of the “modern manufacturing job loss” since 2000 explained above;
- ◇ One of the major future challenges facing Ireland is the successful promotion of indigenous industry. Although Ireland boasts a few large international companies, such as [AIB](#), [CRH](#), [Kerry Group](#), [Smurfit Kappa Elán](#) and [Ryanair](#), there are few companies with over one billion [euros](#) in annual revenue. The government has established “Enterprise Ireland” ([www.enterprise-ireland.com](http://www.enterprise-ireland.com)) to help companies develop, grow and compete in world markets in order to boost Ireland's indigenous industry.

In common with all EU member states, Ireland’s public services have undertaken significant restructuring activity. Unlike many other EU states, the country’s economic success has meant that Irish reforms have taken place against the backcloth of significant increases in public expenditure. Spending on healthcare, for example, doubled between the years 2000 and 2005. Public service modernisation in Ireland is rooted in the “Strategic Management Initiative” (SMI) launched in 1994 and the Public Service Management Act of 1997 which required all government departments to produce a strategy statement every three years and to produce an annual report on progress. The Expenditure Review Initiative, also introduced in 1997, had the objective of shifting public service financial reporting from “input” to “output” orientation.

More recently, the national social partnership agreement (Sustaining Progress 2003 – 2005) provided for a substantial pay increase for public servants in return for the development of action plans to modernise public services. Performance Verification Groups were set up for the civil service, local government, health and education sectors to certify the delivery of modernisation plans.

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In summary, writing in the Irish Times on 13<sup>th</sup> April 2007, the economist Paul Tansey described the potential threats facing the Irish labour market as follows;

*“Between 2002 and 2006, the number of people at work in Ireland increased by well over a quarter of a million, while the unemployment rate has remained both low, at below 5 per cent, and relatively stable. But the employment figures, while glittering, are not pure gold in electoral terms. They are tarnished by three factors:*

- ◇ The decline in manufacturing employment;*
- ◇ The instability of construction employment; and*
- ◇ The fears, justified or not, that Irish workers are losing out to foreign labour.*

*First, the performance of manufacturing employment - the engine room of the economy in terms of value-added and productivity growth - has been faltering for some time. Employment in production industries - where manufacturing is the biggest component - declined by 18,000, or almost 6 per cent, between 2002 and 2006. Since then, as the headlines proclaim almost daily, industrial employment has fallen further. The major concern at this stage is not the scale of the job losses themselves - there is ample scope for re-employment in an economy still growing rapidly - but the calibre of the companies and the quality of the jobs being lost.*

*The second problem centres on worries about the future of employment in the building industry. The numbers at work in the construction sector have increased by 82,000, or by more than 40 per cent, since the last election. Employment in the building industry averaged 269,000 people last year, or 13.2 per cent of all those at work. Fears for future employment levels in the industry centre on the fact that the Irish construction sector is now too big. Central Bank estimates show that spending on building and construction in 2006 amounted to €37 billion, equivalent to 25 per cent of total gross national product. While the Government's €184 billion National Development Plan will act to cushion any fall in construction spending from 2007 to 2013, rising interest rates combined with satiated private demand will see the industry return to more normal activity levels - and a smaller workforce - in years ahead.*

*However, in electoral terms, actual difficulties in manufacturing and potential problems in construction are likely to be overshadowed by voters' fears of job displacement and worsening conditions of employment due to the influx of non-Irish workers. There is no doubt that immigrant workers have been major contributors to the continuing rapid growth of the Irish economy over the past five years. Without substantial immigration inflows, growth would have been choked long ago by labour shortages. Moreover, the knowledge and qualifications that immigrant workers bring to the State have enhanced considerably the skills base of the economy. However, both the perception and impact of immigration is heavily influenced by social class. The middle class is, on the whole, positively disposed towards immigration. It means lower-paid workers in their businesses, cheaper personal services in their homes and little direct competition for their jobs. Working-class voters tend to be more wary. They hire nobody, spend far less on personal services and they are more likely to face direct competition both in terms of jobs and wages from immigrant workers. The size of the immigrant workforce in Ireland is now substantial and is rising rapidly. By the second quarter of 2006, there were 198,100 non-Irish workers employed in Ireland, equivalent to 9.8 per cent of the workforce. In the preceding year, the non-Irish national workforce had increased by 47,800. In terms of their sectoral spread, virtually none are employed in public administration and defence, few are engaged in farming and not many are employed in education. Taken together, these three sectors account for just 11,900 of the total immigrant workforce.*

*As can be seen, non-Irish nationals account for one in four of all those working in hotels and restaurants; one in eight of those employed in construction; and one in nine of those engaged in industry. It is in these sectors that Irish workers are most likely to fear that their jobs, wages and conditions of employment are at risk of being undermined by foreign labour. However, the evidence suggests that, to date, these fears are unjustified. A 2005 study by Alan Barrett and others at the Economic and Social Research Institute found that over the years 1997-2003, the average immigrant was quite highly skilled and immigration resulted in reducing average wages of high-skilled workers by 4-5 per cent below what they would otherwise have been. Wages of low-*

*skilled workers were broadly unaffected and employment of both high- and low-skilled workers increased.*

*More recently, the Fás Labour Market Review 2006 concluded that "displacement is not a major, or widespread, issue in the current circumstances in the Irish economy. The two overriding reasons for this view are the continued low levels of unemployment and the continued rise in wage levels across all the main sectors of the economy". Both of these assessments were conducted against the background of a rapidly expanding Irish economy. If the pace of economic growth begins to decelerate, is displacement likely to become more pronounced? Fás reckons that "displacement could be significant for low-skill jobs in the event of an economic slowdown".*

*Whatever the objective evidence, in politics, perceptions trump reality. With manufacturing employment in decline, construction jobs at risk and fears that, in a slowing economy, the jobs, wages and working conditions of Irish workers could be threatened by foreign labour, the Government parties are unlikely to reap the electoral dividends they might count as their due given the country's scintillating employment performance over the past five years."*

## Section two - The role of the Irish social partners in restructuring

### *Summary*

Unlike in many countries around the world, trade union membership in Ireland is increasing, although not at the same rate as employment growth. This explains reducing trade union density in the context of membership growth. Employers' organisation representivity in Ireland is high, as is the credibility of the organisations engaged in social dialogue on behalf of business. An important hallmark of Irish social dialogue is the fact that, in a small country, the social partners know each other extremely well as individuals.

Although there has been an enormous growth in employment legislation, largely through European level instruments, Irish collective employee relations are characterised by voluntarism. The influence of trade unions goes far beyond membership. Even though membership is relatively low in the construction sector, working arrangements in the industry are regulated by agreements. Even "non-union" companies have to pay the "going rate" – and hence conditions of most of the Irish workforce are influenced by collective bargaining. The collective bargaining environment is however currently very uncertain. It was suggested during the seminar that the helpful laws of 2001 and 2004 had been compromised by the recent Ryan Air Supreme Court decision that has taken things back to the pre 1871 laissez faire era. Others present believed that the decision was a "blip" that would have to be rectified in law.

The Irish social partners have played a key role in the wholesale restructuring of the Irish economy from "European basket-case" in the mid 1980's to what is today one of the most successful economies in the European Union. The "Irish economic miracle" is often presented as a model to the new Member States in Central and Eastern Europe. The series of national agreements since 1987 have formed the essential backdrop to the way the role of the social partners have become involved in macro and micro economic change in Ireland. The social partners agree that the Irish system of social partnership is not perfect and may not last for ever, but it has formed the basis for the nation's economic growth through the 1990's and 2000's. It was suggested by one of the representatives at the seminar that the agreements of the 1980's "brought the country out of employee relations anarchy".

Social dialogue in Ireland works very well at the national level but has not "trickled down" as effectively as it might to the enterprise level. In stark contrast to social partner engagement with the national government on strategic and long term issues, the role of the social partners at the enterprise level has been to negotiate the financial terms under which redundancies have been effected. Job losses have been concentrated on traditional manufacturing industries where the older demographic profile of the workforce meant that voluntary severances were generally possible. The helpful workforce demographic combines with two other factors that have made job losses relatively easy to handle. First, increasing house prices have brought with them a relatively wealthy "older" working population, and second, job growth has provided new job opportunities in more viable employment sectors for those seeking work.

### *The Irish social partners*

#### *Trade unions*

Trade union membership in Ireland grew by nearly 100,000 between 1994 and 2004. However, this growth has failed to keep pace with the growth in the size of the labour market and trade union density (the percentage of the workforce in union membership) has fallen from 45% to 34% over the same period. Union density peaked in Ireland at around 60% in the late 1970s and early 1980s.

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## *Levels of unionisation in Ireland 1994-2004*

<i>Year</i>	<i>Membership</i>	<i>Employment Density (%)</i>
1994	432,900	45.8
1995	446,900	44.7
1996	468,600	44.5
1997	463,600	42.3
2001	534,900	38.0
2002	521,400	36.1
2003	555,500	37.6
2004	521,400	34.6

Source: EIRO

There is no reliable breakdown for the split between public and private sector trade union membership. It is generally accepted, however, that membership in the public sector is between 80 and 90%, with membership in the private sector being no higher than 25%. The influence of collectively bargained pay levels go beyond the limits of trade union membership. Construction is an industry where despite low union membership centred primarily around small enterprises, the influence of social partner negotiations on pay and working conditions is extremely high throughout the sector.

Union membership in Ireland, like elsewhere in Western Europe, is increasingly concentrated in fewer and fewer bigger trade unions of a “general” nature organised across all sectors and occupational levels. A unique feature of trade union organisation in Ireland is that foreign (UK-based) unions have a considerable presence in the country. Ireland is the only EU country in which trade unions located in another jurisdiction recruit members, though they are, of course, subject to Irish employment law. The reasons for this situation are historic, as Ireland was a part of the UK until the early 1920 and so, it was natural, for UK unions to have a presence. The situation continued after independence and the partition of the island of Ireland between the Republic of Ireland and Northern Ireland.

The largest union, Services, Industrial, Professional and Technical Union (SIPTU), has around 200,000 members, that is, somewhere between 35 and 40% of all union members. It is followed by the mainly public sector union, IMPACT, with around 60,000 members. The imminent merger of AMICUS and the T&G in the UK will create a new union (to be called UNITE) with around 50,000 members in Ireland.

There is only one trade union federation in Ireland – the Irish Congress of Trade Unions (ICTU). ICTU has affiliated member unions from both parts of the island, giving it a total membership of some 770,000. A full listing of all affiliated members can be found at:

<http://www.ictu.ie/html/aboutcon/affuni.html>

The ICTU is a member organisation of ETUC.

### *Employers’ organisations*

There are three employers’ organisations in Ireland;

- ◇ IBEC – The Irish Business and Employers’ Confederation, with around 7,000 member companies, across all sectors of the economy. SFA – the Small Firms Association – is a part of IBEC and represents the interests of small enterprises. It has around 8,000 member firms;
  
- ◇ ISME – Irish Small and Medium Sized Enterprises; and

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- ◇ CIF – the Construction Industry Federation, with 3,000 members covering businesses in all areas of the Irish construction industry through a network of 13 Branches in three regions throughout Ireland and 37 Sectoral Associations.

IBEC is affiliated to BUSINESSEUROPE. SFA and ISME are affiliated to UEAPME. In the context of European level social dialogue, FAS (The Training and Employment Authority) and HSE-EA (Healthcare Services Executive-Employers Agency) are affiliated to CEEP.

The role played by the Irish social partners in the country's turn-around since 1987 has been much discussed at home and abroad. Where the recent trend has been for collective bargaining to become less centralised and for bargaining coverage to decrease, the Irish experience has shown the opposite tendency with some success. For these reasons, the role and content of Irish national agreements between the social partners and government are described in more detail later in this section.

## *The Irish framework and institutions for employee relations*

The Irish system of employee relations has traditionally been described as “voluntarist”. This means that in relation to substantive matters concerning pay and conditions of employment, employers and employees, along with trade unions where applicable, negotiate agreements to regulate the employment relationship. Voluntary bargaining, whether collective or individual, and not the law, is the main determinant of pay and employment conditions.

EU Directives have changed the shape of Irish labour law in relation to the regulation of certain working conditions and the role of social partners in anticipating and managing change. The Irish government and the social partners have in fact gone further than is required to comply with European law by increasing the role of the law in determining working conditions. The national minimum wage legislation gives all workers the right to a minimum wage, irrespective of what sector of the economy they work in. The Industrial Relations Amendment Acts (2001/2004) allow the Labour Court, in certain situations, to issue legally binding decisions on pay and conditions.

The Irish government has put in place a number of institutions to assist the social partners in managing their relationships and in resolving industrial disputes. These include the Labour Court, the Labour Relations Commission, Rights Commissioners, the Employment Appeal Tribunal and a variety of equality service. These institutions have two roles. First, they may assist both sides involved in an employment dispute to come to a voluntary, negotiated settlement of their differences. Second, they may issue legally binding decisions enforcing rights under a particular piece of legislation. The Labour Court, for example can make a non-binding recommendation to help solve an industrial relations problem or it can issue a binding determination in relation to employment equality issues. Employment Appeals Tribunal may only issue binding decisions.

## *Social Dialogue Structures*

Historically, bargaining in Ireland between employers, on the one hand, and employees and/or their trade union representatives has been “voluntary”. This means that there was no legal obligation on the part of employers to agree to negotiate with trade unions. Where employers did negotiate with trade unions they did so because they believed it to be the right thing to do, considering all relevant circumstances. This situation has changed in recent years as a result of the *Industrial Relations (Amendment) Act, 2001-4*, though, as a result of a recent decision of the Supreme Court involving Ryanair, there is now a degree of uncertainty surrounding the actual scope of the legislation.

Collective negotiations between employers and trade unions in Ireland take place at two levels:

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- I) The national, inter-professional level (see the case study description above) which has produced a series of national agreements on pay, working conditions, and secured commitments from government on economic and social policy; and
- II) At the level of the individual enterprise.

Sectoral level collective bargaining is virtually absent in Ireland.

The Irish national level social dialogue (described in detail below) has helped shape macroeconomic policy over the past 20 years. From this perspective the key contribution of the social partners to corporate/enterprise restructuring in Ireland has been their role in helping shape a macroeconomic environment which made job growth possible. In such an environment the disappearance of jobs which are no longer economically viable, though painful for those involved, can more easily be handled because:

- ◇ Economic growth gives government the resources to fund training programmes assist those being made redundant; and
- ◇ Job growth provides new job opportunities in more viable employment sectors.

## *i) Social dialogue at the national level - Irish national agreements from 1987 to date*

It is exactly 20 years since the *Programme for National Recovery* (PNR) was negotiated between the Irish Government and the national social partners: the Irish Congress of Trade Unions (ICTU); the Federation of Irish Employers (now IBEC); the Construction Industry Federation; and the farming organisations. As will be seen from this background dossier, apart from their involvement at individual enterprise level, the Irish social partners have played a key role in the wholesale restructuring of the Irish economy from “European basket-case” to what is today one of the most successful economies in the European Union. The “Irish economic miracle” is often presented as a model to the new Member States in Central and Eastern Europe. The series of national agreements since 1987 have formed the essential backdrop to the way the role of the social partners have become involved in macro and micro economic change in Ireland.

Between 1980 and 1987 the Irish economy was in the throes of a prolonged recession. Real living standards fell. There was a dramatic increase in unemployment and emigration was often the best option for the young and newly qualified. By 1987 the debt/GNP ratio was approaching 130 per cent and there were widespread fears that the country would become insolvent. Against this background, the social partners—acting in the tripartite National Economic and Social Council (NESC)—worked out an agreed strategy to escape from the vicious circle of economic stagnation, rising taxes and exploding debt. NESC’s *Strategy for Development* (1986) formed the basis upon which a new government and the social partners quickly negotiated the *Program for National Recovery* to run from 1987 to 1990. This was to be the first of seven such agreements, now stretching over 20 years, which have played a key role in bring Ireland from the brink of economic disaster to being one of the most successful economies in the European Union. Following the influence of the *Strategy for Development*, the negotiation of each subsequent social partnership programme has been preceded by an NESC Strategy report, setting out the shared perspective of the social partners on the achievements and limits of the last programme and the parameters within which a new programme should be negotiated.

The *Programme for National Recovery*, 1987-1990 (PNR), involved agreement between employers, trade unions, farming interests and government on wage levels in both the private and public sectors for a three-year period. Moderate wage growth was seen as essential to international competitiveness and to achieving control of public finances. However, the PNR, and its successors, involved far more than centralised wage bargaining. Over the last 20 years they have involved agreement on a wide range of economic and social policies — including tax

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reform; the evolution of welfare payments; trends in health spending; structural adjustments and Ireland's adherence to the narrow band of the Exchange Rate Mechanism; the Maastricht criteria; and subsequent Euro membership.

In the initial PNR, each social partner agreed that they would not generate inflationary pressures that would warrant devaluation and would not seek devaluation when external problems arose. The PNR also established a new Central Review Committee to monitor implementation of the programme and ensure ongoing dialogue between government and the social partners on key economic and social policy issues.

The PNR enlisted trade union support for a radical correction of the public finances. In return, the government accepted that the value of social welfare payments would be maintained. In addition, it undertook to introduce reforms in income tax that were of benefit to trade union members, to reform labour law and (later) to introduce a minimum wage. Each programme was ratified by a ballot of all union members.

The six subsequent agreements were:

- ◇ Programme for Economic and Social Progress 1991-1994 (PESP);
- ◇ Programme for Competitiveness & Work (1994);
- ◇ Partnership 2000 – P2K (1997-2000);
- ◇ Programme for Prosperity and Fairness (2000-2002) (PPF);
- ◇ Sustaining Progress (SP); and most recently
- ◇ Towards 2016.

Each agreement had a broadly similar form. They set out agreed pay increases for the public and private sector alongside agreements on a variety of policy areas, including commitments to social equality and tax reform. A number of policy initiatives are worthy of note. The PESP (1991 - 1994) initiated an experiment in which local partnerships sought innovative approaches to long-term unemployment. P2K (1997 – 2000) contained a measure of agreement on actions to modernise the public sector, enlisting social partners support for the Strategic Management Initiative.

An important feature of the recent Irish approach is the attempt to widen partnership beyond the traditional social partners (trade unions, business and agricultural interests). A new forum was established and the membership of the National Economic and Social Council was gradually widened, to include representatives of the voluntary and community sector. Reflecting this, P2K was negotiated in a new way, involving representatives of the unemployed, women's groups and others addressing social exclusion. The same approach has been adopted in subsequent agreements.

Two important legislative initiatives in the field of labour law have resulted from the more recent agreements.

- ◇ Because of trade union concerns over the issue of union recognition at the level of the enterprise, highlighted by disputes in indigenous Irish companies such as *Pat the Baker* and *Nolan Transport*, P2K provided for the establishment of a High-Level Group, representing trade unions, employers, government and state industrial development agencies to examine the issue of Trade Union Recognition and the Right to Bargain. The final report of the group resulted in the adoption of the *Industrial Relations (Amendment) Act 2001*. The Sustaining Progress agreement subsequently provided for amendments to this Act to make the new procedures for trade union recognition and the promotion of collective bargaining at the enterprise level more workable.

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- ◇ The most recent agreement, *Towards 2016*, committed the government to bring forward legislation to provide for special procedures to be followed in the case of “exceptional redundancies”. The new legislation was prompted by a major industrial dispute involving the shipping company *Irish Ferries* which, in 2005, decided to replace its Irish crews with workers from Central and Eastern Europe on levels of remuneration lower than those enjoyed by the previous Irish crews.

Both of these pieces of legislation – along with the *Employee (Provision of Information and Consultation) Act 2006* – are extremely important in framing the developing role of the social partners in restructuring, they will be considered in more detail below.

Of considerable interest in the Irish national social dialogue is the formal engagement of “civil society” through the involvement of key Non Governmental Organisations (NGOs). Although the social partners are recognised as very much the “senior partners” in discussions, those attending the national seminar held differing views on the merits of “tripartite plus” discussions.

Reaching agreement on *Towards 2016* proved a difficult task, and questions have been asked about the sustainability of the national structure and the how the large gap between national and plant level discussions can be effectively bridged.

*Trade union recognition* - Employers in Ireland had been traditionally free either to recognise or not to recognise a trade union as they wished ... a situation that was unique in the EU15 to both the UK and Ireland until this changed in the UK in the late 1990s with the introduction of statutory procedures for trade union recognition.

Following a series of high profile disputes in the 1990s over union recognition, the government and the social partners, in the P2K national agreement agreed to set up a high level group to examine the issue. The group recommended a continuation of the voluntary approach to union recognition, although it proposed a greater involvement of the Labour Relations Commission (LRC) and the Labour Court in trying to resolve recognition disputes. It also urged a more “hands-on” role for both ICTU and IBEC in such disputes. While the more active involvement of IBEC in trying to resolve recognition disputes was seen as something of a breakthrough – IBEC had always in the past viewed trade union recognition to be a matter for individual employers – the report failed to provide a mechanism to break the deadlock in situations in which an employer absolutely refused to engage with either the trade union or the industrial relations institutions of the state. This situation was exactly that at the centre of the Ryanair recognition dispute in 1998. Ryanair’s approach during the dispute underlined the shortcomings in the report’s recommendation of a continuation of a purely voluntary approach without a substantive legal fallback mechanism. In December 1998, the government reconvened the High Level Group and asked it to re-examine the issue. The second report of the High Level Group attempted to steer a middle course between trade union demands and employer concerns. It did not propose that employers be obliged to recognise trade union. However, it did give unions a mechanism to influence the pay and conditions of their members in the absence of employer recognition. This was done through giving new powers to the Labour Court to issue legally binding rulings in circumstances where employers refuse to engage in collective bargaining. The reports proposals were incorporated in to the *Industrial Relations (Amendment) Act, 2000* and subsequently amended in 2004 to shorten the timescale it took to progress a case through the Labour Court.

The scope of this legislation has now been called into question as a result of a recent decision of the Supreme Court – again involving Ryanair - which has ruled that any mechanism through which an employer deals collectively with employees should be regarded as collective bargaining.

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*Enterprise restructuring* - A second important piece of legislation emerging from the national discussions is currently before the houses of parliament. The new proposals on exceptional enterprise restructuring were called for by the trade unions as a result of the Irish Ferries dispute in 2005. The dispute resulted from a decision of Irish Ferries to make its Irish crews redundant and replace them on different terms of employment by employees from the new Baltic State members of the EU. The unions objected to what they called “social dumping” and asked for new legislative protections to prevent a recurrence. The issue was discussed between government and the social partners during the negotiations in 2006 which resulted in the latest national agreement *Towards 2016*. The agreement contains a series of principles that should shape new laws on enterprise restructuring.

The Protection of Employment (Exceptional Collective Redundancies and Related Matters) Bill 2007 is currently before parliament. The main provision of the Bill is to establish a new Redundancy Panel to advise the Minister for Enterprise and Employment on whether a collective redundancy case should be referred to the Labour Court for a ‘binding opinion’. The three-member Redundancy Panel will consist of: a chairman and alternate appointed by the National Implementation Body, and ordinary members and alternates nominated by ICTU and IBEC. The Panel will act by majority decision.

The Redundancy Panel will have effect for an initial period of three years from the commencement of the Act. The period may be extended for a further period of three years if both the Irish Congress of Trade Unions and the Irish Business and Employers Confederation request its extension and the Minister is satisfied that the continued operation of the Redundancy Panel would be conducive to the continued orderly conduct of industrial relations.

If the Labour Court finds collective redundancies to be exceptional it may advise the Minister to refuse exempt any redundancy payments from income tax relief and provide for the award of higher levels of compensation ( maximum of five years pay for long serving employees) where employees take a successful case for unfair dismissal.

## *ii) Social dialogue at enterprise level*

The national level social dialogue establishes the framework within which relationships between employers and trade unions take place. Social dialogue at the level of the individual enterprise is by far the most important practical level for information, consultation and collective bargaining.

If an employer voluntarily recognises a trade union then issues of restructuring, as well as normal day to day industrial relations matters, are directly negotiated between them. In the event of a dispute the parties have recourse to the services provided by the Labour Relations Commission and the Labour Court. The LRC offers mediation services while the Court can issue a non-binding recommendation to help resolve the dispute. In the vast majority of cases the Court’s recommendations are accepted by the parties involved.

There are three pieces of legislation which come into play when an enterprise is involved in organisational restructuring, involving job losses irrespective of whether an employer recognises or does not recognise a trade union;

- ◇ The *Redundancy Payments Acts* set out the amount of compensation an employer must legally pay an employee being made redundant. It is currently set at 2 weeks pay per year of service, subject to a maximum of €600 a week. Generally, however, negotiated redundancy settlements often exceed this amount and compensation of between 4 and 6 weeks pay per year of service is not uncommon;
- ◇ The *Protection of Employment Act 1977*, which incorporates the Collective Redundancies Directive into Irish law, and

- ◇ The *Protection of Employees on Transfer of Undertakings Regulations 2003*, which transpose the Transfer of Undertakings Directive into Irish law.

The second and third pieces of legislation provide for an employer to inform and consult with the trade unions in circumstances of collective redundancies or the transfer of an undertaking. In the event of there being no union present then the employer must provide for the election of “ad-hoc” employee representatives for the purpose of information and consultation.

In general, in Ireland, the information and consultation process have typically been used to negotiate compensation and “social type” plans for those losing their jobs. There is little evidence that the process has been used to prevent job losses or that it has proved an obstacle to corporate restructuring.

A new potential layer of employee information and consultation has been put into place by the enactment in 2006 of the *Employee (Provision of Information and Consultation) Act* transposing the EU’s Information and Consultation Directive into Irish law . The new law effectively provides for the establishment of “works councils” in Irish enterprises with more than 50 employees, should the employees themselves or the company wish to do so. Although a small number of major Irish employers have recently put arrangements to comply in place on a voluntary basis, it is too early to tell how this legislation will impact on the role of the social partners in restructuring in Ireland.

The prospects for significant new enterprise level social dialogue activity would not seem terribly exciting if responses to the new national works council laws mirror those to the European Works Council Directive, now more than ten years old. Whilst a minimum of 37 agreements (Social Development Agency data) have been concluded using Irish law, only four or five of these are amongst the 40 Irish owned companies within scope of the Directive. Irish companies known to have active EWCs are Smurfit, Glen Dimplex, CRH and Kerry Group. Conversely, some 202 of the 800 or so “non Irish national company” agreements in place have Irish representation.

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## Section three - Case studies

### *Summary*

Two quite different case studies were presented at the Irish seminar by some of the individuals involved in the restructuring described. The two cases were distinctly different. In the Cadbury case, agreement was reached between the social partners to voluntary job losses in order to secure a new investment in the plant in the face of competition from other locations. In the continuing Aer Lingus case, the social partners failed to reach agreement on internal changes designed to improve working practices within the organisation. The restructuring was essentially qualitative in that few if any direct job losses were envisaged.

A number of interesting points were drawn out by the presenters and by the seminar participants;

- ◇ Where a company has money to spend on restructuring and where the workforce is ageing, effecting redundancies by agreement is not a difficult exercise. Generous severance packages offered in a buoyant job market are unlikely to cause major employee relations problems;
- ◇ Where existing employees are asked to adopt different working practices under what they perceive to be less favourable conditions, change is extremely difficult to achieve even though job losses are not involved. In this situation, employees have to be convinced of the reasons for change and a strong bond of trust has to exist between the social partners;
- ◇ Third part interventions in industrial disputes can broker solutions where the negotiating environment between the social partners has deteriorated to a point where agreement is not possible. Third party solutions, whilst they appear comprehensive, will not however be capable of transfer into operational reality in the enterprise if the social partners decide that they will not work.

### *Case study one – Cadbury Ireland;*

Cadbury Schweppes, of which Cadbury Ireland is a part, is the world's largest confectionery company with a strong regional presence in beverages in the Americas and Australia. The company employs around 60,000 people globally. Its brands include such well-known names as: Cadbury, Schweppes, Halls, Trident, Dr Pepper, Snapple, Trebor, Dentyne, Bubblicious and Bassett.

The origins of the company stretch back to 1783 when Jacob Scheppe perfected his process for manufacturing carbonated mineral water in Geneva, Switzerland. In 1824 John Cadbury opened in Birmingham selling cocoa and chocolate. These two companies merged in 1969 to form Cadbury Schweppes plc. Since then business has grown throughout the world by a programme of organic and acquisition led growth.

In 2004 Cadbury Schweppes was the winner of Britain's most admired company award as voted by other leading FTSE businesses.

The company is organised into four regional business segments, and six global functions. Each region is focused on commercial operations in its geographical and product area and includes team members from each of the six functional areas. The four regions are Americas Beverages; Americas Confectionery; Europe, Middle East and Africa (EMEA), and Asia Pacific. The functions are Global Supply Chain; Global Commercial; Science & Technology; Human Resources; Finance and Information Technology; and Legal. Each function has a small central team based at Group Headquarters. The regional presences are coordinated by the central team.

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The company believes that this structure enables it to focus on delivering its commercial agenda and top-line growth, and allows the functions to develop and drive global strategies and processes towards best in class performance, while remaining closely aligned to the regions' commercial interests.

In February 2006 Cadbury Schweppes sold its beverage operations in Europe. The company said at the time that it intended to focus on its global confectionary and US beverage businesses. More recently the company has announced its intention to split into two separate companies, confectionary and US beverages. It would appear that the move resulted from stock market pressures for an improvement in the company's financial performance. Newspaper speculation suggests that both parts of the de-merged company may now be targets for private equity bids. The prospect of a private equity bid arising has caused considerable concern among the company's trade unions.

In the last financial year, the company had a turnover of £7.5bn. It reported full-year pre-tax profits down 10% at £738m. It stated that impairment charges in Nigeria, a product recall in the UK and restructuring costs had cut earnings by £178m.

## *Cadbury Ireland*

Cadbury has a 38% share of the chocolate market in the Republic of Ireland and is one of the best known consumer brands in the country. It has operated in Ireland since 1932 and employs around 1,500 employees at locations in Dublin and Kerry. The confectionery manufacturer employs 1,100 workers at its factory in Coolock in Dublin. The remaining staff are employed at a gum-based factory in Tallaght and a chocolate crumb facility in Rathmore, Co Kerry. The Dublin plant has always been regarded as an excellent place to work, offering stable, long-term, well-paid employment. Average pay rates in the Dublin plant are approximately €750 a week.

The company's production workers are represented by SIPTU and the ATGWU, with most crafts being represented by AMICUS and the TEEU. Several other craft unions have one or two members each in the plants, bring the union total to nine. In general, the company negotiates with the two production unions as a group and with the craft unions as a group.

## *Restructuring in Ireland*

In October 2006, the company explained that it had run into difficulties over its rising cost base citing soaring energy prices, salary and pension commitments as examples. In a presentation to staff in Coolock the company said that profits at its Irish operation had reduced by a half in just four years. During the same period, the costs of running the factory had increased by 26% to a projected €97m in the 2006. In the period 2002-2006, the company said that average wages had increased by 24%; energy costs by 55% and pension costs by almost 250%. The company explained it would need to contribute €14m to the pension scheme in 2007, up from €3m in 2002.

Changes, it stated, were necessary, to restore competitiveness. The alternative to the restructuring was for an "orderly withdrawal of manufacturing from Coolock", involving a "phased plant closure". The company's 40 acre Dublin site was seen by property experts as an extremely valuable and realisable asset with considerable developmental potential.

The company proposed;

- ◇ More than 400 redundancies combined with a €100 million investment programme to enable production levels to be maintained with the reduced headcount;
- ◇ The outsourcing of all non-core functions, such as the staff canteen and grounds maintenance;

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- ◇ As part of a wider, corporate initiative, the off-shoring of back-office functions such as accounting and IT to India and Romania;

Following the announcement to staff, negotiations opened with the trade unions on the changes the company was seeking to introduce. At the time of the visit to the plant negotiations were still being finalised and precise details of the eventual agreements were not available, but broad agreement on the changes had already been reached. The planned changes would be implemented and staff leaving the company would receive payments of 5/6 weeks pay per year of service, subject to a 3 year cap. Employees' representatives felt that the company had done everything "by the book" in terms of information, consultation and negotiation at local level.

As there was felt to be a transnational element to the company plans (the broader offshoring initiative), a special meeting of the company's European Works Council was called. The Irish delegate to the EWC was less comfortable with the international discussions than those that had taken place locally. He reported that he felt the EWC had been "informed" about the initiative, but it had not been properly "consulted"..

## *Case study two - Aer Lingus*

Aer Lingus, the legacy Irish "national airline" was established in 1936 as a State owned company. The company was privatised in 2006. The government continues to hold a 28% shareholding in the company. An Employee Share Ownership Trust (ESOT) holds a 12% stake.

Shortly after the airline was privatised Ryanair, the Irish "low-cost" airline, launched a hostile takeover bid which was ultimately unsuccessful. Ryanair continues to hold around 25% of Aer Lingus shares. During the takeover bid Aer Lingus pilots bought company stock and have influence over around 4% so that, in total, Aer Lingus employees now control or influence around 16% of the airline. In defending itself against the Ryanair bid, Aer Lingus management formulated and announced plans to effect savings and efficiencies so as to ensure a sustainable return for shareholders under current ownership.

This case study reviews how this management initiative was handled. However, from the perspective of the overall European social partners' joint project, the case study captures a number of broader issues relating to:

- ◇ The ongoing process of change in the European airline industry;
- ◇ The depth of cultural change in organisations necessitated by privatisation of previously state-owned enterprises;
- ◇ The importance of the provision of information to employees' representatives at an early stage in major restructuring projects; and
- ◇ The role that external mediation and dispute resolution agencies can play in facilitating organisational change.

## *Aer Lingus Today*

In summary, Aer Lingus operates internal flights within Ireland and to European destinations. It operates flights to a small, but increasing, number of US cities, and since 2006, to Dubai. The company has announced plans to increase the number of flights to the US resulting from the "open skies" agreement. Resulting in large part from the competitive challenge from Ryanair, Aer Lingus has repositioned itself in recent years as a "low fares" airline. Today, it has around 35 planes and some 3,700 employees, down from 6,800 staff in 2001.

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During the 1990s and early 2000s the company experiences serious financial difficulties. This resulted in a series of “survival plans”;

- ◇ The 1994 Cahill plan, resulting in significant restructuring and job losses;
- ◇ The 2001 Survival Plan (post 9/11) involving further restructuring and jobs losses resulting in a return to profitability;
- ◇ The 2004 Business Plan – including further restructuring and job losses;

More recently the company has sought to drive through a new change programme PCI-07 (Programme for Continuous Improvement), the subject of this case study.

As a result of the various change programmes the company is now financially viable and has recorded profits of around €80m per annum over the past six years. The number of routes has expanded, with the company now serving 55 destinations. Staff costs as a proportion of overall costs have fallen to 26%. The staff cost per passenger reduced by 30% - from €38.29 in 2001 to €31 in 2005. Similarly, passengers handled per full-time employee have increased from 1,033 in 2001 to 2,315 in 2005.

In employee relations terms, Aer Lingus negotiates on behalf of employees with;

- SIPTU – all categories except pilots;
- IMPACT – pilots, cabin crew and administrative superintendents; and
- A coalition of craft unions.

## *Programme for Continuous Improvement 007 (PCI-07)*

Following the commencement of trading as a plc Aer Lingus became the subject of a hostile takeover bid from its major competitor Ryanair. In response, the Company announced plans to effect savings and efficiencies to improve shareholder value. As part of this commitment the Company commissioned a consultant to carry out a benchmarking exercise for the purpose of identifying if its terms and conditions of employment were out of line with aviation industry norms and national practice.

In light of the findings of the benchmarking exercise the company developed a Programme for Continuous Improvement 2007 (PCI-07). This programme called for changes in the conditions of employment of existing staff and, in the case of new staff, new, lower salary scales. In particular, PCI-07 proposed changes to pay and grading structures; overtime working; shift allowances; annual leave; lieu days; and the establishment of new bases.

Despite negotiations between the company and the trade unions there was no agreement on the company's proposals. The company told the Labour Court that it had sought to engage with the unions on its proposals but that they had failed to respond in any meaningful sense. The unions said that the company had not provided them with sufficient information to allow them to understand the basis on which the proposals in PCI-07 had been formulated. In particular, the unions complained that the company had not given them all the relevant data in relation to the benchmarking study.

In the circumstances, the company announced its intention to implement the changes provided for by PCI-07. It proceeded to employ some new staff in certain categories on the revised conditions and announced its intention to introduce revised conditions for existing staff. SIPTU, in response, balloted its members for authority to take industrial action.

Having regard to the seriously deteriorating industrial relations situation, the Labour Court

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decided to investigate the dispute pursuant to Section 26(5) of the Industrial Relations Act 1990, which allows the Court to undertake an investigation on its own initiative.

During the investigation SIPTU raised three issues before the Court;

- Alleged breach by the company of existing collective agreements;
- The company's proposals for PCI-07;
- The future security of collective agreements.

## *The Labour Court Findings*

Having met with company and the union, the Labour Court concluded that it was clear that the company entered into a collective agreement with the unions at the time of the IPO (Initial Public offering) in which it committed to achieve continuous improvements in efficiency and cost-effectiveness through negotiation and agreement. However, the agreement repeated a prior commitment that existing agreements would be honoured until they were renegotiated.

The Court drew the conclusion that the “clear and inescapable import of that agreement was that neither party would act unilaterally in seeking to impose change”. The Court said that it had heard from the company why it had sought to impose change and the circumstances in which it felt constrained to do so. However, the Court found that the company's decision to depart from agreed conditions of employment in respect of new and existing staff without agreement was “inconsistent with the spirit and letter of the collective agreements to which it is party”.

The Court went on to say that PCI-07, for the categories of employees involved in the dispute, contained proposals for significant diminution in established conditions of employment. The Court realised the difficulties which these proposals caused for the staff of the airline and their trade unions, particularly against the background of the commitments given in the agreement preceding the IPO and the various restructuring agreements previously concluded. However, the Court took the view that the current circumstances in which the company found itself were such as to “warrant the implementation of measures which will bring about further cost savings and efficiencies”. Where the company’s proposals resulted in a loss of holidays or earnings the Court believed that “reasonable compensation” should be paid and that this should be negotiated directly between the parties. In the event of a failure to reach an agreement, the Court was prepared to issue a definitive recommendation.

The Court then recommended an extremely series of detailed adjustments in conditions of employment to be implemented with effect from the date of acceptance of the recommendation for all new and existing staff. The fact that the court felt able to issue such a comprehensive series of detailed recommendations highlights the following issues relevant the process of corporate restructuring;

- Aer Lingus management and trade unions have a history of successful discussions on organisational restructuring going back a number of years and involving major job losses. Despite clear employee commitment to ensuring the organisation’s success under the current ownership model, the most recent discussions on “job loss free” change failed;
- As the Court’s comments on “Future Relationships” makes clear, the “process” through which organisational restructuring is managed is as important as the “substance” of the change. The court saw the failure on this occasion as due to process breakdown which left both sides with “nowhere to go” other than into confrontation. Indeed it was the choice of the court to intervene on its own initiative that led to solution rather than at the joint request of the parties. They suggest a future process that does not end when the parties themselves “fail to agree” on matters;

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- Corporate restructuring can involve “quantitative” changes – the closure of complete departments, outsourcing, off-shoring, for example. In these cases, there is an agreement to lose a certain number of staff on certain terms ... and they leave. In this case it was “qualitative” changes in the culture and practices of working for existing employees that proved the most intractable to resolve. The court plainly found the issues resolvable itself in discussion with the parties. Managing ongoing change, rather than “set piece” headcount reductions is often the most difficult to achieve successfully. Perhaps handled differently in the process of negotiations - perhaps with external assistance at an earlier stage – they could have been resolved by management and unions themselves.

At the time of writing, the social partners were discussing how the Labour Court recommendations might be adopted ... but were continuing to have difficulties.

