An Chomhairle Náisiúnta Eacnamaíoch agus Shóisialta
National Economic & Social Council

Re-finding Success in Europe: The Challenge for Irish Institutions and Policy

NO. 122

An Oifig Náisiúnta um Fhorbairt Eacnamaíoch agus Shóisialta
National Economic & Social Development Office NESDO

National Economic and Social Council

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Abbreviations

ACER
Agency for the Co-operation of Energy Regulators

BERD
Business Expenditure on Research and Development

BEREC
Body of European Regulators for Electronic Communications

BMW
Biodegradable Municipal Waste

CAFE
Clean Air for Europe

CAP
Common Agricultural Policy

CBD
Convention on Biological Diversity

CE
Conformité Européenne [European Conformity]

CEAS
Common European Asylum System

CEN
Comité Européen de Normalisation [European Committee for Standardisation}

CENELEC
Comité Européen de Normalisation Electrotechnique [European Committee for Electo-technical Standardisation]

CEER
Council of European Energy Regulators

CER
The Commission for Electricity Regulation

CFP
Common Fisheries Policy

CFSP
Common Foreign & Security Policy

CIS
Common Implementation Strategy

Comreg
Commission for Communications Regulation

CSO
Central Statistics Office

DG
Director General

EC
European Community

ECB
European Central Bank

ECJ
European Court of Justice

ECN
European Competition Network

ECOFIN
Economic and Financial Affairs Council

EDP
Excessive Deficit Procedure

EEA
European Environment Agency

EEAS
European External Action Service

EEC
European Economic Community

EES
European Employment Strategy

EFSA
European Food Safety Authority

EFSM
European Financial Stabisation Mechanism

EFTA
European Free Trade Area

EGA
Experimentalist Governance Architecture

ENP
European Neighbourhood Policy

EIA
Environmental Impact Assessment

EMEA
European Medicines Agency

EMSA
European Maritime Safety Agency

EMS
European Monetary System

EMU
European Monetary Union

EP
European Parliament

EPA
Environmental Protection Agency

EPSCO
Employment, Social Policy, Health and Consumer Affairs Council

ERGEG
European Regulators' Group for Electricity and Gas Regulation

ERM
Exchange Rate Mechanism

ESA
European Supervisory Authority

ESB
Electricity Supply Board

ESRI
Economic and Social Research Institute

ETS
Emissions Trading System

EU
European Union

EU15
The member states that comprised the EU before the enlargement of 2004: Austria, Belgium Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom.

EU-10
The member states that joined the EU in 2004: Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia.

EU-12
The member states that joined the EU in the enlargements of 2004 and 2007: ie the EU-10 plus Bulgaria and Romania.

FÁS
Foras Áiseanna Saothair [Training & Employment Authority]

FAO
Food and Agricultural Organisation

FDI
Foreign Direct Investment

FRONTEX
Frontiéres Extérieures [European Agency for the Management of Operational Co-operation at the External Boarders of the Member States]

FSA
Food Safety Authority

GBER
General Block Exemption Regulation

GDP
Gross Domestic Product

GHG
Greenhouse Gas

GMO
Genetically Modified Organism

GNP
Gross National Product

GPP
Green Public Procurement

GSM
Global System for Mobile [Communications]

HDTV
High Definition Television

HICP
Harmonised Index of Consumer Prices

IDA
Industrial Development Authority

IEA
International Energy Agency

IMF
International Monetary Fund

IMPEL
European Union Network for the Implementation and Enforcement of Environmental Law

IPPC
Integrated Pollution Prevention and Control

IPCC
Intergovernmental Panel on Climate Change

M&A
Merger and Acquisition

NAMA
National Assets Management Agency

NAP's
National Anti-Poverty Strategy

NATO
North Atlantic Treaty Organisation

NCA
National Competition Authorities

NDP
National Development Plan

NEAP
National Employment Action Plan

NERA
National Employment Rights Authority

NESC
National Economic and Social Council

NFP
National Focal Points

NGO
Non-Governmental Organisation

NHA
Natural Heritage Areas

NMS
New Member States

NPWS
National Parks and Wildlife Service

NRA
National Regulatory Authorities

NRP
National Reform Programmes

NSDS
National Sustainable Development Strategy

OCA
Optimum Currency Area

ODTR
The Office of Director of Telecommunications

OECD
Organisation for Economic Co-operation and Development

OEE
Office of Environmental Enforcement

OMC
Open Method of Co-ordination

OMS
Old Member State

PPS
Purchasing Power Standards

PSC
Political and Security Committee

QMV
Qualified Majority Voting

R&D
Research and Development

RBD
River Basin Districts

REPS
Rural Environmental Protection Scheme

SAAP
State Aid Action Plan

SACs
Special Areas of Conservation

SCP
Stability and Convergence Programmes

SDS
Sustainable Development Strategy

SEA
Single European Act

SEAP
Sixth Environmental Action Programme

SEM
Single European Market

SEGI
Services of General Economic Interest

SGI
Services of General Interest

SGP
Stability and Growth Pact

SM
Single market

SME's
Small and Medium Enterprises

SPA
Special Protected Areas

TA
Transitional Arrangements

TFEU
Treaty on Functioning of the European Union

TEC
Treaty establishing the European Community

TEN
Trans European Networks

UN
United Nations

US
United States

USSR
Union of Soviet Socialist Republics

WFD
Water Framework Directive

WTO
World Trade Organisation

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Executive Summary

The Government asked the National Economic and Social Council (NESC) to prepare a report on Ireland's experience and changing engagement in the European Union (EU) and to identify strategic issues which will shape Ireland's use of EU membership to serve national economic and social development.

In carrying out this request, NESC became convinced that both the nature of the EU and Ireland's engagement with it has changed significantly since NESC's last report on the EU in 1997. In many areas where the EU has explicit competence, policy making has become less centralised, hierarchical and uniform; in others where member states have primacy, policy making and implementation increasingly take place in an EU framework. EU policy often mandates framework goals through formal laws, such as achieving good water status, whilst encouraging member states to explore how these objectives can be attained and progress assessed. Thus in a wide range of policy spheres, but not all, the EU has developed an effective system of joint goal setting, implementation within member-states, information sharing about progress, and the revision of policy frameworks based on knowledge gained from practice.

Ireland's changing engagement with the EU is identified by examining the most important policy areas: the single market, agriculture, economic and monetary union, social policy, environmental policy, enlargement, and external relations and justice and home affairs. This confirms the positive role of EU membership and policy in facilitating Ireland's remarkable economic and social progress between 1987 and 2000. In some of these areas, Ireland's policy system has been attuned to effective processes at EU level and organizations have reconfigured themselves to adopt a similar problem-solving approach at domestic level. Examples include large parts of the internal market, the creation of agencies and networks for environmental monitoring, licensing and enforcement, food safety and many others.

Ireland has had less success, where it has not grasped the new range of EU methods and possibilities, or where the EU itself has been ineffective. This has been the case where national policy actors have seen EU involvement as an *intrusion on sovereignty* (as on the fiscal stance) and, conversely, where government has seen the task as *mere conformity* with a fixed EU regime, without a sufficiently clear view of the specific national policy challenge (as in the initial approach to telecoms and energy). Progress has also been limited where government and others have not seen EU goal setting and data monitoring as an opportunity for in-depth review and policy learning, or have not had the capacity to undertake this (as the area of public finance, banking supervision, and parts of employment and social inclusion strategies). In public finance and banking supervision the lack of sufficient real benchmarking and diagnostic monitoring, at either EU or national level, eventually had disastrous consequences for the Irish economy.

This analysis suggests that both the EU and Ireland are at the end of an 'unfulfilled decade'. At national level, a period of enhanced business performance, participation, educational attainment and social spending gave way to a property-led boom funded by excessive private-sector lending and borrowing, ending in a severe five-part crisis. At EU level, the monitoring and coordination of member states' economies was ineffective and there was partial success in enhancing productivity and social inclusion and in maximising Europe's influence in the world.

The report concludes by considering the main policy challenges at EU and national level. Two particularly stand out and are of greatest relevance to Ireland. First, the EU and the member states must continue to take action to protect the euro, implement the stronger system of economic coordination agreed at the European Council, address the deficit and debt problems, support macroeconomic recovery and respond to the further risk of financial sector turbulence. Second, the EU and the member states must strengthen the processes of reform and peer review to make a success of the, recently adopted, *Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth*.

Ireland has a strong interest in the success of EU initiatives on both these fronts. Despite the urgency of fiscal and financial issues, it is necessary, at both national and EU level, to proceed simultaneously with the *Europe 2020 Strategy*. While the dominant challenges for Ireland are undoubtedly fiscal correction, bank resolution, structural deficits and economic growth, addressing these will require consideration of innovation, participation, service reconfiguration, social inclusion, tax reform and sustainability. It does not seem possible to achieve the necessary fiscal adjustment without in-depth knowledge of how well different programmes work, how the welfare system can be made more developmental, and which taxes are most supportive of economic growth, employment and sustainability—including awareness of international best practice on these issues.

In previous reports on the EU, NESC had stressed that the quality of national policy and implementation is the main determinant of Ireland's success or failure within the EU. This is still the case. But whereas previously national policy needed to be developed and articulated in the light of agreed approaches at EU level, now it is much more the case that national policy is formed in tandem with EU policy and that of other member-states.

Success in the 21st century EU requires a national policy system with greater ability to record, compare, analyse and discuss its own policy and service systems (in a wide range of policy areas) at agency, departmental, political and EU level. Consequently, a minimal condition for successful Irish participation in a range of EU processes is implementation of the Government's reform agenda set out in *Transforming Public Services* (2008). In particular, it will be necessary to move from reliance on input control to greater local autonomy and outcome monitoring. In many policy spheres the design and implementation of *national* policy must be undertaken in—and can be greatly enhanced by—a process of European goal setting, benchmarking and improvement. Only states that can do this will succeed in the new Europe.

PART ONE

Context and Conclusions

1

Core Arguments

1.1 Overview of the NESC Study

The Government asked the National Economic and Social Council (NESC)[1] to prepare a report on Ireland's experience and changing engagement in the European Union (EU) and to identify strategic issues that will shape Ireland's use of EU membership to serve national economic and social development. NESC's work covered the main areas of EU policy, but could not be exhaustive. The topic of economic and monetary union is of such significance and current policy relevance that NESC decided to issues its analysis in a separate report, *The Euro: An Irish Perspective*, published in August 2010 (NESC, 2010). That study should be read in conjunction with the present report.

This chapter sets out the main arguments and can serve as a summary of the analysis and conclusions. Chapter 2 provides an overview of the nature and evolution of the EU and explains its systems of policy making and implementation. It also summarises the findings and lessons of earlier studies, which are contrasted with the findings of this inquiry in Chapter 10.

Part Two of the report reviews the impact of EU membership and Ireland's changing engagement with the Union. Chapter 3 describes the internal market, examines its impact on Ireland and shows that it played a key role in Ireland's economic breakthrough between 1990 and 2000. Chapter 4 considers agriculture, summarising reforms in the Common Agricultural Policy (CAP), changes in the Irish agriculture and food industries and the persistence of structural social problems in rural areas. Chapter 5 addresses economic and monetary union, merely summarizing the analysis and recommendations of NESCs recent report *The Euro: An Irish Perspective*. The impact of European employment and social policies is considered in Chapter 6. It discusses the difficulty of interpreting European social policy and considers a number of contending perspectives. Chapter 7 examines Ireland's environment in the European context, highlighting the major impact of EU policy on Ireland's public institutions, policy and environmental outcomes. The Eastern enlargement of the EU in 2004 is examined in Chapter 8. It describes the significance of enlargement for the EU as a whole, reports research on the scale and composition of migration to Ireland and discusses its impact on Ireland. Chapter 9 considers Ireland's engagement with EU policies on justice, home affairs and foreign relations. Although NESC does not normally consider these issues, it was felt that they warranted some discussion; an EU role in an increasing number

1 In the EU context the term Council refers to the Council of Ministers; accordingly throughout this report, we refer to the National Economic and Social Council as NESC.

of policy spheres—and the overlap between issues of economic development, social policy, migration, environmental sustainability and fundamental right—is, we argue, a key feature of the modern EU that needs to be more widely understood. Drawing on these analyses, Chapter 10 offers a reflection on Ireland's experience and changing engagement. It argues that both the EU and Ireland are at the end of an 'unfulfilled decade'. It compares the present analysis with the findings and lessons identified in earlier studies, highlighting both remarkable similarities and some important changes. These largely reflect key changes in the nature of the EU. This provides the basis for consideration of policy lessons.

Part Three consists of a single chapter entitled 'European Challenges and the New Conditions for Success'. It outlines NESC's basic orientation on the place of European integration in Irish development and on the nature of the EU. It then considers the main policy challenges at EU and national level. Given current conditions, most attention is given to the challenge of economic and fiscal stabilisation, on the one hand, and the challenge of structural reform for growth, on the other. We describe in some detail the recent EU initiatives on these two fronts, and the new co-ordination cycle agreed at EU level, since these will define the context within which Irish policy must be developed and executed in the coming years. We argue that both stronger economic co-ordination and the *Europe 2020 Strategy* are necessary, and the first is unlikely to succeed without the second. We finish by considering the new conditions for success in the EU and how Ireland might adapt its policy system to meet them.

1.2 The Strategic Messages

1. Membership of the EU and the success of the Union in achieving its core goals are of critical importance to Ireland's sustainable economic and social development. This is the context in which difficulties and anxieties in Ireland's EU experience should be considered.

2. The quality of national policy and implementation is the main determinant of Ireland's success or failure within the EU. In adapting national systems for maximum effectiveness, it is vital to take account of the ways in which the EU has changed and the experience of Irish public agencies in working with the new EU processes.

3. Increasingly, the EU asks that member states benchmark their progress against common objectives, share their learning with each other and reconfigure their practice in light of the insights gained from this process. This need for organisational review and reform is a vital element of Ireland's 'new narrative' of engagement with the EU and needs to be widely understood.

1.3 The Evolution, Achievements and Failures of the European Union

4. Over the past decade the role and methods of the EU have changed in fundamental ways for three main reasons:

   a. As its membership has increased to 27 it has become more diverse;

   b. Many of the issues it deals with now have a global dimension;

   c. It increasingly deals with economic, social, environmental and political problems that are complex and contested.

   In addition, the current crisis has revealed weaknesses in the EU's approach to co-ordination in a number of spheres and this is now prompting further significant change in the EU's processes (see points 13 to 16 below).

5. For a variety of reasons, issues concerning the four freedoms, social goals, environmental impact and fundamental rights increasingly interact with one another. The EU is called upon to find a balance between these goals in both its high-level frameworks and its fine-grained decisions. Many of the anxieties concerning the EU arise in areas where these dimensions interact.

6. While the EU retains a number of policy modes, there are significant trends in the systems of decision making and implementation over the past fifteen years:

   a. In a number of areas where the EU has explicit competence, policy making has become less centralised, hierarchical and uniform;

   b. In many areas where member states have primacy, policy making and implementation increasingly take place in an EU framework;

   c. The result is that in many areas the EU approach combines elements of 'hard-law', 'soft-law' and financial instruments. Within this 'hybrid' approach, the hard-law elements create framework goals and imperatives for engagement, and the soft-law dimension enables member states and other actors to explore the meaning of the agreed goals and the methods for attaining them;

   d. As a result of these trends, in a range of policy spheres the EU has developed an effective system of joint goal setting, decentralised execution, information-sharing, learning and system revision.

   This recursive form of governance has particular attractions and advantages when there is a degree of strategic uncertainty about how a problem can be addressed and when member states and other actors are interdependent. Where it works well, it turns the diversity of member states from a paralysing disadvantage into an opportunity for learning.

7. The EU has mostly succeeded where its institutions and member states have adopted this approach and made it effective. This is evident in many aspects of the internal market (such as the 'new approach' to standard-setting and certification, drug authorisation, food safety, and competition policy), network regulation (as in energy and telecommunications), environmental protection (such as the Water Framework Directive), anti-discrimination, justice and home affairs and the way in which the EU has enlarged to include ten member states in Central and Eastern Europe.

8. It has failed both where it seeks excessive uniformity and, conversely, where its member states are reluctant to fully buy in to a process of joint goal setting, mutual monitoring and discussion of collective and national problems. Although the EU has, over the past fifteen years, moved away from making detailed prescriptive rules, remaining instances of uniform rules and burdensome procedures can frustrate citizens and firms and make them sceptical about the EU. Of greater significance is the fact that in key areas the EU has not achieved sufficient benchmarking or coordination of member states' approaches.

9. The global financial crisis and the severe imbalances within the euro area have exposed the weakness of EU coordination in key policy areas. These include imbalances between member states sharing the single currency, insufficient financial-sector supervision at European level, ineffective surveillance of member states' economic policies (yielding unsustainable credit expansion, deficits and debt in some member states), asymmetric economic developments and weak overall growth. Because of lack of member state buy-in or weak EU institutions and processes, or both, the EU did not create an effective system of joint goal setting, monitoring and learning in several of the policy areas that most strongly shape member states', economic and social performance. This is most starkly true in fiscal policy coordination and banking supervision. Indeed, since mid-2010 it is recognised that insufficient monitoring and coordination of member states, economic and financial imbalances threatens the euro. This has prompted urgent steps to design and agree a more effective system of economic policy coordination (see points 13 to 16 below).

1.4 Ireland's Evolution, Successes and Failures in the European Union

10. Reflecting the changes in the EU listed above, Ireland's engagement with Europe has changed in four significant ways in the past fifteen years:

    a. *Pluralisation*: there has a been a pluralisation of the channels through which the EU impacts on Ireland and through which Irish people and organisations engage with the EU;

    b. *Contestation*: in Ireland and other member states, European integration has increasingly touched on policy areas that are more contested than the initial trade liberalisation and, in consequence, there is a greater *politicisation* of EU issues;

    c. *Internationalisation*: many of the issues have a global as well as an EU dimension;

d. *Complexity*: challenges of governance in many policy areas increasingly arise not only because of initiatives and bargaining at EU level, but also within Ireland because of the complexity of technology, society, business and ecology.

In addition to these gradual changes, the international crisis has in the past two years prompted actions—in central banking, financial regulation and public finance—which are altering the engagement of all member states within the EU, especially countries, such as Ireland, that are facing severe public-finance problems.

11. Ireland has succeeded where its policy system, public agencies and partnership approach have been attuned to effective processes at EU level and have adopted a similar problem-solving approach at domestic level. Examples include large parts of the internal market, building a new employment rights infrastructure, creation of agencies and networks for environmental monitoring, licensing and enforcement, food safety and many others. Ireland has failed, or had less success, precisely where it has not grasped the new range of EU methods and possibilities, or where the EU itself has been ineffective:

a. Both where national policy actors have seen EU involvement as an *intrusion on sovereignty* (as on the fiscal stance) and, conversely;

b. Where government has seen the task as *mere conformity* with a fixed EU regime, without a sufficiently clear view of the specific national policy challenge (as in the initial policy approach to telecoms and energy);

c. Where government and others have not seen EU goal setting and data-monitoring as an opportunity for in-depth review and policy-learning, or have not had the capacity to undertake this (as in the area of public finance and expenditure mangement, banking supervision, biodiversity protection, childcare and parts of the employment and social inclusion);

d. Where interdependent national policies and systems—such as fiscal policy, cost determination and wage-bargaining—were not adequately attuned to the disciplines of the euro; and

e. Where national policy and/or partnership processes fail to resolve underlying conflicts (as in aspects of waste management, water quality and as shown in NESC's report on the euro, issues relating to taxation, housing and distribution, (NESC, 2010)).

At the start of the 21st century, it seemed that Ireland's model of public policy and administration was developing in tandem with the new governance regime that was manifesting itself within many EU policy sectors. The landscape of public institutions in Ireland was profoundly changed by the creation of numerous regulatory agencies, in line with EU developments. The government made local development a theme of its 1996 presidency and Ireland's approach to policy and partnership were the subject of much international interest. However, subsequent developments in policy, public administration, the economy and social partnership suggest that, in general, the expected evolution of disciplined policy development and review, focused on problem-solving with social partners and others, and nourished by international benchmarking, did not happen. An understanding of the successes and relative failures listed above is critical in identifying the new conditions for Ireland's success in the EU.

1.5 An Unfulfilled Decade at European and National Level

12. Despite remarkable achievements at both national and EU level the past decade must be judged as unfulfilled. At national level, a period of enhanced business performance, participation, educational attainment and social spending gave way to a property-led boom funded by excessive private-sector lending and borrowing, ending in a severe five-part crisis (NESC, 2009a). At EU level, the monitoring and coordination of member states' economies was ineffective and there was partial success in enhancing productivity and social inclusion through the Lisbon Strategy and in maximising Europe's influence in the world.

1.6 Challenges at National and EU Level: Economic Co-ordination and Europe 2020

13. The partial success of the EU in both economic coordination and structural reform challenges the Union and the member states to devise more effective processes on both fronts:

    a. The flaws in the operation of the earlier Stability and Growth Pact have been much discussed. At EU level, economic surveillance was not sufficiently diagnostic to reveal the underlying imbalances across the member states. In addition, as NESC noted in the recent report on the euro, instead of balancing a definite and deliberate loss of sovereignty in monetary policy with enhanced collective action on economic policy, 'member states were inclined to balance it with retention of sovereignty in the economic area' (NESC, 2010: 71). The result was that the hard-law elements of the regime were not applied and the soft-law elements did not provide a basis for mutual learning. The EU must ensure that the hybrid governance mechanisms that it has already developed and made effective in many other policy spheres are now brought to bear in economic surveillance and especially in euro-area coordination;

    b. The reasons for the partial success of the Lisbon Strategy are not quite so clear or universally agreed. But there is a consensus that the EU must strengthen both the operation and understanding of the processes—of reporting, peer review and reform—that will be used to pursue the goals of the new EU strategy, *Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth* (discussed below). Research shows that the effectiveness of these processes—such as the Open Method of Coordination—depends largely on the degree to which they are embraced and used by actors at national level, prime among which is, of course, the member state.

    Measures to improve both these processes are now a central part of the EU agenda.

14. In the past six months, the EU has taken important initiatives to address the weaknesses of the past decade that have been revealed by the crisis. Two are particularly important:

    a. It has adopted a new ten-year strategy entitled *Europe 2020: A European Strategy for Smart, Sustainable and Inclusive Growth* (European Commission, 2010b). In order to pursue these three goals, it names five **headline targets** (on employment, R&D, climate change, education (particularly early school-leaving) and, for the first time, poverty). It has adopted ten **integrated guidelines** and seven EU-level **flagship initiatives**—on challenges such as the digital agenda, new industrial policy, new skills for new jobs, poverty and resource efficiency (European Commission, 2010c). It defines new processes for the formulation and peer review of **National Reform Programmes** (NRPs). The overall strategy and processes are described in Section 11.3.4 and illustrated in Figure 11.1 (page 219);

    b. It has taken emergency measures to address the crisis in the euro, including creation of the European Financial Stabilisation Mechanism (EFSM) (and used it to assist Greece), and designed a much stronger process to co-ordinate national fiscal policies and avoid macroeconomic imbalances within the EU and euro area. It has established the European Systemic Risk Board to monitor and act on macro-prudential risks in the financial system. It is creating three new European Supervisory Authorities (ESAs)—with micro-prudential responsibility over banks, securities markets, and insurance and occupational pensions—that will work with the national institutions to ensure that inconsistencies are reduced and systemic risks are addressed.

15. In order to drive these strategies for economic coordination and smart, sustainable, inclusive growth the EU has designed a new coordination cycle in which the first part of the year will be designated a 'European semester' (see Section 11.3.5 for details). It is intended that National Reform Programmes will cover both macroeconomic surveillance and structural reforms and will be addressed simultaneously with the fiscal surveillance in the Stability and Convergence Programmes (SCPs). There is widespread recognition that the future of the EU and the prosperity of the member states depends on making each of these initiatives effective and co-ordinating them with each other.

16. Ireland has a strong interest in the success of both these EU initiatives:

    a. There is now a real congruence between the EU's agenda, as set out in the *Europe 2020 Strategy* and Ireland's goals for knowledge-based, sustainable, economic and social development;

    b. As a member of the euro area, Ireland has a strong interest in the EU urgently developing sufficient coordination and policy instruments to protect the euro, address the deficit and debt problems of member states, support macroeconomic recovery and sustainable growth and address the risk of further financial sector turbulence.

1.7 The Need for Both Enhanced Economic Governance and Europe 2020

17. Given the urgency of the fiscal and financial issues, some might fear that, despite the EU's stated intentions, one of Europe's new initiatives (stronger economic surveillance) could displace the second, the ten-year *Europe 2020 Strategy*. This could occur if it were believed that the substantive and procedural challenges are very different in each case:

    a. *Substantively*, it might be considered that the urgent challenge of fiscal correction, banking resolution, fiscal consolidation and stronger surveillance must displace the goal of knowledge-based, sustainable and inclusive growth;

    b. *Procedurally*, given the undoubted fiscal crisis and the pressure of time, it is tempting to think that the improvements in fiscal and economic reporting, EU recommendations and member-state fiscal planning are different kinds of processes from, and must take priority over, more effective monitoring and learning on innovation, employment, social inclusion and sustainability.

    If these two views were to emerge and prevail then EU processes in the coming years could consist of little more than the preparation of the national Stability and Convergence Programmes.

18. The much stronger new approach to economic coordination agreed over the summer and autumn of 2010 does indeed demand that member states and the EU think freshly about how they approach the *Europe 2020 Strategy*, which was framed before the Greek crisis became acute. A National Reform Programme that reported existing and planned actions across a wide spectrum of departments, agencies and national strategies is unlikely to be effective and will not persuade our EU partners that Ireland is addressing the key factors that will shape economic and social outcomes in the coming years. But simply replacing the *Europe 2020 Strategy* with tougher fiscal coordination, either explicitly or in practice, is unlikely to succeed:

    a. *Substantively,* while the dominant challenges in the enhanced process of economic policy coordination, via the next National Reform Programme, are undoubtedly fiscal correction, bank resolution, structural deficits and economic growth, addressing these will require consideration of innovation, participation, service reconfiguration, social inclusion, tax reform and sustainability. For example, it does not seem possible to achieve the necessary fiscal adjustment without in-depth knowledge of how well different programmes work, how the welfare system can be made more developmental, and which taxes are most supportive of economic growth, employment and sustainability—including awareness of international best practice on these issues. Discussing the new approach to economic coordination, the President of the European Central Bank (ECB), Jean-Claude Trichet, says 'experience suggests that the short-term costs of fiscal consolidation can be contained if the consolidation strategy is effectively designed and includes a comprehensive programme of structural reforms'

(Trichet, 2010). This is the challenge of 'combining retrenchment with reform' identified in NESC's second report on *Ireland's Five-Part Crisis* (NESC, 2009b);

b. *Procedurally*, despite undoubted differences in timing and method, what is required in both cases is a much more reliable, better-understood, more disciplined, widely endorsed and clearly articulated process for joint setting of goals, discussion of collective and national-level problems, and how these two relate to each other. Rules and sanctions can, of course, play a role in such a system. Since many of Europe's goals and initiatives refer to complex supply-side policies and growth processes, the starting point is less significant than the ability to animate reform and learn from success and failure.

Consequently, the challenge is to frame Ireland's forthcoming National Reform Programme addressing the big-ticket items—banking resolution, deficit reduction, fiscal consolidation and the engines of growth—in a way that is genuinely informed by the transition to knowledge-intensive, inclusive and sustainable growth, as reflected in the agreed EU headline targets and integrated guidelines. In some respects, this is a familiar task as Ireland has had a number of encompassing national strategies in the past 20 years. In other respects, it is a formidable challenge as these strategies tended to include an ever-widening agenda, which at times left key issues unresolved and definitely fell short in implementation (NESC, 2006a; NESC, 2010).

19. There can be no doubt that the EU needed to urgently strengthen its approach to economic coordination. While many feared that it was moving too slowly, during 2010 it showed real determination to devise new approaches to this critical task. It is, of course, too early to say what kind of regime will emerge from the measures already agreed and the further changes proposed. A number of possibilities can be identified:

a. In the area of economic policy, the EU may be advancing to a regime of real benchmarking, systemic and diagnostic monitoring, peer review, learning and system revision—in which the hard-law elements enforce engagement and searching self-examination—like that found in other more successful areas of EU policy; or

b. It is possible that, having had a weak regime in which member states flouted the Stability and Growth Pact (SGP) rules and resisted real benchmarking, and paid a big price for this in the past two years, the EU will turn to a regime that relies too heavily on precise rules, *fixed* targets and strong sanctions.

The latter would be a worrying development, not because it would be too strong, but because it could fail *even in the task of achieving immediate fiscal consolidation and long-term fiscal discipline* if the precise rules did not capture the underlying weaknesses—as was the case in the SGP to date.

1.8 Restating and Updating the Conditions for Success in the EU

20. This review strongly echoes the findings, conclusions and criticisms articulated in earlier reviews of Ireland's experience in the EC/EU, including NESC's studies in 1989 and 1997. Among these were the following:

a. 'The macroeconomic policies pursued from the late seventies into the eighties contained serious errors' and were 'for a considerable period, inconsistent with the decision to join the European Monetary System (EMS)' (NESC 1989: 215 and 525);

b. '[T]he public and private sector spheres interact to an enormous extent, and this illustrates that satisfactory implementation of the decision to join the European Monetary System (EMS) required not only recognition and acceptance of the macroeconomic policy conditions, plus acceptance of the implications for wage increases in the private sector, *but also* consensus on the management of the public finances, especially taxation. This was not adequately appreciated by either Government or the social partners at the time' (NESC, 1989: 216, emphasis in the original). Consequently, building an agreed and consistent approach to fiscal, monetary and wage policy 'must now be an integral part of Ireland's overall European policy' (NESC, 1989: 216);

c. 'The reduction in the macroeconomic policy autonomy of the member states, which was an unavoidable implication of economic integration, has not been adequately replaced by Community-level responsibility for the management of the macro-economy' (NESC, 1989: 525 and 216);

d. 'It was not appreciated that the effects of integration can take considerable time to work themselves out. Adjustments to membership of the EC were experienced in the 1980s as well as the 1970s' (NESC, 1989: 525);

e. 'Negative integration'—the removal of national obstacles to free movement of goods, service, capital and people—will not automatically yield economic convergence, stability or good social and environmental outcomes. There is a need also for significant measures of 'positive integration'—the creation of EU policies and institutions;

f. 'During a significant portion of the period since Ireland's accession to the EC, priority was given to short-term goals in taxation, public expenditure, macroeconomic management, exchequer borrowing, job creation, industrial policy, pay-bargaining and approaches to issues at the European level. However, the Council stresses that this approach was not confined to government policy making—which largely reflected priorities in the society' (NESC, 1989: 217);

g. Earlier analysis highlighted the importance of a developmental perspective in approaching the opportunities and threats of international economic integration. 'Even though a proportion of the problems of the eighties can be fairly directly ascribed to the severe financial imbalances of the late seventies, that fiscal crisis has, in turn, some longer-term determinants' (NESC, 1989: 209);

h. In a context in which competitive advantage is only to a small extent determined by natural factors, 'the task of policy and corporate strategy should have been to foster activities in which Ireland could develop a *genuine, sustainable* and, indeed, *renewable* competitive advantage. This requirement was not always kept in sight of under pressure to create jobs and exports' (NESC, 1989: 216 emphasis in original);

i. Consequently, 'the criterion by which Ireland's membership of the Community be assessed should primarily be the kind of economy which evolved as a result of EC membership and only secondarily whether a particular strategy maximised receipts from the Community' (NESC, 1989: 553);

j. Between 1973 and 1989 'the balance between Community and national policy competence was not always correct. In some cases, for example agriculture, the existence of a Community policy was seen as virtually precluding national policy. In other cases, for example regional policy, an increased Commission role was viewed with ambivalence—but not on the basis of a superior national grasp of regional development planning' (NESC, 1989: 218);

k. Indeed, the most general finding of NESC's 1989 report was that 'membership of the Community does not reduce the need for clear Irish policy aims and methods. In particular, membership of the Community does not diminish the need for a national ability to identify solutions to national problems—even where those solutions require Community policies and action' (NESC, 1989: 218);

l. This suggested that the 'conception of what is meant by Ireland's European policy should be broadened from reference to the strategic and tactical positions it took at the European Council and the Council of Ministers, to include the set of *domestic* policies devised, or not devised, in the light of the common policies adopted at EC level' (NESC, 1989: 553, emphasis in original);

m. Finally, ideas and ambitions matter: 'the way in which member states conduct business at the European Council and the Council of Ministers is not immutable and, in particular, is not independent of the conception of the Community which prevails' (NESC, 1989: 430; 1997: 10–20). A subsequent review of Ireland's first 25 years in the EU concluded that 'The state of the Union—and a correct understanding of its nature—are of critical importance to Ireland' (O'Donnell, 2000: 175).

Most accounts are in agreement that—following the difficulties from accession to 1986, reflected in the criticisms reported above—Ireland had a much more successful engagement in European integration from 1987 to 2000. In analysing and understanding that success, most studies draw attention to both the EU's greater ambition and Ireland's improved identification of the conditions for success of a small peripheral member state. Many highlight the achievement of a consistent approach across macroeconomic, distributional and structural policies, supported by a wide range of social and economic groupings (see

Chapter 11). In addition, analysts attribute Ireland's improved performance to institutional and policy innovations in industrial policy, sector regulation, regional and local development, environmental protection and social inclusion (NESC, 2002, 2005b; NESF, 1997; Adshead, 2002; O'Donnell, 2000b). Indeed, these analyses highlighted the fact that EU membership had significant effects on Ireland's policy and administrative system. In particular, the Commission's approach to the increased Structural Funds prompted a step-increase in the scope and quality of programming, monitoring, evaluation and auditing of public expenditure in Ireland, at least in the period when Ireland was a major recipient (Matthew, 1994; O'Donnell, 2000; FirzGerald, 1998; Laffan and O'Mahony, 2008; McNamara *et al*., 2009).

21. In this report, and the recently published study *The Euro: An Irish Perspective* (NESC, 2010), we identify findings and policy lessons remarkably similar to those listed above. In particular:

    a. After 1999, Irish macroeconomic policy was, at significant times, pro-cyclical, unsustainable and not consistent with membership of the euro;

    b. EU-level macroeconomic monitoring and coordination was insufficient to prevent major imbalances developing;

    c. Recent experience confirms that the full effects of integration—in this case monetary and financial integration—can take a considerable time to work themselves out;

    d. As in the 1970s and the first half of the 1980s, priority was given to short-term goals in much of the past decade, certainly in taxation, public expenditure, macroeconomic management and aspects of pay bargaining. As in the earlier period, this was evident in government policy, but also reflected priorities in the society;

    e. As in the 1980s, the current fiscal crisis reflects not only macroeconomic policy mistakes, but deeper developmental, distributive and public service issues, which were not adequately resolved by Ireland's political, administrative and interest group system over the past decade;

    f The past decade confirms the importance of a developmental perspective, and demonstrates the high price that is paid for losing the focus on genuine, sustainable and renewable competitive advantage;

    g. Most of all, the need for 'national policies that are informed by clear analysis of national needs' is strongly echoed, as illustrated in areas such as telecommunications and energy.

    It is striking that twenty years after their initial statement, a new review of Ireland in the EU yields such similar findings and criticisms. It is disappointing that, in certain respects, the past decade bears more resemblance to the 1970s and early 1980s, despite the existence of partnership processes for identifying stresses and mediating conflicts. This warrants further analysis and reflection.

22. While the current review of Ireland's engagement largely restates the findings and lessons of earlier studies, it is necessary to adapt or extend a number of them in the light of subsequent experience:

a. While successful participation in monetary integration certainly requires a consistent approach to macroeconomic policy, wage bargaining and taxation, we have learned the hard way that effective financial regulation and supervision is a precondition, one that was definitely lacking in Ireland since 1999;

b. The earlier observation that the 'public and private sector spheres interact to an enormous extent' needs to be extended to take account of the dramatic way in which excessive private debt can become public debt;

c. While a significant degree of EU-level positive integration remains necessary for desirable economic, social and environmental outcomes, this is now more likely to be a hybrid of hard-law and soft-law approaches than detailed and prescriptive European rules;

d. Our understanding of the need for a developmental focus has widened. We now see that the action of Ireland's networked developmental state—in attracting foreign direct investment (FDI), building infrastructure and supporting innovation—needs to be complemented and supported by a developmental welfare state, combining income transfers, tailored services and innovation (NESC, 2005a and b: 2009a and b).

e. The centrality of national policy is strongly echoed in this report, but can also be seen in a new light. First, the pluralisation of EU influences means that many more branches of Irish policy are engaged in EU processes and must play a role in enhancing Ireland's performance in the EU. Second, in the past, there was a greater distinction between national and EU policy and NESC emphasised the necessity for Irish domestic policy to be developed and articulated *in light* of whatever policy was agreed at EU level. Now it is much more the case that national policy is configured *in tandem with* EU policy, a much more embroiled engagement. Third, while the earlier focus was on the critical role of national policy, we have learned in the intervening years that effective *implementation* is as important and, indeed, the two are more intertwined that we thought (NESC, 2005b; OECD, 2008; Government of Ireland, 2008);

f. A related change concerns the need to achieve consensus. While it is hard to see Ireland succeeding within the euro in the medium term without a degree of consensus on fiscal and wage policy, we understand the need for consensus and participation of interests in additional ways. Experience shows that if participation is a necessary condition for success, it is not sufficient. What is most critical is whether a country's system of policy and participation is geared to learning and reform. Many of the issues that are pivotal for Ireland's long-term success—such as innovation, training, education, tailored services and activation—cannot be resolved only through high-level bargaining of the type that we developed to address macroeconomic stabilisation in the late 1980s (NESC, 2002, 2005a and b). Analysis and problem-solving must be located closer to the issue at hand and high-level actors within Ireland should see themselves, like the EU, as setting framework goals, monitoring, assessing and extending instances of success—as advocated in the OECD report on the Irish public service (OECD, 2008);

g. While the earlier phase of European integration had an impact on Ireland's approach to high-level national development planning and programme evaluation in areas funded by the EU, the phase reviewed in this study had a different kind of impact on Ireland's system of public administration. For a number of public agencies, engagement in the evolving EU processes would seem to have prompted developments in intra-organisational review and inter-organisational networking, involving the development and use of systemic and diagnostic indicators. Examples include agencies such as the Environmental Protection Agency (EPA), the Food Safety Authority, the various economic regulators, the local authorities and others. In other policy spheres and organisations—notably public finance and banking supervision and, to a degree, employment and social inclusion—the process of goal setting, data generation, monitoring and review was less effective and led to limited diagnostic inquiry into Ireland's problems. In public finance and banking supervision the lack of sufficient real benchmarking and diagnostic monitoring, at either EU or national level, eventually had disastrous consequences. In these areas, the Irish departments and agencies were linked to EU regimes that were less effective and not geared for mutual learning.

These adaptations and extensions of earlier findings and lessons can inform future policy and the preparation of Ireland's policy system to meet the new conditions for success in the EU.

1.9 The New Conditions for Success

23. In addressing policy issues with an EU dimension, Ireland needs to take account of the ways in which the EU, and Ireland's engagement with the Union, have changed. Combining our review of the Union's evolution over several decades with an awareness of the major, crisis-induced, current initiatives at EU level, several changes are particularly noteworthy:

a. The EU has become more diverse and increasingly deals with economic, social, environmental and fundamental rights problems that are complex and contested;

b. Ireland's engagement with the EU has become more plural, contested, complex and influenced by global developments;

c. In many of its most successful policy areas, the EU approach increasingly combines elements of hard law and soft law to create systems of joint goal setting, decentralised execution, information sharing, learning and system revision;

d. But, in a number of critical policy areas—notably economic coordination, and benchmarking of employment and social policy—the EU did not create effective systems of joint goal setting, monitoring and learning;

e. In the face of crisis, the EU has recently decided to strengthen its approach to economic coordination;

f. After the partial success of the Lisbon Strategy, the EU aims to more closely integrate macroeconomic surveillance and growth-enhancing structural reform in order to achieve knowledge-based, sustainable and inclusive growth (the *Europe 2020 Strategy*).

24. While these developments have particular implications for different parts of Ireland's policy system, it is possible to identify a number of headline and general conditions for future success in the EU:

a. The first is recognition that the success of the EU in progressing towards its core goals is a condition for Ireland's economic and social development;

b. In this context, it is necessary to affirm the appropriateness of enhanced euro-area and EU-level mutual surveillance and collective disciplines;

c. While projection of Ireland's interests in EU-level negotiation remains important, and has become more complex, in an increasing range of areas' national policy, goals and methods must be formulated in interaction with other countries and the EU institutions;

d. Consequently, European integration demands more intensive exploration 'at home' as well as more effective benchmarking 'abroad';

e. While Ireland's earlier engagement with the EU required understanding among strategic actors, the new EU context requires, in addition, wider societal understanding of the EU and its methods of goal setting, benchmarking and learning.

25. From this experience and analysis we can begin to identify some of the actions that might help Ireland meet the new condition for success.

a. Success in the 21st century EU requires a national policy system with greater ability to record, compare, analyse and discuss its own policy and service systems (in a wide range of policy areas) at agency, departmental, political and EU level. Consequently, a minimal condition for successful Irish participation in a range of EU processes is implementation of the Government's reform agenda set out in *Transforming Public Services* (2008). In identifying possibilities for enhancing Ireland's engagement with, and learning from, EU processes it would be worthwhile to consider the methods adopted by Ireland's best agencies—such as the IDA, the EPA and the Food Safety Authority (FSA). These institutions have a high international standing in the most up-to-date systems of standard setting, monitoring and learning. Their methods of in-depth review, network formation and system revision are similar to—indeed, have largely developed in interaction with—the emerging EU methods of hard and soft law, networked regulation and learning.

b. It may be worth exploring the possibility that the Irish departments and agencies that have been engaged in areas in which EU processes have involved less effective monitoring, peer review and learning—and in which national policy outcomes have been most disappointing—might learn from those that have been connected to more successful EU processes and, partly as a consequence, have mastered the new methods of joint goal setting, decentralised execution, diagnotic review and learning.

In many policy spheres the design and implementation of *national* policy must be undertaken in—and can be greatly enhanced by—a process of European goal setting, benchmarking, disciplined review and continuous improvement. Only states that can do this will succeed in the new Europe.

2

Understanding the EU

2.1 Introduction

This chapter provides a context for our report on Ireland's engagement with the European institutions. It reviews the findings of earlier NESC studies of Ireland's experience of integration within the EU and outlines how this engagement is best understood. It argues that the relationship is formed through an interactive process between a member state such as Ireland and the institutions of the EU, without either being dominant. The chapter then documents some of the most fundamental changes to the European Union that have occurred since NESC's last report in 1997, including the launch of the euro, the fifth enlargement in 2004 and the ratification of the Lisbon Treaty in 2009. The magnitude of these developments has underlined the validity of NESC's interactive perspective: it is the combination of both EU institutions and member-states, operating in tandem, that explains the process of integration. This hypothesis is elaborated through an examination of policy making in the EU, which some see converging on a common architecture based on benchmarking progress towards common objectives through peer review. The implications of this movement for national policy systems are analysed in the last section of this chapter.

2.2 Drawing Lessons from Earlier Studies

Before reviewing Ireland's experience and changing engagement in the EU in the past 15 years, it is useful to note some of the main findings of earlier analyses of our experience of European integration. In 1989, NESC published a detailed analysis of Ireland in the European Community (EC) and drew a number of conclusions on the effects of integration and lessons for policy at national and European level. In 1997, NESC reviewed European integration and the likely implication of enlargement (NESC, 1997).

One aspect of these reviews was identification of periods of relative progress and relative failure in Ireland's engagement with Europe. NESC's 1989 study documented a slide from a fairly positive initial experience in Europe to a severe crisis and near economic collapse in the 1980s. The parallel with Ireland's recent experience and the current situation makes it all the more relevant to remind ourselves of what findings and lessons were identified the last time Ireland's European performance deteriorated. Indeed, it has been argued that intense reflection on the experience of European integration was part of the turnaround achieved in the late 1980s (O'Donnell, 2000: 177).

This periodisation is confirmed in later reviews of Irish experience in Europe. Those studies contrast Ireland's relatively poor performance in the period 1973 to 1986 with a much more successful use of European integration from 1987 to 2000 (O'Donnell, 2000b; Laffan and O'Mahony, 2008). This further justifies beginning with a recap of earlier experiences and lessons. If we need to remind ourselves of what we learned from past failure, we can also benefit by recalling what underpinned Ireland's remarkable success in the EU in the period 1987 to 2000.

2.2.1 Macroeconomic Policy – at National and European Level

Some of the strongest lessons concerned macroeconomic management – fiscal policy, monetary policy and EC-level coordination:

> The macroeconomic policies pursued from the late seventies into the eighties contained serious errors. In particular, the experience shows that the attempt by Ireland, or any other small Community country, to use expansionary fiscal policy to achieve a faster rate of growth than the Community at large is likely to fail and to create other economic problems. The essential reason for this is the extremely open and interdependent nature of EC economies. The Council believes that this was not adequately appreciated in Ireland (NESC, 1989: 215).

NESC emphasised that the macroeconomic policies pursued after 1979 were inconsistent with the decision to join the European Monetary System and to keep the Irish pound stable within that system. Excessive domestic monetary and earnings growth fuelled inflation and therefore decreased the competitiveness of Irish industry: 'our analysis of this episode shows that the public policy and private sector spheres interact to an enormous extent' (*ibid.* 216).

2.2.2 System-wide Implications of Internationalisation

Although Ireland handled certain aspects of EC membership relatively successfully, particularly CAP and Structural Funds, and although it was instinctively supportive of new European initiatives, such as the European Monetary System, these were allowed to occlude the wider policy and behavioural requirements of internationalisation. In its 1996 review of the development of the Irish economy since 1960, NESC argued that 'the common factor in each of these failures would seem to be insufficient appreciation and acceptance of the interdependence of the economy and society; interdependence between the indigenous economy and the international economy; between the public and the private sectors; and between the economic and the political' (NESC, 1996: 25). This perspective was echoed in a review of Ireland's first 25 years in the EU: 'The alignment of state strategy with the action of economic and social interests is the critical determinant of success or failure in the new Europe, despite the central role of the state in the formulation and implementation of EU policy and law' (O'Donnell, 2000: 162).

2.2.3 The Timing of Adjustment to European Integration

A further lesson concerned the timing of adjustment to EC membership. 'In particular, it was not widely appreciated that the effects of integration can take considerable time to work themselves out. Adjustments to membership of the EC were experienced in the 1980s as well as the 1970s' (NESC, 1989: 216).

2.2.4 A Developmental Perspective

A central theme in earlier analysis was the importance of a developmental perspective in approaching the opportunities and threats of international economic integration. While market integration demands specialisation, NESC emphasised that 'in modern economies, comparative advantage is only to a small extent determined by purely natural factors like supplies of land and labour' (1989: 216). In this context, the task of policy and corporate strategy 'should have been to foster activities in which Ireland could develop a genuine, sustainable and, indeed, renewable competitive advantage. This requirement was not always kept sight of under the pressure to create jobs and exports.' Indeed, 'the very pronounced specialisation which did occur did not provide a foundation for indigenous economic development' (*ibid*. 217). 'It is important that these [developmental] factors are kept in mind when considering the divergences from average European growth in the late seventies and eighties. It is these factors which provide the link between what is known, and agreed, about the weaknesses in macro-management, and what is known, partly as a result of NESC's work, about the long-run structural weakness of the Irish economy' (*ibid*. 209). This reflected a critical aspect of NESC's analysis in the years from 1986 to 2000—recognition that 'the presence of structural problems, arising from historical factors and/or peripheral location, has long-term implications for public finance (*ibid*. 209). 'Even though a proportion of the problems of the eighties can be fairly directly ascribed to the severe financial imbalances of the late seventies, that fiscal crisis has, in turn, some longer-term determinants' (*ibid*. 209). In parallel fashion, it is important now to identify structural and other behavioral determinants of Ireland's current fiscal crisis—something we address in the recent NESC report on economic and monetary union (NESC, 2010).

2.2.5 Short-Term Orientation

In 1989, the Council concluded that during a significant portion of the period from accession to 1989, priority was given to short-term goals. Indeed, several of the lessons stated above are but specific examples of this general phenomenon. However, the Council stressed that 'this approach was not confined to government policy making—which largely reflected priorities in the society' (*ibid*. 217). Such an approach was profoundly mistaken, not only because it created more economic problems than it solved, but also because, pursued over a period, it undermines the ability of policy makers and the social partners to use the experience of dealing with one problem to inform their approach to the next. The priority of short-term considerations implied that each problem was dealt with in a partial way and the connection between one problem and the next was obscured and drowned out any long-term thinking about the evolution of the economy or the society. Conversely, studies of Ireland's more successful later engagement in European integration, between 1987 and 2000, highlight the central role of a strategic approach characterised by consistent policy across social and economic groupings (NESC, 1996, 1997; O'Donnell, 2000; Laffan and O'Mahony, 2008).

2.2.6 European Integration and National Policy

A central theme in earlier analyses of Ireland's experience in Europe was the relation between European and national policy. In its 1989 and 1997 studies, the Council underlined the importance of EC and EU-level policy capacity if key goals

— such as market regulation, macroeconomic stability, regional convergence and social cohesion—were to be achieved. These goals cannot be achieved by 'negative integration' alone—the removal of tariff and non-tariff barriers to trade and factor movements. They require 'both national and Community measures of positive integration—the establishment of common institutions and Community policies—and it is only this combination of approaches that NESC considers to be a genuine move towards European union' (1989: 217). This led NESC to advance what it termed an 'interactive' approach to European integration, which emphasised that neither national stances nor EU policies should be presumed to be dominant.

Having underlined the importance of European policy, the Council argued that between 1973 and 1989 the balance between Community and national policy competence was not always correct. 'In some cases, for example agriculture, the existence of a Community policy was seen as virtually precluding national policy.' (*ibid.* 218). Indeed, the most general finding of the Council's 1989 study concerned the role of national policy: 'membership of the Community does not diminish the need for a national ability to identify solutions to national problems'—even where those solutions require Community policies and action. 'A firm national grasp of how to solve a problem strengthens the argument for adoption of a common or Community policy. It helps enormously when agreement to adopt a common approach is achieved' (*ibid.* 218). This has important implications for our conception of the scope and nature of Ireland's European policy:

> [T]he criterion by which Ireland's membership of the Community should be assessed should primarily be the kind of economy which evolved as a result of EC membership and only secondarily whether a particular strategy maximised receipts from the Commission. Furthermore, it suggests that the conception of what is meant by Ireland's European policy should be broadened from reference to the strategic and tactical positions it took at the Council to include the set of domestic policies devised, or not devised, in the light of the common policies adopted at EC level (*ibid*. 214).

The present study applies this criterion and conception of Ireland's European policy in assessing the experience of the past 15 years.

2.2.7 Ireland Supported the European Integration Project

Despite the weak performance in the EU between 1973 and 1987, studies confirm that in that period, and in the more successful period from 1987 to 2000, Ireland generally supported and participated in the historical initiatives that drove European integration forward. Among these was the launch of EMS in 1979 and, most importantly, in the mid-1980s Ireland placed itself firmly on the side of the relaunch of the Community, led by President Delors.

2.2.8 Effects of European Participation on the Irish Policy and Administrative Systems

Earlier studies of Ireland's experience of EU integration noted significant effects on Ireland's policy and administrative system. Here we focus first on the Structural Funds, which had a number of effects. Given the necessary focus on fiscal correction in the late 1980s, the doubling of the Structural Funds in the late 1980s, and the significant reform in their principles and procedures, had an important effect in reintroducing developmental thought and procedures into the Irish public service after the fiscal crisis of the 1980's (O'Donnell, 2000: 186). In addition, the Commission's emphasis on programming, monitoring and evaluation in the reformed Structural Funds had a significant impact on the procedures of Irish public administration in the 1990s (McNamara *et al*., 2009)

There was also a European dimension to several of the innovative and experimental policy approaches adopted by Irish government and public agencies. One example was the participative approach to local development, involving the social partners, the community and voluntary sector and state agencies. Indeed, the Irish government made local development one of the themes of its 1996 presidency, and found great interest in other member states. Indeed, international research suggests that the EU, through the Commission, is a stimulus to policy innovation and experimentation (Laffan *et al*., 2000; De Burca and Scott, 2006).

2.2.9 Domestic Policy is the Central Determinant of Irish Performance

Taking these lessons together, the most important finding in earlier studies was that domestic policy is the central determinant of Ireland's success or failure in Europe. Government policy and the work of public agencies is, of course, the most important influence. But the overall national approach extends beyond government to include the behaviours and alignment of business entities and economic and social groups.

2.2.10 Beyond Functional and Intergovernmental Perspectives on the Future and Capacity of the EU

A final, and related, finding in NESC's earlier work was that Irish actors need to have an accurate, nuanced and pragmatic view of how the EU is evolving and the nature of its governance systems. In its 1997 report, *European Union: Integration and Enlargement*, NESC noted the widespread sense of uncertainty about the future of European integration. Some envisaged further rapid progress on integration, on the grounds that economic and social processes had moved beyond the national scale; these 'spillovers' create a functional logic for member states to support deeper economic, monetary, social and political integration. On the other hand, it was possible to identify divergent national interests, increasing diversity and limits on further integration. Each of these contrasting perspectives on the future of the EU was plausible. Indeed, these substantive uncertainties were compounded by uncertainty about how to characterise and understand the EU as a system of policy making. It was possible to see it as driven by the EU institutions, such as the Commission and the European Court of Justice, reflecting a functional logic of coordination. It was equally possible to emphasise that decision making in the EU is dependent on intergovernmental bargaining and that most EU policies are implemented by member states (NESC, 1997; 10–14). NESC pointed out that together these two views create uncertainty, which has practical implications for member states, enterprises and other groups who seek to shape EU policy on economic and social matters.

A central argument of the 1997 NESC study was that a new perspective was emerging that was more accurate than either of the views outlined above. While the functional and intergovernmental views each had some validity, neither offered an adequate guide to European policymaking. The new perspective, which is a synthesis of the other two, takes greater account of the complex ways in which national actors—not only national governments, but also agencies, local authorities, firms and civil society organisations—interact with the EU. It recognises the continuing role of the member state, but notes that member state preferences and policies are partly formed within the EU process. It acknowledges the undoubted dynamic towards integration, but points out that the role of EU policy in an increasing number of spheres does not entail centralised European decision making or the emergence of a single authority.

It was demonstrated that the emerging new perspective had practical implications of both a general and specific kind. 'The perspective suggests that debating Europe's future as a choice between "intergovernmentalism" and "federalism" is misconceived' (NESC: 1997: 20). It helps us in reaching a realistic assessment of the possible, and desirable, development of EU policies on growth, employment, social inclusion, competitiveness, Economic and Monetary Union (EMU) and public finance. It alerts us to the fact that the nature of EU policy in each of these areas is likely to differ. It draws our attention to the fact that a continuation of European integration—along the lines of the Single European Act, the Maastricht Treaty and the Treaty of Amsterdam—will not replace national government or policy with large federal structures, policies and administrative systems. 'It will increasingly *embed* the national within the European, and the European within the national, and create European-level *interaction* not only between governments, but also between enterprises, trade unions, interest associations and social movements' (NESC, 1997: 21, emphasis in original).

2.3 Changes in the EU 1997-2010

Over the last decade or so, the EU has sought to build on its potential through a series of initiatives and reforms. The deepening of the single market, the launch of the single currency, the pacification of conflict in the Balkans, the ongoing development of the Lisbon Strategy, the completion of the fifth enlargement and the ratification of the Lisbon Treaty have all been significant milestones in the development of the EU.

2.3.1 The Single Market

The single market has been one of the EU's greatest achievements and remains the principal source of its progress and influence. It has been responsible for many of the benefits that many EU citizens and firms now take for granted, ranging from greater consumer choice, through export opportunities to the right to live and work in any of the 27 member states. However, its very success has meant that the single market became somewhat less prominent in the agenda of the EU, at least until recently. Although still regarded as crucial, it became more and more 'relegated to low-key EU routine' as it was 'no longer regarded as a driver of economic integration' (Pelkmans, 2010). This does not mean that the single market is complete. Most progress has been achieved in the free circulation of goods, but achieving the same level of progress in the free movement of workers and services has still some way to go. Advances in these latter two areas have often been slow and controversial for a variety of reasons as we discuss in Chapter 6, 10 and 11. But this is not to say the progress in the single market has stalled; in fact, the recent economic crisis may have revived interest in it. For instance, the European Council has declared, in June 2010, that the single market needs to be taken to a 'new stage, through a comprehensive set of initiatives'. The Monti report (2010), which addresses a new strategy for the single market, has identified a series of initiatives to build a stronger single market; to build a consensus around this goal; and to identify a set of measures to deliver a stronger single market.

2.3.2 Creation of the Euro

A major achievement of the EU in the past 15 years was the transition to, launch of and management of the euro. There was, over the history of European integration, a strong, long-standing, widely held, diverse and increasing economic motivation for EMU. The enormous difficulties of realising this largely reflect the political complexities of creating monetary union in European circumstances. In some respects, there is a parallel between Europe's long quest for exchange-rate stability and Ireland's long quest for a monetary and exchange-rate regime suited to our structural position and political economy. The euro currency was introduced in nonphysical form on 1 January 1999, when the national currencies of participating countries were locked at fixed rates against each other. Euro notes and coins were introduced on 1 January 2002. The Euro is used in 16 of the 27 member states, collectively known as the euro zone or euro area, and is also used in a further five European countries, sometimes with a formal agreement but sometimes without. The story of the euro has been a key part of NESC's project on the EU, and our analysis and recommendations are made available in a separate report *The Euro: An Irish Perspective* — published in August 2010 (NESC, 2010). Accordingly there is limited discussion of the euro in this report—through it does inform our core arguments.

2.3.3 The Lisbon Strategy

The Lisbon Strategy was a development plan for the European Union adopted in 2000 for the period 2000 to 2010. Its aim was to make the EU 'the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion'. The Strategy sought to achieve this through action on three fronts:

- Preparing the transition to a competitive, knowledge-based economy and society;
- Modernising the European social model, investing in people and combating social exclusion;
- Applying an appropriate macroeconomic policy mix.

At the European Council meeting in December 2003, a shortlist of 14 indicators was adopted for measuring progress on the Lisbon Strategy. These included, notably, objectives for 2010 with respect to growth (3 per cent on average for the decade), the percentage of GDP spent on R&D (3 per cent), an overall employment rate (70 per cent) and employment rates for women (60 per cent) and workers between 55 and 64 years old (50 per cent).

The main instrument for achieving these objectives was a policy tool known as the Open Method of Co-ordination (OMC), which built on earlier attempts to co-ordinate member-state policies, most notably the European Employment Strategy in 1997. The most important feature of the OMC involves a process of benchmarking toward common EU objectives and establishing mutual learning about the means and ends necessary to reach these goals. It was designed to encourage member states to exchange best practices, with the EU setting guidelines and monitoring progress as a way of spreading best practice. The OMC is described further below and analysed more extensively in Chapter 6.

The Lisbon Strategy was relaunched in 2005 with a narrowed focus on growth and job creation, to be implemented according to a set of integrated guidelines, which covered macroeconomic policies, employment and structural reforms. Member states would document their implementation of the Strategy through national reform programmes. Despite these reforms, in an evaluation of the Strategy in 2010, the Commission concluded that the Strategy had suffered from 'variable ownership and weak governance structures' (European Commission, 2010a: 6).

2.3.4 Enlargement

In 1993, an EU Summit in Copenhagen opened formal negotiations on membership with twelve countries, ten of whom—in Central and Eastern Europe—had only recently emerged from communist government and central planning. It was the most ambitious and far-reaching enlargement the EU had yet attempted. Economic objectives were secondary to political concerns to consolidate democracy, the rule of law and political stability on the Union's eastern borders. The emergence of the states of Central and Eastern Europe from behind the 'iron curtain' had taken the political leadership of the European Union and many others by surprise. At the time, they were focused on the programme to complete the internal market, an agenda for 'deepening' that was to advance and include monetary union and institutional change.

There was a possibility of a split between member states who considered that enlargement would slow down further integration in the Union and those who gave priority to extending the area of peace and stability in Europe. This was the tension between 'widening' and 'deepening' the EU. The fifth enlargement was a risk because no previous enlargement had increased the complexity of the EU's decision making and operational procedures to the same extent. It also greatly increased the degree of income disparities across member states. Increasing the number of member states from fifteen to twenty seven had myriad consequences for meeting formats, official languages, decision making, and other formerly settled procedures. It also entailed the particular challenge for the Community's institutions and the new member states of jointly recognising and addressing particular legacies of their communist pasts in multiple areas of their civic and political life. In Chapter 8 we describe and analyse the enlargement of the EU.

2.3.5 Consequences of These Changes

All of the changes discussed above have meant that the EU is a more complex entity than it was a decade or so ago. It has incorporated many member states from Eastern Europe, leading to greater diversity within the Union, and extended itself into important aspects of member-state politics through policies like the creation of the euro. And the single market has been shown to be far from complete, with greater urgency needed from both EU institutions and member states to accomplish this great task (Monti, 2010).

One important reaction was to enhance the efficiency and coherence of the EU through institutional and Treaty change. A process that began in the early years of the decade culminated in the ratification of what became known as the Lisbon Treaty in December 2009. This treaty amends the two treaties that comprise the constitutional basis of the European Union—the Treaty on European Union (commonly known as the Maastricht Treaty) and the Treaty establishing the European Community (the Treaty of Rome), renamed the Treaty on the Functioning of the European Union. Important institutional changes included a change from unanimity to double majority voting (55 per cent of member states representing 65 per cent of the population of the EU) in several policy areas in the Council of Ministers; enhancement of the role of the European Parliament through the extension of the 'ordinary legislative procedure' by which EU legislation is approved by the Parliament; and the creation of a President of the European Council and a High Representative of the Union for Foreign Affairs and Security Policy to lend greater coherence to the EU's external actions.

It is still too early to judge whether the ratification of the Lisbon Treaty has enabled the EU to function more effectively. But there are other ways in which the EU has altered how it functions in order to manage increased complexity. In matters where the EU has an explicit competence, policy making has become less hierarchical, and in areas where member states have primacy, policy making and implementation is increasingly taking place within an EU framework and with reference to the activities of other member-states. In the next section, five distinct policy modes that are integral to the functioning of the EU are identified. It is argued that together these policy modes increasingly display a common institutional architecture that may be the key to future success for both member states and the EU as a whole.

2.4 Policy Making in the EU

Research on the EU has increasingly focused on the fact that there is no single 'method' for making and implementing EU policies. Different methods are used in various policy spheres. Although these can be categorised and analysed in various ways, one useful starting point is Helen Wallace's (2005) classification of five policy modes: the Community Method, the distributional mode, the regulatory mode, policy coordination and intensive transgovernmentalism. The growing prominence of some policy modes is linked to the wider and deeper integration with which the European Union is engaged. It is important to appreciate that these policy modes themselves change over time as their environment becomes more complex. Although Table 2.1 below gives examples where each policy mode applies, it is important to appreciate that sectoral policies can be and have been conducted through several different policy modes. This insight will be developed in Section 2.6 to demonstrate that there is increasingly a common logic to European policymaking.

Table 2.1 Policy Modes in the European Union

Policy Mode	Sectoral example of policy mode
Community Method	CAP, Fisheries, Agriculture
Distributional Mode	Structural Funds
Regulatory Mode	Market Liberalisation
Policy Co-ordination	Macroeconomic co-ordination, Employment Strategy, Lisbon Strategy
Intensive transgovernmentalism	Economic and Monetary Union, Foreign Policy, Justice and Home Affairs

2.4.1 The Community Method

In the early stages of European integration, there was a perception that ‘a single pre-dominant Community Method of policy making’, exemplified by the Common Agricultural Policy, had emerged. This was buttressed by the principles of supremacy and direct effect enunciated by the European Court of Justice. Other policy areas of competence over which the Community was given jurisdiction included competition policy, trade and fisheries.

Through this method, policy is transferred to a supra-national level ‘with a centralised and hierarchical institutional process, with clear delegation of powers, and aimed at “positive integration” ’ (Wallace, 2005: 80). Policy making in this manner resembles something akin to what a federal government might do as ‘community institutions have the power to legislate for the Union as a whole, without being required to refer back to the national parliaments’ (quoted in Reiger 2005: 164). Of course, even in these key policy areas the key Community institution was, and is, the Council of Ministers in which each member state has one member. The founding fathers of European integration attached considerable importance to the Community Method. Historically, small member states, such as Ireland, also tended to value it because it gives the impartial European Commission a significant role and puts large and small member states on a more level footing than would open diplomacy.

To what extent this template ever accorded with the reality of policy making is open to question. Wallace (2005) suggests that national habits tend to determine how faithfully Community objectives are observed, as the differential enforcement of fishing quotas in various countries demonstrates (Lequesne, 2005). Implementation issues further complicate the notion of a Community method through which the Commission has a dominant role.

Both the relatively small capacity of the Commission and the implementation issues discussed above have meant that the aspirations for the Community Method have been toned down. Instead of operating through a ‘centralised and hierarchical institutional process’ (Wallace, 2005: 80), the Commission increasingly began to work with multiple partners at national and local levels, a feature of the EU policy process that has become much more explicit in recent times. It is for these reasons that a hierarchical, top-down Community Method is less evident and that the work of the Commission is now tilted towards 'recognising much more explicitly the role of national or local agencies in operating Community policies' (Wallace, 2005: 56). The recognition of national or local interests is much more explicit in the second model of policy making identified by Wallace—the distributional mode—which became more explicit in the 1980s as the European Community made more effort to sustain equality in the drive toward a single market.

2.4.2 Distributional Mode

In its 1989 report on Ireland's place within the European Community, NESC expressed some concern about the divergence in incomes between regions of the European Union. These regional imbalances were usually addressed through what became known as structural funds, whereby money would be distributed to local and regional bodies to spend on infrastructure, training and employment.

The development of this form of regional politics via the structural funds has been characterised as 'multi-level governance', although the term has become used more generally to designate the diffuse form of politics within the EU. Multi-level governance originally entailed that national central governments no longer monopolised contacts between a member state and the European Union. Regional and local authorities—and a range of civil society groups—also engage with EU institutions, such as the Commission, the European Parliament and the Committee of the Regions. Engagement with the European Union has helped to create and reinforce this form of sub-national or regional politics. There has been some dispute about how extensive this 'new' form of politics has actually been. Critics have argued that central governments have remained in the driving seat of the bargains about EU spending, implying that regional bodies have remained on the periphery, albeit in receipt of finances.

The significance of this form of policy making may have declined for several reasons. Other policy areas, such as R&D and justice and home affairs, are in competition for funds. Ironically, enlargement may have precipitated a relative decline in this distributional mode of politics, since the amount of structural funds per capita has been far less for the accession countries than it had been for lagging member states and regions at the time of the introduction of the internal market and the Maastricht Treaty in the late 1980s and early 1990s.

2.4.3 The EU Regulatory Mode

In its 1997 report, NESC drew attention to some of the distinctive features of EU governance and one of these was the regulatory policy mode. The comparative lack of finances available to the EU means that it is difficult to compare it to a typical state. Pelkmans summarised this feature by noting that a crucial feature of the EU's economic regime is that it is based primarily upon rules, not money; it is best understood as a 'regulatory machinery rather than a spending spree' (Pelkmans, 2006: 25). If the redistribution of resources via tax revenues is a function largely unavailable to the EU, it has still been possible for it to have a significant effect through regulation, namely the setting and enforcement of rules. This was central in overseeing an internal market within Europe, since this method depends upon agreeing rules that facilitate the free movement of goods, services, capital and labour. This kind of rule making has both a negative and positive function: negative in that it sweeps away what are considered to be illegitimate obstacles to a single market across national borders, and positive in that it agrees common standards across a diverse range of areas such as environment, food safety and biotechnology. In Chapter 3, we discuss the balance between negative and positive integration. Both the Commission and the European Court of Justice have been pivotal in establishing and defending the laws and regulations necessary to make the single market viable.

Wallace (2005: 82) argues that 'during the 1990s regulation displaced CAP (the quintessential form of the Community Method) as the predominant policy paradigm among many EU policy practitioners'. Such has been the extent of this kind of activity since the 1980s that some have designated the European Union as a 'regulatory' or rule making state (Majone, 1996). For example, the EU passed more than twice as many regulations and directives in 1991 as it did in 1970 (Eberlein and Grande, 2005:153).

The EU's traditional approach to harmonisation involved drawing up detailed technical standards, which entailed a slow process that held up the development of the internal market. It was the failure of this approach in the 1960s and 1970s that led to the launch of the internal market programme in the early and mid 1980s. That programme involved not only a move to mutual recognition where possible, but also a new approach to harmonisation where necessary (Laffan *et al*., 2000: 120).

Since the mid 1980s, much of the development of the single market has been based upon adhering to the principle of mutual recognition based upon the *Cassis de Dijon* case (1979). Mutual recognition is based on the assumption that EU states look out for many of the same risks in the manufacture of products within their borders. Therefore the Commission proposed that member states should mutually recognise each other's regulations as offering an equivalent level of protection, thereby avoiding 'lengthy horse-trading' in seeking to harmonise different sets of rules (Monti, 1996). However, mutual recognition has not been acceptable in all cases, especially when it is considered that there is an underlying risk presented by the product or service in question. In these cases, member states would try to 'harmonise' standards in order to ensure that cross-border trade is accepted.

With this new approach, when the EU decides that some form of harmonisation is needed, EU directives specify the 'essential requirements' that organisations would have to meet before allowing their products to be traded. Companies would then follow procedures set by a European standards agency, such as the European Agency for the Evaluation of Medicinal Products.

Regulation cannot be achieved simply by rule making it also requires detailed knowledge and intimate involvement with the regulated activity. This requires the creation of specialised agencies capable not only of rule making but also fact-finding and enforcement. At the European level the first set of agencies was established in the 1970s, but these were largely promotional, rather than regulatory, bodies. The 1990s saw a second set of agencies created, now dealing with regulatory issues, including the environment (EEA) and the medicines (EMEA) agencies. A third wave of agency creation started at the beginning of the present decade, with the creation of the European Food Safety Authority (EFSA), the Maritime Safety and the Aviation Safety Agencies and others. Most of the second and third generations of agencies advise the Commission on technical aspects of regulation but do not possess the authority to take a final and binding decision themselves.

National regulators or legislators enjoy a degree of latitude in choosing the most appropriate regulatory regime in those areas that are subject to EU regulations. Majone claims that the maintenance of national discretion is part of the trade-off that the Commission makes in order to get its regulations approved by the Council. To claim that even in those policy areas where the EU has a competency, it also enjoys primacy is 'an exaggeration: national regulatory agencies will continue to be crucially important even in an integrated Europe' (Majone and Surdej, 2006: 21), largely because of the reluctance of national executives to fund powerful pan-European agencies. Given the lack of formal powers available to these EU agencies and the fact that national agencies possess vital information, networks that join up agencies located within member states have been formed, so-called 'European regulatory networks'.

New forms of networked regulatory agencies have appeared, such as the European Food Safety Authority, which are steered partnerships of national competition agencies. These agencies with their reliance on the establishment of norms, benchmarking and use of 'soft law' (see Box 2.1), seem to exemplify a kind of policy co-ordination with neither Commission nor national agencies enjoying primacy. Instead, they interact and co-operate at the transnational level. Using a hybrid mixture of hard and soft law, and relying on coordination between national and supranational institutions, has become a common feature of policy making within the EU.

Box 2.1 Hard Law and Soft Law

Soft law is the term applied to EU measures such as guidelines, declarations and opinions, which, in contrast to directives, regulations and decisions, are not binding on those to whom they are addressed (the term hard law is reserved for the latter category of legal instruments).

It is claimed that soft law may impact on policy development and practice precisely by reason of its lack of legal effect as it exercises an informal 'soft' influence through, for example, the demonstration effects of pilot projects, which illustrate possibilities and exert a persuasive influence. Soft law tends to be used in the EU context where member states are unable to agree on the use of a 'hard law' measure, which is legally binding, or where the EU lacks competence to enact hard law measures. The member states and EU institutions are thus able to adopt EU policy proposals, while leaving their implementation optional for those member states who do not wish to be bound.

While a recognition of the role of both hard law and soft law is critical in understanding some key developments in the EU, it may be the case that, in some spheres, policy approaches are combined in ways that render the distinction irrelevant or misleading (Armstrong, 2010).

2.4.4 Policy Co-ordination

Policy co-ordination has developed in the absence of a strong mandate of the EU to accomplish matters in a particular area, even though the Commission may have believed that some form of collective action is necessary. For instance, in the 1970s the Commission would have encouraged systematic consultation between member states on environmental issues and then made a case for the Single European Act to give the EU formal legislative powers (Wallace, 2005: 85). Policy co-ordination was then intended as a transitional arrangement between nationally rooted policy making and a collective regime of the European Union. For advocates of a strong European regime, policy-co-ordination was seen as a useful starting point but was still considered less than optimal.

In the 1990s, policy coordination became more prominent thanks to developments in monetary and employment policy. Preparations for monetary union first centred on a set of convergence criteria, agreed at Maastricht, in preparation for eventual monetary union. These included a budget deficit of 3 per cent of GDP or less, public debt levels of 60 per cent or less, and a stable exchange rate. National governments were free to meet those goals in a manner that they deemed appropriate and there were annual assessments as member-states reported on their levels of convergence towards the designated targets. The process did not exhibit explicit sanctions since eventual membership of a common currency was a sufficient incentive. As monetary union came closer and macroeconomic convergence more intensive, this element of EU activity was largely managed by policy coordination rather than the traditional Community Method.

The second development that promoted policy coordination was an increased EU focus on employment. At a summit meeting in Essen in 1994, governments agreed a number of objectives to combat unemployment including investing in human capital, reducing non-wage labour costs and moving to active labour policies. The European Commission was to monitor national developments and report to the Council. Reflecting these developments, the Treaty of Amsterdam committed the EU to the achievement of a high level of employment through the promotion of a ‘skilled, trained and adaptable workforce’ and the encouragement of labour markets responsive to economic change. Under Article 126, the Community would work towards this goal by ‘encouraging co-operation between member states and by supporting, and if necessary, complementing their action’. At a meeting in Luxembourg in 1997, the European Council adopted the European Employment Strategy, which strove to improve employability, create a new culture of entrepreneurship, encourage the adaptability of firms and workers and strengthen equal opportunity policies.

Every year, member states would agree on Employment Guidelines specifying common objectives and would draw up a National Employment Action Plan. The Commission, in conjunction with the Council, would then publish an employment report that would assess and evaluate these plans. If necessary, the Council would adjust the guidelines. Whilst the Amsterdam Treaty authorised a new goal for the EU—the co-ordination of national employment policies—it did not provide for any new resources. So, just as the regulatory mode reinvented itself by encouraging national agencies to benchmark against each other, a similar act of policy coordination was carried out in the area of employment. These procedures of the European Employment Strategy were eventually labelled the Open Method of Co-ordination (see Box 2.2) at the Lisbon summit of 2000 as a means of spreading best practice and achieving convergence towards established EU goals.

The OMC has been the subject of considerable debate. Advocates believe that it is ideal for addressing common European concerns while respecting national diversity, since it commits member states to work together in reaching shared goals and performance targets, without seeking to homogenise their inherited policy regimes and institutional arrangements. It is also seen as helpful in establishing a consensus around distinctive common objectives and values and in promoting experimental learning and deliberative problem solving, insofar as it pushes member states to exchange information, compare themselves to one another, and reassess current practices in light of their relative performance.

Other have been more sceptical, arguing that the OMC has been insufficiently open and transparent, with bureaucratic actors playing a dominant role at both EU and national levels. The OMC has often been conceived of as an EU reporting mechanism rather than a device that could reconfigure operational policies in many complex areas, despite some of the successes adverted to above. In a related vein, there have been too few examples of cross-national learning and diffusion of good practices. But Zeitlin argues that these shortcomings 'arguably stemmed not from any intrinsic weaknesses of the OMC per se, but rather from procedural limitations of specific OMC processes' (Zeitlin, 2007: 6). These limitations pertain to the adoption of targets and indicators but without agreed national action plans, systematic monitoring and peer review and little follow-up in terms of country-specific recommendations. Zeitlin suggests conducting an OMC on those policy areas deemed to be falling short, through benchmarking them against more successful policy areas such as social inclusion, organising a peer review to evaluate why these policy areas are falling short and conducting a redesign in light of the lessons learnt.

Box 2.2 The Open Method of Co-ordination

The Open Method of Co-ordination (OMC) was defined, in the Conclusion of the Lisbon European Council, as follows:

- Fixing guidelines for the Union combined with specific timetables for achieving the goals that they set in the short, medium and long terms;
- Establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different member states as a means of comparing best practice;
- Translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account regional and national differences;
- Periodic monitoring, evaluation and peer review organised as mutual learning processes.

OMC thus uses benchmarking, best practice and mutual learning in the development of national policy, and also emphasises subsidiarity. It is described as a process that is both supportive of member states in their reform efforts and respectful of their legal competences. This flexible method involves:

- Agreeing to common objectives that set out high-level shared goals to underpin the entire process;
- Agreeing to a set of common indicators that demonstrate how progress towards these goals can be measured;
- Preparing a national strategic report where member states outline a plan through which to achieve those objectives;
- Evaluating national strategies, a joint undertaking between the Commission and member states.

Despite these core elements, OMC processes, as they have evolved, vary considerably from one policy field to another The specific nature of the policy area in question, the Treaty basis of EU competence and member states' willingness to take joint action are all key determinants in this respect. Commitments based on OMC-type processes were extended from employment under the EES to social inclusion (Nice Council, 2000), pensions (Stockholm, 2001) and healthcare (Gotenberg, 2001). Additional OMC-like processes exist for research and innovation (Spring European Council, 2003), information society, enterprise and e-business and education. Nonetheless, employment policy under EES and Broad Economic Policy Guidelines in macroeconomic policy are Treaty-based, unlike the other OMCs that emerged post-Lisbon. As a result, these OMC-type processes are viewed to have a more ambiguous legal and institutional status.

Craig and De Burca (2008) offer a balanced appraisal of the OMC and by extension, policy co-ordination:

> For now, the significance of the OMC is in the fact that it was a policy instrument specifically designed and introduced as an alternative to hierarchical, prescriptively detailed and binding law making. It was intended as a more flexible instrument which would simultaneously facilitate a degree of policy co-ordination and yet also accommodate diversity between the States. And despite its shortcomings and failures in delivering on the strategic goals of the Lisbon summit, OMC-like processes ... continue to be adopted in a whole range of very different policy fields [and they instance anti-terrorist policy and GMO regulation] (Craig and De Burca, 2008: 154).

Not only do different forms of policy co-ordination continue to spring up, but some have become quite durable, leading to a growing intensification of activity, often outside the formal and established apparatus of EU governance.

2.4.5 Intensive Transgovernmentalism

Some examples of policy development and co-operation have mainly depended on interaction between member states with relatively little involvement of EU institutions. One of the most noted examples is the Schengen agreement of 1985, whereby Belgium, France, West Germany, Luxembourg and the Netherlands abolished border controls between them without reference to the other members of the Union. Since then, this kind of extra-EU activity has been extended in a development that Wallace characterises as 'intensive transgovernmentalism'. This policy mode usually touches upon sensitive areas of state sovereignty, such as monetary or security policy, which lie beyond the core competencies of the European Union. Wallace distinguishes this from the more traditional process of 'intergovernmentalism' that occurs in the work of the European Council. This kind of co-operation is rather limited and sporadic, in contrast to those instances in which 'EU member governments have been prepared cumulatively to commit themselves to rather extensive engagement and disciplines, but have judged the full institutional framework [of the EU] to be inappropriate or unacceptable, or not yet ripe for adoption' (2005: 87).

Viewing the processes of policy making in monetary, foreign and security policy in the medium to long-term shows that transgovernmentalism does not necessarily remain aloof from the institutions of the EU or its typical policy processes. For example, monetary union grew from sustained interaction of European Union officials, finance ministers and national leaders and central bankers. Once the idea of a single currency became acceptable and the EU endorsed it, the development of the EU bifurcated between a type of Community Method—member-state delegation to a strong principal in the form of the European Central Bank that promotes a collective regime—and a form of policy-co-ordination designed to achieve to principles of the Stability and Growth Pact.

Surveying the three policy fields of monetary, foreign and security policy, Wallace (2005: 89) suggests that

> New areas of sensitive public policy are being assigned by EU member governments to forms of collective or pooled regimes, but using institutional formats over which they retain considerable control. These regimes have soft institutions, though the arrangements of EMU have gone the furthest in hardening the institutional arrangements. Yet, these soft institutions sometimes seem capable of developing 'hard' policy, or at least to be aimed at creating capacity to deliver 'hard' policy.

Intensive transgovernmentalism has been one of the most important and dynamic forms of policy making within the EU for the last decade. This is not just because it has touched upon sensitive areas of state sovereignty but also because it has introduced them into a collective regime that has dynamically transformed the institutional characteristics of the EU. This policy mode should not be understood as either an intergovernmental approach or as a supra-national one. It is not the former, because member states are often unsure of what their interests and preferences are in terms of transnational co-operation over security or foreign policy; but they are aware that they are affected by common policies and need to wield some influence. It is not the latter, because member states are wary of ceding power to some supra-national body yet are still willing to submit to some form of collective regime.

2.4.6 Integrating Diverse Policy Modes

There are important conclusions to be drawn from this review of EU policy making. The first is that the more hierarchical methods of governance, like the Community Method, have encountered some intrinsic difficulties that have impeded their success. Perhaps the two most important are the interconnected issues of implementation and diversity. Implementation issues arise because of the problems the Commission has encountered in trying to ensure that EU directives are properly transposed and enforced. And problems of diversity relate to the issue of ensuring that directives are sufficiently sensitive to the conditions that they regulate. Other methods of policy making have developed, such as the regulatory mode or policy coordination, in an attempt to deal with the issues of implementation and diversity. This suggests that there may be a number of commonalities between these different policy modes. The next section explores this possibility.

2.5 The Underlying Architecture of EU Governance

Theorists of EU integration have been likened to blind men touching an elephant, each touching a different part and describing a different animal. Some choose to emphasise the deliberative nature of policy making as initial preferences are transformed through discussion as better reasons emerge. Examples of deliberation include the process of 'comitology' and the regulatory networks. Others highlight the relative informality of this process as it is not bound by prescriptive legal instruments but can be highly structured, as the discussion on the regulatory mode demonstrated. Still more analysis draws attention to the multi-level nature of policy making within the EU as organisations and individuals from local, regional, national and supra-national level might be connected without a formal line of authority. The distributional mode of policy making exemplified the clearest examples of this, although all five modes share in it. Some scholars have suggested that this means that the EU is witnessing the emergence of 'new forms of governance', which stand in stark contrast to the top-down governing approach by central institutional actors, leading to binding, uniform rules (Craig and De Burca, 2008: 146). Box 2.3 below summarises some of the reasons why this 'new governance' approach has become so prominent at EU level in recent years.

Sabel and Zeitlin (2008) do not disagree with those analyses that identify some of the distinctive features of EU policy making. However, they argue that these analyses may be in danger of overlooking the 'underlying architecture of public rule making in the EU: the fundamental design for law making, and the way this design transforms the distinct elements of EU governance by connecting them into a novel whole' (*ibid.* 273). As documented in the last section, the boundaries between the different forms of policy making have tended to blur, with the classic Community Method becoming more accessible to other institutional influences, while the softer forms of co-operation have often produced tangible gains in sensitive policy areas. It might even be suggested that they are beginning to display a shared logic or architecture despite the differences in relevant actors and instruments. Wallace herself recognised this when she granted that 'it is becoming harder to identify the contours of a single coherent EU regulatory mode' (2005: 82), and admitted that the various categories of policy making 'overlap and spill over into each other' (Wallace, 2005 *et al*: 487).

Sabel and Zeitlin suggest that these new forms of governance share an underlying architecture, which can 'neither be mapped from the topmost directives and Treaty provisions nor read out from any textbook account of the formal competences of EU institutions [and yet] regularly and decisively shapes EU governance' (2008: 273). This underlying architecture of what Sabel and Zeitlin term 'experimentalist governance' has the following features:

- Framework goals (such as full employment, social inclusion, or 'good water status') and measures for gauging their achievement are established by joint action of the member states and EU institutions;
- National entities (such as ministries or regulatory authorities and the actors with whom they collaborate) are given the freedom to advance these ends as they see fit;
- In return for this autonomy, they must report regularly on their performance, especially as measured by the agreed indicators, and participate in a peer review in which their results are compared with those pursuing other means to the same general ends;
- The framework goals, metrics, and procedures themselves are periodically revised by the actors who initially established them, augmented by such new participants whose views come to be seen as indispensable to full and fair deliberation (Sabel and Zeitlin 2008: 273–74)

These features are not specific to one particular policy mode or set of institutions. Rather they can be performed through a variety of different forms of policy making or set of institutional arrangements, as was hinted at in the review of the five policy modes. Sabel and Zeitlin suggest that this form of working took root in four areas of policy between the mid-1980s and 2000, namely the reregulation of privatised network infrastructure, public health and safety, social solidarity, and justice and home affairs.

Why has this model of dynamic learning proved so fertile? Several institutional facets of the European Union make it so. As the European Union has extended itself into sensitive policy areas, use of the Community Method is often considered inappropriate by member states. This serves as a reminder that the European Union cannot be considered as akin to a typical state with a single source of authority at its apex. Rather there are multiple sources of authority, spread out amongst the different institutions of the EU and throughout member states. This makes a model of hierarchical control untenable, perhaps even in the instances, such as occupational health and safety, in which EU law has priority. Hence, the move away from harmonisation and the affirmation of the principle of mutual recognition in many policy spheres. Apart from the institutional impossibility of constituting a single source of authoritative rule, the nature of the problems confronting the EU make a form of recombinant rule more attractive; that is to say, different sources of authority are deliberately conjoined to achieve a beneficial outcome that could not be achieved without these arrangements.[2]

With the Community Method as classically understood, powers were to be divided between member states and EU institutions in a zero-sum way with discrete authority residing at distinct levels of governance based upon a settled division of competences. In reality, the picture is far more fluid, so that member states or national organisations are 'not passive recipients of federal ordinances' but 'active equal co-participants in the iterative process of reform' (Scott and Holder, 2006: 234). Yet this combination of framework goals, decentralised execution and reporting has gone relatively unnoted precisely because it does not adhere to a strict demarcation of powers. A forum like the Common Implementation Strategy (CIS) in the case of water quality is not given existence through law and thus appears to operate in a 'legal black hole'. This lack of legal certainty around CIS does not mean that its operation is either arbitrary or ineffective; on the contrary, it functions on the basis of routinised procedures and established provisionally settled practices ensuring that it is 'law-like' in practice (see Chapter 7).

2.6 The Interactive Nature of EU Governance

The emergence of experimentalist governance illustrates one of the principal paradoxes of the European Union, namely that 'at the same time that the European governance style is becoming more extensive and more interventionist, it is also becoming less interventionist in some ways' (Peters and Pierre, 2009: 100). More interventionist in terms of its expansion into numerous policy areas, but often less interventionist in terms of the lack of direct action it undertakes. Often, it seeks to regulate the action of others to encourage them to accomplish certain tasks.

2 The term recombinant governance is used by Crouch (2005: 3) to elaborate the way in which 'individuals seek ways to do things which until now have proved impossible. They cast around for elements of institutions that they could recombine in unusual ways at opportune moments in order to produce change.' It is based on an analogy with recombinant DNA that does not exist naturally but is created by combining DNA sequences that would not normally occur together, to achieve a beneficial purpose such as boosting immunity.

Box 2.3 Why Do We See Increasing Use of New Governance in the EU?

a. Increasing complexity and uncertainty of the issues on the agenda

New governance can be seen as a way of coping with complex problems under conditions of uncertainty. For example, the unexpected complexities involved in 'reregulation' under the single market led to the emergence of the comitology system, and as the Union moves into the new areas such as employment and social exclusion it starts to tackle problems that have stymied many member states for years and for which no easy or uniform solution exists.

b. Irreducible diversity

Not only are many of the problems the Union is now dealing with highly complex, they also may simply not allow for uniform solutions. The underlying systems of industrial relations and social protection of the 27 member states vary tremendously, and there is rarely one solution that will work effectively in all these diverse settings.

c. New approaches to public administration and law

In domestic administrative law and public administrative practice in Europe and the United States, there has been a growing recognition of the limits of traditional top-down regulatory approaches, and repeated calls for things like power sharing, participation, management by objectives, and experimentation.

d. Competence 'creep'

Some of the new approaches may have been adopted to deal with areas where legal authority for EU- level action was limited or non-existent. There is no explicit treaty base for such areas as social exclusion and pensions. In such cases, new governance may or may not be the best available approach to policy making, but it may be the only way the Union can play a role in a particular domain.

e. Legitimacy

New governance often reflects an effort to secure legitimacy for EU policy making. The social dialogue seems to solve some of the democratic deficit problems in the area it covers by essentially delegating law making authority to representatives of the parties to be affected by these laws.

f. Subsidiarity

The strength of the subsidiarity doctrine has certainly added impetus to the trend.
[sourced from Scott and Trubeck 2002]

This form of interaction confirms the validity of NESC's *interactive* perspective on political integration within the European Union, but also extends it. Both the national interests of member states and the supra-national orientation of EU institutions are essential for successful policies within the EU and they increasingly operate within a framework of experimentalist governance such as outlined above (Sabel and Zeitlin, 2010), although there are significant areas where this is not the case (see Chapters 5 and 6). EU institutions increasingly operate by setting the framework within which national institutions have the freedom to reach the goals set by the EU, such as an environmental goal like 'good water status'. This kind of autonomous working is often more demanding than simple compliance with an EU directive, since it demands continuous monitoring and review, both at the national level and with institutions from other member states. And it calls for these lessons to be incorporated within general policy at the EU level, which can then be revised in light of empirical findings about relative progress in various member states.

Whilst this model of working contains apparent continuities with how the EU was governed in the 1990s, there are also significant differences. The interactive perspective stressed the importance of national administrations working in tandem with EU institutions, but the way in which they do so has changed considerably. Member states have always been involved in EU policy making through negotiations in the Council and in being responsible for the implementation of agreed policies. However there is 'increasing complexity in the interactions between "Brussels" and national governance, and there is evidence of increasing contention and contestation around the ways that the boundaries are drawn between these two layers of governance' (Pollack *et al.,* 2010: 486). Although it is true that there is increasing contestation within EU governance, for a variety of reasons, it is equally true that there are heightened signs of co-operation. For example, as we show in Chapter 3, competition policy has witnessed the emergence of an increasingly cohesive network of national competition regulators; the single market programme relies on national financial and utilities regulators to devise and implement EU policies; and as discussed in Chapter 9, the realm of justice and home affairs has given birth to a number of specialised agencies to facilitate information exchange and co-operation.

In some respects, co-operation has arisen because of greater contestation over both the appropriate boundaries of traditional EU competences and uncertainty about how to proceed in nationally sensitive policies such as monetary or justice policy. In traditional policy areas, the nature of policies themselves has become more complex as has the environment in which they operate. Taking a core EU competence like the establishment of a single market, it is now recognised that as most legal barriers to trade have been formally removed, the emphasis must shift to making sure they are eliminated in practice, and firms and consumers take advantage of new opportunities (Young 2010: 128). Likewise, another core EU competence agricultural policy, has become more complex as it has incorporated consumer and environmental concerns and developed a component dedicated to rural development (Roederer-Rynning, 2010). Making progress in each of these increasingly complex policy areas requires national administrations to take a greater role than before in both implementing agreed common goals, such as furthering the single market, and balancing these goals with other agreed principles or objectives.

The policy environment has also changed considerably thanks to developments such as enlargement, which has made relatively uniform policies more impracticable, and globalisation, which have added impetus to the pressure for change. Considering the aggregate effect of all these changes has meant that the traditional 'Community Method' with the Commission driving policy, backed up by the European Court of Justice (ECJ), has become less dominant but is still hugely important.

These changes may mean that 'negative integration' has undergone a subtle change. Whereas previously it referred to the removal of national rules that impede economic exchange, it may be the case, as the single market advances, that a greater rapprochement with national concerns and integration with national practices is needed. The recent Monti report, *A New Strategy for the Single Market*, said much the same thing:

> 'if the market and the social components do not find an appropriate reconciliation, something has to give in ... [yet] it is by no means clear that it would be the market, i.e. the single market, to prevail' (Monti, 2010: 26).

Monti asked and answered a hypothetical question about whether such a consensus-driven approach is really necessary: 'Is not the single market an area of clear Community competence, with the Commission entrusted with the function of enforcing the rules and the powers to do it?' (*ibid.,* 21). Monti supplies two reasons why consensus is necessary: first, to avoid a potential backlash following vigorous enforcement and, second, to ensure the adoption of new rules or policies designed to re-launch the single market. In fact, late in the report, Monti supplies a third reason, namely that effective implementation and enforcement of the requisites of the single market could best be facilitated through the creation of an EU network of alternative dispute resolution centres. EU law would define the set-up, powers and procedures of these centres that would maintain the advantages of proximity to citizens, knowledge of local laws and respect of subsidiarity (*ibid.,* 101).

The novelty of this new form of negative integration is that the alleviation of barriers to the single market is less centred in the Commission and the ECJ. Now identification of obstacles is to be carried out through various national and regional bodies and often they are intended to resolve problems as well. For example, the Grech report on the single market, from the European Parliament, calls for a 'partnership among all stakeholders' to facilitate the improved transposition, application and enforcement of single market legislation. It also has requested the Commission to 'develop new ways, other than formal infringement procedures, to improve the transposition and enforcement of single market rules' (Grech, 2010: 12). One possible effect of incorporating a greater number of stakeholders in the process of negative integration is that its end goal may be significantly adjusted. Whereas previously it was focused on the elimination of obstacles to the operation of the single market, the contemporary version of 'negative integration' may involve a balancing between the imperatives of the market and the social demands of affected parties (see Monti, 2010: 71).

It may also be true that 'positive integration' has been affected as well. Traditionally, it has often been viewed as a matter of replacing distinct national rules with common European rules; increasingly, the diversity of the EU itself, as well as the complex nature of policy problems, has meant that it has become more difficult to formulate rules in these terms. This has shifted the emphasis from a commonality of rules toward a co-operation within networks and comparison within procedures. Just as with the redefined model of negative integration, this involves much more intensive and sustained work on the part of national institutions and networks.

2.7 Implications for National Policy and Practice

If NESC's past lessons concerned the importance of national policy and the innovative effects that EU integration had upon national institutions, do these lessons still hold? Yes, but with a difference. In the past, there was a greater distinction between national and EU policy and NESC emphasised the necessity for Irish domestic policy to be developed and articulated *in light of* whatever policy was agreed at EU level. Now it is much more the case that national policy is configured *in tandem with* EU policy, a much more embroiled engagement.

The two systems, national and European, are 'nested' in each other. Nested refers to the way in which one system fits in with another larger system and how both systems draw sustenance from each other (Ferrera, 2009). For instance, a national system of environmental protection is not just part of Irish society; it also is involved or nested in a larger European structure of concern with the environment. National systems are essential for ensuring the implementation of EU environmental law; the informal fora organised under the umbrella of the EU are vital in establishing what constitutes good practice by encouraging forms of peer review. In many policy areas, the accomplishments of the EU and work within member states are not opposed but complementary. The EU provides a sheltering space for work within the national arena, but can also encourage innovation and experimentation by opening up national practice to peer review and comparison. If self-discovery is considered to be an increasingly important part of democratic life, then the multi-level nature of the EU can aid this process of discovery. In describing how organisations and systems are nested in each other, it is important to appreciate how

> no single level is decisive in shaping the world in which we live. Moreover, the levels are nested and linked with each other. One of the great challenges of our time is to comprehend the nature of this nestedness, to understand how governance, democracy and knowledge are linked together not only at each of these levels but how these processes are linked together across different levels. As societal institutions are increasingly nested in a multi-level world, we are all faced with the perplexing problem of how to govern ourselves (Hollingsworth and Muller, 2008: 416).

PART TWO

Ireland's Experience and Changing Engagement

3

The Internal Market

3.1 Introduction

This chapter discusses the internal market since the early 1990s. Section 3.2 outlines the internal market programme and summarises some of the ways in which it has been analysed internationally. Section 3.3 describes Ireland's experience in the internal market. It begins by noting institutional responses and then considers trade and FDI, mergers and acquisitions, productivity and innovation. Section 3.4 discusses the networked sectors, particularly telecommunications and energy, describing and assessing the way in which the EU regime was applied by the Irish Government. In Section 3.5 we describe the evolution of the EU internal market model—from rules to frameworks for creating rules—and illustrate it in the areas of competition policy, energy policy, state aids and, perhaps, in the wider internal market agenda. Section 3.6 draws conclusions from this discussion of the internal market, highlighting the way in which it demonstrates some of the core arguments and messages presented in Chapter 1. In describing these developments we refer to both the internal and the single European market, for which we adopt the widely used acronym SEM.

3.2 The Internal Market: EU Method and Economic Analysis

3.2.1 Mutual Recognition and New Approach to Harmonisation

A New Regulatory Strategy

In the 1958 Treaty of Rome the member states adopted the goal of a common market, involving free movement of goods, services, capital and labour. By the early 1980s it became clear that only the first of these 'four freedoms' had been achieved. Indeed, cross-border trade in many goods was qualified by the 'non-tariff barriers' arising from the proliferation of different national standards for health, safety, environment, consumer protection and sector regulation. The process of harmonising standards for goods had become bogged down in protracted technical and political wrangling. Progress on free movement of services, capital and labour had scarcely begun. As a result, only 270 directives were adopted between 1969 and 1985 (Young, 2010).

In 1985 the European Council adopted a white paper, devised by the Commission, entitled *Completing the Internal Market*. The white paper set out over 300 directives and other measures necessary to 'complete' the market and a timetable for their legal enactment. This agenda was underpinned by the Treaty changes introduced by the Single European Act (SEA), particularly the extension of Qualified Majority voting (QMV).

Substantively, the internal market programme involved the deepening of the common market in goods, and the extension of market integration and cross-border competition to services and public procurement. This was a major change, given the importance of services—such as banking, insurance, capital markets, telecommunications, road haulage, air transport, the professions and post—and the scale of public contracts in all member states. This agenda was accompanied by extension of EC policy in the areas of social regulation, regional development, environmental protection and research and technological development. Further economic measures were added subsequently, such as the internal market in energy, a new Merger Regulation to extend the existing competition policy, changes in external trade policy and support for trans-European networks. The sectoral composition of single market measures is revealing: agricultural products accounted for 36 per cent, manufactures 32 per cent, energy and transport 8 per cent, financial services 6 per cent, free movement of persons 1 per cent and other (including consumers, public procurement, social policy and taxation) 17 per cent (Young, 2010; European Commission, 2008a).

As explained in Chapter 2, a central innovation in the internal market programme was the introduction of 'mutual recognition'. Mutual recognition of the legality of products and services, deriving from the *Cassis de Dijon* ruling of the ECJ (1979), was adopted as the default principle. This established free movement, even where member states invoke Article 36 (EEC) on grounds of health and safety, so long as the national regulatory objectives are 'equivalent'. This greatly reduced the range of national laws and policies that need to be harmonised to create a European market.

But it was clear that, in many sectors, mutual recognition is not acceptable or wise. Examples include manufactured products that can pose a threat to health and safety, and services—such as finance, energy, telecommunications and professions—in which regulation is necessary to address asymmetry of information, systemic risk, monopoly power and consumer safety. In these cases, mutual recognition must be preceded by harmonisation of national regulatory provisions. Here, further important changes were introduced. Where harmonisation or 'approximation of laws' was deemed necessary, QMV was introduced on most internal market matters, by means of the revised Article 100a.

A second innovation in the internal market programme was the 'new approach' taken to standard setting and certification. The traditional approach involved seeking agreement in the Council of Ministers on detailed European standards and provisions. This was replaced by an approach that defined the 'essential requirements' that products or services must meet (Pelkmans, 1997). These were defined in 'horizontal' directives, such as the Machinery Directive or the Chemicals Directive, rather than directives on each type of machine or chemical. There follows a procedure in which European standards organisations—such as CEN, CENELEC or EMEA—define a harmonised standard. Firms that comply with it can 'self-certify', subject to the operation of a quality assurance scheme, such as ISO 9000. But the harmonised standard is not compulsory for companies. They can choose to adopt an alternative specification, as long as compliance with the 'essential requirements' is demonstrated, through a third-party certification body. The 'CE' mark can then be affixed to the product, indicating that it complies with the essential requirements of all relevant directives. At that point the principle of mutual recognition should apply.

In solving the problem of technical harmonisation in a diverse, quasi-federal, union, the EU may have solved a governance problem that now confronts business and policy worldwide. Over 70 countries, including the US and Japan, have adopted at least some of the EU directives, such that they are becoming global standards, giving a single compliance process for access to many markets. Many EU companies are demanding that their non-EU suppliers comply with the EU directives. Rather than writing laws that state the specifics of every product, the EU directives are generic in nature. 'They are written so that they do not need to be updated every time there is a technological advance' (Bailey and Bailey, 1997).

The balance between mutual recognition and harmonisation determines the balance between deregulation and reregulation in the internal market. That balance varies across sectors, across member states and across professional groups. Without a detailed account, we can illustrate the possible combinations of deregulation and reregulation, and effects that these have had. In sectors that had separate national markets, such as defence equipment, the overall process has greatly increased the level of competition. In sectors where there are enduring reasons for a significant level of regulation, such as banking and insurance, the internal market has meant increased competition in the context of a complex reregulation and a virtual sector policy at EU level (Moran, 1994; Molyneaux, 1996). The internal market programme encouraged more vigorous implementation of existing EU policies, particularly competition policy, in sectors that had seemed too difficult or sensitive before, such as passenger air transport. In certain sectors, the internal market programme has provided an institutional framework favourable to high quality production through voluntary quality standards. In sectors where mutual recognition could pose a danger to health, safety and consumer protection, the internal market programme has provided a remarkable new mechanism for establishing standards, as noted above. The EU has sought to define the regulatory environment in *new* sectors, such as telecommunications, the development of which is dependent on a clear definition of property rights (Grande, 1996). In some new technology sectors, where problems of collective action may limit the emergence of market-driven standards, EU technology policy actively promoted a European standard (HDTV in televisions and GSM in mobile phones, see Dai *et al.,* 1995). The EU is seeking to create a European market in certain sectors, such as energy, which have not been internationalised autonomously by business, as we discuss in Section 3.5. Young concludes that, overall, 'it is more appropriate to describe the SEM as reregulatory than deregulatory' (Young, 2010: 119)

This deregulatory and reregulatory impact of the internal market is sometimes discussed in terms of 'negative integration' and 'positive integration'. Negative integration, which historically occurred through the ECJ striking down national rules, was revived by the mutual recognition principle. The internal market programme and the Single Act altered the institutional framework for 'positive integration', agreeing common rules to replace national ones. Table 3.1 gives an indication of the balance between deregulation/negative integration and reregulation/positive integration in the internal market. It is clear that, even in market integration, there is a very significant amount of positive integration and reregulation. 'With regard to economic regulations—such as controls on prices or competition—the

SEM has been liberalising. With regard to social regulation, such as consumer protection or environmental product standards, the SEM has tended to increase competition among European firms, but by producing relatively stringent common rules' (Young, 2010: 124–4; Sbragia, 1992, Peterson, 1997; Scharpf, 1999; Young and Wallace, 2000).

3.2.2 The Internal Market and the 'Relaunch of European Integration

The internal market programme and this new regulatory strategy became the 'big idea' around which European integration was revitalised. The programme, and the huge amount of work done on it have to be viewed in both analytical and rhetorical terms. The enormous 'Cecchini studies' were used to sell the idea of the internal market, disseminate a technical language for discussing it and provide analytical insights into its effects (European Commission, 1988). Thus there emerged a language or set of ideas that galvanised political support, motivated business action and, to a significant extent, describe the emerging system of European governance. The language included 'the single market', 'non-tariff barriers', 'liberalisation', 'deregulation', the 'level playing-field', 'mutual recognition', 'home-country authorisation', 'host-country regulation', 'new approach harmonisation', 'minimum essential requirements', 'third-country reciprocation', 'economies of scale', 'intra-industry trade' and 'competition-driven innovation'. The dissemination and use of this language was itself a significant factor in the evolution of the EU in the past fifteen years. It is interesting to consider whether an equivalent terminology and dissemination process, capturing the key challenges that the EU now faces, exists and can used to mobilise engagement. The recent Monti report, *A New Strategy for the Single Market* might be seen as an attempt to formulate such a vocabulary and shared understanding, as we discuss in Chapter 10.

Table 3.1 The Significance of Different Modes of Market Integration

Type of integration	Mode	Description	Estimated share of intra-EU trade accounted for by affected products
Negative	Mutual recognition principle	Different national standards assumed to be equivalent in effect	50%
Positive	'New approach'	Common objectives with reference to voluntary standards	20%
	Approximation	Common detailed rules	30%
	Common authorisation	Common approval of individual products required	Pharmaceuticals, GM crops and food

Source Young, 2010, and Commission (2002).
Note No percentage available for 'pharmaceuticals, GM crops and food'.

3.2.3 The Expected Effects of the Completion of the Internal Market

In its 1989, report *Ireland in the European Community: Performance, Prospects and Strategy*, NESC provided a detailed review of the theory of economic integration. Much of that analytical work remains relevant in reviewing Ireland's experience of European integration since the early 1990s. Here we summarise some of the main effects that the completion of the internal market was expected to have.

The internal market programme involved the removal of non-tariff barriers to cross-border trade, investment and mobility. The analysis identified two main channels through which the SEM programme would impact on business and the economy, 'size' and 'competition'. 'Size' referred to the possibility that reduced costs, increased demand and better market access would allow firms to exploit economies of scale. The race to acquire scale and the subsequent competition to lower costs could initiate a major restructuring. This was expected to include increased merger and acquisition (M&A) activity, both within member states and across borders. 'Competition' referred to the possibility that increased competition would force previously sheltered firms into competition with each other. This was, in turn, expected to boost EU productivity through three mechanisms (Pelkmans, 2007). Price convergence was expected to prompt increased *allocative efficiency* as resources were reallocated both within and between firms. Competitive pressure was expected to induce greater *technical efficiency* as firms improved the output they achieved from given inputs. Finally, and most ambitiuosly, competition was to induce product differentiation through innovation, thereby increasing *dynamic efficiency*. The operation of this mechanism led some to expect that the SEM would have a dynamic impact on those sectors in which non-tariff barriers were high, technological development was significant and the outlook for market growth was good (Emerson *et al*., 1988).

3.3 The Irish Economy in the EU Internal Market

3.3.1 Mobilisation and Institutional Development

During the 1980s, the internal market programme was successfully communicated throughout Europe and greatly increased interest in, and knowledge of, European integration. In Ireland, this was evident in the mobilisation of public agencies and firms to prepare for the deepening of market integration. Government and its industrial policy agencies organised a major programme to inform Irish economic and social actors of the threats and opportunities arising from the deepening of the internal market and its extension to new sectors. Both employers' associations and unions were actively involved in this information-sharing, analysis and preparation. For Irish companies that had survived the shake-out of the early 1980s, and for new firms, the internal market provided both new market opportunities and a focus for their business strategy. Every sector and company was invited to analyse its readiness for intensified competition and wider market opportunities. Issues of peripherality and market access were widely discussed, and the role of improved infrastructure and sophisticated logistics were explored (NESC, 1989).

The internal market programme, started in the mid-1980s, reshaped Ireland's approach to market regulation and the relationship between market, state and society. This is evident in the number and range of independent regulatory agencies established under EU influence and particularly those created since the internal market programme in the late 1980s. These include the Employment Equality Agency (1977), the Director of Consumer Affairs (1978), the Health and Safety Authority (1989), the Pensions Board (1990), the Competition Authority, the Environmental Protection Agency and the Radiological Protection Institute, all established in 1992, the Financial Regulator (established 2003), the Irish Aviation Authority (1994, which became the Commission for Aviation Regulation in 1999) the National Milk Agency (1994), the Food Safety Authority (1995), the Telecommunications Regulator (1997) which became ComReg in 2002 and the Commission for Energy Regulation (1999).

These regulatory agencies were to have three important characteristics. First, they were to be independent of government and politics. The independence from government contrasts with the traditional approach, in Ireland and most other EU countries, which involved public ownership of public utilities—such as electricity, gas, postal services, telecommunications and many other companies—and direct state responsibility for the setting and enforcing of rules in highly regulated sectors, such as financial services. Second, they were to separate supply of a product (or promotion of a sector such as food) from regulation and standard-setting. Third, these new agencies increasingly became part of the networks of European regulatory agencies (Scott and Brown, 2010). For example, the Environmental Protection Agency works in a network with the European Environmental Agency and the agencies in other member states. Research at EU level suggests that involvement in these European networks enhances both the technical expertise and professional standard of independent regulatory agencies (Sabel and Zeitlin, 2008). As we will see in Section 3.5, this increasingly decentralised, distributed or federated nature of public authorities within the EU is an important aspect of its recent evolution, and a key factor that needs to be understood in Ireland (see Chapters 10 and 11 below).

This reconfiguration of market regulation was a major change in Irish public administration and policy (Brown and Scott, 2010). While it moved certain functions from government departments to independent agencies, the internal market programme nevertheless intensified the interaction between the Irish administration and Europe. It increased the EU workload in those departments that had existing relations with the Union, and brought European policy issues, directives and regulations to new departments, such as those regulating services and public utilities.

Having noted the mobilising and institutional impact of the internal market, we now summarise the trends in the Irish economy within the European internal market, focusing on the aspects identified in the analytical framework discussed above: trade, FDI, mergers and acquisitions, prices, productivity and innovation, competition, state aid and public procurement. Given the wide scope of this report, we can only summarise these trends here. A more detailed account and analysis can be found in our background paper on the internal market (Cahill and O'Donnell, 2010)

3.3.2 Trade and Foreign Domestic Investment

The completion of the internal market coincided with a period of exceptional expansion of Irish exports. As shown in Figure 3.1, from 1993 to 2000 exports of goods and services increase threefold in real terms. After 2000 the growth of goods exports slowed while services exports continued their rapid growth up to the current crisis, with a more than doubling of the real volume of services exports since 2000.

The growth of goods exports during the 1990s was driven by high-tech sectors. There was exceptionally strong growth in exports of chemicals and pharmaceuticals, office machines, communications equipment, electrical machinery, professional, scientific and medical equipment and software. Food and drink exports grew by an annual average of 2.4 per cent, while traditional exports overall showed slow growth.

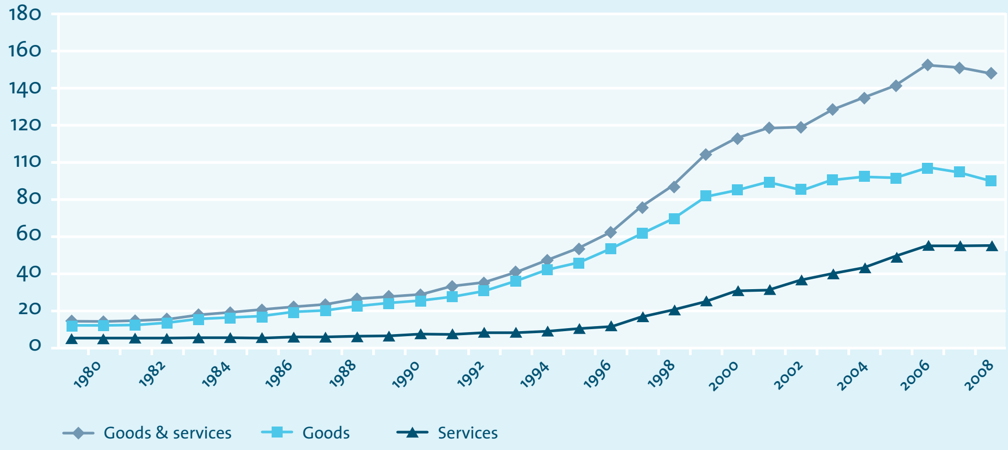
This sectoral pattern reflects the fact that Ireland's export boom in the 1990s was driven by multinationals. The *Census of Industrial Production* from the Central Statistics Office shows that between 1994 and 2000, the manufactured exports of foreign-owned companies grew at an annual rate of 23 per cent in nominal terms, compared to 6 per cent for Irish-owned companies. After 2000, the goods exports of both foreign and Irish firms showed modest growth. Goods export growth became increasingly reliant on chemicals and pharmaceuticals.

A long-term trend is evident in the geographical diversification of Irish exports—a shift from the UK to other EU destinations and the US, as shown in Figure 3.2. Irish exports to the US increased from 8 per cent in 1995 to 21 per cent in 2009. By 2009, the UK accounted for less than one-fifth of Irish goods exports (16 per cent).

The deepening of European market integration would also seem to have reinforced the sectoral pattern in Ireland's export destinations. Food exports continued to rely heavily on the UK market, with almost half of food exports (49 per cent in 2008) going to that market. By contrast, chemicals exports have an unusually low reliance on the UK market (11 per cent), with half going to other EU member states and almost one-quarter going to the US. In the case of machinery and transport, 17 per cent of exports go to the UK and 41 per cent to other EU countries. Likewise, Irish-owned manufacturers rely considerably more on the UK, and less on other EU markets, than multinational exporters. In 2007, 47 per cent of the exports of Irish-owned manufacturers went to the UK, compared to 17 per cent for foreign-owned manufacturers. This leaves indigenous exporters highly exposed to the weakness of sterling, as discussed in NESC's recent report on the euro (NESC, 2010).

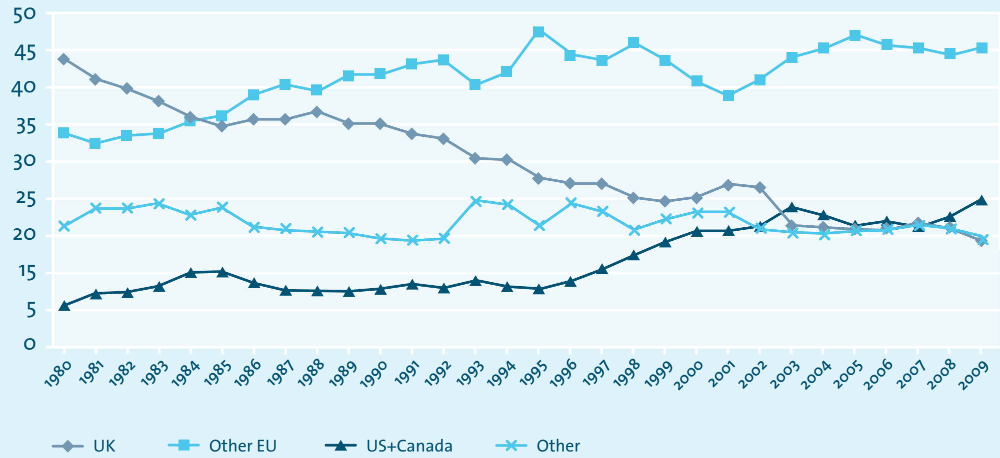
There was also a shift in the geographical source of goods imports. In 1993, the EU (excluding the UK) represented one-fifth of imports (20.3 per cent), while by 2009 this had risen to 28.8 per cent. The UK continues to be the single-largest source of Irish imports (30.5 per cent of imports in 2008).

Figure 3.1 Export of Goods and Services in Constant (2000) Prices (€bns)



Source European Commission, AMECO database.

Figure 3.2 Goods Exports by Destination (Percentage of Total Goods Exports)

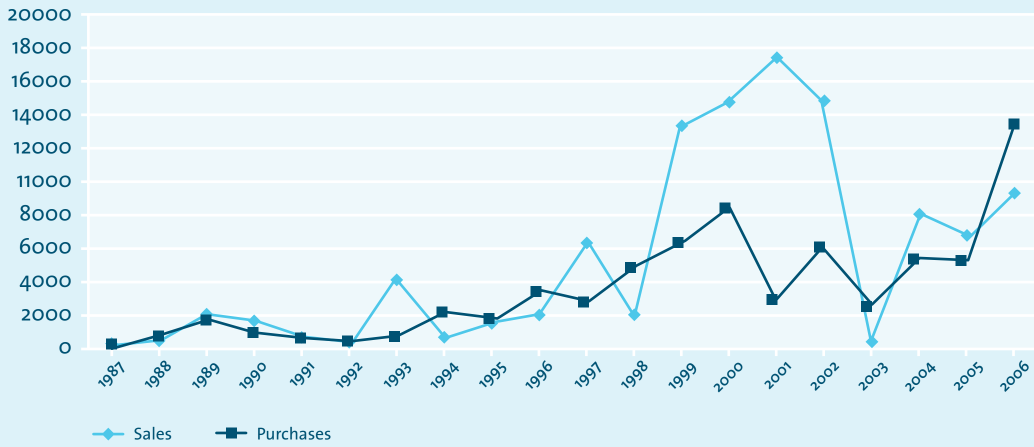


Source http://www.cso.ie/px/pxeirestat/database/eirestat/Trade/Trade.asp

By contrast with goods, the strong growth of service exports that began in the early 1990s continued during the current decade. As with goods exports, the larger part of the growth came from multinationals, but Irish-owned enterprises also achieved strong growth. In 2008, 92 per cent of services exports were from foreign-owned companies, based on Forfás figures.[3]

3 Forfás data on services exports refers to enterprises in sectors supported by Enterprise Ireland and IDA Ireland. Tourism and some professional services are not included. Forfás estimates for total services exports are considerably lower than the official estimates published by the CSO.

Figure 3.3 Index of Cross Border Mergers and Acquisitions: Ireland



Source United Nations Conference on Trade and Development (UNCTDA), http://stats.unctad.org.

Between 1995 and 1999 exports by foreign-owned services enterprises grew in nominal terms at an annual average rate of 41 per cent, while the exports of Irish-owned enterprises also showed impressive annual growth of 21 per cent. Software exports grew at an annual rate of 30 per cent for foreign-owned enterprises and at the even higher rate of 42 per cent for Irish-owned enterprises. During the current decade the exports of Irish-owned services enterprises grew in nominal terms by an annual rate of 10.4 per cent, considerably faster than the corresponding growth rate for foreign-owned enterprises (7.1 per cent). The CSO data show that in 2009 the largest sectors of services exports were computer services (36 per cent) and business services (31 per cent). These were followed by insurance services (11 per cent), financial services (11 per cent), tourism and travel (5 per cent) and transport (4 per cent).

Total Irish exports, in both goods and services, have performed reasonably well during the crisis of 2008–10 (Barry and Bergin, 2010). The concentration of Irish exports in chemicals, pharmaceuticals and medical devices has contributed to the relatively strong performance. Excluding chemicals and pharmaceuticals, goods exports fell by over 14 per cent in value terms in 2009. Food exports fell by 11.5 per cent in this period. The value of services exports fell by just 2 per cent in 2009. Services exports benefited from continuing growth in exports of computer services (software). The volatility of sterling against the euro has added to the current problems of the Irish economy.[4] It particularly affects indigenous manufacturing, tourism as well as the retail sector in border areas.

4 In January 2007, €1 was worth £0.66 sterling while in January 2009, €1 was worth £0.89 sterling. This represents an appreciation of 35 per cent of the euro against sterling over the two-year period to January 2009.

3.3.3 Mergers and Acquisitions

In line with the theoretical expectations discussed above, both Pelkmans (2006) and Ilzkovitz *et al.,* (2007) argue that the internal market had a significant influence on the value of cross-border mergers and acquisitions (M&A) transactions in the EU. Trends in the value of cross-border M&A transactions for Ireland are shown in Figure 3.3. While the series is erratic—large individual transactions can dominate the total value of transactions in a given year—it is clear that there was strong growth in cross-border mergers and acquisitions both in terms of sales and purchases. As with the EU, the internal market appears to have contributed to the growth of M&A transactions involving companies based in Ireland.

3.3.4 Prices

Across the EU as a whole, there is evidence that increased economic integration has led to reduced dispersion in the level of final consumer prices. This convergence typically reflects above average inflation in lower-income member states and below average inflation in the richer member states. In the first half of the 1990s Ireland's inflation was below the EU average. From the late 1990s, Irish inflation moved well above the EU average so that by 2003 the relative consumer price level in Ireland was the second-highest in the EU along with Finland (13 per cent over the EU-15 average) with Denmark having the highest price level (28 per cent over the EU-15 average). Above average inflation in Ireland was particularly evident in the early years of the euro. In the current crisis, prices have fallen faster in Ireland than in other euro area and EU member states.

Relative price trends over the past two decades have been determined largely by macroeconomic factors. These include the large effect on Irish prices deriving from changes in the value of the euro against the dollar and sterling (Honohan and Lane, 2003), high levels of capital inflow and credit expansion since 2004 and pro-cyclical fiscal policy, especially between 2000 and 2002 (NESC, 2009a, 2010). Ireland's excess inflation has been much greater in services. Over the period 2000 to 2008 services inflation in Ireland averaged 4.9 per cent, compared to 2.3 per cent for the euro area. Successive Central Bank *Quarterly Bulletins* have highlighted the particularly high inflation in administered services (i.e. services whose prices are set wholly or partially by a regulatory process). These include energy, health insurance,[5] rail, bus and taxi fares. Administered services inflation remained positive during 2009 when overall inflation was negative.

3.3.5 Productivity and Innovation

In line with expectations, there is evidence that across European economies the single market reduced price mark-ups and increased research and innovation in manufacturing. Nonetheless, a review by Ilzkovitz *et al*., (2007: 53) concluded that 'while the effect of the Internal market on R&D and innovation has been positive, it has not been strong enough to significantly improve the innovation and productivity growth performance of the EU'. For the EU as a whole and for most EU

5 Since 2008 the Minister for Health and Children no longer has a role in setting health insurance premiums. However, health insurance is covered by special regulation (community rating etc.) that has implications for prices.

countries, innovation performance has continued to lag behind the US and Japan. 'Initial expectations that the Internal market would be a launching pad for a more dynamic, innovative and competitive economy at world level have not been met' (*ibid*., 6).

In the case of Ireland, there are well-known problems in the measurement of productivity growth (Honohan and Walsh, 2002; Sexton, 2007, Aylward and O'Toole, 2007). Given the impact of the internal market on inward investment, and other considerations, it is reasonable to infer that it had a positive effect on productivity in the Irish economy. There has also been a marked acceleration of productivity growth in utilities. This is connected to the internal market since, as we discuss below, it had major impacts on these sectors.

The period of completion of the European internal market saw strong increase in business expenditure on research and development (BERD), with a nominal increase of around 160 per cent between 1988 and 1993. Strong growth continued, so that by 2008 expenditure on BERD in nominal terms was over 12 times what it had been in 1988. The increase occurred in both foreign and Irish-owned enterprises. By 2008 the share of BERD in Irish GNP reached 1.1 per cent, twice the level of 1988. This was approximately the same as the EU-27 average (1.14 per cent), but remains below the OECD average, 1.63 per cent of GDP. Total expenditure on R&D (public and private) increased from around 1.4 per cent of GNP to an estimated 1.71 per cent in 2008. Consequently, the overall level of investment is now close to the EU average (1.81 per cent of GDP), but remains significantly below the OECD average (2.33 per cent of GDP) in 2008. The EU internal market was one factor driving this increased investment in R&D, both through its impact on FDI and through the opportunities and competitive pressure it created for Irish-owned enterprises. While investment in R&D is, of course, merely an input, there is evidence of increased product and process innovation in both foreign and Irish-owned enterprises (Community Innovation Survey 2010).

3.3.6 Competition Policy

The process of completing the European internal market had significant effects on the competition regime in Ireland. By removing barriers to cross-border business, it effectively brought new sectors within the sphere of EU competition policy and was a major factor in prompting a comprehensive overhaul of Irish competition law in 1991. This installed in Irish law the two key provisions of the EU treaties—outlawing collusive agreements and abuse of dominant position (now Articles 101 and 102 of the Treaty on the Functioning of the European Union). However, enforcement in Ireland differs in significant respects from other EU member states, with a greater role for the courts (Massey and Daly, 2003).

As in other EU member states, the increased application of competition law and policy has thrown up difficult issues. On the one hand, measures to rationalise the beef industry, seen by the industry as essential to modernisation and competitiveness, became embroiled in competition law. On the other hand, competitive forces remain weak in parts of the Irish economy, including among solicitors, barristers, banking and non-life insurance, transport, energy and waste services, medical and paramedical professions (OECD, 2009, Forfás, 2010a). The transposition and implementation of the Services Directive offers the prospect of bringing greater external competitive pressure to previously sheltered parts of the economy.

3.3.7 State Aid

While the EEC Treaty included a general prohibition on state aid that distorts competition across frontiers, prior to the 1990s major exemptions were allowed (Pelkmans, 2006). As part of the internal market programme, a more rigorous approach was adopted. As a result, state aid in the EU fell sharply, from 1.1 per cent of GDP in 1992 to 0.5 per cent of GDP in 2007. State aid in Ireland also fell with the completion of the internal market, from 0.8 per cent of GDP in 1992 to 0.6 per cent in 2007. The more rigorous EU approach had implications for the way the Irish state dealt with companies such as Irish Steel and Aer Lingus and the beef processing industry (McAleese, 2000: 183). The European Commission is at present considering whether the subsidies provided to Dublin Bus and Bus Éireann are compatible with state-aid rules.

The economic crisis of 2008–10 prompted increased state aid across the EU, including Ireland. Indeed, the European Commission adopted a framework allowing member states to provide additional support to business on a temporary basis. In Ireland, state aid increased because of special schemes to protect enterprises and employment and, most of all, because of the guarantee on bank liabilities and NAMA.

3.3.8 Public Procurement

As noted above, there is reason to believe that the opening up of public procurement to cross-border competition created opportunities for firms located in Ireland. At the same time, there is a perception in the Irish business community that public-procurement rules are implemented more rigorously in Ireland than in other EU member states; for example, in relation to the printing industry, (see NCPP 2009). A report to the Department of Enterprise, Trade and Employment recommended measures to strengthen the innovation return from public procurement and to improve the access of SMEs to public contracts (Procurement Innovation Group, 2009). NESC supports these recommendations. The European Commission also encourages member states to facilitate access by SMEs to public procurement and to use procurement as a means of promoting sustainability.

3.4 The Network Sectors

3.4.1 Introduction

Network industries include telecommunications, post, electricity, gas, broadcasting and, in some respects, transport. These industries typically have a natural monopoly element in at least part of the business; for example, the electricity distribution network. They were almost invariably state-owned monopolies in Europe up to the 1980s (Pelkmans, 2006). Universal service obligations—a requirement to provide a service to all residents of a country at the same price or an affordable price—are also a significant characteristic. For these reasons, network industries get special treatment in the Treaty. They are referred to as 'firms entrusted with the operation of services of general economic interest' in Article 106 (2). This article states that competition rules apply to these enterprises but only 'insofar as the application of such rules does not obstruct the performance in law or in fact, of the particular tasks assigned to them'. Until about two decades ago these industries had been treated as if they were exempt from competition.

In reviewing the incompleteness of the European internal market in the early 1980s, the Commission and the member states reached the view that Europe was sacrificing economies of scale, efficiency, technological innovation and, in some cases, security of supply by maintaining separate national networks, providers and markets. The basic model adopted was to open these markets to cross-border competition and new entrants, 'unbundle' the different parts of the business (such as electricity generation and distribution), move regulation from providers and governments to independent national regulatory authorities (NRAs) and to agree a set of basic EU rules for each sector. Not surprisingly, the creation of the internal market in these sectors became a complex political, technical and legislative task at both EU and national level. Here we review application of this approach in Ireland's telecommunications and energy sectors (a more detailed account can be found in the background paper, Cahill and O'Donnell, 2010).

3.4.2 Telecommunications

The provision of telecommunications services in Ireland was controlled by a public monopoly for many decades. The national provider, Telecom Éireann, received large-scale public investments during the 1980s. The subsequent development of the sector was shaped by the Irish government's approach to implementing the new EU model. The market was gradually liberalised over the 1990s with full opening in December 1998. The Office of Director of Telecommunications (ODTR) was established in 1996 and replaced by the Commission for Communications Regulation (ComReg) in 2002, with a mandate to regulate all communications markets (including broadcasting and post). After a partial sale in 1996, Telecom Éireann was launched as a public company quoted on the stock market in 1999 and the state sold its remaining majority share in the company. The privatisation of Telecom Eireann was not a requirement of the new liberalised market, since EU policy is neutral with regard to ownership. In some member states the national phone company was privatised, but in others the state retained whole or partial ownership. It would seem that privatisation of Telecom Éireann was seen as a way of addressing long-standing inefficiencies and overstaffing. The introduction of the EU regime coincided with major technological changes in the global telecommunications industry. Together these factors generated a considerable fall in the nominal and real price of calls and messages and the introduction of new services.

While these developments were positive for the consumer, Ireland's approach—the privatisation of Telecom Éireann, regulatory control of pricing and licences—was difficult and disappointing in certain other respects. Most significantly, it weakened the drive to address the historic deficit in broadband infrastructure. Once privatised, Telecom Eircom naturally made investment decisions on business criteria rather than the strategic national interest. It reduced its capital expenditure from a peak of €600m in 1999/2000 to just €200 m in the years 2001 to 2003 (Sweeney, 2004). This was at a time when investment in broadband was rising sharply elsewhere, the Irish economy was among the fastest growing in the EU and long-term prosperity was increasingly seen as dependent on IT and connectivity. In addition, the company experienced six ownership phases since privatisation and some owners extracted considerable value from the company. It is estimated by Sweeney (2004) that during the Valentia phase of ownership, from November 2001 to March 2004, the investors (including the Employee

Share Ownership Trust) had a total gain of €954m while their initial investment was €676m. Notwithstanding the disappointing outcome in broadband, there was significant progress in developing, within ComReg, an Irish body of expertise on the rapidly-developing telecommunications industries and markets (Scott and Brown, 2010).

Recent Forfás broadband benchmarking reports show that Ireland has made up some of the lost ground in broadband coverage, but continues to lag behind the best performers. The speed of broadband connections has also improved, but is still a cause of concern (Forfás, 2010b).

This episode underlines some of the central findings of this report. The effective application of the EU liberalisation strategy in a small, peripheral, member state required special consideration. It needed domestic policy, which was informed by strategic analysis of the role of telecommunications in national development, the specific needs of Ireland, the prospect for new entrants in a small market and the likely effects of 'competition', rather than mere compliance with the generic EU regime. Ireland's relative underperformance in certain aspect of telecommunications—especially compared to other small and peripheral EU countries, such as Finland and Denmark—suggests that domestic policy could have achieved better outcomes within the new EU-defined regime.

A second finding of our report illustrated in the area of telecommunications is the increasing role of EU networks of national agencies in the governance of complex policy areas. In telecoms this began with the creation of an informal grouping, the Independent Regulators Group, to share experience and perspectives among national authorities implementing the single market regime. Since then, it progressed to the establishment, under EU Regulation in 2009, of the Body of European Regulators for Electronic Communications (BEREC). Indeed, the chair of Ireland's ComReg was appointed as the first chair of BEREC (Scott and Brown, 2010).

3.4.3 Energy

The Irish Energy Market in the EU Energy Regime

Electricity has a number of characteristics that greatly complicate the attempt to create a European internal market. Demand is characterised by large fluctuations, but must be met instantaneously, as there is limited ability to store it. This requires a sufficient margin of capacity to meet peak demand. Investment involves large sunk costs. Of its four components—generation, transmission distribution and supply—only generation and supply can be competitive businesses in liberalised markets, and only under certain conditions. Indeed, there are further important characteristics in a small geographically isolated country such as Ireland. First, the margin of capacity needed to meet peak demand tends to be larger, since there are so few plants. Second, the number of viable competitors is smaller. Third, a single new plant affects the economic value of existing plants, inhibiting entrants who fear the impact of subsequent investors (Helm, 2003).

Liberalisation of the EU electricity market was initiated by directives on gas and electricity in the second half of the 1990s (Directive 96/92/EC on electricity and Directive 98/30 on gas). These were followed by stronger directives in 2003: Directive 2003/54/EC concerning common rules for the internal electricity market and Directive 2003/55/EC for the internal gas market. These set deadlines for the full opening of the market: 1 July 2004 for all business customers and 1 July 2007 for households.

The Commission for Electricity Regulation (CER) was established in 1999; it subsequently took on responsibility for gas and became the Commission for Energy Regulation in 2002. Ireland's electricity and gas markets were liberalised on a phased basis, faster than required by EU directives (NESC, 2002). The retail market was liberalised from February 2005 and all customers can now choose their electricity supplier. ESB retail prices are regulated by the CER. ESB's generation, transmission and distribution operations were unbundled. The transmission system is now operated by a separate company, Eirgrid, and the local distribution network is managed by an ESB subsidiary, ESB Networks. Both the transmission and distribution systems are monopoly businesses. The ESB now has separate units engaged in generation and supply to customers on a competitive basis. Since November 2007, the wholesale market for electricity in Ireland operates on an all-island basis, with all electricity supplied to a central 'pool'. As discussed below, the creation of an all-island energy market is a radical innovation in a European context. Additional payments are made to generators for having capacity available. The ESB has agreed to reduce its share of the generation market to 40 per cent by 2010 on an island-of Ireland basis.

The gas market for large industrial and commercial customers was opened to competition in 2004. The retail market has been open since July 2007. The gas network is still a monopoly business run by Bord Gáis Éireann. Large customers are allowed to connect to the network and purchase gas on the international markets directly.

The Performance of Irish Energy Markets

The liberalisation of Irish energy markets was followed by large price increases for both electricity and gas prices. The level of electricity prices is among the highest in the EU. Prices for industrial consumers in 2009 were the fifth-highest in the EU; Irish prices were 5 per cent above the euro area average. However, the margin between Irish and EU prices has fallen considerably (Forfás, 2010b). Deloitte and Touche (2005) suggest that the fuel mix—Ireland's high reliance on oil and gas—explained 73 per cent of the difference between Irish and EU-15 electricity prices in 2005. Other factors include higher labour costs, lower productivity, and diseconomies of scale.

As in telecommunications, the outcome of the new energy regime was a source of disappointment, especially given the impact of energy prices on national cost competitiveness. Again it highlights the importance of NESC's 1989 observation that 'membership of the Community does not reduce the need for clear Irish policy aims and methods' (NESC, 1989: 218). This would have identified the primary requirement for generation capacity, interconnection and more diversity in energy sources, and placed the move to the new EU regime in that context. As in agriculture, it is a matter of national policy identifying what national goals can and cannot be achieved by EU policy and designing domestic policy accordingly.

Indeed, the Irish experience in energy can be located in a wider European pattern. The liberalisation of electricity markets is seen as most successful in Britain and the Nordic countries. In the case of Britain, Helm argues that this is largely because it began with excess supply. In that context, 'the task at hand was to sweat the assets not to invest. The new electricity model was well designed to do this, and the excess supply conditions in the face of upstream and downstream competition drove prices down to well below the European averages' (Helm, 2009: 313). Indeed, in Britain also, 'major financial engineering' was used to capture 'extraordinary high returns from what were relatively unpromising and low-risk businesses, (ibid.). He argues that the model is less appropriate in an era when the core goals (such as climate change and energy security) require heavy investment. '[T]here are considerable doubts as to whether the privatised industry structure, with liberalisation and competition is up to the task' (Helm, 2009: 313–314). In contrast with other countries, Ireland was primarily in need of investment at the time when the EU energy regime was put in place. Ireland fits well with Helm's observation that an internal market in energy requires physical interconnection, the creation of European electricity and gas grids. 'The Commission's emphasis has been on creating a market before the physical infrastructure is in place – to have competition without connectivity' (Helm, 2009: 145).

Some of the increase in Irish prices in the era of liberalisation reflects that fact that in earlier decades prices were under political control and may have been set at too low a level, having regard to the need for investment in generation and networks (Thompson, 2007). The slow development of competition in the energy sector (and other networks) is criticised by Massey (2004). Helm (2003), however, has argued that the small size of the Irish market limits the scope for effective competition while the need for a high level of investment also implies a strong case for retaining elements of vertical integration and taking a gradualist approach to change.

In recent years, Ireland has certainly developed a more comprehensive and multi-stranded energy policy—although not everyone is convinced that it is adequate. This includes high levels of investment in electricity and gas networks, distribution, generation, renewables and interconnection. Interconnection with Britain will help reduce the problems of a small energy market, as well as making it more feasible to incorporate renewables (Diffney *et al.,* 2009). Indeed, notwithstanding the disappointment on some fronts, Ireland has proven to be a leader in one aspect of the EU electricity regime. The creation of a fully integrated electricity market across two jurisdictions is unique in the EU. Given the complex technical and regulatory issues involved, it constitutes a real achievement of the generators, networks and regulators involved.

In outlining the problems in Ireland's approach to implementing the EU regime, it is important to note that the EU and the EU internal market for energy and telecommunications are, in essence, critical for Ireland. In energy, the core constraints that historically faced Ireland—a small home market, peripheral location and dependence on imported fossil fuels—require interconnection between Ireland, Britain and Continental Europe. This, in turn, requires an EU regime for the sale of electricity across frontiers and an associated institutional framework creating a 'level playing field'. In addition, the challenge of climate change is prompting technological, business and social innovation in energy and this is an inherently international process, which Ireland needs to be connected to.

More recent developments in EU energy policy are described in Section 3.5.3.

3.5 The Evolution of the Internal Market: From Rules to Frameworks for Creating Rules

3.5.1 Introduction

In Chapter 2 and Section 3.2 above we noted that the internal market programme marked a major revision of EU governance. This involved the move from 'total' harmonisation to the 'new approach', characterised by mutual recognition of equivalent national rules, limitation of harmonisation to essential requirements and delegation of detailed standard-setting to independent bodies. While this remains the basic framework for creation and regulation of the internal market, there was significant subsequent evolution in the EU's approach to creating and implementing rules. In Chapter 2, drawing on Sabel and Zeitlin's account (2008) of experimentalist governance, we suggested that the EU increasingly relies on framework goals agreed at EU level, considerable discretion for member states and national regulatory authorities in pursuing these goals, mandatory reporting and participation in peer review and, finally, periodic revision of framework goals, metrics and procedures. This kind of evolution is evident in many areas of EU policy directly or indirectly associated with the internal market: energy, telecommunications, drug authorisation, competition policy, state aids, food safety and regulation of genetically modified organisms. Since the need for national understanding of the EU, and a national policy system geared for success in the new EU, is a central argument of this report, we briefly describe the further evolution of the approach to the internal market in a few selected areas.

3.5.2 Competition Policy

Perhaps the most striking example of the evolution of the internal market policy, and of EU governance more generally, is the reform and 'modernisation' programme in competition policy. From the establishment of the EEC, competition policy was one of the areas in which competence for policy making and implementation was most strongly transferred to the Community institutions, particularly the Commission. This was largely because competition law was seen as a mechanism to support the project of economic integration. It was feared that removal of tariffs and quotas could be undone by restrictive practices that effectively prevent the entry of firms from other member states.

A number of factors created pressure for change in this highly centralised competition regime. The Commission found it increasingly difficult to handle the volume of cases, and enlargement was bound to increase both the administrative burden and the heterogeneity of market environments. Conduct of policy through an executive body like the Commission began to be criticised, by various actors, on grounds of legitimacy. 'Once negative integration receded in importance as a guide to Community action, the debate in competition law, as elsewhere, began to focus on positive integration' (Svetiev, 2010: 89). Increasingly, and especially after adoption of the Lisbon Strategy, 'environmental and social goals, such as sustainability and social cohesion, must be considered as part of any EU-level action, which includes competition policy interventions' (Svetiev, 2010: 109). Indeed, conceptually also, it became clear that the rather blunt objective of market integration would not provide a sufficient guide for action in many antitrust cases. Changes in technology, the organisation of firms and the volatility of markets had made inter-firm collaboration a key tool of innovation in ways that could not be correctly analysed or regulated using the traditional focus on collusive agreements. Indeed, under pressure to innovate continuously firms entered open-ended collaborations the effects of which could not be examined *ex ante* —by themselves, let alone by an outside authority. This meant that competition policy and implementation could only be effective if it relied 'on provisional rules, which leave room for adjustment as the authority learns about shifting market conditions and underlying problems' (Svetiev, 2010: 83).

Responding to these pressures the Commission led a major reform and restructuring of EU competition policy through the Modernisation Regulation (2004). There was no change in the core Treaty provisions or the legal standards that had emerged from jurisprudence. The major change was to relieve the Commission of much of its notification and clearance responsibilities and make the Commission and the national competition authorities (NCAs) jointly responsible for enforcing Article 81 and Article 82 (EEC). The second key feature was the establishment of the European Competition Network (ECN), which includes both the Commission and the member state competition authorities. In this new regime, the NCAs are given considerable discretion in choosing what cases to take, deciding them and shaping their own competition priorities. 'Yet the freedom to act afforded to the NCAs is constrained: by the requirement that national authorities report their decisions to the Commission and other authorities in the network and by the Commission's powers to intervene either by initiating its own proceedings or by providing its views about a particular case to a national authority or court' (Svetiev, 2010: 96). No attempt was made to harmonise competition remedies in different member states. Within the ECN, there are several expert groups that discuss common concerns, including groups on banking, telecommunications, energy, healthcare and abuse of dominance.

Naturally, assessments of this major reform of EU competition policy differ. Some have argued that it actually consolidated the Commission's grip on competition policy (Wilks, 2005). Others believe that it reflects the Commission's wish to create a 'neo-liberal European economy' and the Anglo-Saxon variety of capitalism (Winger and Nölke, 2007). Svetiev and others argue that it reflects the emerging pattern in which EU governance combines framework goals agreed at EU level, considerable discretion at the level of the member states and NCAs, explicit obligations for cooperation, exchange of information and peer review in the ECN, and opportunities to learn from the implementation of competition policy in diverse and dynamic business contexts (Svetiev, 2010; Maher, 2008). Indeed, on this view, even the apparent 'hard law' elements of the new regime—the direct application of EU competition law by both the Commission and the NCA and the retention of the Commission's power to override national authorities—play an important role. The first ensures that the 'scope for informed divergence and mutual learning is neither based on, nor confounded by, textual diversity among national laws, but on comparison of how the common European law is applied to particular problems, the methodology of analyzing the antritrust concerns, and the remedial action, if any, that was taken to correct the problem' (Svetiev, 2010: 111). The second must be understood in the context in which the Commission, as well as the NCAs, are obliged to offer persuasive justifications for their actions to other participants in the network. 'Further deliberation, not hierarchical action, provises the only dispute resolution mechanism in this regime (Svetiev, 2010: 114).

3.5.3 Energy Policy

We have discussed EU governance of the energy sector and the broad impact of its implementation by the Irish government. Here we note that Europe's attempt to create a single energy market displays a number of the characteristics of EU governance highlighted above and in Chapter 2.

In his review of the European energy sector, Eberlein argues that the very unfinished and uncertain EU process is an example of rule making as a continuous process in which means and ends are redefined. The Community Method delivered only a framework goal in the 1996 and 1998 energy directives, a 'single energy market', without providing clear guidance to member states on how to implement this broad goal (Eberlein, 2010). Indeed, the task was technically complex, strategically uncertain and highly politicised. In cognitive terms, 'there was simply no kit of regulatory solutions available' that could be imposed on member states, even if the EU had the authority to do so, which it did not. Few enough countries had tried significant electricity liberalisation, but 'the integration of different national electricity and gas systems in a large regional market was almost virgin territory, which raised a host of poorly understood technical issues' (Eberlein, 2010: 65). Consequently, workable solutions had to be developed incrementally and collectively.

This approach is illustrated first in Europe's creation and animation of new institutions. 2003 saw the creation of the European Regulators' Group for Electricity and Gas Regulation (ERGEG) to advise the Commission. National regulators were earlier organised in an independent association, the Council of European Energy Regulators (CEER). After the first directives, the Commission created two regulatory fora—the Florence Electricity Regulatory Forum in 1998 and the Madrid Forum for Gas Regulation—to explore the creation of an internal energy market. These fora were designed to allow regulators, electricity generators, transmission system operators, consumers and other stakeholders to develop non-binding rules and principles that would be seen as best practice. Under 2003 legislation, a comitology procedure was created to involve member states with the Commission on issues of interconnection and cross-border sale of electricity. National regulatory authorities are required by EU law to co-operate with one another and the Commission in developing an integrated European market.

In developing a system of cross-border trade it was necessary to address two specific issues: the 'tarfication' of cross-border electricity and gas flows and the management of scarce interconnection capacity between national transmission systems. Eberlein (2010: 70) argues that the fora and institutions discussed above provided a framework for rule formation, implementation, review and goal revision of the kind discussed above. In electricity, the Forum was 'successful in identifying and elaborating workable regulatory solutions to practical challenges of an internal energy market that was in many respects little more than a work in progress. The regulatory networks between national agencies (CEER and ERGEG) provide 'a more specialised institutional site for rule development' *(ibid.)*.

These 'soft law' governance mechanisms are undoubtedly combined with more traditional rule making processes by the Commission. These include tabling new EU legislation and invoking its direct competition law powers. Sometimes these steps are taken, or threatened, to induce actors to co-operate in the more deliberative fora. Indeed, the Commission went on to introduce a 'third liberalisation package', which was adopted by the Council and Parliament in 2009. It includes new directives on electricity and gas to fully separate ownership of network operation from generation and supply. It will create a new Agency for the Cooperation of Energy Regulators (ACER) and a European Network of Transmission System Operators to promote better collaboration and investment in cross-border networks. ACER can make binding decisions on some of the issues currently addressed informally in ERGEG and will report on the quality of cooperation among national agencies and systems operators.

3.5.4 The State Aid Regime

Since the late 1990s there have been significant reforms to modernise and simplify the process of state aid. A regulation adopted in 1998 gave the European Commission the authority to exempt entire categories of state aid from the requirement for prior notification to the Commission. The Commission launched further reforms in 2005 with the publication of a State Aid Action Plan (SAAP). In 2008 it simplified and consolidated its regulations regarding exemption from the requirement for prior notification of aid into a new General Block Exemption Regulation (GBER). Key categories of aid covered by the GBER include support for small and medium enterprises (SMEs), R&D, innovation, training, renewable energy, and regional development. Also in 2008, a new simplification package was adopted including a procedure whereby decisions on straight forward cases would be made by the Commission within one month. The Commission is encouraging affected parties to seek enforcement of EU state-aid rules in national courts. In 2009 it issued revised guidelines on the role of national courts in the enforcement of state-aid rules.

3.5.5 The Monti Report: 'A New Strategy for the Internal Market'

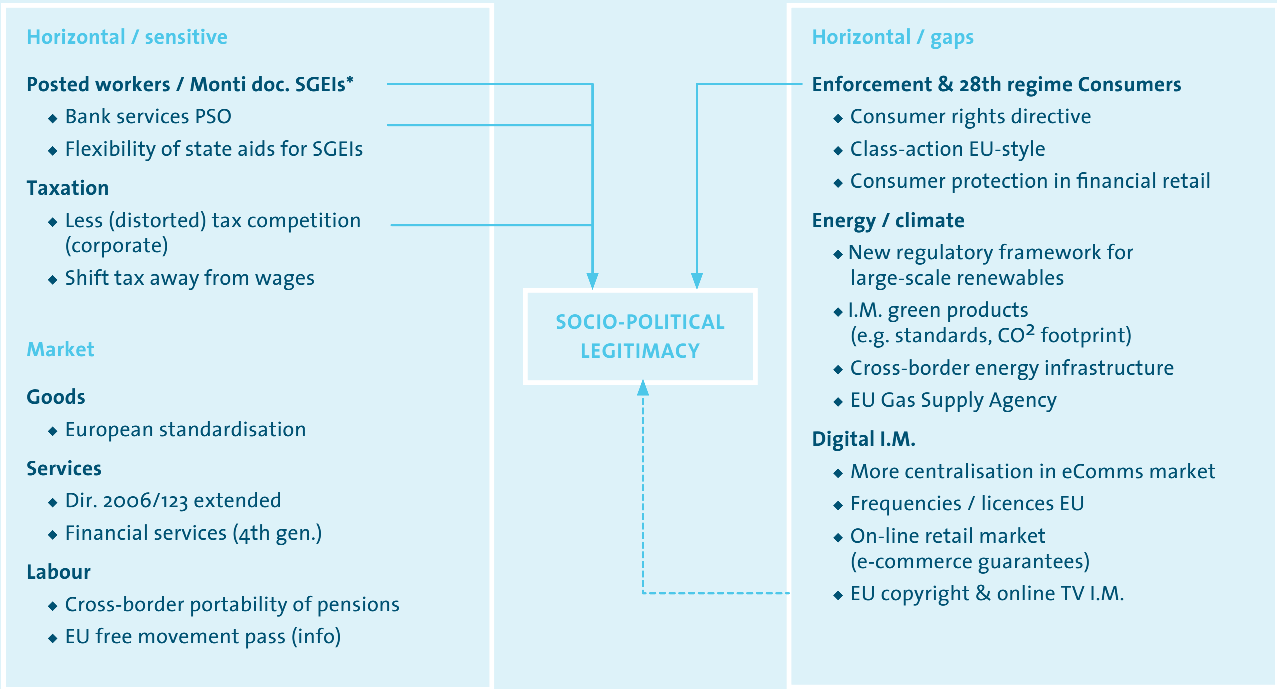
In recent years there is evidence that this evolution in the approach to regulation of specific sectors is beginning to reshape overall EU policy on the internal market. In 2007, the Commission launched a new initiative on 'A single market for 21st Century Europe', which was endorsed by the European Council (European Commission, 2007). The initiative proposed that more emphasis be placed on implementation and enforcement, with less reliance on legal measures. The internal market should in future be promoted through a 'smarter mix' of policy instruments, including competition policy, self-regulation and a range of 'soft law' measures. The Commission wanted to enhance cooperation with and among the national authorities that have responsibility for single market-rules. It suggested that where regulation is still considered necessary, it should be flexible enough to adapt over time and to accommodate differences among member states. There is a definite sense that this seeks to generalise some of the features of the evolution of the EU approach to energy, competition and state aids as described above. Many of these orientations are adopted and taken further in the recent Monti report, *A New Strategy for the Internal Market* (Monti, 2010).

The report highlights that today the single market is at a critical juncture, as it faces three challenges. The first challenge comes from the erosion of the political and social support for market integration in Europe. The second challenge comes from not only the incomplete 'welding together' of the national markets into one European market, but also from the unfinished business on two other fronts: the expansion to new sectors to accompany a fast-changing economy and the effort to ensure that the single market is a space of freedom and opportunity that works for all, citizens, consumers and SMEs. A third challenge comes from a sense that the single market had been really completed and could thus be put to rest as a political priority, in need of regular maintenance but not of active promotion.

The Monti report identified three measures to reinvigorate the single market and support for it (see Figure 3.4). The first set of initiatives aim at removing the remaining bottlenecks and plugging the gaps and missing links that hamper innovation and dampen growth potential in the single market. These include creating a digital single market; reaping the full benefits of the single market for goods; fully exploiting the potential of the single market for services; and ensuring geographical labour mobility in the single market.

The second set of initiatives is concerned with addressing the concerns identified through the consultation and thus build consensus on a stronger single market. Amongst the problems to be resolved are the conciliation between economic freedoms in the single market and workers' rights; the place of social services within the single market; how to use tax coordination to safeguard national tax sovereignty as market integration proceeds; the balancing of competitiveness and cohesion within the single market through regional development policies; the potential for an active industrial policy based on sound competition and state-aid policies; and how to ensure that the single market remains open, but not disarmed, vis-à-vis competitors at a global level.

Figure 3.4 Monti's Internal Market Strategy



Source © CEPS & Jacques Pelkmans.

Notes * Services of General Economic Interest (telecoms, energy, post & transport)

The third set of initiatives is formulated to step up the tools needed to deliver the relaunch of the single market. Two aspects are discussed: ensuring light but effective regulation in the single market; and strengthening enforcement. With respect to the last goal, the report stated that it is

> crucial to explore with determination how to apply a new approach based on network-based governance and partnership. This new approach would be best applied to alternative dispute resolution and to cooperation between the Commission and national administrations. The ultimate objective would be to design a coherent enforcement system in which infringement procedures, informal problem solving mechanisms and private enforcement through national courts form a seamless web of remedies against breaches of EU law. What is needed is a concerted press towards compliance, with appropriate passageways and coordination procedures between the different elements of the system (96–97).

In October 2010, DG Internal Market and Services initiated a consultation exercise on relaunching the single market to realise greater benefits from its potential. A Single Market Act has been proposed for 2012 which includes 50 proposals encompassing four main themes.

1. Growth that is both sustainable and equitable: Europe's 20 million enterprises provide 175 million jobs make a vital contribution to growth. However, access to capital for SMEs must be improved to ensure they are given a fair chance to innovate and grow. An EU patent system that stimulates innovation by reducing the cost burden for individuals, researchers and businessess should be addressed. The Commission also proposes to take further steps to make a single market for services fully functioning.

2. Incorporating a citizen dimension in the single market is a theme that runs through many of the proposals in the Single Market Act. This includes initiatives such as improving access to public services and public infrastructure and developing tools to ensure fundamental rights and freedoms that are fair and adequately met in all the member states. Social concerns also extend to efforts such as minimising paperwork and addressing the needs of mobile professionals, who often face unnecessary hurdles in establishing themselves in another member state.

3. For citizens as consumers, their needs were taken into consideration in drafting many of the proposals. As part of the Digital Agenda for Europe, some of the proposals will work to empower consumers by eliminating barriers to cross-border online shopping and improving market surveillance for product safety. Others seek to address financial matters like improving access to banking facilities and working towards more responsible and transparent lending practices.

4. A better governance of the single market is also needed. The single market cannot be built in 'Brussels' alone: it is the responsibility of all parties concerned. Therefore, the Commission will open its expert groups to civil society, promote a partnership and dialogue with the member states to mutually evaluate and share their efforts to write EU laws into national laws.

3.6 Conclusion

3.6.1 The Internal Market Illustrates our Key Arguments

Our examination of the completion of the European internal market illustrates several of the core arguments of this report:

1. Membership of the EU, and the success of the EU in achieving its core goals, is critical to Ireland's economic and social development;

2. The quality of domestic policy remains critical in shaping how Ireland fares in the EU;

3. Ireland's engagement with the EU has changed significantly in the past fifteen years, becoming more plural, contested and complex;

4. EU regulation is undergoing an important evolution from rule-making to the creation of frameworks for rule-making;

3.6.2 Impact of the Single Market on Ireland's Economic Performance

The completion of the European internal market was a most important factor in the recovery of the Irish economy in the late 1980 and the economic breakthrough achieved in the 1990s. Its impact was both direct and indirect. As we discuss below, it had a direct effect in increasing FDI, creating market opportunities for firms located in Ireland and freeing the movement of capital. Indirectly, the more open internal market provided a context in which some of Ireland's strengths in those years—such as a supply of educated young people and policy consistency supported by social partnership—could be used to the full.

It is widely agreed that the programme to complete the internal market was a major cause of the increase in US and Japanese investment in Europe in the late 1980s and early 1990s (Barry *et al*., 2001). It is less widely recognised that the internal market had a role in increasing Ireland's *share* of US FDI, which quadrupled from the late 1980s to the early 1990s, while the UK share of this rising investment was static over this period (Barry *et al.,* 2001). It did this by limiting the ability of larger richer member states to use non-tariff barriers, including discriminatory public procurement, to both attract FDI and protect their home markets (Mac Sharry and White, 2000: 206).

The internal market had an impact on the business strategy of both foreign-owned and indigenous companies. Indeed, the programme prompted intensive discussion of business strategy among Irish firms, focused on both export opportunities and the ability to compete in the home market. The energising effect of the internal market was particularly important in services—such as banking, insurance, aviation and road haulage—which had operated in a relatively protected environment. Irish citizens and companies benefited from lower prices and better quality, and Irish companies responded to increased competition by adopting aggressive strategies at an international level. In the case of banking, increased competition eventually contributed to a lowering of lending standards in this decade.. Domestic banks and the regulatory system did not responed appropriately to this challenge.

The EU internal market would also seem to have contributed to Ireland's export breakthrough in the 1990s through its impact on *import growth* in Continental EU countries. While these countries did not achieve very rapid growth, Kennedy points out that both the EU and US did experience very strong import growth during the 1990s (Kennedy, 2000/2001). There was an a substantial increase in the import elasticity of demand in EU-15 countries, from 1.9 in 1980–1993, to 3.2 in 1993–2000. Annual import growth in the US also rose sharply, from 6.7 per cent in 1983–2000 to 12.1 per cent in 1993–2000. Although it is hard to be certain, there are reasons to believe that the SEM, including its global dimension, was a key factor in this rise in import elasticity.

Another important element of the internal market was free movement of capital. This benefited Irish individuals and companies, allowing them to access capital abroad, diversify their portfolios and maximise their return on capital. The fact that inflows of financial capital became excessive from 2004—fuelling unsustainable borrowing and property investment and exacerbating the impact of the eventual global crisis—underlines the importance of adequate domestic and EU policy competence, both macroeconomic and regulatory (see below and Chapter 5), but does not vitiate the microeconomic advantages of capital mobility.

3.6.3 The Key Role of Domestic Policy

The story of the Ireland's experience in the internal market strongly underlines the key role of domestic policy in shaping the country's performance in Europe. On the positive side, Ireland's strong support for the relaunch of the Community via the completion of the internal market created a positive political environment in which the county fared well in the wider policy developments that accompanied the internal market and the SEA, particularly the enhanced Structural Funds. The adoption of a consistent policy approach through social partnership—combining macroeconomic, structural and distributional elements—created an environment in which investment decisions, by both indigenous and foreign firms, laid the foundations for an export-led recovery and economic breakthrough. On the internal market itself, government, working with the state agencies and social partners, conducted sectoral studies and meetings to inform businesses of the opportunities and threats of the internal market and to help them prepare.

Less positively, the story of the implementation by Ireland of the generic EU regime for telecommunications and energy underlines the degree to which EU membership does not reduce the need for clear national analysis of country-specific conditions and challenges and clear national policy goals. Real regulatory expertise was developed in both sectors, and this yielded definite results. But at policy level, the initial approach to implementing the EU internal market seemed to pay insufficient attention to Ireland's need for investment in broadband, generation capacity and interconnection. Also less positively, Ireland's loss of competitiveness during the period 2002 to 2010, and associated weakening of export performance in the EU internal market, underlines the interdependence between macroeconomic policy, regulatory quality, cost determination, wage-bargaining and business performance.

3.6.4 Ireland's Engagement with the EU Became More Plural and Complex

The internal market illustrates well the way in which Ireland's engagement with the EU has changed in the past fifteen years, as described in Chapter 1. There was a definite pluralisation of the channels through which the EU impacts on Ireland and through which Irish people and organisations engage with the EU, as more government departments, agencies, firms, business associations and NGOs got involved in shaping and monitoring the hundreds of internal market measures. This effect was evident in all EU member states. Young points out that the policy networks surrounding the SEM tend to be more open than those in individual member states: 'As a result a large number and wide variety of interests have access to the policy process' (Young, 2010: 121).

As the internal market opened the possibility of cross-border competition and trade beyond standard manufactured goods, it undoubtedly touched areas of sensitivity and contestation. This was evident in the restructuring of state-owned utility companies, the standardisation of food products and, most of all, provisions to ensure freedom to provide services, something we discuss in Chapter 6. The internal market also illustrates the trend towards *internationalisation* — i.e. that many EU issues also have a global dimension. The simultaneous completion of the European internal market and opening of global trade in the same products and services through the World Trade Organisation (WTO) illustrates this phenomenon.

Finally, the increased complexity of governance is illustrated in many dimensions of the internal market. Quite apart from the EU drive to complete the internal market, Ireland would have to have created new systems to define, for example, food safety norms and standards for mobile phones and other new electronic products.

3.6.5 The Role and Method of the EU Have Changed and Continue to Evolve

The internal market strongly illustrates the way in which EU governance methods have changed and continue to evolve. The way in which the internal market programme of the mid-1980s recast the EU approach—and, indeed, 'relaunched' the project of European integration—is widely acknowledged. What is less widely appreciated is the fact that the 'new approach' itself evolved in the light of implementation, especially in areas of strategic uncertainty and rapid innovation, such as energy, food safety and chemicals. The method tended to evolve from rule-making to frameworks for creation and monitoring of rules.

4

Agriculture

4.1 Introduction

Since the early 1990s decisive reforms have been made to the EU's Common Agricultural Policy (CAP) while there have been significant related developments in global trade. This chapter outlines these developments (Section 4.2) and then discusses the performance of Irish agriculture in this environment (Section 4.3). Key issues relating to the future of Irish agriculture are discussed in Section 4.4 and the future direction of CAP reform is considered in Section 4.5.

In 2009 5 per cent of people in employment (96,000) had their primary occupation in agriculture, fishing and forestry; total employment in agriculture, including those engaged on a part-time basis, was higher at 136,000 as measured by annual work units (2007 data). Employment in the wider agri-food sector (including food, drinks and wood processing) was 7.5 per cent of total employment in 2009. Agricultural exports were 6 per cent of total goods exports in 2008 while agri-food exports were 10 per cent of goods exports. As a sector with relatively low import content and profit repatriation, the agri-food sector has additional significance as a source of export earnings. A consultancy study (reported in Department of Agriculture, Fisheries and Food, 2009a) estimated that the biosector generated 32 per cent of Ireland's net export earnings from goods exports in 2005 (including EU transfers). The biosector was defined as agriculture, forestry, fishing and the food, drinks and tobacco industries.

4.2 CAP Reform

In 1993, decisive changes were agreed to the structure of CAP. These reforms involved substantial price reductions, more extensive use of supply control measures and a substantial increase in direct payments to farmers. These were subsequently consolidated into a single payment that is 'decoupled' from current production levels. This single payment is based on historic levels of production and is independent of current production. The land, however, must be maintained in good agricultural and environmental condition. Receipt of payments is conditional on compliance with a range of environmental, food safety, plant and animal welfare standards.

CAP is now organised around two pillars. The first pillar provides market support and the single-farm payments. Around 80 per cent of CAP budget is allocated to the first pillar. The second pillar covers 'rural development'. This includes measures to boost agricultural competitiveness, and the environment and diversification of the rural economy, including the Rural Environmental Protection Scheme (REPS) in Ireland.

The REPS scheme was closed to new entrants in 2009; a new agri-environmental scheme was introduced in 2010. The LEADER rural development programme is also funded through pillar two of CAP.

Much has been achieved through CAP reform. EU prices are now closer to world prices while the single-farm payment is considered to be a type of payment that does not distort trade in the context of World Trade Organisation (WTO) discussions. Reform has eased relations with the EU's trading partners. The single payment has simplified CAP and farmers have greater freedom to respond to market signals. The incentive to intensify production is reduced. There are, however, continuing concerns regarding CAP. Costs remain high. The current budget is in place to 2013. Beyond 2013, budgetary pressures within the EU will be significant during forthcoming negotiations on the next Financial Perspective of the EU for the period 2014 to 2020. There is also evidence of a slowdown in productivity growth in some EU countries over the recent period (Bureau *et al.,* 2007).

Following the Uruguay Round of international trade negotiations 1986 to 1994, a new agreement on international trade on agriculture came into operation in 1995. Negotiations on further reform of agricultural trade commenced in 2000. These negotiations have been protracted and difficult. The EU has indicated a potential willingness to phase out all export subsidies.

4.3 Irish Agricultural Developments

Irish agricultural output has not grown since the 1990s; the peak year of agricultural production was 1996. Average farm incomes have been declining: the real level of family farm income in 2009 was over 40 per cent below the level of 1995. Real operating surplus, a measure of total agricultural income, has fallen by more than half since 1995. Real family farm income fell by 26 per cent in 2009; this is an exceptionally large fall in one year, even in a sector accustomed to a high level of income volatility, and followed a substantial fall in income in 2008. A recovery in agricultural prices and incomes is evident in 2010.

The 2009 *National Farm Survey* shows that in 2009 average family farm income was just under €12,000. Income was higher on full-time farms at €24,214; a full-time farm is defined by Teagasc as requiring a labour input of at least 0.75 standard work units. Family farm income was substantially lower on part-time farms (i.e. those farms requiring less than 0.75 standard labour units) at €6,611 in 2008. The majority of farms are part-time (70 per cent) in terms of the labour input required, but the percentage of farmers with other employment is lower (35 per cent). Trends in off-farm employment of farmers and spouses are discussed below.

These figures do not include other income sources of farm households. On average, farm households derive 37 per cent of their income from farming. In 2008, average gross income for farm households was €53,484 which was 12 per cent below the national average gross household income of around €60,5796.[6] Farm household

6 This is based on the definition of a farm household as one in which the head of the household is a farmer or the head of household is a retired farmer and there is at least one other farmer in the household. An alternative definition of a farm household is one in which a farm is rented or owned and there is some income from farming in the household. Using this broader definition, average farm household income is considerable higher at €61,053.

gross income was 4 per cent higher than other rural households and 19 per cent below average urban household income. The recession has also reduced other sources of farm household income.

Irish agriculture has benefited from very substantial transfers under CAP. In 1993, Ireland's net receipts under CAP (i.e. gross receipts less estimated national budgetary contributions to these policies) were €1.46bn (3.8 per cent of GNP) while by 2009 net receipts had fallen to €1.0bn (0.8 per cent of GNP). Gross receipts under CAP in 2009 were €1.7bn (1.3 per cent of GNP).

There is a long-run trend of falling real agricultural prices. This trend is driven by the fact that for several decades the pattern in developed countries has been for the supply of agricultural products to grow faster than demand. Supply has been driven by the ongoing application of new technology in agriculture. Demand growth has been weaker; in developed countries a smaller proportion of income is spent on food products as income rises. This combination results in continuous downward pressure on prices for agricultural commodities and on farm incomes. Against this long-term trend, the large rise in agricultural commodity prices in 2007/2008 was a substantial deviation from the established pattern.

Successful on-farm adjustment to falling agricultural prices typically involves adopting new technology and increasing the scale of the business. Only a minority of farmers have been in a position to effectively meet the pressure of falling prices. A widely used definition of viability in Irish agricultural economics is as follows: (a) the ability to remunerate labour input at agricultural wage rates; and (b) the ability to earn a rate of return on capital (excluding land) of 5 per cent (Frawley and Commins, 1996). Based on this definition, it is estimated that just 30 per cent of farmers in Ireland were economically viable in 2006. This includes those that were viable on the basis of part-time labour input. The highest percentage of viable farms is in dairying, with 58 per cent of specialist dairy farms viable in 2006 (O'Brien and Hennessy, 2008).

The pressure of economic viability typically does not result in farmers leaving the sector entirely during their working lives. Since the mid-1990s there has been a large increase in employment by farmers and spouses in other occupations; in 1995, 26 per cent of farmers had other employment, while by 2007 this had risen to 41 per cent. However with the economic downturn, the share of farmers with other employment fell to 35 per cent in 2009. Employment of spouses of farm operators in the economy also increased strongly from 15 per cent in 1995 to 34 per cent in 2007. In 53 per cent of cases in 2009, either the operator or spouse had an off-farm occupation; this was a substantially lower share than in 2007 when 58 per cent of either operator or spouse held off-farm employment.

Many farmers obtained employment through the construction boom. The current severe recession will reverse some of the increased employment of farm household members. Analysis of the Quarterly National Household Survey shows that in 2009, off-farm employment of those whose primary employment was in agriculture fell by 30 per cent (Ryan, 2010).

Farm households unable to either upgrade the farm business or find an alternative source of income face the situation of falling real income, resulting in some cases in poverty and dependence on social welfare transfers. This has been described by

Sheehy as a process of 'creeping redundancy' (Sheehy, 1992: 80). It was estimated that in 2006 30 per cent of farms were vulnerable in the sense that the farm was not economically viable (as defined above) and neither operator nor spouse had alternative employment (O'Brien and Hennessy, 2008).

Exports of food and drink products in 2009 took place in a challenging economic environment, including weak sterling. Gross export earnings amounted to €7.1bn in 2009, a decline of 3 per cent in volume and 12 per cent in value terms on 2008. Dairy and beef continue to be the most prominent Irish food exports, together representing close to half of food export earnings. The dairy sector was responsible for over one-quarter (28 per cent) of total food and drink exports (€2bn). The strongest performers were infant formula and, to a lesser extent, cheese and chocolate crumb, but overall Irish dairy exports continue to have a strong commodity orientation. Beef exports generated one-fifth of food and drink exports (€1.4bn). Prepared foods, which include products such as ready meals, pizza, chocolates and food supplements, represented 18 per cent of export earnings (€1.28bn). There are also substantial earnings from drinks exports (€1.1 bn or 15 per cent of food and drink exports).

The UK continues to be the largest market destination for Irish food and drink exports with 44 per cent of exports (by value) going to the UK in 2009. The volatility of sterling poses a major problem for the food and agricultural industry. Around one-third of Irish food exports went to other EU countries in 2009, while over one-fifth of exports went to non-EU countries. EU markets are now the main outlet for beef exports.

Table 4.1 Composition and Growth of Food and Drink Exports

	2000 €m	2009 €m	€ 2009 % of total	Annual % Change 2000-2009
Dairy	1657	2000	28.1	2.4
Prepared Foods	1626	1282	18.0	-2.9
Beef	1409	1400	19.7	-0.1
Drinks	800	1071	15.0	3.7
Pig meat	279	290	4.1	0.5
Seafood	288	303	4.3	0.6
Poultry	159	180	2.5	1.6
Horticulture & Cereals	165	218	3.1	3.5
Lamb	184	166	2.3	-1.3
Live animals	203	213	3.0	0.6
Total	**6769**	**7123**		**0.6**

Source Bord Bia (2009), *Performance and Prospects 2009/2010* and Bord Bia (2001) *Annual Report 2000*.

4.4 Future Issues for the Agricultural Sector

Key issues concerning the future of the agricultural sector include:

- Outlook and vision for the sector;
- The need to compete in an increasingly open market environment, driven by CAP reform and the WTO;
- The need to respond to environmental challenges, including the impact on climate change.

These issues are now discussed.

4.4.1 Outlook and Vision

A vision for the agri-food, fishing and forestry sector was set out in a recent report, *Food Harvest 2020*; this report was prepared by a committee established by the Minister for Agriculture, Fisheries and Food. It pointed out that the agri-food and fisheries sector had real competitive strengths:

- It operates to world-class standards in the areas of food safety and animal welfare;
- It has built a multi-billion-export industry by engaging with the diverse demands of consumers and consistently meeting the exacting standards of some of the world's most prestigious retailers and food service providers (Department of Agriculture, Fisheries and Food, 2010: 3).

A huge investment has been made in the past decade in traceability systems to underpin food safety. The report also identified major challenges facing the sector. These include: pressures of financial viability on primary producers; issues of scale at processing and manufacturing level; and fierce international competition. Notwithstanding the challenges, the report is optimistic concerning the opportunities available:

> While the years leading to 2020 will see a continuation of some of these challenges, the most compelling picture that emerges of the decade ahead is one of opportunity. In particular, the opportunity for the Irish agri-food industry to grow and prosper sustainably through the delivery of high-quality, safe and naturally based produce (Department of Agriculture, Fisheries and Food, 2010: 13).

The *Food Harvest 2020* report considers that there is potential to expand primary output in agriculture, fisheries and forestry by 40 per cent by 2020, compared to the 2007/2009 average; value added in food, fisheries and wood products could grow by 40 per cent while exports could increase by 42 per cent by 2020. Realising this vision depends on successfully addressing key challenges. The report advocated an acceleration of restructuring at farm level and argued that without necessary steps to improve scale and increase profitability, the future of the sector would be in jeopardy. It also recommended consolidation and restructuring in the processing industry. It pointed to the potential of enhanced collaboration among enterprises in the food industry to gain strategic advantages. It proposed a doubling of R&D in the food industry. It recommended the creation of an umbrella brand ('Brand Ireland') for Irish food and drink. This would emphasise the green and natural reputation of Ireland's food and drink and be underpinned by a credible scientific basis. To achieve the vision developed in *Food Harvest 2020*, the report recommended the establishment of a high-level implementation group, led by the Department of Agriculture, Fisheries and Food, to progress the proposed strategy.

Agricultural commodity markets are volatile. Agricultural prices reached exceptionally high levels in 2007/2008 before falling sharply with the global recession. A recovery in prices is evident in 2010. There are a number of structural factors that point to agricultural prices being stronger in the medium term. First, beyond the current crisis, it is expected that rising incomes in emerging economies will increase demands for meat and dairy produce. Second, there are a number of factors restricting growth in supply: use of land for energy crops, the impact of climate change on agricultural productivity and reduced investment globally in research to boost productivity in agricultural production (Matthews, 2008a).

4.4.2 Trade Liberalisation and the Competitiveness of Irish Agriculture

The agricultural sector is subject to ongoing reductions in the level of protection. The current WTO reform proposals could have a significant negative impact on the agricultural sector. It was estimated by Teagasc that the adoption of the current proposals could reduce agricultural income by between 5 and 13 per cent by 2017. The impact would be most severe for the beef sector with the value of beef output falling by between 8 and 25 per cent, depending on the treatment of beef in the WTO reforms (Binfield *et al*., 2008).

The question arises as to the capability of the sector to compete in an increasingly open economic environment. Key competitive strengths have been noted above. However, a number of indicators point to the vulnerability of the sector. First, in 2008 for the first time in the history of the National Farm Survey, total direct payments exceeded family farm income (Connolly *et al*., 2010). In 2009, direct payments exceeded family farm income by 43 per cent. This means that 30 per cent of direct payments went towards meeting farm costs and so were not available as family farm income. Second, only 30 per cent of farms were economically viable in 2006.

Third, a number of structural indicators present an unfavourable picture. The average size of Irish farms is just over 32 hectares. This is relatively large by EU-27 standards. However, 'because of relatively low intensity of land use, the average economic size of farm business in Ireland is at the smaller end of the EU spectrum' (Matthews, 2008a: 266). Average farm size is far higher in key non-EU agricultural exporters such as the US and Australia. Furthermore there is fragmentation of land holdings, with an average of 3.5 land parcels per farm in 2007. The age structure is also relatively unfavourable. In 2007 the percentage of farmers under 35 had fallen to 7 per cent while the percentage over 55 was just over 50 per cent.

On the other hand, there have been some improvements in farm structures. The average farm size has increased by almost one-quarter since 1991. There is also some increase in land mobility through increased renting of land. The area of land rented increased by 38 per cent between 1991 and 2007 when 762,000 hectares of land were rented (18 per cent of all agricultural land). Around one-third of farms in 2007 were engaged in renting land. The sharp fall in land prices that has occurred offers an opportunity to make further progress in improving agricultural structures.

The skills of those engaged in the sector and the ability to adopt new technology are key influences on competitiveness. In this regard the decline in the share of younger farmers is of concern. A positive indication of skills development has been a substantial increase in enrolments in agricultural training colleges in Teagasc and an increase in demand for places in agricultural related courses in third-level education institutions.

Economic research shows that there are sectors within agriculture that are potentially competitive. The dairy sector in Ireland is highly competitive when measured in terms of cash costs (i.e. direct costs excluding the implicit opportunity costs of a farmer's own labour and land). Using this measure, Ireland's dairy sector was the fourth most competitive among 20 EU countries in 2004/2005. Ireland's grass-based production contributes to lower costs. Economic costs include the opportunity cost of own land and labour as well as direct costs. The competiveness of the dairy sector dropped to ninth position when measured in terms of economic costs. This was driven by relatively high implicit costs of land in Ireland (i.e. the rental return potentially available if the owner rented out the land used in production) and the high level of land ownership. Larger dairy farms are more competitive in terms of economic costs, so there is scope to enhance economic competitiveness with larger scale (Carroll *et al*., 2008; Matthews *et al*., 2006). This depends on the ability to have access to land at a cost that does not undermine competitiveness.

A major strategic review of the Irish dairy industry—covering both the processing industry and farming—was published by Prospectus consultants in 2003. That study compared the Irish dairy sector to its major international competitors (Denmark, the Netherlands and New Zealand) and found that the sector was not internationally competitive across key dimensions. The also study found that the processing sector in Ireland was highly fragmented and less efficient than its competitors; investment in R&D was substantially lower while the Irish product mix had a much higher concentration in lower value-added products than its European competitors. The study also identified scale as an issue at farm level; the average volume of production on dairy farms in both Denmark and the Netherlands was over double the level in Ireland. Since then, public assistance has been provided to increase efficiency and to encourage new product development through the Dairy Investment Fund. However, the radical structural changes identified by Prospectus consultants have not taken place, leaving the industry in a vulnerable position. The dairy industries in Denmark and the Netherlands were also negatively affected by the sharp downturn in the international dairy industry.

There is underlying growth in global demand for dairy products. EU quotas are due to be eliminated by 2015. There is potential for Irish dairy production to expand in this context (Dillon, 2009).

Irish beef farms are competitive when measured in terms of cash costs, but total economic costs as a proportion of total output were above the average of producers in France, Germany and the UK in 2004/2005 (Department of Agriculture, Fisheries and Food, 2009b). Incomes for beef producers are relatively low among farm incomes. In 2006, just one-fifth of beef farms were estimated to be economically viable when account is taken of own labour and capital costs excluding land (Breen *et al*., 2008). There is excess capacity in the processing sector. On the other hand, Irish beef is a quality product; the fact that its grass-based distinguishes it from continental competitors. Beef exporters have increased their penetration of EU markets and almost all beef is now sold to these markets.

The most competitive costs for cereals production in the EU are in the new member states. Ireland ranked tenth out of nineteen EU member states in terms of economic costs and 8th in terms of cash costs, using data for 2004/2005. If the new member states are excluded, Ireland ranked as the third most competitive both in terms of cash costs and economic costs (Carroll *et al.,* 2008).

The timely application of new technology will be crucial to the competitiveness of Irish agriculture. Developments in biotechnology, nanotechnology and robotics and other areas could have major implications in the decades ahead. It is important to sustain an adequate level of investment in agricultural research and to ensure effective means of learning to enable farmers to keep up with a rapidly changing environment. Teagasc has been restructuring its operations in recent years. A number of small research centres have been closed and the organisation has developed five 'centres of excellence' in the following areas: animal bioscience, crops bioscience, environmental research, rural research and food research (Teagasc, 2008).

4.4.3 The Environment

The achievement of high environmental standards is an important requirement for the farming sector. Receipt of the single-farm payment is conditional on recipients keeping their land in good agricultural and environmental condition. Key EU environmental directives that have significant implications for agriculture are the Nitrates Directive, (91/676/EEC), the Birds Directive (79/409/EEC) and the Habitats Directive (92/43/EEC).

The most challenging environmental issue for agriculture in the period ahead will be that of climate change. The contribution of agriculture to Ireland's greenhouse gas (GHG) emissions has fallen substantially in both relative and absolute terms. In 1990 agriculture contributed 36 per cent of Ireland's total GHG emissions, while by 2008 this had fallen to 27 per cent. In the period beyond 2012, the management of GHG emissions in the EU will be divided into large emitters covered by the emissions trading system (ETS) and other emissions (transport, services, small industry, households and agriculture). Emissions in the ETS sectors will be managed on an EU basis while the non-ETS emissions will be the responsibility of the member states.

Ireland's target is to reduce non-ETS emissions by 20 per cent by 2020 compared to 2005. In April 2010, the EPA estimated that assuming all current policies are fully implemented,[7] Ireland's emissions would fall by 3.7 per cent by 2020 relative to 2005, including the impact of forest sinks in reducing emissions. It has been agreed by the EU Parliament and Council that if there is no international agreement on global emissions by 2010 member states may include carbon savings from forestry in meeting their targets. However, if the impact of forest sinks in reducing emissions is counted in meeting the targets, the EPA (2010) has noted that it is not clear if the inclusion of forestry would mean a higher target for Ireland. The fact that agriculture contributed almost 40 per cent of non-ETS emissions in Ireland in 2008 makes it challenging to meet the 2020 target. The EPA projects that emissions from agriculture will fall by 11 per cent by 2020 relative to 2005.

Teagasc is researching technological solutions to reduce GHG emissions in agriculture. Dowling *et al*., (2009) point out that relative to other countries, the GHG efficiency of Irish agriculture is high. An initial exploration of how GHG emissions can be reduced in the agri-food sector is provided by Dowling *et al*., Consideration needs to be given to the global nature of agricultural trade as reduced cattle numbers in Ireland will not contribute to lower global emissions if a reduction in Irish output results in offsetting increases in output elsewhere. The bulk of the output of Irish agriculture is exported; however, under the current methodology used to calculate a country's emissions, emissions are attributed to the country that produces a product and not the final consumer.

One potential way of reducing emissions from cattle is to reallocate land to the production of energy crops. A paper by Styles *et al*., (2008) found that, under a range of assumptions, the returns to energy crops were more attractive than conventional land uses with the exception of dairy. There is, however, reluctance to invest due to the lack of an established market for these products and related price uncertainty. Policy co-ordination is needed to advance the development of a market. The Green Energy Growers Association has been established to promote the development of energy crops in Ireland.

Forestry has a substantial impact in reducing Ireland's GHG emissions. In the EPA's projections to 2020, published in April 2010, it was estimated that, assuming all current policies are implemented, total non-ETS emissions would increase by 6.6 per cent by 2020 relative to 2005, before taking account of the absorption of carbon through forestry (forest sinks). However, when account is taken of forest sinks, emissions fall by 3.7 per cent, as noted above. There is potential for increased rates of afforestation to further contribute to lower emissions.

7 All of the emissions projections quoted in this section refer to the EPA's 'with measures' scenario. This assumes full implementation of all existing policies and measures. The EPA also publishes another scenario: 'with additional measures'. The 'with additional measures' scenario assumes that all exiting and currently planned measures are implemented. Emissions fall substantially further in the 'with additional measures' scenario with a fall in emissions of 13.9 per cent by 2020 relative to 2005. This indicates that there is scope for policies to make a substantial difference to emissions.

4.5 Future Direction of CAP Reform

Significant CAP reform has been achieved since the 1990s with the shift from price support to direct payments. The budget is in place to fund existing policies up to 2013. For the period beyond 2013 there are competing priorities for EU budget resources, including energy, research and external relations. Ireland's share of the agricultural budget will also be under pressure from the new member states; at present, direct payments in the new member states are considerably lower than in other member states (Matthews, 2009).

There are valid reasons for ongoing EU intervention in agriculture. The EU sets high standards on food safety, environmental protection, animal welfare and plant safety. The former Commissioner with responsibility for agriculture, Mariann Fisher Boel, has spoken about the role of EU standards. She pointed out that food safety was a non-negotiable issue. While there have been controversies regarding food safety—for example, beef imports from Brazil—ultimately the EU can and does insist that only food that meets its safety standards is allowed on the EU market. The situation is different, however, with regard to other standards: environmental standards, animal welfare and social standards. Notwithstanding the efforts of the EU, there is no international agreement on the principle that imports can be excluded on the grounds that they do not satisfy standards in these areas. The former Commissioner has argued that this provides a reason for continuing with the single payment, but targeted in a different way (Fischer Boel, 2008).

Discussion of the future CAP reform takes place against a background of increased awareness of global food security. It is estimated by the Food and Agricultural Organisation (FAO) that there are now 925 million people who are undernourished. Several trends point to food security becoming a more pressing concern in future years. First, global population is expected to reached 9.2bn by 2050, up from 6.7bn in 2008; most of the population growth will be in developing countries (Evans, 2009). Second, climate change is expected to exacerbate food security problems. Initially, global warming is expected to boost global food production while it falls at higher temperatures. Africa in particular will be affected, with the Intergovernmental Panel on Climate Change (IPCC) projecting that agricultural production and access to food, in many African countries will be 'severely compromised' (IPCC, 2007: 50). Third, water scarcity is a growing problem with implications for food production as agriculture is a major user of water. Fourth, energy security has implications for food security because energy is a key input in food production. The International Energy Agency (IEA) has pointed out that a continuation of current energy trends poses serious threats both to climate change and energy security (IEA, 2009).

There is no doubt that global food security is a pressing concern. Food security concerns reinforce the importance of sustaining food production in Europe. The European Parliament has adopted a resolution on food security that stated that CAP should remain the cornerstone of EU food security policy and argued against further 'unregulated liberalisation' of agricultural trade (European Parliament, 2009). However, food security does not provide unqualified support for protection of agricultural markets. First, an effective, open global market for food can contribute to food security. Second, food security in Europe is not the same as food self-sufficiency in view of the energy-intensive nature of European food production. Increasingly demanding environmental standards in Europe pose a challenge to increases in European food production. This points to the desirability of more research to combine improvements in agricultural productivity with ecological efficiency (Matthews, 2008b).

CAP has been criticised for adversely affecting developing countries by providing unfair competition with developing country farmers. The sharp rise in global food prices in 2007/2008 somewhat moderated concern in regard to the downward pressure of CAP on global food prices. In addition, reform of CAP has reduced its impact on developing countries: 'The traditional image of a "fortress Europe" that is closed to developing countries exports, while the EU dumps considerable quantities of surplus agricultural products on their markets to the detriment of local producers, no longer fully corresponds to the new CAP arrangements' (Matthews, 2008c: 382). CAP reform will produce winners and losers among developing countries, 'with the winners concentrated among middle-income developing countries and the losers among the more vulnerable low-income countries' (Matthews, 2008c: 398). Reform of CAP needs to pay attention to the impact on developing countries.

Climate change will need to be more explicitly addressed in the further reform of CAP. This is an urgent environmental priority and agricultural policy must be consistent with other policies that seek to reduce GHG emissions.

4.6 Conclusions

CAP has provided substantial benefits to Ireland over several decades. Transfers through CAP have not eliminated the pressure on agricultural incomes that derives from the ongoing decline in real agricultural prices. Following two years of large falls, agricultural income is rising in 2010. Only a minority of farmers are economically viable in terms of farm incomes. In the absence of direct payments to farmers, the Irish agricultural sector would now be loss-making. Other sources of income have become increasingly important in farm households. Alternative employment opportunities have been significantly reduced by the current recession. This poses major challenges for rural and regional development. Future prospects for this development are examined in a 2005 report, *Rural Ireland 2025: Foresight Perspectives*[8].

The direction of CAP reform since the 1990s has been sensible, with a shift from price support to direct payments. The budget is in place to fund the current policy up to 2013. Beyond 2013 there will be pressure to reallocate resources to meet other EU priorities. It is important that adequate support is provided to ensure high European standards of food safety, environmental protection, animal welfare and plant health. The future of CAP needs to be consistent with climate change policies and also take account of the needs of developing countries.

8 This report was prepared by an inter-institutional working group from NUI Maynooth, UCD and Teagasc.

There is a critical need for more effective domestic responses to enable the agri-food sector to address its structural weaknesses. Key weaknesses include a low percentage of viable farms, land fragmentation and concentration in low value-added products. On the other hand, Ireland's grass-based production system provides the basis for low direct production costs and has sustainability advantages. A huge investment has been made in systems of food traceability and food safety to meet demanding consumer requirements. There is potential for Irish agriculture to be competitive if key issues are addressed. Structural change is needed at both farm and processing level. The volatility of sterling against the euro adds substantially to the problems of food exporters.

The problems in agriculture and the huge fall in employment in construction and other employment reinforce the need for a more effective national policy approach to rural and regional development. It is clear that the income and market support policies of CAP alone will not be sufficient to address these problems.

It is necessary to plan how the agri-food sector can compete effectively in an increasingly competitive context. Investment in research is important to achieve competitiveness in food production while meeting high quality and environmental standards. There is a need to develop stronger links between research institutions and the agri-food industry. The *Food Harvest 2020* report offers a vision of the potential of the Irish agri-food sector. A concerted effort is required if this vision is to be realised.

From the foregoing account, it may not seem that the framework of experimentalist governance, outlined in Chapter 2, plays much of a part in EU agricultural developments. And yet as agricultural issues have become increasingly intertwined with environmental, health and safety and energy matters, there has been an increasing emphasis on agricultural producers monitoring and recording what they are doing to ensure that negative externalities are minimised. This kind of 'learning by monitoring' must become more integral to agricultural production if the imperatives of the *Food Harvest 2020* Strategy are to be realised, particularly in relation to the creation of higher-value niche food products.

5

Economic and Monetary Union

5.1 Introduction

The transition to the euro was a major development in Ireland's engagement with the EU. It is timely to review Ireland's experience as a founding participant in Economic and Monetary Union (EMU) after 10 years of membership. First, we need to form a view on how well EMU has performed over its first 10 years. Second, it is important to evaluate how EMU has performed in responding to the current international financial crisis and the associated major macroeconomic recession. Third, it is appropriate to investigate whether EMU was a contributory factor in making Ireland particularly vulnerable to the financial crisis. Fourth, it is vital to consider the effectiveness of national economic policy in the EMU era, the instruments available for responding to the current crisis and the longer-term lessons for the conduct of national policy.[9]

The central theme emerging in this report is the critical role of role of national policy in making a success of EU membership and, indeed, in ensuring that the EU itself succeeds. This theme is reinforced when we consider economic and monetary union. While membership of the euro has been beneficial to Ireland, there have been undoubted difficulties. As we discuss below, the most important lessons of this experience concern national policy and reform. Nevertheless, in the sphere of economic and monetary union there are macroeconomic forces at work, which are not amenable to policy action in a small, regional, economy. These unavoidable macroeconomic factors mean that both EU-level policies and institutions and the governance of global finance must be considered in understanding the Irish experience and in thinking about future policy.

The topic of Economic and Monetary Union is of such significance and current policy relevance that NESC decided to issue its analysis in a separate report, *The Euro: An Irish Perspective,* published in August 2010 (NESC, 2010). Nevertheless, a general review of Ireland's changing engagement with the EU would be incomplete if it did not draw lessons from the EMU experience. Consequently, in this chapter we briefly summarise the findings of the separate report on the euro. Readers are referred to the fuller study for the evidence, analysis and international literature that supports the arguments advanced. Section 5.2 outlines the origin and design of EMU and places it within the dynamic of European integration. In Section 5.3 we describe the expectations, hopes and fears, classing them into three groups:

9 In order to assist the Council's deliberation on these questions, it commissioned Professor Philip Lane, of Trinity College Dublin, to prepare a paper on European monetary union and macroeconomic stabilisation in Ireland. That paper is posted on the NESC website www.nesc.ie

theoretical pessimism, technical confidence and cautious institutional optimism. Section 5.4 summarises developments in the euro area, noting the overall success of the new currency in its first decade but the weakness of economic coordination and banking supervision. In Section 5.5 we describe Ireland's experience in the euro area, noting the role of Irish policy and factors that shaped it. Finally, in Section 5.6 we outline three key policy challenges: first, the need for improved surveillance and coordination at EU level, second, the need for Ireland to learn the lessons of the past decade concerning fiscal policy, prices, competitiveness and financial regulation and, third, at both national and EU level, the effectiveness of policy depends on greater understanding of EU processes and wider public perception that they are being used in support of coherent strategies for prosperity, stability and inclusion.

5.2 The Origin and Design of Europe's EMU

In thinking about current difficulties, it is important to understand the origin and design of Europe's Economic and Monetary Union. The key points can be summarised as follows:

1. The quest for exchange-rate stability is an integral part of the overall project of European integration. This is because there is a strong economic logic for combining deep economic integration, of the kind developed in Europe, with adoption of a common currency;
2. In the European context—where the deepening of integration respects the ongoing role of the member states—the creation and management of a common currency is an immensely complex political and policy task;
3. The design of EMU included a strong division of labour between the European Central Bank (ECB), with responsibility for monetary policy focused on price stability, and the member-state governments and other actors that have responsibility for fiscal policy, banking supervision, employment and structural reform. This unusually strong independence of the ECB largely reflected German anxiety to ensure that monetary policy would not be influenced by political pressure from the member states; it was a condition for German willingness to embark on EMU;
4. The core design includes the Stability and Growth Pact, which defines a 3 per cent ceiling on national budget deficits and a 60 per cent limit on member states' debt to GDP ratios, and a range of processes for mutual surveillance and coordination of member state policies for employment and structural reform;
5. The governance of EMU has primarily involved three of the governance modes described in Chapter 2. First, the allocation of all power over monetary policy to the ECB can be seen as a version of the Community Method, but of a strong kind. Second, intensive transgovernmentalism played a key role in achieving political agreement on the project, and still figures to some degree. Third, the mode of policy coordination has been dominant in the economic area. There was limited delegation of economic policy making to the EU level and the Commission was given a more modest role than in most EU policy spheres.

The strengths and weaknesses of this design were reflected in the performance of the new currency in its first decade.

5.3 Expectations, Hopes and Fears

Naturally, the idea of European monetary union was the subject of a vast body of economic and political analysis and discussion. In our full report on the euro, we suggest that prior expectations about the euro can be classed into three broad groups:

- *Theoretical and political pessimism:* drawing on economic theories of the nation-state economists, especially in the US, were sceptical that Europe was an 'optimal currency area'. When this was combined with doubts about the willingness and ability of European policy makers to achieve the euro, it yielded a pervasive scepticism about EMU across much of the Anglo-Saxon world;

- *Technical confidence:* reflecting the design of EMU, many were confident that if the ECB was independent of political pressure it had the technical expertise to mange the new currency in a way that yielded both price stability and strong macroeconomic performance. The key condition was that all actors play their appropriate, but distinct, roles. In particular, it depended on the member states conducting national fiscal policy in accordance with the SGP and achieving sufficient structural and welfare reform;

- *Cautious institutional optimism:* this was the view of those who shared many anxieties and fears, but believed that the institutional dynamic of European integration had a good chance of addressing most of the problems that might arise. The anxieties were diverse: imbalance between the goals of price stability and employment; imbalance between the strong ECB and weak institutions for economic coordination; lack of fiscal instruments to deal with asymmetric shocks within the euro area; that the SGP would be too weak to control member states' budgets, or would control them too much; that banking supervision had not been sufficiently transferred to the ECB;, that it would be impossible to create an island of European financial stability in a sea of global financial instability and, finally, that the euro might not have the intellectual, political and institutional flexibility to deal with a sea change in economic conditions in which a liquidity trap emerges. Many who recognised these anxieties remained cautiously optimistic, in the belief that Europe was creating a 'culture of cooperation, not simply of rule following' (Dyson, 2000: 134).

While there was considerable debate on euro membership in Ireland, a reduction in interest rates was identified as the most significant quantifiable benefit. The primary cost was that the loss of the exchange-rate instrument would reduce the speed of adjustment of the economy to shocks. Analysis by the ESRI suggested that the ongoing benefits of lower interest rates would, on balance, exceed the potentially higher costs of adjusting to shocks within EMU (Baker *et al.*, 1996). The policy implications of monetary union were explored by NESC in its 1996 and 1999 Strategy reports (NESC, 1996; 1999). The 1999 study pointed out that fiscal policy and labour-market adaptability would acquire additional responsibility for economic stabilisation in a monetary union (see Section 6.3).

5.4 Developments in the Euro Area

The euro has in some respects been a success. In understanding developments in the euro area in the first decade of the new currency, it is important to note that EMU occurred in the context of other structural changes in the world economy. In particular, the years 2003 to 2007 were characterised by highly liquid conditions in global financial markets, low interest rates and a surge of cross-border financial flows. By contrast, the period since summer 2007 has been dominated by the global financial crisis and a major global recession. These developments in international finance and international economic policy, and the crisis these have yielded since 2008, have revealed significant problems within the euro area in the first decade of the new currency:

- Imbalances within the euro area, with large balance of payments deficits in Greece, Spain, Portugal and Ireland, and surpluses in the core countries;
- These balance of payments deficits in Ireland and Spain reflected exceptionally high levels of investment, especially in construction, funded by large financial inflows;
- These developments drove higher inflation in the periphery and a sustained loss of cost competitiveness;
- A major, and related, weakness of EMU has been the supervision of financial and banking systems. With the supervisory role undertaken largely by national authorities, there was an insufficient focus on macro-prudential risk during the securitisation boom and limited ability to monitor or control multi-country banking groups. A stronger EU role would also have been helpful once the crisis hit;
- The Stability and Growth Pact failed in a number of ways to prevent deficit and debt problems within the euro area. It was overly focused on current budget balances and not enough on the sustainability of member states' public finances or underlying economic conditions. In the case of Ireland and Spain, the deficit rule was easily satisfied while the property markets were booming. Its rules and procedures became discredited because of the attitude of member states and an institutional balance that allowed them to prevent the use the of SGP provisions for recommendations and warnings. Overall, it turned out that SGP 'regulations matter when they reinforce domestic institutions and not otherwise' (Hallerberg and Bridwell, 2008: 86);
- While significant structural reform did occur—in networked sectors, infrastructural provision, labour markets and social policy—there is broad agreement that many member states achieved less reform than was intended at the launch of the Lisbon Strategy in 2000.

Many of these problems reflect problems of political leadership. Especially in the larger euro area states, political leaders have proved reluctant to 'own' EMU in the sense of facing up to, and providing, a legitimating formula for the macro- and micro-economic policy implications of renouncing devaluation and interest rates as key instruments of domestic adjustment (Dyson, 2009). For all its undoubted achievements, the design of the euro has not avoided the very deficit and debt crises it was intended to prevent. In addition, the design itself was too narrow in treating all unemployment as structural, all shocks as supply-side and all necessary adjustments as achievable at national, sectoral and firm level. Across the euro area as a whole, there would seem to have been limited political and popular buy-in to the euro as a project of stabilisation, prosperity and global governance. The effect has been that the EU's system of decision making, though remarkable in many other spheres, has not been as effective as it needed to be in the areas most closely associated with the euro.

5.5 Ireland's Experience in EMU

5.5.1 Key Aspects of Ireland's Experience in EMU

Ireland's experience in EMU in the past decade reflects the institutional design of EMU, the euro-area imbalances and domestic policy and behavioural factors. Through much of the 1990s, the Irish economy experienced strong growth, balanced between exports and domestic demand. Joining the euro involved a reduction in interest rates and a real exchange-rate depreciation. The important Irish developments in the euro include the following:

- Through much of this period, Ireland experienced inflation above the euro-area average. Cumulatively, this meant that the Irish price level went from being lower than that in other countries to being significantly higher than many (NESC, 2010: 34–5);
- After a period of large current account surpluses in the 1990s, Ireland's balance of payments was roughly in balance from 1998 to 2003, but showed increasing deficits from then until the onset of the economic crisis;
- Irish growth became increasingly driven by domestic demand, particularly in housing and construction. While there were good reasons for increased housing output and some increase in prices, property prices grew ahead of economic fundamentals (NESC, 2010);
- These trends were driven by a dramatic increase in borrowing and lending by the domestic and foreign banks serving the Irish market;
- In the past decade there was considerable volatility in the euro/sterling exchange rate. The net increase in the value of the euro against sterling between January 2007 and June 2010 was 26 per cent, and there were even larger fluctuations within this period (NESC, 2010: 39);
- Ireland's government balance was generally in surplus, and well within the SGP limit, from the late 1990s until 2007. As is well known, it deteriorated rapidly in the past 3 years as revenue collapsed and certain automatic expenditures, such as unemployment payments, increased.

Further detail on these trends can be found in a number of NESC reports (NESC, 2009a and b; 2010), in the *ESRI Quarterly Economic Commentary* and at www. Irisheconomy.ie.

5.5.2 The Role of Irish Policy

Much has been written on the reasons for Ireland's initially positive and latterly more difficult experience in EMU. We discuss this literature in our more detailed recent study (NESC, 2010). Although global developments beyond Irish control have clearly played a major part, there is no doubt that a number of domestic policies were not sufficiently attuned to the disciplines and risks of monetary union:

- In view of the critical role of excessive credit creation in driving the trends listed above, it is not surprising that inadequate financial regulation and supervision have been identified as a major policy weakness (Honohan, 2010; Conefrey and FitzGerald, 2010; Regling and Watson, 2010);
- Although Irish fiscal policy was within the SGP limits on deficit and debt, it displayed several weaknesses that contributed to the trends listed above and to the difficulties experienced since 2008. It was strongly pro-cyclical at certain times, especially between 2000 and 2002 and in 2006–7. It contained specific measures that stoked the construction boom. It was increasingly reliant on cyclically sensitive property-related revenues. In this and other ways it eroded the tax base. Taken together, and most importantly, this was unsustainable – as evidenced by the large structural deficit that has become evident (FitzGerald, 2010);
- The impact of the necessary and inevitable increase in investment in housing was shaped by policies on planning and land management, which facilitated construction in areas of low underlying demand and an insufficient supply response in and close to Dublin (NESC, 2004).

It is tempting to focus on one of these policy failures, for example fiscal policy, and make the case for much larger surpluses during the boom. Larger surpluses would have been better in nearly every respect. But what is striking about Ireland's recent experience is not so much the government balance going into the crisis, as the speed and scale of the deterioration once the crisis hit. This highlights the importance of avoiding a credit and construction boom and protecting the tax base. A more active approach to land, planning and housing provision could have met the increased housing need with less expansion of the overall construction industry and less overheating of the housing and land markets. A more stable tax structure could have significantly reduced the extent of the revenue downturn in the economic crisis.

5.5.3 Factors Shaping Irish Fiscal Policy in EMU

The principles that should inform fiscal policy are clear: it must be counter-cyclical, sustainable and respect the Stability and Growth Pact. The core purpose of these principles is to run a sufficiently large surplus during a phase of strong growth to avoid overheating the economy and to leave room for a degree of fiscal stimulus during a recession and, of course, to avoid a level of debt that pre-empts a large share of tax revenue or reduces national sovereignty. But our analysis shows that understanding and application of these principles proved difficult in the past decade. As we discuss in our recent report on the euro, application of the principles requires a correct assessment of the relative size of three drivers of Ireland's economic growth and public revenues:

- The genuine expansion of Ireland as a regional economy;
- The normal three-to-five year economic cycle; and
- The identification of asset price bubbles.

The significance of these distinct factors can be seen in the light of recent experiences, when policies had the effect of eroding the tax base and created a heavy reliance on property-related taxes. NESC's analysis suggests that technical uncertainty on these factors interacted with a set of unresolved political economy issues. Among these were:

- The appropriate scale of the public sector and public services;
- The organisational and accountability systems necessary for high-quality, responsive, public services, the scale of which was increasing;
- The level and incidence of taxation;
- The effect of inflation on incomes and costs;
- The best way of meeting increased housing need and the associated approaches to housing supply and land management.

The tax windfall created by the property boom allowed these contested and unresolved issues to be glossed over and the bigger picture to fade from view. In this context, fiscal policy was driven by its components and the macroeconomic perspective on fiscal policy was relatively muted. The result was a weakening of the stability culture built between 1979 and 2000, and an inconsistent approach across the three categories emphasised by NESC since 1990: macroeconomic policy, distributional policy and structural policy.

Consequently, the policy lessons of Ireland's first decade in EMU are hard, but also broad.

5.5.4 If Ireland had not Joined the Euro

Given the trends and difficulties outlined above, it is natural to wonder whether Ireland might have been better not to have joined the euro. In considering this, Lane distinguishes between two types of country (Lane, 2010). For mature, advanced economies with a strong tradition of monetary independence, it is feasible to chart an independent course, with the domestic central bank focused on delivering price stability and the protection of financial stability. This group includes the United Kingdom, Norway, Sweden and Switzerland. A second group of countries are those with less reputation for price stability, and uncertain long-term growth, where firms, households and governments are more likely to incur foreign-currency liabilities, and in which speculative capital flows are more prominent. In such countries, the exchange rate is less likely to play a stabilising role. Indeed, the boom and bust cycle can be amplified by exchange rate movements and interest rate policy.

Ireland represents an intermediate case (Lane, 2010). The extraordinary 'Celtic Tiger' growth narrative may well have led to considerable speculative capital flows and strong currency appreciation, posing severe stabilisation challenges if Ireland had remained outside EMU. Moreover, the global liquidity glut during the 2003–6 period would have encouraged the accumulation of significant foreign-currency debt by Irish banks, corporations, property developers and households, especially if domestic interest rates were high relative to foreign-currency interest rates. In turn, the onset of the current financial crisis could have triggered a destabilising speculative capital outflow (with both foreign and domestic investors seeking to exit), currency depreciation and a more complex type of banking crisis, where financial difficulties could have been augmented by a severe foreign-currency debt problem and an inability of the Irish Central Bank to provide sufficient foreign-currency liquidity to domestic banks. By contrast with this scenario, membership of EMU has provided considerable insulation from the full potential impact of the crisis, since adverse currency dynamics have been avoided and the ECB has acted as the liquidity provider to the domestic banking system.

5.6 Policy Challenges and Possibilities

Based on the analysis summarised above, and presented in more detail in *The Euro: An Irish Perspective*, NESC's three main policy findings can be summarised as follows:

- The future stability of the euro area depends on more effective surveillance and coordination of member states' fiscal positions and structural policies, stronger EU-level financial regulation, as already agreed, and an ongoing reform process, which addresses both the immediate problems and the dangers that threaten the prosperity of the euro area;
- To succeed within the euro, Ireland must learn the lessons of the past decade and take the necessary measures to ensure that future fiscal policy is counter-cyclical and sustainable, prices and costs maintain Ireland's competitiveness, and financial supervision prevents irresponsible banking practice;

- At both EU and national level, the effectiveness of policy depends on greater understanding of EU processes and wider public perception that they are being used in support of coherent strategies for prosperity, stability and inclusion.

We explain each of these below.

5.6.1 Reforming Co-ordination and Governance within the Euro

In the past two years, the EU has taken a number of initiatives in response to global financial crisis and the threats to the euro. These include provision of liquidity, buying government bonds, temporary financial support to Greece and creation of a reform process, now being completed, to enhance economic and fiscal coordination in the coming years. NESC and many other observers are quite candid in recognising that, notwithstanding the important steps by the EU, there are severe challenges on three fronts: the effectiveness of the temporary financial support provided to Greece (and the stabilisation mechanism potentially available to other member states), the recovery of the whole European economy in the context of fiscal austerity and the continuing risks to the financial system at both global and European level.

Some see the experience of the past three years and the risks ahead as justifying an immediate radical adjustment of the policy competences and decision making systems governing the euro and the EU – creating an 'economic government' for Europe, with the authority to determine collective economic and monetary policy, and a system of fiscal federalism. While there are analytical arguments in support of these proposals, they would seem to take insufficient account of the policy and political risk that Europe faces—deadlock, in which contending perspectives cancel each other out, leading to an insufficient or incoherent EU response to the economic, fiscal and financial crisis. Indeed, such responses to instability risk creating more instability, being seen as a systemic challenge to the design and legitimacy of EMU. Even if they were agreed by the member states, such big-bang reforms, which assume a perfect diagnosis and definite cure, run the risk of missing the target. Once taken, a one-shot re-design could make it harder to make further adjustments in response to unforeseen developments.

The more pragmatic and gradualist reform agenda adopted by the European Council and the Commission is, potentially, a better way to address the weaknesses of the past, the definite current challenges and the dangers discussed in this report. The new approach to economic coordination agreed in October 2010 includes a much stronger focus on joint surveillance of economic policies, and a closer link between fiscal policy and structural reform, which we describe in more detail, in Chapter 11. It is in tune with the fact that deeper EU involvement in numerous policy spheres does not, in general, occur by enhancing the power of a single authority. It recognises that the success of the euro will unavoidably depend on the member states seeing their fiscal policies and structural reforms as part of an EU regime of information sharing, joint learning and policy coordination.

It is important that this pragmatic and gradualist approach is open enough to respond to unfolding events and problems. Indeed, a pragmatic approach that does not set limits to reform is not only more feasible politically, and more nuanced analytically, but potentially more far-reaching than a one-shot, high-stakes, redesign of EMU.

What is required is a more reliable, better understood, more disciplined, widely endorsed and clearly articulated process for joint setting of goals, discussion of collective and national-level problems, and how the two relate to each other. In this respect, the reform process now underway should aim to ensure that the governance mechanisms that the EU has already developed and made effective in other policy spheres, as described in Chapter 2 and discussed throughout this report, are now brought to bear in economic and monetary union. At their best, these involve an effective system of joint goal-setting, decentralised execution, information sharing, learning and system revision. They can, of course, include mandatory surveillance and penalties. Advocates of an 'economic government for Europe' and defenders of the failed status quo both underestimate the potential of the EU's method of joint goal setting and problem solving.

The reform process now coming to fruition—centred in the European Council and the task force chaired by President Van Rompuy—has necessarily involved high-level bargaining involving the heads of state/government and the EU institutions. It will only succeed in the longer term if it leads to a system in which better ongoing monitoring, coordination and learning becomes the norm at all levels of member state administrations and is less captive to inappropriate high-level obstructions based on a misguided defence of national sovereignty, defined without sufficient acknowledgement of the national interest in the effective governance of a single currency. This requires greater political and popular buy-in to, and identification with, the euro as a project for prosperity, stability and global governance (see our third finding, below).

With the enhanced system of economic coordination agreed recently—and, where necessary, an ongoing reform process of the kind described above— it should be possible for the EU to discuss and agree a pragmatic combination of measures that protects the euro, addresses the deficit and debt problems, supports macroeconomic recovery and responds to the risk of further financial-sector and exchange-rate turbulence. Ireland has a strong interest in the success of this process.

5.6.2 To Succeed in the Euro Ireland Must Learn the Lessons of the Past Decade Concerning Fiscal Policy, Prices, Competitiveness and Financial Regulation

NESC is in no doubt that, overall, membership of the euro has been, and is, beneficial for Ireland. However, the experience as analysed in this and other studies, shows that national approaches to fiscal policy, prices, costs and financial regulation were not sufficiently adapted to the disciplines of a single currency. The resulting pro-cyclical fiscal policy, loss of competitiveness and excess bank-borrowing created unsustainable growth between 2000 and 2007, and made Ireland especially vulnerable to the global crisis that hit in 2008. The severity of the current crisis should make us absolutely determined to learn the correct lessons and make the necessary changes in the policies and behaviours that shape fiscal policy, prices, costs, bank-lending and private borrowing.

The principles that should inform fiscal policy are clear: it must be counter-cyclical, sustainable and respect the Stability and Growth Pact. Given our analysis of the difficulty of understanding and adhering to these principles in the past decade, the policy lessons are hard, but also broad. They certainly demand that government maintain a clearer focus on counter-cyclicality and sustainability. Some countries adopt fiscal policy rules (sometimes with legislative or constitutional force) and create an independent advisory fiscal policy council. Indeed, the European Commission has recently made proposals of this kind. The Minister for Finance has asked the Joint Oireachtas Committee on Finance and Public Service to consider the question and to report by September 2010. NESC does not advance a view on fiscal policy rules and an independent advisory council, but does set out some of the evidence and issues that need to be considered (see NESC, 2010: 80-81).

Among them is that fact that the lessons of the past decade include the need to achieve a more thorough resolution of the distributional and structural tensions that create pressure for pro-cyclical fiscal policy, and, tend to crowd out clear analysis of the macroeconomic context. They also include the need to avoid destabilising bubbles in the economy—especially in housing. The feasibility and effectiveness of an independent fiscal council might depend on a sufficient degree of social consensus on the overall tax take and public provision. NESC's analysis would suggest that the whole burden should not be placed on aggregate fiscal policy. Distributional policies—including taxation, social transfers and wage-bargaining—need to be consistent with the aggregate fiscal targets and outcomes. Structural policies—especially those that shape the supply of housing and other goods with a public dimension—can help to ensure that fiscal policy is counter-cyclical and sustainable.

5.6.3 The Future of the Euro Depends on Greater Understanding and Buy-in

At both EU and national level, the effectiveness of policy depends on greater understanding of EU processes and wider public perception that they are being used in support of coherent strategies for prosperity, stability and inclusion.

Our analysis of both the design of the euro and developments in the past decade suggest that the problems arose, in part, from insufficient policy, political and popular buy-in to the euro as a project for prosperity, stability and global governance. Member states, probably reflecting public sentiment, did not see their voluntary sacrifice of monetary policy as a reason to heighten their collective engagement in those areas where they are the key actors—fiscal policy, employment and structural reform. Instead of balancing a definite and deliberate loss of national control in monetary policy with enhanced collective action on economic policy, they were inclined to balance it with reassertions of sovereignty in the economic area. In Ireland, once membership of the euro was achieved in 1999, there would seem to have been less, rather than more, recognition and acceptance of the disciplines inherent in a single currency.

Consequently, the future effectiveness of the single currency will depend on a higher degree of political and popular identification with the euro and understanding of the division of labour and responsibilities inherent in membership. This requires a greater shared understanding of the how the euro can support the pursuit of stabilisation, employment and sustainable prosperity. In the first instance, this requires that the member states and the EU institutions are seen to be addressing the challenges facing the euro and the European economy.

But building this shared understanding is a task for all economic and social groups who accept the euro as the context within which their goals must be pursued. All whose fate depends on the success of the euro have an interest in the current reform process reaching an agreed and effective conclusion. This certainly depends on the content of the reformed procedures and policies—on joint surveillance, fiscal policy coordination, structural reform, debt reduction, macroeconomic recovery and banking supervision. But it also depends on affirmation of the appropriateness of euro-area and EU-level mutual surveillance, benchmarking and learning. In Ireland, this requires a clear narrative on the place of the euro in our long search for a macroeconomic and monetary regime that is supportive of national development and a shared understanding of the disciplines involved. As noted above, this requires more effective domestic resolution of macroeconomic, distributional and structural tensions.

The process of reform and policy correction at EU and national level is far from complete. But the task set—to protect the euro, address the deficit and debt problems of member states, support macroeconomic recovery and sustainable growth, and address the risk of further financial sector turbulence—is worthwhile. Ireland's interest lies in this reform process being open enough to address all the problems as they arise and moving to a successful resolution.

6

The European Union and National Social Policy

6.1 Introduction

This chapter analyses how the social policy of the European Union has developed, and its effect upon the Irish welfare regime and policies. The ambiguity of these developments can make them difficult to understand. Some believe that the EU has played a fairly restricted role in the area of social policy, whereas others contend that the dynamics of the single market have made it more difficult to exclude issues of social policy from the EU's agenda. And still others argue, in keeping with the interactive perspective sketched in Chapter 2, that the EU and member states are engaging in co-operative benchmarking and learning on progress toward common EU objectives. Let us outline each of these stances in more detail as a way of introducing the structure of this chapter.

For some, the influence of the EU on national social policy has been confined to advancing equality in employment, providing training opportunities and raising occupational health and safety standards. Scope for advancing beyond this role has been hindered by the difficulties of gaining agreement within the European Council, which has only been exacerbated by the greater variety of countries within the EU after the fifth enlargement. According to this thesis, instances of positive integration within the field of social policy are few, and becoming less likely given the changing political complexion of the European Union. These ideas are considered to support the long-standing view that there is a clear division of labour within European integration, with the EU responsible for market making and the member states retaining sovereignty in social policy.

Others contend that national welfare states are more widely and deeply affected by the process of European integration. Member states' autonomy has been qualified by case-law from the European Court of Justice (ECJ), which has affirmed that national practices cannot operate as an obstacle to the 'four freedoms', especially the free movement of labour and services, without justification. The sovereignty of national welfare systems has been qualified and overlain with a new mobility and competition friendly regime (Leibfried, 2010). The effect has been to restrict the autonomy of member states in deciding to whom its benefits apply and to subject areas like health and pensions to increasing competition.

This line of argument is extended by those who adopt a third thesis on EU social policy and the effect of integration on the European welfare states. They consider that the fifth enlargement has heightened the possibility of deregulatory pressures affecting national welfare systems. Mainly this is due to the disparities in income within an enlarged EU, which renders labour mobility between member states more likely. Several influential cases from the European Court of Justice are widely understood to place restrictions on national labour standards in favour of prioritising the freedoms necessary to complete the single market. According to some proponents, for this and other reasons EU integration has increasingly become imbalanced as it prioritises economic over social development, especially in light of the most recent enlargement.

There is some truth to each of these positions, as the chapter will show. But what may be omitted from them is a full consideration of the current patterns of EU governance. In particular, the inability of member states to agree at EU level on common social policy measures does not entail the end of positive integration. It may be that a new form of positive integration is occurring at the level of member states where, through processes like the Open Method of Co-ordination (OMC), progress toward goals like lifelong learning and active inclusion is being attempted.

The chapter proceeds as follows. Section 6.2 traces the emergence of EU social policy concerns in respect of equality in pay and equal employment conditions in the 1970s and later matters of occupational health and safety in the 1980s. Section 6.3 examines a more indirect role for the EU in the 1990s as it enunciated common objectives concerning issues such as employment promotion and equal treatment, and encouraged progress on these issues. This approach was formalised and extended through the Open Method of Co-ordination as a way of achieving the goals of the Lisbon Strategy. Section 6.4 looks at how the dynamics of the single market have affected social protection systems through various rulings of the European Court of Justice, which have applied the principles of the free movement of goods and services to national healthcare and social protection systems. Section 6.5 examines how member states and the EU have attempted to define the impact of 'market-making' upon social policies by designating them as 'services of general interest and/or services of general economic interest'. Section 6.6 looks at how, in the context of an enlarged European Union, greater freedom of movement might affect national systems of employment protection. It reports some counter-arguments and evidence on the question of whether there is an imbalance in the process of European integration. Section 6.7 looks at whether national welfare systems can be strengthened rather than diminished by availing of the opportunities afforded by EU integration, mainly through participation in systems of benchmarking and learning about progress toward common social concerns.

6.2 The Slow Emergence of EU Social Policy

The Treaty of Rome (1957) provided the initial legal basis for social policy at EU level, with commitments to harmonise conditions pertaining to the health and safety of workers and gender equality in paid employment. Many saw this as a fairly limited menu of social policy options as the then EEC was largely dedicated to the formation of a common market. EU social policy was largely dormant until the beginning of the 1970s, when the heads of state asserted in October 1972, that member states attached 'as much importance to vigorous action in the social field as to the achievement of economic union' (Communique issued by the Heads of States, Paris, October 1972).

Subsequently, a number of directives established equality in pay (1975) and equality in treatment with respect to employment, training and promotion (1976). The effects in Ireland, particularly in relation to changes in working conditions, are well known and are widely considered to have been positive. These included the removal of the marriage bar in employment, the disappearance of advertisements specifying the gender of applicants for a job and greater equality in social welfare code. Maternity leave and protection from dismissal on pregnancy are sometimes attributed to EU membership but resulted from domestic policy (Mangan, 1993).

The Single European Act (1986) allowed the Council of Ministers to adopt directives pertaining to the health and safety of workers by qualified majority voting, and this provision spawned a number of important directives. In 1989, eleven of the then twelve members adopted a charter outlining certain basic community social rights, primarily concerning the labour market, vocational training, equal opportunities and the working environment. A Protocol on Social Policy attached to the Maastricht Treaty (1992) facilitated QMV for the eleven member states to improve various working conditions.

Over time, through the adaption and transposition of EU directives at member state level and through the proactive vindication of individual employment and social rights by the ECJ, the EU has, with varying levels of success, made a significant contribution to legislation at national level. Numerous directives establishing new employment and social rights have been passed in the 1990's and 2000's; some examples include the 1991 Enactment of Atypical Work Directive, the 1992 Pregnancy and Maternity Directive, the 1993 Working Time Directive, the 1994 Young Workers Directive, the 1994 European Works Councils Directive, the 1996 Directive on Parental Leave, 1997 Directive on Part-time Work, the 1996 Posted Worker Directive, and the 1999 Fixed-term Worker Directive.

Other developments include: the adoption of regulation governing the creation of a European company statute and a Directive on worker involvement in 2001, in 2002 the adoption of the Directive on National Information and Consultation Rules, in 2003 a strengthening of the Working Time Directive, in 2008 a Directive on working conditions for temporary workers, in addition to agreements on tele-working (2002) and work-related stress (2004). While such directives served to expand employment and social provisions at national level, they did so with varied success.

At the same time, the EU has been responsible for identifying 'fundamental social rights', with a view to prompting legislative and programmatic activity at national and Community levels, through mechanisms such the 1989 Social Charter. The 1989 Social Charter remained ultimately a declaration of principle that defined the European model of society, lacking any legally binding power on member states. Nonetheless, it is considered influential, in the years leading up to the Charter of Fundamental Rights (in 2000). Through-out the 1990s, the 1989 Charter was referenced 43 times in Community legal instruments thus acting as a buttress where legal foundations were uncertain. Some examples include the following directives—pregnancy and maternity leave, working time, and young workers—each of which included references to the Social Charter in their preamble as a 'source of inspiration' (Hervey and Kenner 2003). From a legal perspective, once this reference was made, it could be used by the Court for interpretation purposes. The ECJ in upholding the Working Time Directive, drew on such references to support a broad interpretation of 'health and safety' and 'working environment'.

An oft-cited advantage of Ireland's membership of the European Union has been the benefits accrued from the Structural Funds and related Community Initiatives. On the social and employment areas, benefits have been realised in training and employment schemes, adult and community educational programmes, community and local development, childcare investment, and social inclusion initiatives as well as infrastructural developments such as the construction of schools, public transport and supports and other social infrastructure projects. Attention is often focused on the quantitative and financial aspects of the larger funds and these have been very substantial. In addition, at local level the Community Initiatives have made a real difference in the lives of disadvantaged people and communities. For example, programmes such as EQUAL have seen the involvement of some of the most excluded groups and actions in some of the most disadvantaged areas. The DAPHNE programme supports actions to combat violence against women and children; the LEONARDO programme has supported access to vocational training; and the NOW programme looks at ways in which women can be more easily brought into, or back into, the labour market. Important principles, such as partnership, inclusion, equality and anti-discrimination, underpin these programmes.

The EU's funding of various programmes in Northern Ireland has also been extremely influential in furthering the cause of peace. The most important have been the INTERREG programmes, which sought to address the economic and social problems that result from the existence of borders, with about 590 million Euros being made available from 1991 up to 2012; and the PEACE programmes, which assist operations and projects that help to reconcile communities and contribute towards a shared society for everyone, with over 1.5bn made available since 1995.

6.3 The Emerging Architecture of Experimentalist Governance within EU Social Policy

6.3.1 Framework Goals and the Open Method of Co-ordination

After the 1992 Treaty of Maastricht, the emphasis of European social policy moved somewhat from employment protection to employment promotion. Negotiation at the 1994 Essen European Council led to the introduction of the European Employment Strategy (EES) and, eventually, to the inclusion of employment objectives in the 1997 Amsterdam Treaty. The central aim was to foster a high level of employment via the promotion of a skilled, trained and adaptable workforce and a flexible labour market. Article 126 (TEC) stipulated that the Union could contribute to the promotion of a skilled and adaptable labour market by fostering cooperation between member states. The Council and Commission were to issue guidelines, which would be taken into account by member states in drawing up national action plans. A report would evaluate progress, on foot of which the Commission might make recommendations.

It has been argued that such a policy framework also applies to the EU's new anti-discrimination regime, which is anchored in Article 13 of the Amsterdam Treaty. It permits the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Two influential anti-discrimination directives were passed in 2000. The Racial Equality

Directive prohibits discrimination on grounds of racial or ethnic origin in a wide range of areas, including employment, housing and the provision of goods and services. The Employment Equality Directive prohibits discrimination on a longer list of grounds (religion or belief, disability, age and sexual orientation), but across a more limited range of areas (employment and vocational training). This Directive and later legislation in the field of anti-discrimination has been described as resembling the kind of experimentalist governance we described in Chapter 2. This is because the approach to discrimination is open-ended and relies on various social actors to report back to the Commission on progress, and it includes a commitment to review and revise legislation in light of these periodic reports (De Burca, 2010).

In 2000, this method of working was extended and broadened through the adoption of the Lisbon Strategy (briefly described in Chapter 2). The European Council of 2000 at Lisbon confirmed support for the EES method of policy making and named this emerging process the Open Method of Co-ordination (OMC). The Council proposed that the OMC be used to organise a learning process about how to cope with the common challenges of the global economy in a co-ordinated way, while also respecting national diversity.

In 1999, the Commission had adopted a communication for a concerted strategy on social protection, proposing a Social Protection Committee, which was made official in the Nice Treaty (2001). This committee was responsible for the initial standard-setting exercise. Next, each member state was asked to benchmark its situation by producing a two year national action plan, presenting national-level strategies for improving the situation. The EU then released a joint report on social inclusion, in which the member states' approaches were compared and contrasted and recommendations were given. In 2001, it was proposed that this method be adopted for pensions, to ensure their social adequacy, financial sustainability and modernisation. In 2004, the OMC process was applied to health and long-term care.

As noted in Chapter 2, the OMC has attracted a variety of different viewpoints, some positive and some negative. Advocates believe that it is ideal for addressing common European concerns while respecting national diversity, since it commits member states to work together in reaching shared goals and performance targets, without seeking to homogenise their inherited policy regimes and institutional arrangements. In addition, it is seen as an effective cognitive and normative tool for defining and building consensus around a distinctive European social model and policy paradigm, based on common objectives and values. It is also viewed as a mechanism for promoting experimental learning and deliberative problem solving insofar as it pushes member states to exchange information, compare themselves to one another, and reassess current practices in light of their relative performance.

Not everyone is convinced of the merits of the OMC and some believe it has a variety of defects. From a principled point of view, it is seen as a potential threat to the traditional Community Method of European integration through binding legislation and social dialogue agreements, a 'soft law' option whose availability may displace the use of 'hard law' instruments even in domains where the EU already possesses legislative powers. Rather than being a creative rebalancing of the EU's social and economic objectives, it is viewed as a defensive adjustment to the constraints imposed on European social policy by the single market, EMU and globalisation. From a practical perspective, the most common criticism of the OMC is that it has little or no substantive impact on the member states, since it mainly involves national governments repackaging existing policies to demonstrate their apparent fit with stated EU objectives.

Research, however, suggests that the OMC has, in principle, the capacity to influence member states policies, procedures, participation or learning in a number of ways (Zeitlin and *et al.,* 2005). First, it may prompt *substantive policy change* through altering, for example, the salience of certain issues (such as employment, social inclusion, training or childcare), national policy orientation or specific national policy or programmes. Second, it may have *procedural implications for governance and policy making* by encouraging horizontal co-ordination across departments and agencies and changing vertical relationships between central and local bodies, as well as establishing new statistical and monitoring practices. Third, it may alter *participation and transparency* by effecting change in the involvement of social partners, other stakeholders or national parliaments in policy making, implementation and monitoring. Certainly, involvement of a wide range of stakeholders in the preparation of national plans on employment and social inclusion is an avowed principle of the OMC as articulated at EU level. Fourth, it may foster *mutual learning*, through trial and error, comparison with other member states, formal benchmarking, and clarifying assumptions or practices that are latent within national approaches.

6.3.2 EU Social and Employment Policies in Ireland

As the method respects the diversity of domestic political institutions and processes, each member state has taken differing approaches to institutionalising the OMC process. In Ireland, the institutionalisation of consultations with interest groups can be seen in the introduction of the Social Inclusion Consultative Group (involving the social partners and anti-poverty experts who meet twice-yearly) and the Social Inclusion Forum (which includes groups not directly represented in the social partnership process). In addition, the Office for Social Inclusion is an institutional development designed to support cross-departmental and intra-agency coordination in the development and monitoring of the National Anti-Poverty Strategy (NAPs) social inclusion process.

In terms of substantive impact, Ireland's National Employment Action Plans showed a high-level of concurrence with the EU Employment Strategy and Guidelines. The most significant and direct influence of the EES was the introduction of an activation service for people who are unemployed. In 1996, a requirement to register with FÁS was established for young persons of 18 and 19 unemployed for over 6 months (Grubb *et al.*, 2009). This was followed by the 'EU-inspired preventative strategy' in 1998, which heralded an extension of activation principles under the National Employment Action Plan (NEAP) and a broadening of those to which the rules are subject under successive NEAPs (O'Donnell and Moss, 2005: 16; Grubb, *et al.,* 2009: 54). In response to the EES and OMC, the 'preventative strategy' signified a commitment to assist those unemployed after a certain period toward appropriate employment opportunities and employability supports (O'Donnell and Moss, 2005).

It is suggested that the EES's lifelong learning guidelines, while slow-burning, also began to influence strategy in support of 'ongoing learning and skill development' for both those in and out of employment. According to O'Donnell and Moss (2005: 20), this represented 'a key element of national economic and social policy'.

In relation to the development of the key national action plans themselves—NEAP and NAPs—the social partners expressed various degrees of frustration with the extent to which they are able to influence the policy agendas set. It was agreed that involvement in the NEAP is largely confined to business and employer representatives, while the mechanisms for consultation and participation provided for under the NAPs social inclusion are more inclusive. Even within the process of formulating the national action plans that support both the employment and social inclusion OMCs, there was little use made of the plans as planning documents *(ibid*. 21–22). They were largely used to report various initiatives that were taking place in particular policy areas. In the case of childcare, while specific targets were provided for, there was no further detail of the nature or breakdown of these targets. It was felt by many that the possibility of using EU-driven processes to support policy development and co-ordination through real engagement with the social partners and other stakeholders was not exploited (Murphy, 2002).

While this may seem like a downbeat conclusion, the OMC did demonstrate a capacity to prompt significant development in domestic thinking and policy. In particular, it can be seen as asking Irish policy to look beyond those areas — such as total employment creation and total unemployment reduction — where Ireland was making sufficient progress, and to focus more on issues like childcare and ensuring access to the labour market of disadvantaged groups, such as people with disabilities or poor educational attainment. Consequently, it was argued that these EU processes could and should have prompted an examination of the wider economic and social reality (O'Donnell and Moss, 2005).

That reality was one in which a remarkable growth in employment and a dramatic reduction in unemployment coincided with a much more modest reduction in benefit-dependency rate and related social problems. Consequently, it was suggested that these EU processes had the potential to prompt Irish actors to look critically at the Irish 'model' of economy, society and policy and evaluate together whether it had yet created welfare, education and training systems capable of supporting its aspiration of a high-participation, high-skilled, high-performance economy. Indeed, it was suggested that NESC's work on the developmental welfare state was precisely an attempt to look at the evolution of social protection in the context of the new economy. If it was not directly prompted by the OMCs in employment and social protection, it was certainly an indirect response to the kind of questions posed by these processes (O'Donnell and Moss, 2005).

6.3.3 The Reform and Evaluation of the Lisbon Strategy

Another response to the OMC was contained in a mid-term review of the Lisbon Strategy in 2004 (the Kok report), which judged its outcomes to be disappointing, particularly with regard to jobs. Various reasons were outlined, including an overloaded agenda, poor coordination and a lack of determined political action. The

Lisbon Strategy was relaunched in 2005 with a more singular focus on growth, and more and better-quality jobs. In parallel, it was proposed that the three strands of policy in which the Open Method of Coordination was applied—social inclusion, pensions and healthcare—be reconstituted as a single 'Social OMC', with common objectives and a single reporting arrangement over a three year cycle. The European Council set out twenty four broad economic and employment guidelines to help direct member states; the member states then submitted national reports in the first year on their progress, which were synthesised in a Joint Council and Commission Report on Social Protection and Social Inclusion. This 'Joint Report' included separate country profiles highlighting the priority themes and national challenges. The intervening years, without reporting, were dedicated to in-depth analysis and mutual learning on priority themes such as child poverty or longer working lives.

In 2010, the Commission produced an evaluation of the revised Lisbon Strategy and concluded that these guidelines had been 'very broad and insufficiently action-oriented to impact significantly on national policy making' (2010a: 20). Progress on these guidelines was made publicly available in National Reform Programmes, but the Commission concluded that whilst some member states used them as powerful instruments of policy coordination, others tended to use them as low profile reporting mechanisms. If the evident lack of a policy 'pay-off' seems like a downbeat conclusion, it should be borne in mind that many independent commentators recognise that the Lisbon Strategy, and the associated processes of OMC, have helped to reinforce a view of poverty and social exclusion as problems that need to be addressed. Daly (2010: 27) argues that

> While there are grounds to be skeptical about whether Lisbon has delivered on its social objectives, a lot of progress has been made in elucidating poverty and social exclusion as 'problems' for social policy. Furthermore, the EU has managed to clear some space for itself in the field, albeit that much of this has been in a technical capacity (measurement and data production and governance). The fact that much groundwork has already been done suggests a rationale to consolidate and even intensify existing effort.

Concluding that OMC-type processes in the realm of social policy have helped to lay the groundwork for further action allows us to reach a balanced conclusion about this kind of policy process. On the one hand, it has helped expand national debates within member states on poverty and exclusion, illuminating issues such as child poverty, the gender dimension of exclusion, and the marginalisation of different ethnic groups (Vanhercke, 2010). On the other, it is equally clear that this 'framing' of issues will only have impact 'if it is picked up by actors at the domestic level, who use it as a leverage to (selectively) amplify national reform strategies' (*ibid*.). This exercise of what Vanhercke terms 'creative appropriation' requires more effort and investment both in the more sustained involvement of relevant stakeholders and through more disciplined review of a member state's particular issues.

6.4 The Impact of the Internal Market in Qualifying Member-State Sovereignty in Social Policy

Whilst the fate of the Lisbon Strategy might seem to underline the limited competence of the EU and the ultimate authority of member states in social policy matters, developments in ECJ jurisprudence and the internal market have had major effects. Two cases in 1998, *Decker* (C120/95) and *Kohll* (C158/96), tested whether individuals could be reimbursed in their own country (in these cases, Luxembourg) for medical products and services—the provision of spectacles and ambulatory care—purchased abroad. At the time, member-states argued that either the freedom to provide services did not apply to national protection systems or that prior authorisation procedures for the consumption of health-care abroad were justified (Obermaier 2008). However, the ECJ ruled that the EU's guarantees of the free movement of goods and services required that the plaintiffs' requests for compensation be granted. Even in the absence of an EU competence, member states were required to comply with Community law when determining conditions for entitlement to benefits (Kohll, para. 19). In addition, the ECJ ruled that a prior authorisation rule did violate the free movement of services.

At the time of these rulings, member states were unwilling to abide by the rulings. Partly this was because of uncertainty about whether the rulings applied to matters beyond the specifics of the two cases, to include issues such as hospital care and whether they encompassed health systems that differed from Luxembourg's, which is based on reimbursement. This was Ireland's position until the Watts (C372/04) case clarified that the free movement of services extended to health systems funded through general taxation (Baeten *et al.,* 2010: 21). But the generalised reluctance was also due to a perception that the jurisprudence was seen as an unjustified intrusion into member state's right to determine how their social protection systems should operate. However, further jurisprudence in 2001 (Geraets Smits/ Peerbooms C157/99) found against member states' arguments that stressed the non-economic nature of healthcare and which denied the application of the free movement of services to social protection systems.

Leibfried (2010) claims that the internal market and judicial processes have resulted in some dilution of member state sovereignty, as member states experienced:

1. *The loss of national control over beneficiaries*: Member states can no longer restrict most social benefits to their own citizens. Benefits must be granted to all or withheld from all;

2. *Exportability of benefits:* Some benefits paid by member states have become portable across the EU;

3. *The loss of control over the right to administrative adjudication*: Member states can be required to accept the determination of benefit status (sick, disabled) of another member state.

Leibfried (2010: 278–9) claims that these developments are testament to the emergence of a unique multi-tiered system of social policy, with three distinctive characteristics. First, there is a paucity of positive action given the limited capacity of the EU, the density of existing national commitments and the desire of governments to preserve these. Second, a more prominent role is granted to the European Court of Justice (ECJ) in terms of driving policy developments, which qualify the sovereignty of nation-states in terms of social policy issues. Third, the EU system of social policy is tightly coupled to a process of market-building. When social policies were the sole preserve of nation-states, they often served to protect against some of the vagaries of a market economy. EU social policy has always been concerned with labour market participation but now there appears to be a significant overspill into areas that were once considered to be immune to a process of market-making. These changes have led some to speculate that, within the EU, we are witnessing the transformation of sovereign to semi-sovereign welfare states (Ferrera, 2005: 119).

It is important to note that a dilution of sovereignty does not entail that member states are no longer capable of protecting their interests in the field of social policy. In keeping with the interactive perspective outlined in Chapter 2, the social policy of member states exists in a system of semi-sovereignty in which they still wield influence. The jurisprudence that the ECJ issued after Decker and Kohll confirms this state of affairs. In the case *Geraets Smits/Peerbooms* (Case 157/99), the ECJ reassured member-states that a system that required prior authorisation for a hospital stay did not violate EU law. Otherwise, all the planning that goes into ensuring a stable, balanced and accessible supply of hospital services would be 'jeopardised at a stroke' (*ibid.* para. 81). Moreover, authorisation may be refused if an equally effective treatment could be obtained from a contracted establishment without 'undue delay'. In *Muller-Faure/Van Riet* (Case 385/99), the ECJ clarified what it meant by 'undue delay': national authorities are required to have regard to all circumstances of each specific case, taking into account not only the medical condition but also the degree of pain/disability that might make it difficult to carry out a professional activity (*ibid.* para. 90). And the case of *Acereda Herrera* (Case 466/04) clarified that a right to reimbursement for the costs of travel, accommodation and subsistence is not conferred through prior authorisation. The narrowing down of some of the broad economic implications of the original Decker and Kohll cases seems to have persuaded various national actors that the ECJ took their concerns into account. Obermaier (2008) concludes that the tremendous institutional change postulated by some has not come about because the implications of the original ground-breaking jurisprudence have been both clarified and restricted. This is a point worth keeping in mind.

6.5 Restricting the Impact of 'Market-Making' Upon National Social Policies

It is recognised that the services sector makes a significant contribution to the European economy, accounting for 56 per cent of GDP and 70 per cent of employment; the removal of barriers to the free movement of services could, thus, provide a major boost to the European economy. Service providers experience obstacles to trade arising from national regulation for service firms or products, as well as information barriers relating to setting up in or providing services in another member state. It is only since the 1990s that the EU legislature and judiciary have begun seriously to focus on the internal market for services. Attention had previously been focused on establishing an internal market for goods and dismantling associated barriers. Similar progress in establishing a comparable free market for services had not been achieved. The Commission proposed that a Services Directive be enacted, which would have the goal of removing legal and administrative barriers to trade in the services sector.

The adoption of the Directive on Services in the Internal market (Services Directive) proved contentious. Initially, it contained the 'country of origin principle' whereby a company or individual may provide services to consumers in another member state on the basis of the laws of its country of establishment. Many saw this as opening the path to 'wage dumping', and trade unions from across the EU organised protests against the directive. In March 2005, the Council of Ministers agreed to revise the proposal to 'respect social rights and public services' and agreed, in May 2006, a revised version of the directive, which omitted the country-of-origin principle.

The Services Directive applies to services, defined as self-employed economic activities normally provided for remuneration, and covers all activities and sectors that are not expressly excluded from its scope of application. The directive distinguishes between Services of General Interest (SGI) and Services of General Economic Interest (SEGI). The former (SGI) refers to services, both market and non-market, which public authorities class as being necessary for the satisfaction of certain fundamental needs and therefore has certain requirements conducive to the common good imposed on it; the latter (SGEI) refers to services of an economic nature, which member states subject to specific public service obligations by virtue of their general-interest criterion. The concept of services of general economic interest thus covers, in particular, certain services provided by the big network industries such as transport, postal services, energy and communications (European Commission 2004a).

The Services Directive provides that

- The directive does not apply to non-economic services (SGI)
- Certain services (SEGI) are excluded from the directive.[10] This includes healthcare[11] and other social services;
- Those SGEI that do come under the scope of the directive are exempted from *freedom to provide services* provisions (but have their own regulatory regimes). These include postal services, electricity sector, gas sector, water supply and waste treatment.

However, public services are potentially affected if it is decided that they serve a general economic interest. In essence, where a public service activity or undertaking is 'economic', it is subject to competition rules; where it is not economic but

10 Article 2, Service Directive

11 'The original Commission proposal for a Services Directive contained provisions clarifying the conditions under which patients are entitled to reimbursement for medical care obtained in another member state aimed at ensuring that patients could benefit from a better choice of high quality treatment. The European Parliament voted to remove all health services from the scope of the directive. The Commission has accepted this. However, the exclusion of health services from the scope of the directive does not take away from the necessity of addressing the increasing case-law of the European Court of Justice in regard to patient mobility. A separate proposal from the Commission addressing this issue may therefore be necessary. In parallel with the Services directive, the Commission will draw up a communication setting out the proposed action that needs to be taken in this area' (http://europa.eu). This has led to the proposed patient mobility directive.

solidarity-based, it is excluded (Baquero Cruz, 2005). These developments have prompted an attempt to delineate 'non-economic' and 'economic' activities, separating non-market services—for example justice, defence, some education, health—from market services, such as energy, communications, transportation etc. This is a contested area.

For example, the Irish government's decision to impose a risk equalisation scheme in the health insurance sector was challenged by an insurer, BUPA, from the private sector, on the basis that it distorted competition. In its defence, the Irish government claimed that private health insurance was a service of general economic interest and acted as a supplement to the public health-insurance system. The Court of First Instance agreed with the Irish government and claimed that it fulfilled a mandatory objective of social cohesion and solidarity between generations. The Court affirmed that member states have wide discretion to define what they regard as SGEIs and this definition can only be questioned by the Commission in the event of a manifest error (Lear *et al.,* 2010). Even if member states have broad discretion to classify public services as SGEIs, it is not clear that this would 'exempt them from competition law' since there are few 'bright distinctions between economic and social functions' *(ibid.* 366, 377) in mixed public and private systems. It would seem that:

> Once a member state shifts its health services from a model based essentially on solidarity to one including market-based principles, the uncertainty surrounding the scope of application of EU law could result in unintended consequences. Such reforms may unintentionally broaden the market's influence on health services, despite the dampening effect of the SGEI clause in the EC Treaty (Mossialos *et al*., 2010: 78).

So there is a complicated picture as regards healthcare whereby it is excluded from the Services directive yet still potentially subject to the EU's free movement and competition law. Both the Council and Parliament have called for legislation to clarify the situation and the Commission has proposed a directive on cross-border healthcare. This has yet to gain approval from the necessary number of member states, who are anxious about its impact on public finances.

Leibfried considers that the implications of the Services Directive, and related developments, places further restrictions on member-state autonomy in the field of social policy:

4. The effects of the EU Treaties seem to move the welfare state over the borderline into the sphere of economic action, at least in part when redistribution is not involved, thus slowly submerging its activity into a single 'social security' market;

5. Consumer and provider rights have come to the fore since the mid-1980s which has had implications in relation to questioning welfare-state 'closed shops'. Member governments can no longer exclusively decide who provides social services or benefits;

6. The health area is a first and crucial Europe-wide testing ground for the turf battle between national welfare states and the EU, plus the market as represented by private insurance, producers etc.

6.6 Are Social Standards being Reduced in an Enlarged EU

Although the changes made to the amended Services Directive seemed to signal a 'victory' for a vision of 'Social Europe', the changed context of the European Union following the fifth enlargement resurrected some of the concerns raised by the original 'country of origin' principle. The increased cross-border movement of workers and services, instigated by the fifth enlargement, instilled some alarm about its effects on employment standards due to disparities in wages and conditions between 'old' and 'new' member states. Anxiety has been further raised by a series of ECJ decisions (Laval, Viking, Ruffert and Luxembourg), which suggest that the right of trade unions to take industrial action in defence of social conditions of employment must be specified in a way that takes account of the right of free movement of services and persons within the EU. Some believe that these decisions may facilitate social dumping as enterprises seek to exploit the lower wages customarily available in some of the new member states, either by making more use of posted workers (as in Laval, where a Latvian company posted some of its workers to Sweden at Latvian rates), or establishing their companies overseas (as in Viking where a Finnish company reflagged one of its vessels under an Estonian flag to avail of the cheaper wages). If this became a general trend, it could represent a diminution of some of the most fundamental social protections within European societies.

Scharpf (2009) claims that this represents a dominant trend in European integration, which is a negative process concerned with the removal of national laws and rules which obstruct the ongoing creation of a single market. Although the decisions of the ECJ are mainly responsible for this process of 'negative integration', Scharpf concedes that the liberalisation it introduces should not be interpreted in a purely 'market-liberal or neoliberal sense'. He admits that from early on the ECJ has protected the social rights of migrant workers against discrimination on grounds of nationality, and it has expanded the guarantee of equal pay for men and women (Article 141 ECT) into a workplace-oriented regime of gender equality. Furthermore, freedom-of-service provisions have been used to require that patients seeking ambulatory and stationary health- care abroad should be reimbursed by their national system. And the combination of EU citizenship, freedom of movement and nondiscrimination on grounds of nationality is used to minimise national residency requirements that would limit migrants' access to national welfare systems (2009: 14-15). All of these scenarios are indicative of the fact that the rights-based case-law of the ECJ is expanding into new areas where its evolution is not, or not primarily, driven by the economic interests of big firms and capital owners. For this reason, liberalisation is used by Scharpf as a 'generic term describing mobility-enhancing policies that may serve economic as well as noneconomic interests' (*ibid*.).

However, this broad sense of liberalisation does not entail that an 'embedded economy' is appearing at the level of the EU, which entails the political tempering of market forces. What EU citizenship, underpinned by decisions of the ECJ, guarantees is individual rights of exit from, and entry into, democratically shaped and collectively financed systems of national solidarity. Therefore, for Scharpf, integration through law maximises negative integration at the expense of democratic self-determination within national settings. It produces what one commentator has termed an 'anti-political polity' (Walker, 2010,) both at the level of the EU and member states, wherein the resources to commit to collective projects are being depowered by negative integration that favours individual mobility. Even if the ECJ were to demonstrate an awareness of the national consequences of its decisions, it cannot establish a common EU regime that would remedy some of these deficiencies; it can only deregulate existing national regimes. And positive integration is unlikely to be secured through political agreement, given the difficulties of consensus within an enlarged EU.

6.6.1 Questioning the Extent of Imbalance

It can be argued that the 'imbalance' thesis is prone to determinism, namely that it over-estimates the determinative power of ECJ judgements and underestimates the opportunities for a national response that preserves but yet transforms, in some fashion, the original preferences and interests that were called into question by the ECJ. For instance, Scharpf admits that his analysis may seem to involve a high degree of 'structural determinism' that leaves no room for the potential of creative agency. His response is that his purpose is to raise awareness of the structural obstacles that would have to be overcome if an attempt was made to create a 'European social market economy' (Scharpf, 2009: n. 1)

This response rests on the assumption that efforts to alleviate the effects of negative integration—i.e. some form of positive integration—can only be conducted at supra-national level. This seems to confirm the issue of determinism; there is little room for manoeuvre at the national level. However, this account may rest upon a vision of negative and positive integration that may be more suited to an earlier stage of European integration, which differs from the current period. The first stage was characterised by the fact that the EU had few legal or budgetary instruments to effect changes in national social policy. The second stage underlined how ECJ decisions drove negative integration, forcing national welfare systems to conform to the internal market; in that stage, positive integration of social policy was limited, not making up for losses nationally (Kvist and Saari, 2007: 230). Since then, some suggest that there has been a 'third wave' of integration, which has involved the further realisation of the internal market, EMU, the fifth enlargement and the creation of new policy processes, not all of which are captured in the 'imbalance thesis'.

In particular, the implications of new policy processes and the fifth enlargement tend to be overlooked. The importance of new policy processes, such as the Lisbon Strategy and the OMC, lies in the fact that they potentially exemplify a new form of 'positive integration'. Unlike old positive integration that leads to more policy making at the EU level, this new form of positive integration mainly provides input to policy making at the national level, where decisions on social protection occur (Kvist and Saari, 2007). This new kind of positive integration fits with the interactive perspective articulated by NESC and outlined in Chapter 2. It is also in keeping with emerging scholarship on the ECJ, which maintains that the supremacy of EU law does not automatically entail its transposition into a domestic framework, as national actors have to be persuaded of its appropriateness. Regarding the earlier discussion of healthcare in this chapter, one general conclusion is that in seeking to reduce the 'misfit' between EU law and the domestic legal situation, 'adaptation processes are not straightforward and represent creative responses in a context of legal uncertainty' (Baeten *et al*., 2010: 24), rather than a simple command and control process. This may not be a temporary aberration but a permanent feature of the EU constitutional order. Accordingly, some argue that the relationship between national and EU legal orders should be construed as 'interactive rather than hierarchical' (Hunt and Shaw, 2009). If this is the case, then the ECJ does not necessarily impose solutions of a particular ideological hue, but invites national systems to moderate between rights, the importance of which is agreed by all. An illustrative example of this is provided in the background paper that accompanies this chapter, which examines how Swedish institutions responded to the Viking and Laval cases (Finn and Vaughan, 2010).

In portraying enlargement as providing an impetus to 'liberalisation' that damages national systems of solidarity, the imbalance thesis overlooks how enlargement may offer opportunities to EU citizens in a number of ways. Not only have successive enlargements elevated social standards in new member states, but they have also offered workers an opportunity to avail of employment opportunities elsewhere in the EU. This is not to deny that large-scale immigration can produce anxieties and induce wage competition. But the most appropriate response is to improve the domestic governance of these important issues, as Ireland has done with the enhanced protection of labour standards through the National Employment Rights Agency. This suggests that if there is a balance to be struck between respecting the fundamental freedoms of the EU and the protection of certain national practices, it will have to be done, in part, by the member states.

This is not to rule out action at the European level. The Monti report on the single market, which addresses the need for a new strategy to progress this issue, speaks of the need for 'balancing single market and social requirements', a task that should be taken up by political actors and not be solely driven by litigation before the ECJ and national Courts (Monti, 2010: 69). The report has stated that two issues particularly need to be tackled: the practical one of whether the posted workers' directive provides an adequate basis to manage the increasing flow of cross-border temporary secondment of workers, while protecting workers' rights; and the status of industrial action vis-à-vis economic freedoms. In relation to the first, the Monti report states that action at European level would be helpful to dispel the ambiguities that still affect the interpretation of the directive, by facilitating access to information, strengthening the cooperation between national administrations and better sanctioning abuses. In relation to the second, the Monti report suggests establishing an 'early warning system' whereby possible obstacles to the free movement of workers are identified to the Commission, which then plays an arbitration role between the entities involved.

While it is true that ongoing EU integration has called into question some facets of national-welfare regimes, it is by no means certain that welfare regimes themselves will be eroded by this process. In fact, it may be that some concerns and issues that are integral to national social policy — such as the alleviation of poverty, the diminution of exclusion and the move to a flexicurity system of social protection — may be elevated and strengthened through the new forms of positive integration offered by participation within the EU.

6.6.2 A New Form of Positive Integration for Social Policy?

Successive presidencies of the European Council have pressed the issue of how the EU can maintain its 'normative commitments to social justice while aspiring to be a truly competitive force in the evolving knowledge economy' (Esping-Andersen *et al.,* 2001). And the answer from many member states has been to articulate a fairly coherent new narrative about how vital a role social policy has to play in the new era of economic internationalisation and post-industrial social change. In order to connect social policy more fully with a more dynamic economy and society, EU citizens have to be endowed with capabilities, through active policies that intervene early in the life cycle, rather than later with more expensive passive and reactive policies. At the heart of the new narrative lies a re-orientation in social citizenship, away from *freedom from want* towards *freedom to act*, prioritising high levels of employment for both men and women as the key policy objective. This combines elements of flexibility and security, under the proviso of accommodating work and family life and a guaranteed *rich social minimum* serving citizens to pursue fuller and more satisfying lives (Hemericjk, 2008: 44).

Member states have been stimulated in this common question by various presidencies of the EU but they have also been sustained by the EU providing a space in which common problems could be assessed and solutions evaluated. The result has been a highly dynamic process of 'self-transformation of the European social model(s)' (Hemerijck, 2002), marked through the past decade not by half-hearted retrenchment efforts but by more comprehensive trajectories of 'recalibration', ranging from redesigning welfare programmes to the elaboration of new principles of social justice. Hemerijck noted some of the following important changes:

- Active service-oriented welfare states were in a stronger position than the passive, transfer-oriented systems to make adaptations to the challenge of the feminisation of the labor market;
- In labour-market policy, the new objective became maximising employment rather than inducing labour-market exit, and this implied new links between employment policy and social security;
- With respect to labour-market regulation, evidence from Denmark and the Netherlands suggested that acceptance of flexible labour markets is enhanced if it is matched by strong social guarantees;
- In the sphere of social security, there has been a shift from passive policy priorities aimed at income maintenance towards a greater emphasis on activation and reintegration of vulnerable groups;
- In the area of old-age pensions, the most important trend is the growth of compulsory occupational and private pensions and the development of multi-pillar systems, with a tighter actuarial link between benefits and contributions;
- There has been a renewed emphasis on social services. This has been necessitated by enhanced female participation in the labour market and by changes in aging and longevity. Both require 'care-giving' that cannot be met purely by families;

- With respect to financing, we observe an increase in user-financing in the areas of child care, old-age care, and medical care. At the same time, fiscal incentives have been introduced to encourage people to take out private services and insurance, especially in the areas of health and pensions.

Hemericjk considers that these developments amount to a process of 'contingent convergence' of employment and social policies, with the adoption of increasingly similar initiatives across Western Europe. The overall trend is a gradual transition from a reactive, corrective, compensating and passive welfare edifice to a more proactive social investment strategy, with much greater attention to prevention, activation, and capacity building. Indeed, those who analyse the past decade of European integration in these terms cite NESC's report *The Developmental Welfare State* as a leading example of the new perspective, and have proposed that the goal of the EU processes should be a 'developmental welfare state for Europe' (Hemerijk, 2008:44).

Throughout this process of convergence, Hemericjk maintains that the European Union has played an increasingly influential role in sustaining a form of 'double engagement' between member states in terms of setting a cross-national agenda on vital social matters, and creating a space for sharing the experiences of domestic policy reform. This increasingly important role for the EU means that it is no longer possible for the national welfare state and the European Union to be regarded as operating in largely separate spheres. What this entails is not whether the EU should play a role in the formulation of national social and employment policy, since it is already doing this, but *how* the EU can make an effective and legitimate contribution to current processes of recalibration and reform in the national welfare states of the EU (Zeitlin, 2010). The central question is not 'how much' or 'how little' Europe we wish to have, but rather 'what kind of social Europe the member states are willing and able to build'. Formulating the matter thus suggests that it is possible to strike a balance not only between the EU and member states that respects capacities and competences of both, but that can also mediate between economic and social concerns.

What might impede this quest is that the degree of political attention devoted to the priorities of the Lisbon Strategy, such as active welfare policies, has been less than fulsome. As this chapter has recounted, many member states', including Ireland's, engagement with the OMC has been tentative. Taking the case of Ireland, the kinds of question it has asked about the basis of its record of employment growth — whether it has a welfare, education and training system capable of supporting its aspiration of a high-participation, high-skilled and high-performance economy — have not elicited a detailed response. If the new form of positive integration offered by ongoing European integration has been to provide inputs for the reconfiguration of policy at national level, then, in some respects, Ireland has failed to take full advantage through its relative lack of engagement with the OMC. It is largely at national level that integration could yet be more positive and where there may be an ongoing deficit that needs to be corrected.

Member states realise that they are facing similar challenges, such as a transition to post-industrial economies that necessitates more extensive education. And member states are increasingly embarking on a path of what Hemerijck termed 'contingent convergence', which involves a more proactive social investment strategy, with much greater attention to prevention, activation, and capacity building. Increased emphasis on activation has led to a greater emphasis on policy-learning, as the major challenge of activation lies in identifying the best way to enter and remain in gainful employment and achieve some upward mobility. The ways in which people can be inaugurated into the labour market and sustained within it will depend on their capacity and prior experience, and will not be amenable to uniform solutions. Success of activation policies will be underpinned by their capacity to learn from previous policies, and a redefinition of target groups and instruments (Eichhorst and Konle-Seidl, 2008).

If increasingly member states have been converging on recognising that this is a problem, the process of convergence could perhaps be more structured or ordered than it has been to date. By this we mean that the introduction of OMC-type processes has provided a wealth of information on issues pertaining to poverty and social exclusion, but that this generation of indicators has yet to be optimally integrated into policy development (Daly, 2010). Now may be the time to capitalise on the diverse experiences of social policy problems and their attempted resolution by fuller participation in an EU wide system of monitoring and assessment. This does not entail uniform solutions but it does require of national administrators a profound understanding of their own issues and willingness to look elsewhere for ideas about how to resolve them. These issues are examined in more detail in Chapter 11 in the context of a discussion of Europe's 2020 Strategy. Such endeavours have been more fully realised in aspects of the EU's environmental policy, which is examined in the next chapter.

6.7 Conclusion

There is no doubt that EU policy and judicial development of the past fifteen years makes it hard to interpret the impact of European integration on national social policy and the social complexion of European states. This issue is made more complex by the fact that after 2004 the (slowly) developing body of EU social legislation and policy operated in a radically different context—i.e. one in which there was a much larger divergence between the living standards, levels of social protection and regimes of industrial relations in the different member states. We have identified a number of influential perspectives on this question—the sovereignty thesis, the semi-sovereignty thesis and the imbalance thesis. While each of these captures an aspect of the complex EU reality, it is not clear that any of them is adequate to provide an understanding of the social impact of integration. Nor is it clear that any of them provides an adequate orientation on the limits and possibilities of policy development at both EU and national level.

7

Environmental Policies

7.1 Introduction

This chapter reviews the crucial role that the EU has played in the development of Ireland's environmental policy, which was in a rudimentary state prior to Ireland's engagement with the EU. It outlines the basis of the EU's environmental policy and notes how there has been a shift from a relatively centralised, top-down model of regulation – the so-called 'hard law' approach – towards combining this with a more collaborative, decentralised approach that puts an emphasis on learning from experience rather than simple compliance with EU law. This kind of hybrid approach, identified as experimentalist governance in Chapter 2, can be seen most distinctly in the form of the Water Framework Directive, although it is becoming increasingly apparent in other areas of EU environmental law. Having set the context of the environmental law and policies of the European Union, the chapter then goes on to consider the progress that Ireland has made in six distinct environmental sectors. Whilst many significant improvements have been achieved, the chapter concludes by noting that these very achievements have brought to light obstacles to further progress. Two are particularly significant, namely shortcomings in the implementation of EU environmental law and the mainstreaming of environmental objectives into other policy domains. Both may be assisted by the more complete incorporation of the increasingly prevalent experimentalist governance architecture (EGA) in EU environmental policy making.

7.2 EU Environmental Policy: Basis and Instruments

There was no mention of the environment in the original Treaty of Rome (1957). A major stimulus to the development of EU environmental policy came from a call by the heads of state in 1972 for the Commission to prepare an environmental policy and establish a directorate with responsibility for the environment. The first environmental action programme was published in 1973. The Single European Act (SEA) of 1986 identified protection of the environment as a Community objective and the EC enacted more environmental legislation between 1989 and 1991 than in the previous 20 years combined (Vogel, 1997). The Maastricht Treaty (1992) further strengthened the profile of the environment. Article 2 of the Treaty added 'sustainable growth' as one of the EU's key objectives. It extended QMV to cover most environmental decisions and not just those related to the single market (Weale *et al.,* 2000). The Amsterdam Treaty replaced the objective of 'sustainable growth' with the more ambitious concept of 'sustainable development'.

The first progress report on the Sustainable Development Strategy (SDS) was adopted by the Commission in 2007. The report found that there had been significant policy developments to promote sustainable development, but that progress had not yet been translated into substantial concrete action. The Lisbon Treaty affirms sustainable development as an EU objective and as a goal in its external relations, although the Commission has admitted that 'unsustainable trends persist and the EU still needs to intensify its efforts' (European Commission 2009a: 15). International action on climate change has been added as an objective of Union policy on the environment (Article 191). In 2010, a new Directorate General for Climate Action was created in the European Commission.

Despite the EU's growing competence in this area, doubts have persisted over how well member states have implemented EU environmental directives. In turn, this has prompted questions about the adequacy of the traditional 'hard law' approach whereby the Commission initiates infringement proceedings against those who have failed to transpose directives correctly. In response to these concerns, the hard-law approach has been supplemented by what is known as 'soft law', whereby national entities are required to achieve a relatively vague goal — such as 'good water status' — but granted the freedom to do so. In using this autonomy, they must monitor and report on their results through a peer-review process and revise goals and procedures in light of the lessons learned. Such a process approximates to the kind of policy making that was termed 'experimentalist governance' in Chapter 2 and has become more influential in the EU environmental sphere since the mid-1990s (Von Homeyer, 2010).

The rise of experimentalist governance in the environmental sphere can be attributed to both successes in dealing with highly visible problems, such as high levels of air and water pollution, and the consequent focus on deep-rooted environmental problems. Attention has now shifted to what have been termed 'persistent environmental problems' such as climate change or loss of biodiversity. These problems are characterised by:

- A close causal link between the problem and the operating logic of the economic sectors causing the problem. Therefore, the effectiveness of technical fixes is limited and problem-solutions requires changes in the behaviour of sectoral actors;
- High complexity: the sources of persistent problems are diffuse and involve a large number of actors. In addition, cause and effect tend to be significantly delayed;
- Low 'visibility': due to the creeping nature of many persistent problems, measures must be taken well in advance of the manifestation of serious effects. This means that such measures must deal with uncertainty and react to models of future scenarios rather than direct threats. The resulting problems of low visibility and uncertainty reduce political pressure for action;
- Global dimension: persistent environmental problems often have a global dimension so that, ultimately, they can only be effectively addressed by internationally co-ordinated measures (Von Homeyer, 2010).

It is also the case that environmental policy appears to suffer from an implementation deficit that exceeds other policy areas such as the single market or health and consumer protection (Lenschow, 2010). In part this may reflect the growing complexity of environmental policy adverted to above, as well as the difficulties of achieving sustainable development by integrating environmental concerns into other policy areas. In June 1998, the European Council in Cardiff requested that three sectoral areas — agriculture, energy and transport — pioneer environmental integration strategies, and in 1999 the Helsinki Council meeting requested regular evaluation, follow-up and monitoring so that strategies could be adjusted and deepened. The fate of the EU's sustainable development strategy will be assessed later but, for now, it is worth noting how its emergence supports the kind of policy making favoured by experimentalist governance.

Another factor contributing to the emergence of experimentalist governance relates to growing concerns over the legitimacy of EU environmental policy, which was believed by some to be having a negative effect on competitiveness and employment as well as unduly impinging on national concerns. Several governments were vocal in calling for greater flexibility and subsidiarity in the implementation of the EU's environmental policies. In responding to such concerns, the EU has, to some extent, moved from the use of hierarchical regulation to alternative instruments, collectively referred to as 'new policy instruments'. New policy instruments include market-based instruments (taxes, charges, emissions trading), voluntary or negotiated instruments and information devices such as eco-labels. A common feature of new policy instruments is that they involve less intrusive intervention and offer those affected greater flexibility than regulation. Another development has been to shift from treating pollution at the end of a process, the so-called end-of-pipe approach, towards a more holistic approach that stresses prevention and addresses the systemic causes of pollution.

Another important shift has been to put a greater emphasis on framework directives, which are designed to avoid overregulation by requiring that member states comply with relatively open-ended goals, such as 'good water status', which becomes more clearly defined in the very process of implementing the directive. In 2005–6, the Commission produced seven thematic strategies on air pollution, waste management, the urban environment, pesticides, the marine environment, soil protection, and resource management. To assist the implementation of these strategies, the Commission also published proposals for legislation, often framework directives, such as the Marine Strategy Directive or the Waste Directive, which encompass many of the features of experimentalist governance (see Table 6.1, below, which classifies these strategies according to an EGA framework).

As well as making EU law more open-ended, EU environmental policy making has introduced several initiatives to improve implementation and enforcement. It has tried to take a preventive approach to ensure that breaches do not occur, 'focusing on building states' capacity and expertise to implement policies, rather than punishing lack of implementation' (Lenschow, 2010: 323). One of the most notable ways it has done this is through the creation of the European Network for the Implementation and Enforcement of Environmental Law (IMPEL), an international non-profit association of the environmental authorities of the EU member states, acceding and candidate countries of the EU and European Economic

Table 7.1 Overview of Institutional EGA Features of the Thematic Strategies

	Air	Marine	Pesticides	Resources	Soil	Urban	Waste
Legislation	Yes	Yes	Yes	No	Yes	No	Yes
Framework goals and metrics	(+)	+	(+)	+	+	+	+
Reporting obligations and monitoring	(+)	(+)	+	(-)	(+)	(-)	(+)
Peer review	(-)	(-)	+	(+)	(+)	+	+
Periodical review	(+)	(+)	+	+	+	(-)	(+)
'Lower-level' plans	(+)	+	+	+	+	(+)	+

Source Von Honmeyer, 2010: 123.

Notes + fully present; (+) partly present; (-) somewhat present; - not present.

Area countries. IMPEL was set up in 1992 as an informal network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The network's objective is to create the necessary impetus in the EU to make progress on ensuring a more effective application of environmental legislation. IMPEL exhibits several characteristics of 'experimentalist governance' as it strives to improve the implementation capacity of national organisations through information exchange, peer review and monitoring and dissemination of best practice. Ireland is represented by the EPA, which regards IMPEL as a powerful tool for sharing experience and information on the practical application of environmental legislation across Europe.

EU environmental policy is developed through a series of action programmes that set out multi-year plans for legislative and other actions to address environmental priorities. The current programme, the Sixth Environmental Action Programme (SEAP), covers the period from 2002 to 2012. It is organised around four priority areas: climate change; nature and biodiversity; environment and health; and sustainability in the use of natural resources and management of waste.

In its most recent report (2005), the European Environmental Agency concluded that the 'environmental quality in the EU was mixed and that the unsustainable development of some key economic sectors was the major barrier to further improvements'. Climate change remains the biggest challenge and there are long-standing problems in the implementation and enforcement of EU environmental law.

7.3 The Progress of Environmental Policy in Ireland

Historically in Ireland environmental concerns had been considered less urgent than issues of economic and social development. Incidences of serious pollution during the 1980s raised awareness of the need for stronger environmental policies. A key landmark in Irish environmental policy was the establishment of the Environmental Protection Agency (EPA) in 1993 and the adoption of a new approach to the regulation of industry and other entities with significant environmental impact.

A core responsibility of the EPA has been the management of an Integrated Pollution Prevention and Control (IPPC) licensing system, which involves integration of all environmental impacts into a single licence. Licences are required for certain large-scale industrial and agricultural activities including the intensive pig and poultry sectors and the recovery or disposal of waste in a facility connected with or associated with an IPPC activity. The EPA must be satisfied that the emissions from the activity would not cause a significant adverse environmental impact

In 2003 the EPA established a dedicated Office of Environmental Enforcement (OEE). According to Flynn (2007) this stemmed from pressure from the European Commission to improve implementation. The OEE has direct responsibility for the enforcement of EPA licences and also supervises the environmental protection activities of local authorities. The OEE can prosecute individuals, companies and local authorities; a number of local authorities were prosecuted by the OEE for the first time in 2005. In order to achieve a more effective approach to enforcement, the EPA co-ordinates a national Environmental Enforcement Network. This network consists of the EPA, all local authorities, An Garda Síochána, the National Bureau for Criminal Investigations, and other public bodies (NESDO, 2009).

Local authorities continue to have extensive responsibilities for implementing environmental policy, including, of course, EU policy. The EPA has a monitoring role and powers of sanction over local authorities. If the EPA believes that a local authority has not carried out its statutory responsibilities in a satisfactory manner, it may request a report from the local authority. If a satisfactory response is not provided the EPA may implement the required changes and impose the costs on a local authority. The EPA is undergoing a public review process in 2010.

The EPA publishes overall assessments of Ireland's environment every few years; the most recent of these was published in 2008. The EPA (2008a) concluded that on balance the quality of Ireland's environment is relatively good but identified key environmental challenges that need to be addressed. The four main challenges were identified as follows:

a. Limiting and adapting to climate change: The EPA regards climate change as the greatest challenge facing humanity. Ireland is an active participant in the co-ordinated EU effort to limit climate change. Ireland also needs to address the mitigation of climate change, including issues such as flood prevention;

b. Reversing environmental degradation: two areas where unsatisfactory conditions were considered by the EPA to be extensive were water pollution, and the unsatisfactory conservation status of natural habitats and species. It also identified remediation of contaminated soil as an important issue;

c. Mainstreaming environmental considerations: policies and plans across a range of areas have significant environmental impact (for example, energy, housing and transport) and there is a need for greater integration of environmental considerations across these areas. In addition the EPA argued that businesses and individuals need to take greater responsibility for their environmental impact;

d. Complying with environmental legislation and agreements: there is a need for a strong culture of compliance with environmental legislation as well as a higher and more consistent standard of enforcement, given the range of EU and international obligations on the environment that Ireland has to meet.

The EPA (2007) set out a long-term vision for Ireland's environment and identified the following six priority goals:

1. Protected water resources;
2. Sustainable use of natural resources, including waste minimization;
3. Protected Biodiversity and soil;
4. Clean air;
5. Limiting and adapting to climate change;
6. Integration of environmental goals into sectoral and other policies and enforcement of EU environmental law.

In reviewing these individual policy areas, it should not be forgotten that they form part of an interdependent eco-system. Not only does one area, such as waste, impact upon another such as water, they are also affected by current systems of transport, and spatial planning to name but a few. Bearing in mind that emphasis in pollution control is shifting away from end-of-pipe approaches towards addressing its underlying causes, many of the goals for Ireland's environment will not be met unless action is taken in line with Ireland's National Sustainable Development Strategy. Actions include ensuring sustainable transport systems and promoting sustainable consumption and production patterns (Department of the Environment, 2007).

7.3.1 Water

Impact on Irish Policy and Investment

EU directives have triggered major public investment in the areas of water and waste water. The Urban Waste Water Directive (1991) was the main driving force behind Irish investment in environmental infrastructure during the 1990s. Thanks to this investment, the share of waste water subject to secondary treatment rose from just 26 per cent in 1998–9 to 90 per cent in 2007, largely due to new plants in major cities. Notwithstanding this progress, Ireland was found to be in breach of this directive by the ECJ in September 2008, over a failure to provide secondary treatment facilities in six towns with populations over 15,000.

The ECJ ruled in 2002 that Ireland was failing to comply fully with the EU Drinking Water Directive (1998), due to quality problems in private group water schemes, and followed this with a final warning in 2007 about non-compliance. The risk of EU fines has helped sustain substantial continuing investment to upgrade standards with €100 m being allocated to the rural water programme.

Water Framework Directive

Prior to the introduction of the Water Framework Directive (WFD) in 2000, water quality within the EU had been regulated through the Community Method use of EU directives, with the Commission driving implementation. By the late 1990s, there were 11 separate water directives in place, but there was widespread dissatisfaction with EU environmental law in general and water-quality regulation in particular. Overall, it was believed that this centralised approach failed to appreciate the differences in local conditions, was relatively oblivious to implementation issues and placed too much strain on the EU's capacity to gain compliance with detailed directives (Trubeck and Trubeck, 2007).

These general concerns were replicated in the case of water quality management within the EU as the ecological systems of the different member states differed widely, as did their approaches to environmental protection. It was also becoming more complex thanks to 'increased public awareness, growing demand for water by users, the privatisation of water distribution systems in many countries, emergence of new scientific knowledge, and controversies concerning the impact of chemical discharge and agricultural run-off on ground and surface waters' (*ibid*.).

As a response, the WFD marked an important shift in environmental policy making as it was an amalgam of 'hard' and 'soft' law, mixing legally binding requirements and non-binding guidance for decentralised processes aimed at data-gathering and information-sharing. The legislation requires member states to halt any deterioration of water status and take measures to achieve good water status within a specified time frame. The directive does not define precisely what is meant by the term 'good water status', although an annex does provide guidance on what constitutes 'good' status for different types of water. The formulation of uniform and technically verifiable standards is left to the Commission and member states within the implementation period. Far from being a single piece of legislation that sets down definitive standards, the WFD is better conceived of as initiating a rolling programme of improvement as regards water management. Over a period of time, member states are required to adapt EU requirements to local conditions, develop a means of measuring water quality, survey all waters in their territory to assess their status and report on such progress.

It is important to note that the WFD encompasses detailed rules as *well* as broad standards, and imposes binding legal obligations as *well* as non-binding guidance and peer review. The directive requires that member states adopt a strategy of integrated management based on all waters within each river basin. A total of eight River Basin Districts (RBDs) have been identified on the whole island of Ireland as the 'administrative areas' for co-ordinated management of WFD implementation. River Basin Management Plans have been prepared for each of our river basin districts. These plans set out the current status of waters, the environmental objectives to be achieved and the measures which will be implemented in order to achieve those objectives. The Directive specifies that member states promulgate a series of measures that deal with various types of waters and risks initiated, with some being quite detailed. Another important feature of the WFD is the requirement for public participation as it is recognised that many key decisions will take place during the implementation phase.

Another important outcome of the enactment of the WFD has been the development, by both the Commission and member states, of a Common Implementation Strategy (CIS) — a network of relevant experts — which was not mandated for by the WFD. However, it was soon recognised that to make a success of the WFD would require some sort of process to manage its implementation. The CIS possesses some key features that mark it out as a paradigm of 'experimentalist governance', including metrics to measure progress; scoreboards; horizontal networking and information pooling; river-basin management plans; non-binding guidance documents produced collectively by the member states and the Commission with expert input; non-binding guidelines produced by the Commission following comitology procedures; and specific requirements for stakeholder and public participation in all aspects of implementation (Trubeck and Trubeck, 2007)

The CIS has produced numerous guidance documents designed to assist people implement the requirements of the WFD. For example, one such document concerned the development of a common methodology to determine if a given body of water has achieved 'good status'. As it is organisations within the 27 member states, not the Commission, that bear responsibility for this task, it is necessary to have some kind of common standard that allows for legitimate national differences and seeks uniformity through a deliberative process only where required.

The CIS itself has been the subject of review, learning and reconfiguration. There has been a shift away from the production of guidance notes towards the testing of such advice in the pilot river basins. Learning was initially based on the experience gained within a few member-states that took the lead, but there have been efforts to achieve greater participation from all member states. The new approach relies on 'collectively documenting, comparing, and evaluating a broad set of member-state practices and experiences' (Von Homeyer, 2010: 147) and only after that will it be gauged if further guidance is necessary.

The Impact of the Water Framework Directive in Ireland

Ireland has made good progress in implementing the directive; the river-basin management plans were completed in early July 2010. These set out the status of waters in each river-basin district, the environmental objectives and the programmes of measures required to achieve those objectives. A comprehensive monitoring programme was established under the management of the EPA as required by the directive. The work to date on the WFD has primarily involved scientific, apolitical work. As a result of the EU Water Framework Directive (2000), a new water classification system is now being used by the EPA. In this system water quality is classified in five categories: high, good, moderate, poor and bad. The EPA published results using this system for the first time in 2009 (EPA, 2009a). Good or high status was achieved by 49 per cent of rivers, 56 per cent of lakes and 60 per cent of estuarine and coastal waters (see Table 6.2).

The most challenging part of the WFD will be to improve water quality through the effective delivery of the river-basin management plans. To meet the goals of the WFD by 2015 will be very demanding. The EPA has pointed out that 'extensive measures will be required to meet the target set out in the Directive' (EPA, 2008b: xviii). While the general aim is to achieve good status in all waters by 2015, the river-

Table 7.2 Key Indicators of Water Quality in Ireland

<table>
<tr><th></th><th>Percentage of Rivers (2007)</th><th>Percentage of Lakes (2007)</th><th>Percentage of Estuarine and Coastal Waters (2006/2008)</th></tr>
<tr><td>High</td><td>9</td><td>28</td><td>30</td></tr>
<tr><td>Good</td><td>40</td><td>27.7</td><td>30</td></tr>
<tr><td>Moderate</td><td>28</td><td>34.7</td><td rowspan="3">41</td></tr>
<tr><td>Poor</td><td>21</td><td>6.3</td></tr>
<tr><td>Bad</td><td>2</td><td>3.3</td></tr>
</table>

Source EPA (2009a), Water Quality in Ireland 2007/2008, Key Indicators of the Aquatic Environment Wexford: EPA.

basin management plans specify extended timescales in some waters where it is not possible to achieve good status by 2015, due to technical constraints or longer natural recovery periods.

Public participation is a feature of the WFD. Article 14 of the WFD states that 'Member states shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river-basin management plans.' Public participation in the development of the plans in Ireland was facilitated through Advisory Councils in each river basin district. These advisory councils consist of elected representatives and various stakeholders; their role was to consider matters relating to the preparation of river basin management plans and to advise and make recommendation to the relevant public authorities

An interesting feature of the WFD is that it requires the use of economic analysis in water policy. This is the first time that such a requirement has been included in EU water legislation (European Commission, 2008b). Two economic principles are included in the WFD. First, member states are required to recover the cost of water services, including environmental costs. By 2010, member states are to ensure water-pricing policies that provide adequate incentives to use water resources efficiently. Second, when making key decisions on measures to achieve the WFD objective, member states are required to use economic analysis to make judgements about the most cost-effective combination of measures.

It has been government policy since 1998 to charge non-domestic customers for water and waste-water services, in order to recover the full costs of providing such services, in accordance with Article 9 of the EU WFD. Metering of all non-domestic uses is largely complete. Since 1997, capital and current costs for most domestic users have been met by the exchequer. However, charges apply in private group schemes if costs exceed subsidies provided. Many of these schemes have introduced metering. This was not required by the WFD. Following a recent government decision, legislation is to be introduced by the Minister for Environment, Heritage and Local Government to enable local authorities to charge domestic users for water services in a manner that provides incentives for efficient water use and that recovers an adequate contribution of the costs of water services. Proposals will also be brought forward for a metering programme for domestic users.

Fisheries and Marine Policy

The Common Fisheries Policy (CFP) has struggled to achieve its objectives of conserving fish stocks and protecting the marine environment and will be reviewed in 2012. Fish stocks across EU coastal waters are generally under great pressure. It is estimated that 80 per cent of fish stocks across EU coastal waters are fished above the maximum sustainable yield. The ECJ, in 2007, found against Ireland because of a failure to safeguard the quality of waters designated for shellfish and thereby contribute to the high quality of shellfish products.

The CFP is currently under review and a reformed policy will be adopted by 2012. The Commission's Green Paper recognises 'that economic and social sustainability require productive fish stocks and healthy marine ecosystems. The economic and social viability of fisheries can only result from restoring the productivity of fish stocks. There is, therefore, no conflict between ecological, economic and social objectives in the long term' (European Commission, 2009b:9). It is, therefore, expected that an ecosystem-based approach to fisheries management, incorporating a robust application of the precautionary principle, will be the priority of the reformed CFP and will be defined in an operational way, in order to ensure the long-term social and economic viability of the European fisheries sector.

A Marine Strategy Framework Directive, similar to the WFD, aims to achieve good status by 2020 and each member-state must develop strategies for its own regions. European marine waters will be divided into regions and each member state will be required to develop strategies for its respective areas (EPA, 2008a: 132). Ireland has an interest in a stronger EU role to control fish stocks more effectively and the protection and conservation of healthy marine ecosystems, and should avail fully of the opportunity to reshape the CFP in the planned review of this policy by 2012. Domestically, the obligation to correctly transpose the Marine Strategy Framework Directive, along with the obligation to ensure compliance with the EU Habitat and Birds Directive, will drive changes in fisheries governance over the immediate future.

Conclusion on Water

The EU has had a strong positive influence on the protection of water quality, even though Ireland has been subject to a number of adverse ECJ rulings related to water protection. Partly as a result of this pressure, the Irish authorities have shown substantial commitment to addressing water questions through large-scale investment. Total investment under the NDP in water and waste water services over the period 2000 to 2006 was €3.7 bn. Given imminent water deficits in a number of Irish cities, including Dublin, and the need to achieve high quality standards, there is a case for volume-based charging. The revised Programme for Government has a commitment to introduce charges for consumption in excess of a free basic allowance.

The EU WFD is guiding a comprehensive, long-term approach to good water quality. Ireland has to date made good progress in putting in place the arrangements required by this directive. The river-basin management plans have been finalised. The general requirement of the directive that all water bodies be of good quality by 2015 represents a major challenge. It is important not to overstate the impact of the WFD to date, since much of its influence lies in preparing the way for achieving 'good water status', i.e. development of indicators and so on; what might be termed the development of an infrastructure of effective implementation. Yet the actual task of doing so is still to be achieved.

And it is likely that fisheries policy will encounter similar issues to the experience of the WFD in its efforts to implement the Marine Strategy Directive. The CFP has struggled to achieve its objectives of conserving fish stocks and protecting the marine environment. Reforms are being made to enhance the effectiveness of this policy. Ireland has an interest in this process and should embrace the reforms to procedures and practices demanded by this new directive.

7.3.2 Sustainable Use of Natural Resources, Including Waste Minimisation

By the early 1990s, Ireland's approach to waste was under pressure from its rapid growth, the impending exhaustion of landfill sites and the difficulty in finding new facilities in the light of public opposition. A 1998 government report from the Department of the Environment, *Changing Our Ways*, set a number of targets for increasing recycling and reducing reliance on landfill by 2013. The most demanding target lies in the obligation, under the EU landfill directive (1999), to reduce the volume of biodegradable municipal waste (BMW) going to landfill by 25 per cent of the 1995 volume, with further reductions by 2016. Fines will ensue if these targets are not met. Ireland's rate of recycling (at 38 per cent in 2008) is now comparable to Denmark's (37 per cent in 2005), but other countries, such as Austria (52 per cent), achieve considerably more. Nevertheless, Ireland's reliance on landfill remains among the highest in the EU; other EU countries rely substantially on incineration. In 2008, Ireland placed 1,196,000 tonnes of biodegradable waste into landfills, which is 280,000 tonnes short of the stated first EU Landfill Directive obligation, due to be achieved by July 2010.

A new Water Framework Directive (WFD) was adopted by the European Council in 2008, putting increased emphasis on waste prevention and setting new targets for recycling. This directive requires member states to prepare waste-prevention programmes; these programmes will seek to break the link between economic growth and the environmental impact associated with waste generation. Member states will set appropriate qualitative and quantitative targets; there is a requirement to evaluate programmes at least every sixth year. The European Commission will prepare a report by the end of 2014 that will set waste prevention and decoupling objectives for 2020, based on best available practices. New targets for recycling are set by this directive. By 2020, member states are required to recycle at least 50 per cent of household and similar waste and 70 per cent of construction and demolition waste.

An international review of Irish waste-management policy was completed in 2009. In 2010 a draft statement of a new waste policy was published for consultation. This policy statement shifts the focus from residual waste management to prevention, minimisation and recycling. It is vital that the policy review is speedily concluded and a policy put in place that provides an effective way of addressing Ireland's waste challenges and offers clarity and certainty to stakeholders. The revised Programme for Government (2009: 24) contains a commitment to 'embed resource recovery and sustainable consumption and production systems in waste policy, leading to increased employment and new opportunities for business'.

There is considerable scope for learning about best practice in waste management from other EU countries. There is a European network of local authorities that shares expertise on sustainable use of resources and the effective management of municipal waste (the Association of Cities and Regions for Recycling and Sustainable Resource Management). Three Irish local authorities are members of this network. There is also a European network of national associations of waste-management industries (the European Federation of Waste Management and Environmental Services). The Irish Waste Management Association is a member. Ireland's National Waste Prevention Programme has been in place since 2004 and predates the 2008 Waste Framework Directive requirement on Member States. Personnel involved in the programme have been invited by the European Commission to share their experiences to assist in developing EU guidelines on national waste prevention guidelines.

To conclude, there is no doubt that the EU has helped to change Irish practice in a desirable direction and Ireland has had considerable success in achieving national and EU targets for recycling and recovery of waste materials, often ahead of schedule. However, meeting EU targets for landfill remains a substantial challenge while other substantial issues to be addressed include hazardous waste and illegal backyard burning and fly tipping (OECD, 2010). There are also more fundamental issues of sustainability of resource-use generally, which need to be addressed, as in other developed countries, and successfully adapting to the requirements of the new Waste Framework Directive may be of assistance in this regard.

7.3.3 Protecting Biodiversity and Soil

Two key directives on nature conservation are the Birds Directive (1979) and the Habitats Directive (1992). The Birds Directive sought to conserve species of wild birds and required the designation of a network of habitats for birds, known as Special Protected Areas (SPAs). The Habitats Directive has resulted in a fundamental shift in the approach to nature conservation in Ireland by broadening the conservation focus to the protection of habitats on privately owned land, known as Special Areas of Conservation (SACs).

Environmental NGOs played a role in the implementation of the Habitats Directive in Ireland. From 1997, five NGOs—Birdwatch Ireland, Irish Peatland Conservation Council (IPCC), An Taisce, Coastwatch Europe and the Irish Wildlife Trust—became closely involved in monitoring the designation of habitats for protection during the site designation phase (Laffan and O'Mahony, 2004).

The transposition and implementation of the Habitats Directive in Ireland met with strong opposition from landowners. Concerns with the directive led to its inclusion in the negotiations of the 1997 to 1999 social partnership agreement, *Partnership 2000*. In the agreement reached with the farm organisations, compensation was provided for landowners affected by the directive. Farmer representatives also sought and achieved an independent appeals board. Having reached agreement with the farm organisations, the Habitats Directive was transposed into Irish legislation through regulations adopted in 1997. There continued to be difficulties with the directive following formal transposition, and it has been the subject of several ECJ rulings against Ireland.

Notwithstanding the beneficial involvement of NGOs in the monitoring and designation of habitats for protection during the site-designation phase, concerns persist that both SPAs and SACs require more active monitoring and management (OECD, 2010). The 2008 EPA report, *Ireland's environment* identified the conservation status of Ireland's habitats and species as one of two primary areas of environmental quality for which it had greatest concern. An Taisce (2007) has argued that Ireland's planning system was not providing the degree of protection of habitats required by the Habitats Directive. And the OECD has stated that 'nature protection has remained the poor relative of Irish environmental policy both nationally and locally' (2010: 115). What this illustrates is that the framework directives are most effective when they are regarded as introducing a rolling programme of improvement, rather than a single piece of definitive legislation with which there must be compliance, akin to the processes initiated by the Water Framework Directive.

In contrast to other dimensions of environmental policy, there is little EU or national legislation directly related to soil protection. The EPA notes that the consensus view is that soil quality in Ireland is good, but has identified several priorities to ensure that this remains the case. This includes addressing the information deficit through the preparation of a comprehensive national soil map; assessing the pressures on soil quality; and developing a national plan for the management of contaminated soil. These goals are broadly similar to those contained in a proposed EU framework directive on soil protection.

To some, maintenance of biodiversity may seem like a measure to be attended to after economic growth is secured. However, it is clear that all human life derives essential benefits from being embedded in a mosaic of ecosystems. Many of these 'ecosystem services' are familiar, such as food or natural resources, but many are less well recognised and do not have easily assigned monetary values. These services 'involve such complexity and are on a scale so vast that humanity would find it impossible to substitute for them. In addition, we often do not know what species are necessary for these services to work, or in what numbers and proportions they must be present' (Chivian and Bernstein, 2008: 76). If it is accepted that adequate biodiversity is necessary for human life to thrive, and some see this as one of the most important scientific findings of our age, then its protection should be seen as an essential societal task.

7.3.4 Clean Air

Ireland is one of the few EU countries not to have breached any EU air-quality standards in recent years, but road traffic poses a threat to this record. Ireland also has EU commitments regarding emissions of four main trans-boundary air pollutants. With the exception of nitrogen oxides, mainly produced by road traffic, emissions from these are falling.

7.3.5 Limiting and Adapting to Climate Change

Ireland's responsibilities to limit climate change are agreed at EU level and, in keeping with the Kyoto agreement, Ireland agreed to limit the increase in emissions to 13 per cent 1990–2012. Most of Ireland's economic growth has been concentrated in services, but transport has been responsible for the largest increase in emissions. The current recession has reduced emissions and Ireland will now come close to its Kyoto target.

The European Council has made an independent commitment to achieve at least a 20 per cent reduction in EU emissions by 2020. Large energy users are allocated a designated volume of emissions and must purchase additional allowances if they want to exceed this level. If emissions are lower, then the surplus can be sold. This scheme will be managed on a harmonised basis across the EU. Other significant producers of emissions such as transport or agriculture, face a target of a 10 per cent reduction by 2020.

7.3.6 Enforcement and Integration

The EPA (2007) has identified two over-arching challenges for Ireland's environmental policy, namely improving the enforcement of environmental legislation and better integration of environmental and natural resource considerations into the policies, plans and actions of economic sectors,

The implementation and enforcement of EU environmental law in Ireland has often been problematic. At the end of 2009, Ireland had the third-highest number of outstanding cases (34) with the European Commission in regard to the infringement of environmental law. This has also been the case each year since 2005. In terms of cases where the ECJ had already found that an infringement had taken place, Ireland had the highest number (14) at the end of 2009. However, a significant effort has been made in recent years to address the issues associated with the transposition and enforcement of EU environmental legislation in Ireland. This has resulted in the number of 'open' infringement cases declining progressively since 2005, falling from 45 to 21 in June 2010.

The European Commission distinguishes three types of infringement: non-communication, non-conformity and non-application. Ireland's greatest difficulties in complying with EU environmental law have been in the areas of non-application; i.e. a failure to effectively implement legislation that has been correctly adopted (Laffan and O'Mahony, 2008). At the end of 2005, two-thirds of Ireland's open infringement cases in environmental law were for non-application, while for the EU as a whole, non-application represented 57 per cent of outstanding cases. However, enforcement, as noted in Section 7.3, has benefited from the establishment of a dedicated Office for Environmental Enforcement within the EPA in 2003, the operation of which is worth reviewing.

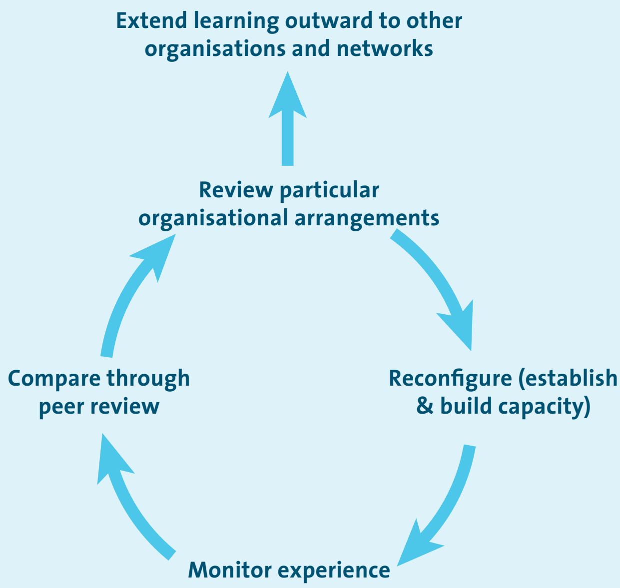
That office was established to tackle the problem of illegal dumping of waste in Ireland. This issue had been highlighted by the ECJ, which had ruled against Ireland on its failure to implement the Waste Directive. Noting the existence of unauthorised sites around the country, the ECJ argued that non-implementation was related to a 'general and structural infringement', which could only be redressed 'by a revision of the general policy and administrative practice of the Member State' (cited in Lynott, 2008: 187). Lack of timeliness in responding to problems was seen as a particular issue, with waste lying in one unauthorised site in Wicklow six years after first being detected. In 2003, the Department of Environment and Local Government launched a new initiative on waste enforcement, with €7m allocated to local authorities to support a major five year programme with 120 waste enforcement officers on the ground. The Department has also issued various Ministerial Directions under section 60 of the Waste Management Act regarding action against illegal waste activities. In response, the Office for Environmental Enforcement has striven to get all relevant authorities, north and south of the border, involved by bringing together a group of practioners who analyse the problem of illegal dumping and agree on a solution. This involves building capacities of particular agencies and may, at times, include direct and punitive enforcement.

The Office for Environmental Enforcement has been responsible for encouraging comprehensive inspection plans across all local authorities, the first member state to do so. Having built up capacity within local authorities, the OEE also monitors their performance against a range of legislative standards. A complaints procedure has also been introduced, which informs the public how they can notify the appropriate agency about pollution (EPA, 2009b).

The OEE is an interesting case that illustrates on Ireland's developing relationship with the EU. Although Ireland has managed to transpose legislation, it has encountered difficulties with implementation. Under the shadow of the ECJ's proposed financial sanctions, the OEE reviewed the issue and linked up with various entities to resolve it, either by requesting them to investigate an issue or by building up their capacity to do so. The OEE has built up capabilities in communication, networking, monitoring and diagnosis that support its role as a broker of networked solutions (NESDO, 2009). The composition of a network like this is not fixed, as it might have to involve other units when fresh problems come to light. According to the Commission, a problem still exists in encouraging Irish courts to levy appropriate sanctions for illegal dumping (Lynott, 2008).

This illustrates an increasingly significant and widespread finding: successful implementation depends on the quality of domestic governance arrangements. The two issues that the EPA has nominated as the most serious—water pollution and the conservation of habitats and species—are problems that can only be resolved by a network of different organisations operating in concert with each other, and not by legislative *fiat*, regardless of where it originates. And these networks should not be regarded as fixed entities, as their configuration may change when new problems emerge. Successful engagement with the EU may depend on cultivating this capacity for organisational renewal (see Figure 7.1).

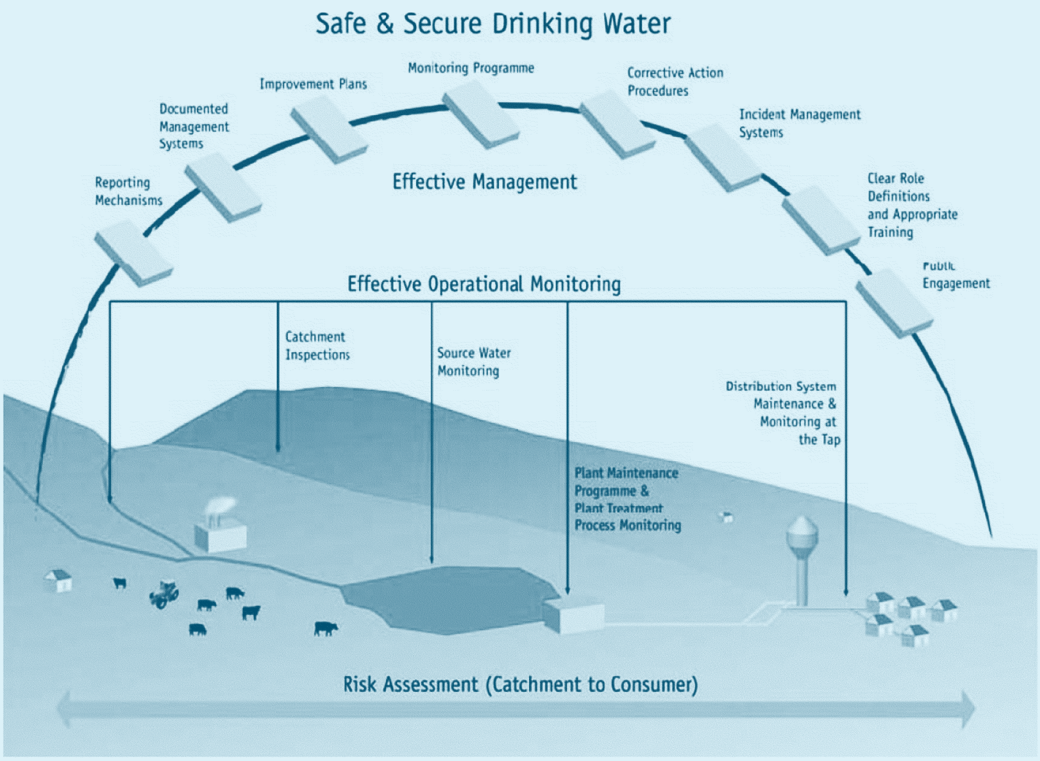
Figure 7.1 Cycle of Reviewing Networks



This approach has not been confined to the issue of illegal dumping. In 2007, new regulations were enacted that altered the EPA's responsibility for drinking water, which were in part a response to an earlier ECJ judgement (Case 316/00) against Ireland on the quality of water intended for human consumption. The EPA was empowered to ensure that local authorities take appropriate action where a public water supply fails to comply with quality standards. It was also granted the authority to audit local authority water plants and make recommendations for their improvement. Local authorities are now obliged to inform the EPA when water supply fails to meet appropriate quality standards and in 2007–8, over 540 such notifications were received. In addition, the EPA conducted 60 audits of water treatment plants in the first year of implementing new regulations. On the basis of this data, a picture of non-compliance emerged and an approach was developed to tackle the causes of the phenomenon. The organisation was conscious of the need to focus any improvements in process on the specific contour of non-compliance, to achieve a measurable reduction in risk. This required those in charge of water-treatment facilities to develop a management system that identifies all potential risks and install reduction measures to manage those risks, as shown in Figure 7.2 (O'Leary, 2010). Problems still persist. From audits conducted in 2008, many facilities demonstrated a low awareness of risks and/or inadequate risk-management systems. One local authority was prosecuted for failing to comply with a direction requiring the installation of a chlorine monitor and alarm.

Another factor pointing to the need for improved domestic governance is the need — identified as one of two priorities by the EPA — to integrate environmental and natural resource considerations into the policies, plans and actions of economic sectors. Intertwining environmental with economic considerations will not occur naturally, especially in a recession, and underlines the need for policy actors to consciously advance this cause.

Figure 7.2 Essential Components of Drinking Water Safety Plan



Source EPA, 2009a: *The Provision and Quality of Drinking Water in Ireland: A Report for the Years 2007–2008.*

Integration

The need for greater enforcement might be lessened if there were greater attention to the integration of environmental concerns into sectors like transport and housing as envisaged by successive National Sustainable Development Strategies. The efficacy of the EU Sustainable Development Strategy (SDS) is still in question. In 2001, it set out excessively general goals—such as the statement that 'strong economic performance must go hand in hand with sustainable use of natural resources'—and merely reiterated commitments that had been made elsewhere. But in 2006, a renewed SDS strategy prioritised 'climate change and clean energy' and 'conservation and management of natural resources', with more specific targets and time-frames.

The original EU SDS strategy 'lacked any provisions dealing with links between the EU and the emerging national sustainable development strategies' (Von Homeyer, 2010: 133). By contrast, the 2006 EU SDS required all member states to have a national sustainable development strategy by 2007 and review their plans in light of the EU framework. Member states are expected to appoint representatives to serve as EU SDS focal points and provide the necessary input for the Commission's report on progress at national level. The 2006 Strategy envisages a voluntary, peer-review process in which different groups of member states engage in scrutiny of each other's national progress and specific themes arising from their own strategies. In addition, an informal network of Commission officials and national experts on the subject, the European Sustainable Development network, has been created. On several measures, the 2006 Strategy provides a stronger institutional underpinning to the issue, namely in terms of more concrete goals, stronger links between the national and EU level and the anchoring of reporting and monitoring in specific bodies. Even though these revisions represent a form of learning through monitoring, it is still not clear what effect they are having 'on the ground'.

In its 2009 review of its Sustainable Development Strategy, the EU noted that 'despite considerable efforts to include action for sustainable development in major EU policy areas, unsustainable trends persist and the EU still needs to intensify its efforts' (2009b: 15). Interestingly, the Commission suggested that the SDS could be refashioned in line with the mechanisms used in the Lisbon Strategy, which would include the devising of 'jointly identified objectives, measuring instruments (indicators, guidelines), benchmarking (comparison of member states' performance) and emulation to replicate and scale up best practices' (2009b: 14). In a review of national SDS strategies, the Committee of the Regions has concluded that they are 'weak policy strategies' lacking a comprehensive public management approach with general objectives and a deficit of quantified targets.

In a snapshot of Ireland, the report commented that 'there is no intensive coordination between the national and sub-national [sustainable development strategy] processes' and that the governance process does not specify indicators for the implementation of the strategy (Research Institute for Managing Sustainability, 2009: 220–21). The latter issue is being assessed in a national review of the NSDS (Department of the Environment, 2007: 51) and several national bodies have made suggestions about relevant indicators. It is also the case that Ireland does not participate in a voluntary peer-review process (*ibid*. 49). In addition, several activities at the sub-national level, such as housing development, have contradicted the principles of sustainable development (Research Institute for Managing Sustainability, 2009: 220–21). This latter finding is supported by NESC's 2004 study, which argued that patterns of settlement, neighbourhood design and density in Irish housing in the previous decade were storing up significant social, environmental, budgetary and economic problems (NESC, 2004). All this suggests that the National Sustainable Development Strategy has lost momentum and influenced policy making only to a limited extent (OECD, 2010: 153). It is important to note that, in the OECD's opinion, lack of progress on implementation is directly related to a 'lack of well-defined assessment procedures and quantified objectives in policy areas other than environment' (*ibid.*), a failing shared with the overall EU strategy.

Based on these findings, it would seem that to make a success of sustainable development in Ireland, two general things need to happen. First, there needs to be more sustained participation in this process. Such integration could be facilitated by the Aarhus Convention which grants the public the right of access to environmental information held by public authorities and participate during preparation and modification of projects, plans, programmes, policies and normative instruments relating to the environment. The public can also challenge a range of decisions made affecting the environment and the procedures involved must be timely, effective and not prohibitively expensive. Although Ireland has yet to ratify the Convention, it has transposed the two EU Directives introduced to help implement the convention in Europe: Directive 2003/4/EC on public access to environment information and Directive 2003/35/EC on public participation in respect of the drawing up of certain plans and programmes relating to the environment. Various bodies have recommended ratification, with the OECD being the most recent in its *Environmental Performance Review* for Ireland (2010), and it is understood that work on the remaining issues which must be addressed to allow Ireland to ratify the Convention is being progressed as a priority. Even with, or perhaps because of, greater input from citizens, it may be that new institutional arrangements for conflict resolution would be necessary, an argument advanced by NESC in 2005 (NESC, 2005b). And second, there needs to be much greater emphasis within the domestic policy system upon the development of indicators, monitoring and refashioning policy in light of the learning obtained. The EPA has been a leader in the development of such indicators and has itself highlighted the challenge of integrating environmental concerns into a range of sectoral and national strategies.

7.4 Conclusion

EU membership has been a major driver of Irish environmental policy, law and institutions, as has been demonstrated in each of the sectoral policy areas reviewed. Engagement with the EU has resulted in many obvious improvements in the quality of Ireland's environment, such as the increased rate of recycling, the broadening of conservation focus, remarkable effort in monitoring of all water sites, and good air quality. Many of these changes can be attributed to the effects that the emerging form of experimentalist governance has had upon Irish environmental policy. It is the case that the spread of this form of governance has been uneven, probably being most advanced in the case of the Water Framework Directive, with its panoply of indicators and practices of review, and perhaps least advanced in the case of the Sustainable Development Strategy. But even in the case of the Water Framework Directive, where there have been clear advances in terms of process, there is still some degree of disconnection between water management and other societal goals.

The example of the Office of Environmental Enforcement shows that enforcement may be as much about fortifying various organisations' capacity to implement environmental policy as sanctioning them for not doing so. This is in keeping with recent trends in EU environmental policy making.

Improved integration of environmental and natural-resource considerations into economic policy areas would benefit sustainable development, as would greater involvement of the public as envisaged in the Aarhus Convention. Indeed, without greater public understanding and buy-in, it is unlikely that the National Sustainable Development Strategy will make much headway. Ireland's record in environmental performance has been wanting in respect of the Birds and Habitats Directive, as there has been insufficient protection of biodiversity. Achieving a greater level of protection would require a rethink of how activities such as spatial planning, forestry, fisheries and agriculture impact on these sites – in short, a mainstreaming of environmental considerations. Achieving these linkages connects with the issue of achieving sustainable development, which the OECD (2010: 25) has noted has lost 'momentum'. They urge that 'there is a need to *integrate further environmental concerns* into sectoral policies and practices, particularly in land use planning, agriculture and transport, and to enhance implementation capacity at local level' (*ibid*. 25–26).

In this regard, the recently enacted Planning and Development Act (2010) may represent an important step. The act aims to ensure that there is greater alignment between local development plans and the objectives of the National Spatial Strategy and Regional Planning Guidelines. Previously, local authorities were obliged to have regard to these processes but were not obliged to comply with them. The act requires an evidence-based 'core strategy', which will provide relevant information as to how the development plan and the housing strategy are consistent with regional planning guidelines and the National Spatial Strategy.

Development plans must now contain mandatory objectives for the promotion of sustainable settlement and transportation strategies in urban and rural areas, including appropriate measures to reduce man-made greenhouse gas emissions. In this regard, Comhar Sustainable Development Council, the national forum for dialogue on sustainable development, will publish a set of headline indicators for sustainable development in early 2011 and a commentary on progress on sustainable development in Ireland. In addition, local authorities are also obliged to comply with ministerial directions and ensure that their development plans are consistent with the principles of environmental protection and conservation. The legislation also calls for the encouragement of the management of the landscape features that are important for the ecological coherence of the Natura 2000 network. Planning authorities are also required to promote compliance with the standards and objectives contained in river-basin management plans.

While, sustainable development could benefit from having indicators around which learning could advance, some caveats are necessary. Even the most advanced form of experimentalist governance in this area, namely the Water Framework Directive, has yet to produce tangible benefits. It provides an improved infrastructure for implementation of environmental considerations, but the practical work of actually doing this has still to be accomplished by many national actors across the EU. And even if the tenets of the Water Framework Directive were to be implemented successfully, it is still the case that many of the determinants of water quality lie beyond its remit. While this might seem to lead to a renewed emphasis on the EU sustainable development strategy, the problem is that it is a 'cross-sectoral mega strategy' comprising seven policy areas, each with their own *modus operandi*[12], which probably can be only transformed incrementally. If so, it may be that the implementation of the EU SDS would benefit from the full adoption of the methods of experimentalist governance in areas such as the marine, waste and habitats.

12 The 7 are: climate change and energy; sustainable transport; sustainable consumption and production; conservation and management of natural resources; public health; social inclusion, demography and migration; and global poverty and sustainable development challenges.

While this may seem like a burden, it has to be recognised that even in the absence of the EU, Ireland would still face a number of international obligations and domestic issues concerning the environment. Increased attention to environmental concerns associated with the EU need not be in conflict with economic objectives. NESC has argued that some of the core ways in which Ireland earns its living are either not incompatible with environmental protection (advanced manufacturing and high value added services), or positively depend on it (food and tourism) (NESC, 2006: 105-112).

8

Enlargement

8.1 Introduction

In the minds of many Irish readers, the fifth enlargement of the EU equates to migration from member-states admitted to the EU in 2004 (the EU-10).[13] While the phenomenon of migration is important, it is not the only important consequence of enlargement, either for Ireland or the EU. Enlargement represented an opportunity for the EU-10 to grow their economies; for the EU-15 it created an opportunity to take advantage of the extension of the single market.[14] This chapter examines the extent to which Ireland has benefited from the latter these features of enlargement. It then goes on to examine migration from the EU-10 into Ireland, the characteristics of those who migrated and some of its social consequences.

8.2 The Historic Nature of the Fifth Enlargement

In 1993, an EU Summit in Copenhagen opened formal negotiations on membership with twelve countries, ten of whom—in Central and Eastern Europe—had only recently emerged from communist government, central planning and tutelage to the former USSR. It was the most ambitious and far-reaching enlargement the EU had yet attempted. Economic objectives were secondary to political concerns to consolidate democracy, the rule of law and political stability on the Union's eastern borders. The fifth enlargement went ahead primarily because it was 'the right thing to do', and not because major economic and social gains could be demonstrated for the EU-15 in an EU of 27.

By the time the formal accession of ten of the states occurred under an Irish presidency in 2004, the Irish economy was considered one of the most impressively performing in the EU-15. This status contributed to the government decision of the time to seek no postponement in opening Ireland's labour market to nationals from the new member states (one of only three existing member states to do so, along with the UK and Sweden). The scale of labour mobility into Ireland from the new member states that subsequently occurred was not only unforeseen but became one of the strongest reminders for Irish people of the deep nature of the EU (comparable, for example, to the adoption of the euro, travel without frontiers,

13 Formally termed the 'fifth' enlargement, it occurred in two steps: 2004, when Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia acceded, and 2007, when Bulgaria and Romania followed. The four previous enlargements were the UK, Denmark and Ireland (1973); Greece (1981); Spain and Portugal (1986); and Austria, Finland and Sweden (1995).

14 As explained in our list of abbreviations (page vii), the abbreviations EU-10 and EU-15 are used to refer to groupings of member states within the EU. EU-10 refers to the states that joined the EU in the 2004 enlargement, EU-15 refers to the member states of the EU prior to that enlargement.

etc.).

The EU's fifth enlargement was a risk, for several reasons.

In the first place, it risked reigniting tensions between the deepening and widening of the EU. The emergence of the states of Central and Eastern Europe from behind the 'iron curtain' had taken the political leadership of the European Union by surprise. At the time, they were focused on the programme to complete the internal market, an agenda for 'deepening' that was to advance and include monetary union and institutional change. Germany, the most natural and powerful ally of Eastern enlargement, had to concentrate for a period on the challenges of unification. In the initial years, therefore, it was pressure from the new leaders in the East that ensured full membership rather than a new 'EFTA for the East' or some other form of privileged association became the objective. But the potential remained for some time for EU-15 elites to split between those who considered that enlargement would slow down further integration in the Union and those who gave priority to extending the area of peace and stability in Europe (Mayhew, 2007).

In the second place, the EU was admitting new members whose living standards were further behind those of existing member states than in previous enlargements. At the time of the southern enlargement, Greece, Spain and Portugal had per-capita income levels (PPS adjusted) around 65 per cent of the existing member states. By contrast, the 10 states acceding in 2004 had an average per-capita income some 45 per cent of the EU-15 level, ranging from as low as 34 per cent in Latvia to 70 per cent in Slovenia. Romania and Bulgaria, who acceded in 2007, were poorer still with GDP per capita (PPS) at 30 per cent of the EU-25 average in 2004.

In the third place, the fifth enlargement was a risk because no previous enlargement had increased the complexity of the EU's decision making and operational procedures to the same extent. Increasing the number of member states from 15 to 27 had myriad consequences for meeting formats, official languages, decision making, and other formerly settled procedures (Hagemann and De Clerck-Sachsse, 2007). It also entailed the particular challenge for the Community's institutions and the new member states of jointly recognising and addressing particular legacies of their communist pasts in multiple areas of their civic and political lives. The proportionate increment in the EU's population brought about by this enlargement was large but not unprecedented. The population of the EU-27 is some 26 per cent larger than that of the EU-15 (though the new states added only 7 per cent to the latter's GDP). This is more than the 20 per cent the southern enlargement added to the then EU-12, but smaller than the 34 per cent increment that the entry of the UK, Denmark and Ireland brought to the population of the founding six in 1973. In absolute terms, however, the recent enlargement has been unprecedented in the number of people who have become EU citizens and, thus, in the scale of its impact on the single market.

A final reason why a significant risk element can be considered to have attended the Eastern enlargement is that, despite its strong historical and moral underpinnings, it was, at no time, a popular cause in the existing member states. In 2002, only 29 per cent of the EU-15 citizens believed that enlargement would help create jobs in their country, 48 per cent believe it would trigger a major wave of migration from Central and Eastern Europe, and 70 per cent were worried that such a development would lead to an increase in unemployment and crime, and a lowering of living standards (Eurobarometer, 56.3).

Partly in recognition of these popular misgivings, existing member states, as they had first done when Greece, Spain and Portugal joined the EU in the 1980s, applied for a temporary exemption from having to open their labour markets to job-seekers from the acceding member states. One of the most significant uses of 'transitional arrangements' (TAs) allow existing member states to continue to require work permits of nationals of the new member states, in temporary contravention of the EU's principle of free movement for workers. Twelve of the EU-15 member states adopted TAs, motivated by a concern that the large gap in earnings and living standards would prompt labour inflows on a scale that could disrupt their labour markets.[15] An associated concern was that seeking work would masquerade as a tactic for accessing the benefits of their welfare states. The UK and Ireland, though not applying TAs, introduced new restrictions on accessing means-tested benefits; in keeping with EU law, these new restrictions did not discriminate against claimants from the New Member States (EU-10) but applied to everyone.[16]

8.3 Enlargement and the EU's Economy

8.3.1 An Overview

Despite the elements of risk in the fifth enlargement and the extent of popular misgivings in the EU-15, overall assessments of its economic impact, on the EU as a whole, and on EU-15 and EU-10 considered separately, are positive. Important questions remain, however, as to how equitably the aggregate net benefits have been distributed within member states. In particular, as the literature on the economic impact of migration would lead one to anticipate, concerns attach to the position of low-skilled workers in the EU-15. They have faced particularly intense competition from the mobile low-skilled in the EU-10 *and* from higher educated EU-10 migrants, who have been willing to work in the EU-15 in relatively low skilled occupations.[17]

15 Member states, which adopted TAs in 2004 towards the EU-8 have lifted them as follows: Greece, Spain, Portugal and Finland (May, 2006), Italy (July, 2006), the Netherlands (May 2007), Luxembourg (November, 2007), France (July, 2008), Belgium and Denmark (May, 2009), Germany and Austria continue to impose labour mobility restrictions until 2011 (Kahanec and Zimmermann, eds., 2009: 5).

16 Britain closed off welfare benefit to nationals from accession states for a period of two years. Ireland followed with the 'habitual residency condition'. It imposes a 2 year residency requirement within the Common Travel Area on anyone seeking application for a range of social assistance (non-contributory) payments: 'it shall be presumed, until the contrary is shown, that a person is not habitually resident in the State at the date of the making of the application concerned unless he has been present in the State or any other part of the Common Travel area for a continuous period of two years ending of that date' (Section 246 of the Social Welfare Consolidation Act 2006).

17 It is not always noted that these 'incumbent' low-skilled workers frequently include significant numbers of non-EEA migrants who had arrived earlier.

The key elements that emerge from a detailed analysis by the Commission (2009c) of the economic achievements and challenges five years after the 2004 enlargement are as follows.

a) The enlargement increased the overall weight of the EU-27 in world GDP (by around 2.5 percentage points in purchasing power standards), and augmented the scale of the single market;

b) The new member states (EU-10) have reaped clear political benefits that started from the time the prospect of membership first came on the agenda of their governments. These benefits include the increased security of key frontiers, the strengthening of democracy and of the rule of law, and increased responsiveness of their public institutions to citizens;

c) The EU-10 have also reaped significant economic benefits. The Cohesion funds, CAP transfers, and preparation for, and participation in, respectively, the single market, the Stability and Growth Pact and the Lisbon OMC have fostered market reforms, company-restructuring and labour-market policies that have strengthened their economies. These have become more open to trade, received much larger inflows of foreign investment and benefited from the stronger institutional frameworks they were required to develop. Headline indicators of relative EU-10 success include;

- Income per capita in the new member states rose from 40 per cent of the EU-15 average in 1999 to 52 per cent in 2008;
- Their economic growth rate increased from 3.5 per cent, on average, in 1999–2003 to 5.5 per cent in 2004–08;
- Employment has grown robustly at about 1.5 per cent per annum since 2004; and
- Their earnings have risen, while remaining highly competitive. Wages per employee rose from 14 per cent of the EU-15 average in 1999 to 26 per cent in 2007.

The principal economic benefits to the EU-15 countries arose from how companies based in them have responded to the geographic extension of the single market and the faster growth and rising incomes in the EU-10. In effect, the EU-10 have stimulated and sustained growth in the EU-15, nearly all of whom run large trade surpluses with them.

The prospect of major East–West migration, as noted, was and remains a major concern of many people in the EU. In effect, the overall level of migration over the first five years was significant but in line with the more conservative predictions (though the destinations of migrants were different than predicted). There was an estimated increase of 1.1 m in the number of EU-10 nationals living in the EU-15 over the period 2004–08, and a similar increase in the number of Romanians and Bulgarians, though they joined as late as 2007. For the EU-15 as a whole (though not for Ireland, as will be discussed below), the increase in the resident population of third-country nationals (those from beyond the EU 27 and European Economic Area) was larger still, and rose by an estimated 3.4 m. The evidence on the specific impact of the increased intra-EU migration will be reviewed in 8.3.3 below.

8.3.2 Impacts on Trade and Investment

The decade of the 1990s was the more intense period of economic transformation in Eastern Europe. Most of the liberalisation in trade with the EU-15 took place and a strong shift of trade flows was recorded. Enlargement in 2004 added an additional impetus to a process that was, therefore, well underway. A further contextual factor affecting the search for specific enlargement impacts on trade and investment is that, for reasons quite independent of EU developments, 2004 marked the transition from a period of subdued world trade to a period of stronger growth. In most regions in the world, trade grew faster after 2004 than in the preceding five years, and this was the EU experience also.

International trade and investment links grow primarily because overseas markets are expanding, and opportunities for indigenous companies to increase business are welcomed, including by those representing domestic labour interests. The extent of the gap in wages and living standards between the EU-10 and the EU-15, generated concerns that significant trade distortion and not just trade creation could occur if companies in the EU-15 switched the base of their operations from their relatively high-cost home countries to the EU-10, and chose to export from there onwards to third-country destinations and back into their home markets. Countervailing arguments were put forward to assuage these concerns, principally that it is the productivity of labour in the EU-10 which determines whether they are 'low cost' locations and not their absolute earning levels, and that rapid wage increases in the EU-10 could be expected to erode any initial advantage arising from earnings alone quite quickly.

One way of testing whether the relatively low wage levels in the EU-10 have been a major factor driving the growth in their exports is to examine the composition of those exports. Prior to enlargement, it was expected that the new member states would take advantage of their lower labour costs and become more specialised in labour-intensive products. As Table 8.1 confirms, the expectation was not borne out by what subsequently happened. While there is significant diversity among them (as the contrast between Hungary and Poland in the Table shows), the EU-10 as a group have seen a decline of eight percentage points in the share of their goods exports classified as 'labour-intensive', from 28 per cent in 1999 to 20 per cent in 2006. At the same time, the shares classified as 'capital-intensive' and 'easy-to-imitate research-intensive' increased to 25 per cent (up 3) and 15 per cent (up 4) respectively. The share classified as capital-intensive goods also rose from 22 per cent to 25 per cent between 1999 and 2006, surpassing the share for the EU-15. This is attributed mainly to the FDI-induced rise of the automotive sector in the EU-10. Potentially of particular interest to Ireland, given that trade flows are more likely to occur between economies with similar structures than between those which are dissimilar, is the fact that the shares of exports classified as 'difficult-to-imitate research-intensive' had become similar in the EU-10 and the EU-10 by 2006 (with Romania achieving the most rapid progress).[18]

18 When the Commission use a different but related metric, i.e. the technology-intensity of manufacturing exports, is used, the same high degree of convergence in the export composition of the EU-10 and EU-15 is seen to have taken place over the period 1999-2006 is observed (and the greater variance among the EU-10 than between the two groups) (Appendix Table 6A.1).

Role of Foreign Direct Investment (FDI)

The fifth enlargement of the EU was expected to result in increased foreign direct investment in the new member states for a variety of reasons. Some were common to all the EU-10 from Central and Eastern Europe, i.e. increased investor confidence, the improved business environment and the expectation of strong growth in the region as a whole. Some were specific to individual countries, i.e. the size and dynamism of their domestic markets and their proximity (geographical and cultural) to the home country of the investing company ('gravity models' have, in fact, explained a significant part of the FDI that occurred across the EU-10).

Inward foreign direct investment (FDI) as a proportion of gross fixed capital formation has been consistently much higher in the EU-10 than in the EU-10 since the mid-1990s. Following enlargement in 2004, it further increased in the EU-10 (as a percentage of GDP) and decreased in the EU-10 (Figure 8.1) as companies from the EU-10 and the rest of the world responded to the improved investment climate and relatively strong economic growth in the region. The Commission considers that the proportion of this inward FDI that was a straightforward relocation from EU-10 has been small to date, and taken the form of efficiency-seeking in selected manufacturing industries, but that this type of investment was far from being 'a common or prevailing pattern' (European Commission, 2009c: 96). Since 2004, in fact, FDI to the EU-10 has grown more rapidly in services than in manufacturing, most of which is considered to be market-seeking rather than export-oriented. However, of particular interest to Ireland may be the observation that the EU-10 'are becoming increasingly popular locations for [European] shared services centres' (supplying accounting, HR admin, software maintenance and sometimes research to subsidiaries across the EU owned by the same parent company) (op. cit. 92).[19]

By way of summary of this subsection, evidence of the destinations and composition of goods exports points to a convergence in economic structures taking place quite rapidly between the EU-10 and EU-10.[20] An examination of foreign-direct-investment

Table 8.1 Breakdown of Total Exports by Factor Intensity

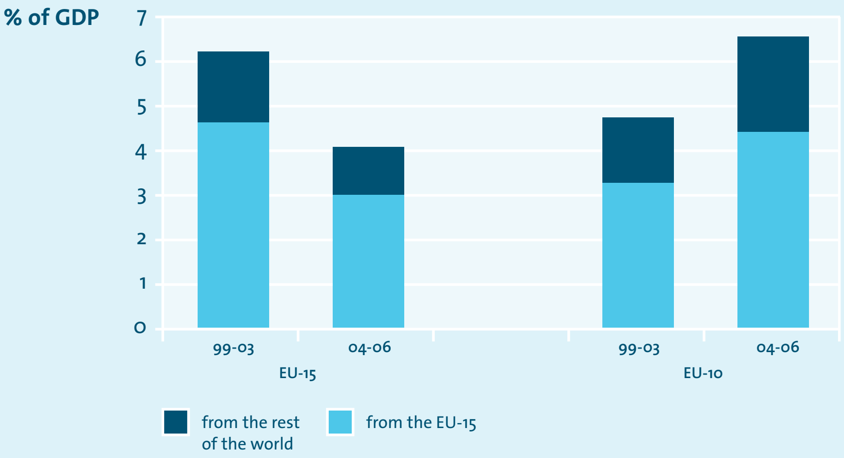
	Raw-material-intensive goods (RMI)			Labour-intensive goods (LI)			Capital-intensive goods (CI)			Research-intensive Goods: Difficult-to-imitate (DIR)			Research-intensive Goods: Easy-to-imitate (EIR)		
% of total	1999	2004	2006	1999	2004	2006	1999	2004	2006	1999	2004	2006	1999	2004	2006
EU-10	14	14	14	28	23	20	22	23	25	25	26	26	11	14	15
EU-15	12	13	15	19	17	15	22	23	23	29	28	27	19	19	20
HU	11	10	9	18	12	10	15	13	16	30	32	35	26	33	30
PL	18	16	16	34	25	22	21	25	27	21	26	26	7	7	9
RO	18	16	19	47	41	32	16	18	20	16	20	25	4	5	5

Source European Commission (2009b)

19 The Commission study also finds that the FDI in the EU-10 appears to display less sectoral concentration than in the EU-10, despite the smaller size of the EU-10 economies (op. cit. 101).

20 There is greater variation among the EU-10 in the composition of their exports by factor intensity than between the EU-10 and EU-10 as groups. For example, over half of Romanian exports were either 'raw-material-intensive' or 'labour-intensive' in 2006, but less than 20 per cent of Hungarian exports, while Romania and Poland had much smaller shares of their exports termed 'easy-to-imitate research-intensive' than Hungary (under 10 per cent as against 30 per cent).

Figure 8.1 Inward FDI in the Old and the New Member States



Source European Economy 1/2009: 38.

flows confirms the major role of FDI in driving this convergence. Before enlargement, it was expected that the new member states would increase specialisation in labour-intensive products to take advantage of their lower labour costs. Contrary to expectations, large flows of FDI led to a significant increase in the technological content and product quality of the export basket of the new member states. This qualitative upgrading of production in the EU-10 is one of the most characteristic impacts that EU accession has had on their economies.

8.3.3 Impacts of East–West Migration

The Commission has informed its assessment of the specific impacts of the large East–West movement of workers triggered by enlargement by conducting simulations using its QUEST model of the EU economy.[21]

As Table 8.2 shows, the GDP effect on the EU-25 as a whole of the recent intra-EU mobility appears substantial and positive and is estimated to be 0.27 per cent of GDP. D'Auria *et al*., (2008) note that this implies that it was more potent, in economic terms, than a one percentage-point increase in the EU-25's investment to GDP ratio. However, whilst positive for the EU-25 as a whole, both the literature and empirical research suggest that migration has potentially less clear-cut effects for the sending (EU-10) and receiving countries (EU-10) when they are considered as separate groups.

Considering the EU-10 on their own, the simulation results point to the possibility that the labour outflow had a negative effect on aggregate GDP but positive effects on real wages, productivity and GDP per capita (Table 8.2). The latter effects would have been brought about by induced capital-deepening (D'Auria *et al.,* 2008). The results also suggest (not shown) that, by contributing to emerging labour shortages,

21 It is important to note that models do not describe what actually happened or seek to predict out of sample. Rather, they seek to provide insight into the contributions that key factors made to the actual historical outcome, however much other events and factors not captured (or capturable) by the model may also have impacted. They seek to isolate and quantify the specific effects of changes in selected variables of interest, on the basis of a structural model of the economy that incorporates the best available knowledge on how the actual economy works.

Table 8.2 Medium-term Economic Effects of Recent Intra-EU Mobility Flows on Receiving and Sending Member States

Changes in percent from baseline	GDP	GDP per capita	Productivity	Real Compensation of Employees	Employment Rate
EU-15	0.38	-0.12	-0.13	-0.12	0.01
EU-10	-2.23	0.28	0.42	0.46	-0.14
EU	0.27	0.27	0.27	0.28	0.04

Source D'Auria, Mc Morrow and Pichelmann, 2008 (cited in European Commission 2009c: 137).

Notes (i) The core assumption is that there is no change in skill distributions between migrants and the local population. (ii) NMSs except Bulgaria and Romania. (iii) Employment rate: change in percentage.

the labour outflow prompted a (temporary) increase in inflation in some of the main sending countries.

For the EU-15, the simulation results suggest migration from the EU-10 countries increased aggregate GDP. However, the effect on GDP per capita is slightly negative (-0.12, Table 8.2), reflecting the lower productivity/lower real wages associated with the migration shock as labour became more abundant relative to capital and provoked a reduction in capital intensity of production. In a separate simulation, the Commission team replaced the assumption that migrants work in jobs with the same skills composition as the local population with the assumption that they are more concentrated in lower skilled employments. The results then confirm what the literature leads one to expect,[22] i.e. higher rates of unemployment and lower real wage growth for the low skilled in the EU-15.

8.3.4 Enlargement and Labour-Market Standards

Independently of the fifth enlargement, there was unfinished business in some areas regarding how to reconcile the autonomy of national labour-market institutions and regulations with Treaty-mandated free movement for workers and freedom to provide services.

On the one hand, each member state retains competence over most aspects of the regulation of its own labour market. On the other hand, the EU is committed to ensuring that workers should be free to move and take employment in member states other than their own, on equal terms to nationals of the state in which they work, and that service providers (including the self-employed) should be free to

22 'As a rule of thumb, natives in the receiving countries tend to win if the migrant labour force has at least the same skill level as the native labour force, and to lose in the converse case' (Brücker, 2007 p. 10). If the receiving country employs a substantially higher share of the migrants than of native workers in low skilled jobs then 'those at the bottom of the income distribution in the recipient countries tend to lose through lower wages and higher unemployment'.

provide services temporarily – or establish themselves – in other member state without facing any obstacles arising from their nationality.

The requirements and functioning of the internal market have entailed some interpretation and qualification of the autonomy of national labour markets from the outset. From the earliest years of the Community, health and safety standards in the workplace and the relative pay of women were accepted as needing EU 'hard law' to ensure that businesses did not enjoy a competitive advantage based on less stringent requirements for health and safety and/or a greater tolerance of gender inequalities. In more recent years, the consultation of workers when companies restructure to take advantage of the internal market was accepted as a third area in which binding EU requirements on domestic labour law are necessary in order to help keep competition within the internal market as beneficial and fair. Ireland is a prominent example, but not alone, of a member state indebted to EU legislation for the manner in which its labour market standards in these areas were improved and benefited from a general 'levelling up' across the Union. The penetration of European legislation into these areas of national labour market regulation was sometimes controversial[23] but, generally and until the recent enlargement, took place through procedures that largely retained the trust of the social partners and of governments of different hue in the member states, while protecting the integrity and functioning of the internal market.

8.3.5 Enlargement, Welfare States and Social Inclusion

There is an extensive international literature on the consequences of migration for welfare states (e.g. Brücker *et al*., 2002). Several characteristics of the East–West labour mobility triggered by the 2004–7 Enlargement serve to suggest that observations and findings based on migrants in the USA or on non-EEA migrants in the EU may have limited applicability to the case of nationals of the new member states. For example:

- The EU supports labour mobility across its territory. People who move for purposes other than employment (students, retirement, etc.) are required to be self-supporting and not to constitute a charge on the state to which they move;
- The social assistance that is available independently of work and on the basis of need alone is for each member state to determine. All member states participate through an OMC in seeking to reduce poverty and social exclusion on their territories;
- The evidence is that the large majority of East–West movers have moved for work purposes and been successful in finding employment;
- In addition, East–West movers tend to be younger and to have less dependants living with them than the populations they join;

23 For example, when the Commission successfully argued that a working week in excess of 48 hours was a health and safety matter (1993), a UK Conservative government launched a challenge to the European Court of Justice arguing that the regulation of working time was an issue of labour-market flexibility, for domestic policy alone to determine and, therefore, ought not be subject to Qualified Majority Voting. The ECJ (1996) rejected these grounds, but conceded that EU law could not require that the minimum weekly rest period should in principle include Sunday.

- The potentially disproportionately large rise in unemployment among them during the current recession (as a result of being recently employed and concentrated in cyclically sensitive sectors and almost absent from public sectors) has led to the first significant numbers of them becoming reliant on welfare in their host countries;
- East–West movers who become unemployed enjoy free re-entry to their host country's labour market, which makes returning to their home country likely if they consider they have more support there.

In summary, in so far as East–West movers have tended to be young, well-educated, single and intent on finding and holding employment, they are more likely to be net contributors to, than net beneficiaries of, their host countries' welfare states. The taxes they pay are redistributed to the inactive such as children, the young and retired (Doyle, Hughes and Wadensjö, 2006), more of whom are natives and not migrants. The proportion of unemployed EU-10 nationals in the EU-15 who will remain on social assistance in their host countries after their social insurance-based support is exhausted will depend on several factors other than the rules governing eligibility for assistance and its generosity. These include the expected duration of the unemployment spell where they are, the earnings prospects they face should they return home, the family and social networks available in the alternative locations, and the extent to which they have already made and acted on a decision to make the host country their home (e.g. by purchasing an apartment or house; marrying a host country national; having children in school in the host-country).

The effects of East–West migration on the welfare states of sending countries are different. In this case, the fact that migrants from the EU-10 are overwhelmingly of working age, intent on working and – in many cases – leave employment in their home country that is low paying and unsatisfactory (as was the case with emigration from Ireland in a previous era, NESC, 1991) contributes to raising the dependency ratio and reducing tax revenues in the countries they leave. For example, some estimates for Lithuania suggest its elderly dependency ratio could more than double by 2050 and its social security system fail entirely (Kadziauskas, 2007), while studies for Poland similarly warn about the demographic consequences of post-enlargement out-migration and its consequences for the social security system (Kupiszewski and Bijak, 2007; Kaczmarczyk and Okólski, 2008). A core variable capable of hugely mitigating these negative consequences is the extent to which the migration is temporary or permanent: 'If the current migration flows lead to efficient brain circulation, empowering people to leave inactivity, increase their human capital abroad, and then utilise it at home, current outflows of migrants from new member states may in fact lead to more stable welfare systems in the medium or long run' (Kahanec and Zimmerman, 2008: 22).

8.3.6 Challenges at the EU Level

Significant challenges continue to attend how the EU at large, and the EU-10 and EU-15 respectively, will change over the long term as a result of the recent enlargement. The global financial and economic crisis that broke in 2008 has added further complexities as it has impacted differently on individual states and revealed their very different capabilities and levels of resources.

Even without the disturbing impact of the current crisis on some of the EU-10, the pace of their convergence of the EU-10 with the levels of productivity and living standards of the EU-15 is a significant uncertainty. The longer wide gaps remain, the longer push-factors will fuel migration and the more initial intentions to work temporarily in another member state may turn into decisions to remain abroad indefinitely (thus denying the sending countries the opportunity to benefit from the enriched human capital of their returning workers). The pace of convergence of EU-10 with the economic performance and achievements of the EU-15 depends, in part, on the scale and successful utilisation of their Structural and Cohesion Fund receipts. In the latest financial perspective, covering the period 2007–13, these amount to about 3 per cent of their annual GDP. Partly guided by Ireland's widely acknowledged success in leveraging Structural Fund receipts during its period of rapid catch-up (net EU receipts peaked at just over 6 per cent of Irish GDP in 1991), cohesion policy in the EU-10 currently focuses on fostering their local growth potential, prioritising such areas as research and innovation, ICT, transport infrastructure, the business environment and human capital. It also seeks to strengthen stable, participatory, transparent and accountable institutions for in the management of public funds. As the Commission study notes, 'the extent to which the new member states utilise the leverage potential of EU transfers, in order to move onto a higher growth path in the long run, will depend on their absorption capacity and, in particular, on the quality of their domestic policy environment' (European Commission 2009c: 21).

Against these two large backdrops—the damage being wrought in some of the EU-10 by the current global crisis and the number of years that convergence will require—specific uncertainties continue to attend the East–West migration that has already occurred. For example, we do not know how much of the migration potential of these countries has already been exhausted. Even though net flows into the EU-15 have started to decline, some studies suggest that the present stocks of EU-10 workers in the EU-15 amount to about 50 per cent of the long-term potential for migration from those countries. We do not know what proportion of those who have already moved engaged in a largely once-off decision to work abroad for a while, or constitute a new and relatively permanent stratum of mobile labour across the EU who will engage in 'circular migration' in response to relative changes in labour demand. We do not know how workers from the EU-8 who choose to stay in the labour markets of the EU-15 will fare over the long run, how quickly they will overcome any underutilisation of their human capital and experience upward mobility in their host labour market, or whether difficulties will attend their long-term integration.

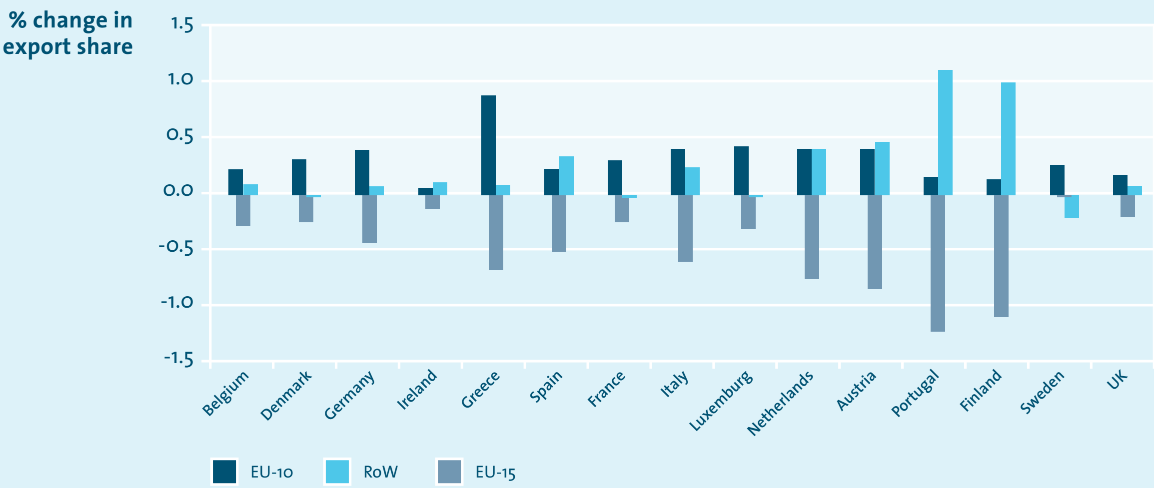
8.4 The Fifth Enlargement and Ireland

8.4.1 Ireland's Trade and Investment Flows

Other things being equal, the extension of the internal market to twelve new member states—by adding 26 per cent to the EU's population and incorporating economies with the potential and need to grow faster than the EU-15—suggests that trade and investment links between Ireland and the EU-10 would grow strongly. At the same time, the literature on the major determinants of international trade would suggest that the *scale* of Irish trade and investment with the EU-10 would remain modest. That literature finds that the size of economies and their proximities in geographical and cultural terms (the factors captured by 'gravity models') are more decisive in fostering trade between two countries than the removal of formal barriers. Ireland is one of the most distant of the EU-15 States from the EU-10 and, until large immigration began to alter the situation (discussed in the next sub-section), had quite tenuous historical, cultural and business ties with the EU-10.

Figure 8.2 appears to confirm the significance of Ireland's geographic distance from the EU-10 and the small size of many of the latter economies. Ireland's exports record the least shift towards the new member states of any EU-15 country over the period 1999-2007; the share going to the EU-10 rose the least (and the share going to the EU-15 fell the least) between 1999 and 2007.

Figure 8.2 Shifts of Export Destinations from Individual Old Member States, 1997-07



Source European Economy 1/2009: 64.

However, an analysis of trading volumes confirms that, despite little change in the *relative* importance of export markets in the EU-10, the EU-10 have become significantly more important trading partners. Ireland's commodity exports to Central and Eastern Europe doubled between 1995 and 2003, and then tripled between 2004 and 2008 (Table 8.3). In the 5 years after enlargement, Ireland's exports to the region grew much faster than exports overall. By 2008, the EU-10 accounted for over 2 per cent of Ireland's total commodity exports and had absorbed 7.4 per cent of the increase in commodity exports since 2003.

In 2004, the 3 principal markets in Central and Eastern Europe for Irish products were Poland, the Czech Republic and Hungary, but the markets were small (total exports valued at €260m, €196m and €147m respectively) and exports to all countries in the region had been shrinking since 2000. After 2004, however, strong growth asserted itself and exports to the region grew at an annual rate of 22 per cent over the next 5 years; exports to Poland practically tripled, those to the Czech Republic grew by 70 per cent, while Romania overtook Hungary as the third-largest market with gross Irish commodity exports to Romania valued at €257m in 2008.

Some perspective on how unusual or satisfactory this pace of development of Irish service exports to the EU-10 is may be gleaned from a comparison with the other EU-15. It was the experience of most of them also that extra-EU services exports grew faster than intra-EU exports over this period. By 2008, in fact, the share of Ireland's services exports that were intra-EU, at 35 per cent, was close to the EU average. A more focused comparison with the services-intensive Dutch economy, however, suggests that Ireland may still have significant further scope to expand exports to the EU-10 plus Bulgaria and Romania. The Dutch services economy relies more on global markets than its Irish counterpart (41 per cent of its services exports are extra-EU) yet 3.8 per cent of its overall services exports go to the EU-10, as against Ireland's 2.6 per cent.

Foreign direct investment

Finally, some data is available on foreign direct investment flows from Ireland to the EU-10. Though they are sparse and cover only the 5 years, 2003–2008, they merit attention because of the potential that enlargement was considered to offer companies in Ireland to relocate operations to the EU-10 either to serve markets there or to serve third-country markets from there. Table 8.4 confirms that that outward direct investment from Ireland to the EU-10 has become a feature since 2004 but that it remains a very small part of the overall direct investment flows in and out of the Irish economy. A net outflow to the EU-10 has consistently occurred since 2003, but its scale is insignificant compared to the substantial net inflows from the EU- 15, and the magnitude of the net flows between Ireland and the USA.

Table 8.3 Ireland's Commodity Exports, 1995-08

Year	World $m	EU 10 $m	United Kingdom $m	Germany $m	EU 10 as % World %
1995	43,789	407	11,140	6,329	0.93
1998	64,247	657	14,208	9,654	1.02
1999	71,227	805	15,627	8,506	1.13
2000	76,262	1,091	16,653	8,630	1.43
2001	82,973	864	19,957	10,503	1.04
2002	88,479	788	21,235	6,363	0.89
2003	93,038	866	16,836	7,708	0.93
2004	104,308	998	18,428	7,984	0.96
2005	110,003	1,135	18,856	8,234	1.03
2006	108,763	1,671	19,511	8,737	1.54
2007	122,233	2,203	22,936	9,211	1.80
2008	127,047	2,682	23,337	8,961	2.11
Growth					
1995-03	113%	113%	51%	22%	
2003-08	36%	210%	39%	16%	

Source UN COM-trade online.

Table 8.4 Net flows of Direct Investment, Ireland, 2000-2008

Partner	2000	2001	2002	2003	2004	2005	2006	2007	2008
World	5,024	4,543	8,999	4,917	14,552	11,509	12,215	15,178	9,030 (p)
... of which									
EU-15	-23	3,466	(c)	3,816	8,737	(c)	6,370	6,689	(n.a.)
EU-10			(c)	-20	-171	(c)	-221	-93	(n.a.)
USA		1,371	425	-580	1,456	-3,402	4,161	4,439	1,321 (p)

Source Eurostat Online Database (code: bop_fdi_main)
(c) confidential
(n.a.) not available.

8.5 Migration and Ireland

The scale of migration from the EU-10 has been by far the most significant consequence of the 2004 enlargement for Ireland. It was not anticipated by the Commission or within Ireland that Ireland would prove to be 'by far the largest receiving country for nationals from the 2004 accession countries relative to its population size' (D'Auria *et al*., 2008). The projected inflow to Ireland was to be 'negligible' (Kvist, 2004), quantified at around one tenth of what subsequently transpired (Doyle *et al*., 2006). In effect, though the Irish economy accounted for only 1.5 per cent of the combined GDP of the EU-15 in 2004, Ireland absorbed 16 per cent of all the EU-10 nationals who moved to the EU-15 to work after 2004, including 33 per cent of all Lithuanians, 17 per cent of all Poles and 11 per cent of all Slovaks.

Expressed in proportionate terms, the remarkable nature of Ireland's experience may be seen ever more clearly. The average EU-15 experience was that the East–West movement of EU-10 nationals gave rise to an average annual rate of growth of 0.10 per cent in the population of working–age over the period 2004–7. In Ireland, it occasioned an average annual growth rate of 1.4 per cent, more than 4 times the rate of the second most impacted country, the UK (0.33 per cent), and fourteen times the average experience of the EU-15. In less than 5 years, it is estimated that EU-10 nationals added 5.6 per cent to Ireland's population of working age, as against 1.3 per cent in the UK and 0.4 per cent in the EU-15 as a whole (Table 8.5)[24]. It is also noteworthy that, in most EU-15 member states, migration from countries *outside* the EU after 2004 continued to substantially exceed the numbers arriving from the new member states.

Even in the UK, where migration from the EU-10 was also on a large scale, migration from outside the EU remained the dominant component. The Irish experience is unusual in this respect also that, uniquely in the EU, some 60 per cent of its overall migration was composed of nationals from the EU-10. To a significant extent, enlargement enabled Ireland to replace the largely employer-driven work- permit system of the time with intra-EU labour mobility. Much of the large reduction in work permits issued or renewed after 2004 was due to the 'reclassification' of Eastern European nationals, but that is not without importance – working in Ireland as EU nationals rather than on work permits increased their flexibility and protection within the Irish labour market.[25]

By mid-2007, 8 per cent of all jobs in the Irish economy were held by EU-10 nationals, and they had filled 56 per cent of the additional 245,000 jobs created over the period 2004–7 (Table 8.6). By sector of the economy, they accounted for 21 per cent of all employment in 'Hotels and Restaurants', 13 per cent in 'Construction', 11 per cent in 'Production Industries' and 10 per cent in 'Wholesale and Retail Trade', while they were virtually absent in 'Public Administration and Defence' and 'Education' (Table 8.7).

24 Because of its very much larger economy, the UK absorbed over half of all EU-10 movers.

25 The number of new work permits issued reached a low of 8,166 in 2005 but increased thereafter, driven by those being issued to Indian nationals.

Table 8.5 Changes in EU Migration Flows Following the 2004 Enlargement

Immigration Impact on Receiving (EU-15) Member States

Countries	Change in number of EU-10 citizens resident in individual EU15 countries (2004-2007)		
	000s	% of Working Age Population of individual EU15 countries*	Annual Avarage Impact on Working Age Population (%)
Belgium	20	0.29	0.07
Denmark	3	0.08	0.02
Germany	96	0.18	0.04
Ireland	162	5.56	1.39
Greece	7	0.09	0.02
Spain	67	0.22	0.06
France	5	0.01	0.00
Italy	32	0.08	0.02
Luxembourg	na	na	na
Netherlands	17	0.15	0.04
Austria	26	0.46	0.12
Portugal	na	na	na
Finland	6	0.17	0.04
Sweden	12	0.20	0.05
UK	532	1.32	0.33
Total (EU15)	**991****	**0.37**	**0.10**

Emigration Impact on Sending (EU-10) Member States

Countries	Change in number of EU10 citizens emigrating to EU15 countries (2004-2007)		
	000s	% of Working Age Population of individual EU10 countries*	Annual Avarage Impact on Working Age Population (%)
Czech Republic	44	0.60	0.15
Estonia	14	1.49	0.37
Cyprus	No change***		
Latvia	62	3.95	0.99
Lithuania	121	5.22	1.30
Hungary	31	0.44	0.11
Malta	No change***		
Poland	627	2.32	0.58
Slovenia	1	0.08	0.02
Slovakia	92	2.36	0.59
Total (EU-10)	**991******	**1.93**	**0.48**

Source D'Auria *et al.*, (2008: Table 1)

There are several reasons why so many EU-10 nationals chose Ireland as their preferred destination in the aftermath of enlargement. That Ireland was one of only three member states not to adopt transitional arrangements in 2004 was a contributing, but not dominant, factor. The adoption of Transitional Arrangements (TAs) by such countries as Germany with which, for example, Poles and Baltic nationals had close historical and cultural ties, undoubtedly diverted some movers to Ireland. There is evidence, however, that those more likely to be diverted in this way were skilled and that, by not adopting TAs at a time when the majority of EU-15 countries did, Ireland may have received a higher quality of EU-10 inflow. Germany, for example, experienced an increased inflow from the EU-10 despite its introduction of TAs, but there is evidence that the proportion who were self-employed was higher and the skill composition lower than the inflow it had received from the same countries prior to 2004 (Brenke *et al*., 2009). Self-employment, in fact, appears to have been used as a means to circumvent TAs in Germany.

The high degree of certainty of finding jobs in the rapidly growing Irish economy appears to have been the paramount factor accounting for the scale of East–West migration to Ireland (e.g. Galgóczi *et al*., 2009). From the late 1990s until 2008, employment growth in Ireland was significantly faster than elsewhere in the EU-15 and the unemployment rate one of the lowest. Sweden, however, is a country with high entry-level earnings and it adopted neither TAs nor new restrictions in accessing welfare, but received only small inflows (Gerdes and Wadensjö, 2009); this seems to confirm the primacy of the role of strong labour demand in the Irish case. Further factors specific to Ireland may have played a support role, e.g. the English language, cheap air transport, the profile given to Ireland's success inside the EU by media in the accession states, and a generally pervasive sense that Ireland–-its people and bureaucracies (central and local government)–-was accommodating and welcoming.

Table 8.6 Percentage of Total Employment Held by Nationals of Other Countries, by Economic Sector, 2004 and 2007

	All Nationals of Other Countries		New EU Nationals only	
Sector	**2004** %	**2007** %	**2004** %	**2007** %
Agriculture, forestry & fishing	2.9	6.2	1.3	3.2
Production Industries (inc. Manufacturing)	7.7	17.7	2.1	11.0
Construction	6.9	17.2	2.6	12.6
Wholesale & retail trade	5.8	17.3	1.5	10.0
Hotels & restaurants	18.4	37.3	5.1	20.7
Transport, storage & communications	5.3	13.2	0.7	6.4
Financial & other business services	6.7	15.5	0.7	5.9
Public administration & defence	1.3	2.0	*	*
Education	4.7	6.7	*	0.7
Health	6.9	14.4	0.4	2.3
Other Services	6.5	15.7	0.9	5.5
Total	**6.7**	**15.6**	**1.5**	**7.8**

Source CSO, *Quarterly National Household Survey*.

Table 8.7 Numbers Employed, 2004 and 2007, and Changes: by Sector and Nationality

	Total Employment	Employment Changes 2004-2007				Total Employment
	2004	Irish Nationals	New EU Nationals	All Other Nationals	Total Change	2007
Sector	000s	000s	000s	000s	000s	000s
Agriculture, forestry & fishing	112.5	+2.0	+2.3	+1.8	6.2	118.7
Production Industries (inc. Manufacturing)	301.0	-38.6	+25.6	+2.7	-10.3	290.7
Construction	227.5	+19.2	+29.1	+3.2	51.5	279.0
Wholesale & retail trade	265.4	+7.7	+27.1	+11.4	46.2	311.6
Hotels & restaurants	112.7	-9.0	+21.7	+6.9	19.6	132.3
Transport, storage & communications	115.7	-4.8	+6.9	+3.0	5.1	120.8
Financial & other business services	247.7	+19.9	+15.7	+13.8	49.4	297.1
Public administration & defence	94.4	+9.7	*	+0.9	10.6	105.0
Education	118.4	+17.0	*	+3.7	20.7	139.1
Health	182.4	+19.6	+4.3	+15.0	38.9	221.3
Other Services	116.3	-4.8	+5.7	+6.0	7.0	123.3
Total	**1894.2**	**+37.9**	**+138.4**	**+68.4**	**244.7**	**2,138.9**

Source CSO, *Quarterly National Household Survey*.

8.6 Core Characteristics of East–West Movers to Ireland

Economic and social analysis has long suggested that the effects of migration on the host country depend, to large extent, on the educational and other characteristics of migrants. In the case of migrants to Ireland from the EU-10, they have been largely concentrated in the 15 to 39 age group and were disproportionately single (i.e., arrived without dependants) with a good level of education. Compared to their Irish counterparts, a higher proportion had completed the full cycle of secondary education, while they were just as likely to have participated in some form of third-level education. They have demonstrated a higher level of labour-market participation and a higher employment rate than Irish nationals. For example, in 2006, their labour force participation rate was 90 per cent compared with 62 per cent, of Irish nationals, and less than 1,000 were on the unemployment register.

Generally, they have held lower-grade occupations than their educational levels would have suggested. Their earnings levels placed them, as a group, firmly in the lower half of the earnings distribution. Overall, the median hourly earnings of EU-10 nationals in 2006 were two thirds of the national median. This reflected, in part the fact that two sectors that they entered in particularly large numbers are relatively low-paying ('Hotels and Restaurants'and 'Wholesale and Retail Trade'). In a number of empirical analyses on Irish migration, the ESRI estimates a pay gap for EU-10 migrants ranging from 18 to 45 per cent. It is suggested that this initial wage disadvantage is because they lack location specific human capital, language skills being one such example (Barrett and McCarthy, 2007). Indeed, this failure of well educated EU-10 immigrants 'to fully capture returns to (their) human capital' is considered to make their impact on the Irish labour market more akin to a 'lower-skill impact' than a 'high-skill impact' (Barrett, 2009: 158; Kahanec and Zimmermann, 2009: 7).

8.7 Impacts of East–West Migration Into Ireland

8.7.1. The Impact of Migration from 2004 to 2007

D'Auria *et al.,* (2008) have simulated the effects of the East–West migration that actually occurred for each member state applying the same model to all. A core assumption behind their simulation is that the skill distribution of arriving migrants was similar to that of the local population. Not surprisingly, given the exceptional scale of EU-10 migration to Ireland, they find the economic effects have been correspondingly greater in Ireland than elsewhere. Over the period 2004–7, their results suggest that Irish GDP was more than 4 per cent larger, the average standard of living slightly lower (down 1.33 per cent) and the price level almost 5 per cent lower (Table 8.8). These estimates are four times greater than for the second-most affected country, the UK.

In the case of Ireland, a number of ESRI studies have considered the impact of migration on wages and employment. Barrett *et al*., (2006) use data from 2003 and model the impact of immigration of different skill compositions on the wage and employment levels using a structural model. If the inflow of the immigrants who arrived between 1993 and 2003 (a net inflow of approximately 72,000) is assumed to have been 85 per cent high-skilled (in the positions they occupied in the Irish economy and not just on basis of their characteristics), their simulation suggests the average wage of skilled workers would be lower by around 6 per cent over the long run and their employment level higher by about 2.7 per cent. By contrast, there would have been no downward pressure on the average wage of the low-skilled (though 15 per cent of the inflow was assumed to be low skilled) while their employment level also would be some 2.4 per cent higher.[26] The impact of the high skilled inflow in improving competitiveness and raising output was the primary mechanism through which these long-run impacts would have materialised.

The authors acknowledge, however, that a significant 'occupational gap' characterises EU-10 nationals in the Irish economy and that many take jobs below those appropriate to their skill levels (as discussed above, because they lack local labour-market knowledge, have still to acquire mastery of English, encounter employers who may find it difficult to verify their educational qualifications, etc.). Consequently, they describe the simulation above, as their upper-bound estimates

26 op. cit., Table 7

Table 8.8 Medium- to Long-Run Country Specific Effects Based on the Change in the Number of EU10 Citizens Resident in Individual EU15 countries over the period 2004-2007

	GDP	GDP per capita	Price level
Receiving Countries			
Belgium	0.22	-0.07	-0.24
Denmark	0.06	-0.02	-0.07
Germany	0.14	-0.04	-0.15
Ireland	4.23	-1.33	-4.67
Greece	0.07	-0.02	-0.08
Spain	0.17	-0.05	-0.18
France	0.01	-0.002	-0.01
Italy	0.06	-0.02	-0.07
Luxemburg	na	na	na
Netherlands	0.11	-0.04	-0.13
Austria	0.35	-0.11	-0.39
Portugal	na	na	na
Finland	0.13	-0.04	-0.14
Sweden	0.15	-0.05	-0.17
UK	1.00	-0.32	-1.11

Source D'Auria et al (2008). QUEST simulation

Notes The core assumption behind this simulation is that there is no change in skill distributions between migrants and the local population.

and consider the lower-bound estimates to be those which the model provides when the migrant inflow is assumed equal in skills to the native Irish workforce (Under this assumption, therefore, the migrant inflow is assumed to be two-thirds skilled and one-third low skilled. The relatively high educational attainment of the inflow is discounted on the basis of the observed occupational gap). In this scenario, the average wage of high-skilled workers would be around 4 per cent lower and their employment level about 2 per higher over the long run, while low-skilled workers would see virtually no change in their average wage and a 2 per cent increase in employment.

In later work, Barrett (2009) rescales the 2006 study to 'infer' the impact of the significantly higher level of migration that occurred up to 2008 and estimates the impact of the stock of immigrants then in the labour force (180,000). As the rate of unemployment remained low into 2008, the scenario of most interest is where the model assumes that the wage level was the central adjustment variable.

Table 8.9 Inferred Impact of 180,000 EU 10 Migrants on Irish Macroeconomic Variables

	% change
Average wage	-7.8
Total employment	4.4
GNP	5.9
GNP per worker	1.7

Source Barrett (2009).

The results (Table 8.9) show that average wages were lower by 7.8 per cent than they would have been in the absence of migration, employment 4.4 per cent higher, GNP, 4.4 per cent higher, and GNP per worker, 1.7 per cent higher. It is the actual mechanisms that may underly what can only be suggestive findings which are of most importance. It can be argued that, in the absence of the migrant inflow, wages would have risen, competitiveness would have been eroded, and GNP and employment would have been smaller. Migration may, in effect, have restrained the deterioration of Ireland's competitiveness for a number of years. A second mechanism is suggested by the fact that, while an extra 180,000 workers add 8 per cent to the workforce, employment rises by only 4.4 per cent in the model (and unemployment is assumed steady). It is possible and plausible that the fall in wages led to more Irish people withdrawing from the workforce.

In hindsight the principal 'cost' of the large labour inflow to Ireland may have been considered to be that it contributed to keeping economic growth too high for too long. Combined with the ease that the euro brought to importing capital, high immigration fed the perception that the economy's potential growth path was higher than, in fact, was the case.

The scale of immigration after 2004 moved rapidly to become 'probably the most significant and keenly contested issue in Irish industrial relations' (Roche, 2007: 74). Multiple concerns were expressed about downward pressure on wage levels and employment conditions, flagrant breaches of health and safety conditions, and the possibility of strategic use of redundancy and outsourcing to displace Irish workers (the 'Irish Ferries on dry land' scenario). A much wider interest has been taken in Ireland since 2004, in the significance of recent ECJ rulings and in the revised European Services Directive. With the creation of NERA and the passage of significant new labour market regulation (Mulvey, 2006), it is clear that previous limitations on capacity of Ireland's labour market authorities to enforce existing standards have begun to be eased. The stimulus which enlargement gave to these types of development illustrates, how the 2004 enlargement can hasten the pace of structural reforms that are required anyway, to meet the challenges of globalisation (European Commission, 2009d). In addition, regard must be had to the issues arising from the growing incidence of agency-working and subcontracting.

By contrast, it can be argued that the ready availability of workers from elsewhere in the EU eased the pressures to implement desirable reforms in Ireland's welfare state and active labour market policies (NESC, 2006). Over the 8 year period, 2000–7, the percentage of the working-age population in receipt of social welfare did not come down; it marginally increased from 14.5 per cent to 15.6 per cent (Grubb *et al*, 2009), though total employment in the economy increased by 26 per cent and the strength of labour demand was pulling in workers from across the new member states to meet labour shortages at every skill level. The stubbornly high level of welfare dependency among people of working age was rarely focused on as a major challenge to Ireland's categorical social welfare payments, practices of targeting, procedures for integrating usage of services with welfare payments, public employment service structures, and locally based social inclusion strategies.

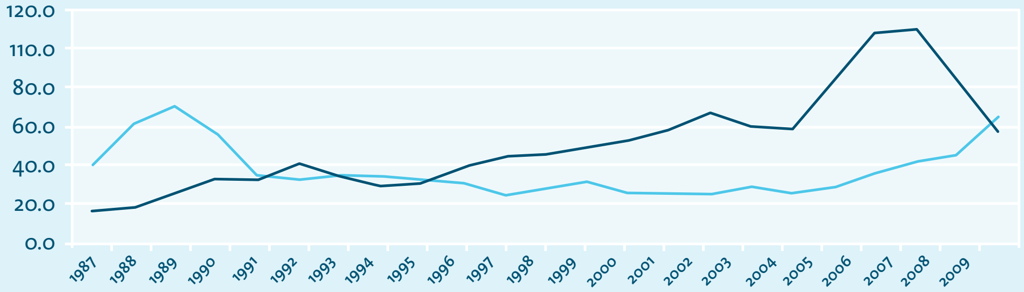
8.7.2 The Impact of Recession on East–West Migration to Ireland

The large majority of workers from the new member states in Ireland took employment in construction and services sectors supplying the domestic market (Table 8.7). They have, accordingly, been disproportionately impacted by the collapse in construction and consumer-spending that gathered pace in 2008. Over the twelve-month period, April–June 2008 to April–June 2009, their numbers in employment fell by 25 per cent, more than four times the fall in employment of Irish nationals which was 6 per cent (Q2 QNHS 2009). At the same time, the numbers of unemployed people from the new member states, at the same time, rose more rapidly than the numbers of unemployed Irish nationals, by 140 per cent as against 113 per cent over the twelve months and, by November 2009, they accounted for 18.6 per cent of the Live Register (as against an estimated 15 per cent of the labour force).[27] This rise in unemployment is less than the scale of the drop in their employment and suggests that the recession in Ireland has triggered significant return migration.

Labour migrants are known to be 'very responsive to economic cycles', in particular where mobility restrictions do not exist (Kahanec and Zimmerman, 2009). As such it might be expected, where that migration had been determined by strong labour demand and economic circumstances deteriorate, many former migrants would move on to more attractive destinations. Migration to Ireland peaked in 2007 and dropped sharply in 2008 and 2009 (Figure 8.3). As the Figure also shows, emigration, the absolute levels of which had trended upwards since 2004, accelerated sharply in 2008 and is estimated to be larger than immigration in 2009 and 2010.

27 CSO (2009), Live Register. Additional Tables. 8 December 2009.

Figure 8.3 Annual Immigration and Emigration ('000s), 1987 -2009



Source Population and Migration Estimates, various years (CSO).

The CSO's annual release, *Population and Migration Estimates*, provides estimates of the levels of immigration and emigration to and from Ireland by nationality. Flows of EU-12 nationals have been affected most by recession, with the inflow falling from some 50,000 in 2006 to around 6000 in 2010, and the outflow rising from under 10,000 to 19,000 in 2010, although 30,000 emigrated in 2009. By contrast, immigration from elsewhere in the EU (outside of the Common Travel Area), and from outside the EU, has fallen more slowly, and emigration on the part of the same nationals, risen more slowly. Emigration of Irish nationals, on the other hand, has doubled since 2008.

8.8 Conclusion

Since migration was by far the most important impact of the 2004 enlargement for Ireland, it is important to recognise several features of this phenomenon. While the scale of inward migration from the EU-10 countries was unprecedented, there is reason to believe that it was a one-off. Ireland was experiencing exceptional growth and labour shortages at the time and was one of the few countries to which citizens could freely move and work for wage rates in excess of what they could earn in their own countries. This conjunction of circumstances is unlikely to be repeated.

As stated, the entry of so many EU citizens facilitated a continuation of Ireland's economic growth, even if it did raise questions about the labour standards and the provision of social infrastructure. But these issues were best addressed within the domestic environment in which they arose, rather than by seeking to regulate the flow of migrant workers at EU level. Ireland's strategic interest in participation in an internationalised economy and system of governance means that we are bound to be affected by global trends in migration and this should be accepted. This is not to suggest that Ireland should not have a national immigration policy, but that we should see migration issues in this wider context.

9

Foreign Relations and Justice and Home Affairs

9.1 Introduction

This chapter analyses developments in EU foreign policy and justice and home affairs. Although these subjects would not normally come under NESC's remit, their increasing prominence within the governance of the EU entails that some analysis is necessary in order to understand their significance.

9.2 Foreign Relations

Prior to the Maastricht Treaty of 1992, foreign policy was largely conducted by the member states outside of the legal framework of the then EEC. The Maastricht Treaty established a Common Foreign and Security Policy (hereafter referred to as CFSP) but without institutions or budget. Instead, CFSP was to be progressed through negotiations between governments under what became known as the 'second pillar'.

This lack of institutional resources for CFSP led to calls for a permanent post to establish greater continuity and presence in EU foreign policy. The Amsterdam Treaty provided for such a post: the High Representative for CFSP supported by a permanent secretariat, whose role was to prepare policy decisions and conduct dialogue with third parties. The Treaty of Amsterdam allowed for the formulation of 'common strategies to be implemented by the Union in areas where the member states have important interests in common' (Article J.3.2). It elaborated what the concerns of such strategies might be, namely 'humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking' (Article J.7.2), the so-called Petersburg Tasks.

At the June 1999 European Council in Cologne, member states pledged their determination that 'the European Union shall play its full role on the international stage' by having capacity to take decisions on the full range of conflict-prevention and crisis-management matters. To achieve this goal, several institutional changes were made. Javier Solana, a former Secretary-General of NATO, was nominated to the post of High Representative for CFSP; a Political and Security Committee (PSC) consisting of ambassadors of each member state met twice-weekly in Brussels; an EU military committee made up of military delegates from each country was made responsible for giving advice to the PSC and European Council; and an EU military staff responsible for early warning and strategic analysis was created.

The European Council of Feira (2000) defined 4 priority areas for the EU to develop civilian capabilities: police, strengthening the rule of law, civil administration and civil protection. By 2003, the EU was committed to having 5,000 police officers at its disposal; a pool of judges, prosecutors and civilian administration experts as well as assessment and intervention teams for deployment at short notice. In January 2003, the EU took over from the UN's International Police Task Force in Bosnia-Herzegovina and since then has undertaken 27 missions on three continents. The missions have been weighted toward civilian intervention by a ratio of 2:1 with 19 civilian missions and eight military ones since 2003.

Civilian missions often involve police personnel from EU member states assisting local police forces and some have a broader mandate to restore the rule of law and involve reforming courts, prisons and customs. Military missions tend to take place in situations that are not yet stable enough to receive a mainly civilian intervention. Ireland has been a prominent supporter of both kinds of mission, with perhaps the most prominent example being the operation in Chad, which was under the command of an Irish officer, and where a battalion of 450 personnel was deployed. But Irish personnel have been involved in a number of other missions, which have involved monitoring in Georgia, sending weapons – decommissioning experts to Indonesia and training prison officials from Iraq.

After the events of 9/11 in 2001, the EU has had to cope with a very different external environment. A strategy document, *A Secure Europe in a Better World* (2003), identified five major threats: international terrorism, proliferation of weapons of mass destruction, regional conflicts, failed states and organised crime. Identifying such threats led to a revision of security policy and its partial fusion with foreign policy. In fashioning a response to these threats, the strategy considered that 'the best protection for our security is a world of well-governed democratic states' (*ibid*. 10) which necessitates supporting democratic governance within weak states and strengthening social and political order. Trade and development policies were affirmed as vital instruments to encourage political reform.

A review by the European Council in 2008, *Providing Security in a Changing World*, documented progress against the threats covered in the 2003 strategy. It also enunciated several others, including energy security and climate change. The Council has recognised that energy policy represents a key part of external relations for the EU and its member states and, therefore, that it is important that the EU and its member states 'speak with one voice'. It also identified climate change as a 'threat multiplier' that facilitated disasters, spurred on environmental degradation and induced greater competition for natural resources.

Reforms within the Lisbon Treaty to foreign relations were designed to lend greater coherence to the conduct of EU foreign relations. The High Representative has responsibilities in both the 'Community' areas of EU external action and what was known as CFSP (hence the position's title of High Representative of the Union for Foreign Affairs and Security Policy), leading to its description as 'double-hatted'. The post encompasses the role of Vice-President of the European Commission and responsibility for 'co-ordinating' all the Commission's activities in the external action field—i.e. those covering, most prominently, trade, development assistance and enlargement. It takes over from the rotating presidency a number of functions, including ensuring the implementation of CFSP decisions; responsibility for representing the EU externally for CFSP matters; and consulting the European Parliament on such matters. The creation of such a post has arisen partly from a desire to achieve greater coherence between 'Community' and intergovernmental policy areas. It remains to be seen whether such coherence can be obtained.

In 2010, much attention was devoted to establishing the European External Action Service (EEAS), an organisation dedicated to building an integrated platform that effectively projects the values and interests of the EU around the world (Ashton, 2010). The EEAS gained the approval of the European Parliament and European Council in July 2010. An example of the kind of work that the EEAS will be involved in would be attempting to find sustainable solutions to broad-based security issues, such as piracy off Somalia, which requires bringing 'operations, diplomacy, economics and development together' (*ibid.*).

9.3 Immigration and Asylum Policy

The Amsterdam Treaty (1997) marked a tentative move away from a purely intergovernmental approach to EU action on the free movement of persons, immigration and asylum policy (designated as Title IV in the Treaty). After a transitional period of five years, member states could agree to move to qualified majority voting, but only on a unanimous basis and would only take decisions on proposals from the Commission. However, the issue of legal migration was still to be determined unanimously. Three protocols to the Treaty ensured 'flexible engagement' on Ireland's part. The first ratified Ireland's wish not to be bound by the Schengen *acquis,* a free-travel area encompassing several European countries. The second recognised Ireland's right to maintain its border controls in order to preserve the Common Travel Area with Britain. And the third exempted the UK and Ireland from participation in measures taken under Title IV, although they were permitted to opt in.

The Council of Ministers meeting in Tampere, Finland (1999), articulated a determination to develop the Union as an area of 'freedom, security and justice'. It recognised that the process of European integration would draw people from beyond Europe's borders. This would require some movement toward common policies on immigration and asylum, involving the following issues. First, a Common European Asylum System (CEAS) was to be established with the hope that this would lead to a common asylum procedure and a uniform status for those who are granted asylum valid throughout the Union; second, fair treatment of third-country nationals requiring a more vigorous integration policy aimed at granting them rights and obligations comparable to those of EU citizens; and, third, the management of integration flows through a stronger emphasis on external action in countries from where illegal migration originates.

At the end of 2004, the Commission (2004b) reviewed the progress made towards the Tampere goals. Success included the establishment of FRONTEX, the European border management agency. However, progress had been limited by institutional constraints and by a lack of political consensus. A requirement for unanimity meant that member states were reluctant to co-operate where their perceived interests were at stake. The Tampere review noted several outstanding issues. These included the development of an integrated border-management system and visa policy; the promotion of a common approach to the management of migratory flows; and the development of a common European asylum policy on a fair basis.

The successor to the Tampere programme was designated the Hague programme and continued along much the same lines as its predecessor for the period 2004–9. In December 2004, the Council did resolve to operate by qualified majority voting and the co-decision procedure in the fields of visas, asylum and illegal immigration. The Hague programme declared a desire to establish a second phase of development in the field of borders, asylum and migration policy from 2004 to 2009. This was to be based on a 'fair sharing of responsibility', closer practical co-operation as well as further harmonisation of legislation.

In its evaluation of the Hague Programme, the Commission (2009e) noted that progress had been frustrated by the limited competence of the Commission and the requirement for unanimity in several areas. The Council adopted a successor, the Stockholm programme for the period 2010–14. Among the priorities included are an emphasis on management of Europe's borders and the establishment of a common asylum system by 2012.

Another significant development occurring in 2010 was the division of justice, freedom and security into two Directorates General, one which deals with home affairs and the other with justice. DG Home Affairs has two main priorities, the first being the maintenance of security within the EU, focusing on problems such as terrorism and organised crime. The second priority concerns migration, and policy will be developed to try to deal with both irregular migration and to ensure that legal migration is adequate for an economic recovery. DG Justice is concerned with civil and criminal justice, fundamental rights and citizenship.

9.4 Judicial and Police Co-operation

Traditionally, Ireland has been cautious about the idea of greater co-operation in this area, largely due to the relative distinctiveness of its common law tradition. This stance was facilitated by the intergovernmental nature of decision making regarding judicial and police co-operation (known as the 'third pillar'), which required unanimity for new proposals to be adopted. However, the Lisbon Treaty collapses the distinction between the first and the third pillars, thereby bringing judicial co-operation in criminal matters and police co-operation under the Community method. This means that the Commission proposes legislation, the Council of Minister together with the European Parliament decides on these proposals, and the European Court of Justice has the power to review legislation.

Ireland has chosen to opt in on a case-by-case basis. The Irish government has made a political declaration stating its firm intention to participate, to the maximum extent possible, in proposals concerning judicial cooperation in criminal matters and police cooperation, particularly with respect to the latter area. The government has also given a commitment that it will review the operation of Ireland's freedom, security and justice arrangements after a period of three years,

9.5 Conclusion

In the fields of external relations and the reconstituted justice and home affairs, the EU is becoming a more significant actor, thanks to either the introduction of new institutions or new modes of decision making. Authority is now diffused between member states and the institutions of the EU. This makes likely future options difficult to anticipate. What is clear is that the issues that have broached the need for a common approach in both these fields are becoming more prominent.

The traditional method of advancing would be to rely on a mixture of positive integration through harmonisation of national legislation and negative integration through mutual recognition of national rules and decisions. However, positive integration suffers from a lack of clarity about what it is member states are approximating towards—for example, what constitutes appropriate asylum procedures? Negative integration suffers because there may not be sufficient trust to enable mutual recognition to operate as the practices of one member state may not be commensurate with another. But the options for further integration may not be exhausted by the logics of harmonisation and mutual recognition.

Alternatively, member states could rely on a combination of evaluation and learning. By setting up such mechanisms and by mutually observing one another, EU member states can help foster trust in one another but also take steps towards indentifying the precise content of new fields of European integration, in such policy areas as external relations and justice and home affairs. Used in this way, evaluation mechanisms could be considered as search mechanisms, which would allow participants to identify, on a systematic basis, what is required to make progress in these new policy fields (De Schutter, 2010). The extent to which such search mechanisms approximate to the demanding structures and format of experimentalist governance is open to question. They may be more akin to processes of information pooling. A disadvantage of the latter is that it may lapse into the kind of information-reporting of the kind that was documented in the social policy field in Chapter 6. However, it may be that the operational exigencies of both foreign relations and justice-affairs issues will push practitioners to more searching enquiries.

Ireland faces challenges on a number of different issues that it will be unable to deal with successfully in isolation. These include energy security, legal and irregular migration, terrorism and cross-border crime, development, trade and climate change. The demarcations between what were once three separate pillars are no longer quite so clear. Migration is implicated as much with trade and development aid as it is with security and border control. This places a greater emphasis on coherence between various institutions and policies, and between the interests of the member states considered singularly and in common. This need to define what is in the best interests of both institutions and member states collectively, rather than considered from an individual perspective, may be an imperative to further embrace the format of experimentalist governance.

10

Reflections on Ireland's Experience and Changing Engagement

10.1 Introduction

Having surveyed the impact of EU membership under various policy headings over the past decade or more, here we summarise and interpret Ireland's changing engagement with the EU. The material set out in Chapter 2 provides an important input to these reflections—particularly our interactive perspective on Ireland's place in the EU, our summary of earlier analyses of Ireland's performance in the EC/EU, and our account of how EU governance and policy making has evolved. Indeed, before summarising and assessing Ireland's policy performance it is necessary to consider the achievements and failures of the EU itself in the past decade, since this provides the backdrop against which domestic policy and outcomes should be considered. Accordingly, the chapter is structured as follows. Section 10.2 shows that, despite historically significant progress on a number of fronts in the past 10 years, we are at the end of what must be viewed as an 'unfulfilled decade' for the EU. Section 10.3 argues that for Ireland, too, the past decade saw progress in using EU membership to national advantage—for example, through the internal market, the euro and environmental policy—but also problems in a number of EU-related policy areas, ending in severe crisis. In Section 10.4 we compare the findings of this study with the findings and lessons in earlier analyses, especially NESC's earlier studies of Ireland's experience and performance in European integration. This leads us, in Section 10.5, to reflections on Ireland's changing engagement with the EU and an initial identification of the policy lessons, which are discussed further in Chapter 11.

10.2 Progress, But Unfulfilled, at European Level

Over the last decade or so, the EU has sought to build on its potential through a series of initiatives and reforms. The launch of the single currency, the pacification of conflict in the Balkans, the completion of the fifth enlargement, the Lisbon Strategy and the ratification of the Lisbon Treaty have all been significant milestones in the development of the EU and have contributed to its success. In spite of these achievements, there is a widespread sense that the EU has not fully delivered on its potential over this last 'unfulfilled' decade and may risk the next decade being 'lost' if improved co-ordination and co-operation is not achieved in several key areas. This section explains this argument.

10.2.1 The Single Market

The single market has been one of the EU's greatest achievements and remains a principal source of its progress and influence. It has been responsible for many of the benefits that EU citizens and firms now take for granted. As noted in Chapters 2 and 3, the new approach to completion of the internal market, devised in the 1980s, had a profound effect on the EU. It moved it away from detailed prescriptive standards towards 'mutual recognition' and harmonisation of 'essential requirements', and reinvigorated the process of European integration. A huge agenda of mutual recognition and EU-level reregulation was implemented in the past 20 years. While there is wide agreement that this has yielded economic benefits, it may not have provided the degree of stimulus to innovation in European firms that was hoped for.

In understanding the recent history of European integration, three aspects of the internal market need to be noted.

First, the more the internal-market agenda is progressed, the more it reveals further requirements. It is like the skin of an onion. While cross-border trade and investment in major services—such as banking, air transport and telecommunications—was facilitated, the bulk of other services are still traded in relatively isolated national markets. This prompted the Services Directive adopted as recently as 2007. While national energy markets were opened to competition, the EU discovered that it requires EU-wide electricity networks to really have a single energy market. This has prompted a programme to construct 'Trans-European Networks' (TENs). While the most basic obstacles to the right to work and live in other member states were removed, this revealed the number of factors—in social security, qualifications and labour-market regulation—that can inhibit and complicate actual movement of labour (Pelkmans, 2010).

Second, and related to the first, these second and third-round issues concerning services and labour often prove highly sensitive; this is because the measures that might be taken to deepen free movement of services and labour are felt to dismantle, or at least disrupt, long-standing national regimes, laws and practices. Where this disruption is felt to damage interests, offend justice or create instability, internal-market proposals naturally become contested and politicised. Indeed, this aspect figures centrally in the recent report by former Commissioner Monti, *A New Strategy for the Internal Market* (Monti, 2010). That study identifies important steps that need to be taken to enhance prosperity—such as the agreement of a European patent—but argues that agreement on many of these is likely to depend on a more comprehensive reassurance that the internal market will not erode social and labour standards.

Third, as we described Section 3.5, the internal market provides a good example of the ongoing evolution of the EU. In particular, aspects of the internal market—such as competition policy, energy, food safety and many others—demonstrate the increasing emergence of the core governance architecture described in Chapters 1 and 2. This system of decision-making is a hybrid of hard law and soft law. Thus, even in areas where the EU has significant competence, there has been a move to more decentralised, less-prescriptive, networked, regulatory regimes in which the national regulatory authorities, EU agencies, the Commission and committees of member state representatives work recursively. Perhaps the most striking example is competition policy. It was traditionally a highly centralised area of EU policy in which the European Commission had strong inquisitorial and quasi-judicial powers. For a variety of reasons, the regime has become less centralised; national competition authorities have been granted much greater autonomy, but are obliged to participate in a European Competition Network (ECN). A senior official from one national competition authority has described the modus operandi of the ECN by using the well-known French term, describing the network as a 'Spanish inn—you eat what you bring'. This is a handy summary of the EU process more widely. It prompts the question: how well are Irish public authorities set up to bring high-quality, fine-grained, self-reflective content to the multiple EU processes of target-setting, reporting, peer review and continuous improvement?

10.2.2 The Euro: Both an Historic Step in European Integration and a Challenge to the Union

The Transition to and Launch of the Euro

A major achievement of the EU in the past 15 years was the transition to, launch of and management of the euro. Our analysis of the euro is published in a separate report published in August 2010, *The Euro: and Irish Perspective* (NESC, 2010), and only briefly discussed in Chapter 5. That report outlines the logic of EMU and describes the institutional design and policy principles that underpin the new currency. It shows that there was, through much of the fifty years of European integration, a strong, long-standing, widely held, diverse and increasing *economic* motivation for EMU. The enormous difficulties of realising this largely reflect the political complexities of creating monetary union in European circumstances (Laffan *et al.,* 2000). This underlines the historic significance of the launch of Europe's new currency on 1 January 1999. It is generally agreed that, over the 12 years since its creation, the ECB has successfully managed the currency in a rapidly changing global financial environment.

Insufficient Co-ordination on Macroeconomic Policy and Financial Supervision

While the launch and global management of the euro was a major achievement for the EU, the economic and financial imbalances that were allowed to develop within the euro area have become a source of strain within the Union and, at times, a threat to the currency. As we explain in our recent report, and summarise briefly in Chapter 5, the system of economic monitoring and fiscal policy coordination put in place on the creation of the euro proved ineffective. The Stability and Growth Pact suffered from technical flaws, lack of member state buy-in and an insufficient role for the independent European Commission. At the same time, financial regulation and supervision remained largely at member state level rather than being undertaken by the ECB. In the context of a long global boom and glut of savings, these systems did not track, let alone control, growing economic, financial and fiscal imbalances between the member states in the euro area. Once the global banking and economic crisis hit in 2008, it revealed the severity of these imbalances and posed a profound challenge to the EU and, indeed, the future of the euro. This failure of economic coordination must be counted as a major qualification to the success of the EU in the past decade.

The Design of the Euro and the Challenge of Political Buy-In

In Chapter 5 we outlined the basic design of EMU, drawing attention to its most prominent features: the strong division of labour between the ECB (with responsibility for monetary policy) and the member states and social partners (with responsibility for macroeconomic surveillance, fiscal policy and structural reform). (See NESC 2010 for a more detailed account.) At the heart of this regime was the reluctance to take any step that would engage the ECB in '*ex ante* coordination' and thereby in a political process that might push it to compromise its independent pursuit of price stability. The overall successes and failures of the euro to date can be expressed and discussed in terms of this core design feature. Two broad conclusions seem hard to avoid.

First, in its own terms, the design did not work well to produce the outcomes that were hoped for. For all its undoubted achievements, the design of the euro has not avoided the very deficit and debt crises it was intended to prevent. Second, despite some real strengths, the design itself was too narrow in treating all unemployment as structural, all shocks as supply-side and almost all necessary adjustment achievable at the national, sectoral and firm level. It thereby denied the possible significance of genuinely macroeconomic problems at the European level and of macroeconomic imbalances within the euro-zone.

However, these conclusions do not imply that we should reject this way of describing and thinking about the policy challenges of the euro. But they do imply that we recognise that the relationship between the centralised monetary function and the more decentralised stabilisation, structural reform and macro-dialogue is more complex than originally conceived. Instead of interaction in one way, we can identify at least three sets of relationships between them:

1. The relationship as envisaged in the original design—in which the economic effects of an independent monetary policy are determined by the success of structural reform;

2. A relationship in which the feasibility and effectiveness of structural reform is shaped by overall macroeconomic and growth conditions; and

3. A relationship in which the effectiveness and legitimacy of EMU, in a monetary and economic sense, is shaped by the degree of political and popular buy-in to, and identity with, the euro as a major European project for stabilisation, prosperity and global governance.

All three points are elaborated in our recent report on the euro (NESC, 2010: 69-71). Here we focus on the third. The effectiveness of the overall arrangement (with its sharp division of labour between ECB-determined monetary policy and member state dominated economic coordination and structural reform) seems to be shaped by the degree of political and popular identification with the euro and understanding of the division of labour and responsibilities inherent in membership. Across the euro area as a whole there would seem to have been limited political and social buy-in to the euro and limited emergence of a euro identity around a shared understanding of the challenges of stabilisation, employment and development (Dyson, 2000).

It seems that the understandable German reluctance to give a strong political component to the euro, especially monetary and macroeconomic policy, instead of heightening member states' engagement in those areas where they *are* the key actors—the Lisbon, Luxembourg, Cardiff and Cologne processes—actually meshed with member state *reluctance to share sovereignty* over fiscal policy, employment, structural reform or macroeconomic dialogue (Dyson, 2009: 162). Thus, these processes—despite an ingenious design, a very promising start in the late 1990s and some real achievements after the launch of the euro—have, in significant respects, failed to produce fiscal stabilisation, employment creation, structural reform and consensus on overall economic management. Far from chaffing against their exclusion from monetary policy, member states took it as a template for limited engagement in a range of other areas. Instead of balancing a definite and deliberate loss of sovereignty in monetary policy with enhanced collective action on economic policy, they were inclined to balance it with retention of sovereignty in the economic area. They met independence with independence, rather than collective action. This was compounded by lack of understanding of, and buy-in to, the benchmarking processes that were critical in making the fiscal and reform processes effective. The effect has been that the EU's system of decision making, though remarkable in many other spheres, has not been as effective as it needed to be in the areas most closely associated with the euro.

10.2.3 Stabilising Europe through Enlargement and 'Neighbourhood Policy'

A major achievement of the past fifteen years has been the stabilisation of the Continent through enlargement of the EU. The collapse of the Soviet Union in 1989, while freeing millions from Moscow control, threatened to create instability in Central and Eastern Europe and in the Balkans. Indeed, in the face of widespread conflict in the former Yuogoslavia, the EU found it difficult to devise a common and effective policy. NATO played a more important role in stopping that conflict. It took the EU some years to develop a coherent approach to crisis management. But the re-unification of Germany in 1990 prompted the EU to decide whether it envisaged the states of Central and Eastern Europe as members of the Union. One view was that a major widening of the EU would slow, or even halt, the process of deepening economic, monetary and political union. A counter-view was that the consolidation of democracy and stability in Central and Eastern Europe required that the newly independent states and societies be offered the prospect of membership. Having decided that the latter argument was compelling, the EU moved quickly to define the terms and process of accession.

The fifth enlargement—which brought in eight countries from Eastern Europe, plus Cyprus and Malta, followed some years later by Bulgaria and Romania—was an extremely complex and ambitious challenge for the EU and the accession states. It required the EU and the accession states to plan the transposition into their domestic law of the enormous body of EU law and the creation of institutions for market, social and environmental governance. The successful design and execution of this task must be counted as a major EU achievement. Some argue that it was a remarkable example of the kind of framework rule-making and learning process described in Chapter 2 (Tulmets, 2010). In broad economic and social terms it has been a success for the accession states, many of which experienced increased inward investment and economic growth after 2004.

Given these major achievements, it is important to mention three kinds of anxiety that arose and, to an extent, remain. The first concerns the impact of increased migration from the new member states in Central and Eastern Europe on the labour markets of the EU-15. Although it is important not to exaggerate either the scale or difficulty of this migration, or to generalise across the EU-15, there is no doubt that it gave rise to some anxieties concerning violation of labour rights in specific instances, weakening of earnings growth and erosion of collective agreements. A second concern has arisen in some of the sending countries, especially, Lithuania, Latvia, Estonia and Poland: that out—migration of the young and well-educated, if it continued at a similar rate, could weaken the demographic and economic potential of these countries. The third anxiety is more general: has the Eastern enlargement altered the EU itself—through increasing the complexity of decision making, the diversity of incomes or the composition of its institutions, including the ECJ—in ways that alter the dynamic of European integration? While predictions of deadlock and stasis have not been confirmed, it is too early to say whether the dynamic or complexion of integration has been altered.

10.2.4 The Partial Success of the Lisbon Strategy

Meeting in Lisbon in 2000, the EU adopted an ambitious strategy to 'become the most dynamic and competitive knowledge-based economy in the world by 2010, capable of sustainable economic growth with more and better jobs and greater social cohesion and respect for the environment'. It adopted a set of headline targets, such as an employment rate of 70 per cent and spending on R&D of 3 per cent of GDP. These were reflected in more detailed guidelines. After several years it was felt that there was limited member state ownership of the strategy and it was simplified and reformed. The focus narrowed to emphasise jobs and growth and a set of integrated guidelines were adopted. Actions to adhere to these guidelines and progress towards their achievement were documented in a series of National Reform Programmes (NRPs). The Lisbon Strategy did help to build a consensus on reform and delivered concrete benefits, especially increased employment. However, most reviews express disappointment with the overall process and outcomes. In its recent evaluation of the Lisbon Strategy, the Commission concluded that these guidelines were 'very broad and insufficiently action-oriented to impact significantly on national policy making' (2010g: 20). The Integrated Guidelines and NRPs were rarely used as a mechanism to reconfigure national policy. While the formulation of NRPs certainly seems to have improved interdepartmental communication and coordination in the member states, they were still essentially a mechanism for reporting existing initiatives. In addition, they had very little visibility or impact in domestic policy and politics within the member states.

10.2.5 A Decade of Institutional Reform

The past decade has been one of significant institutional reform in the EU. This was prompted by both the prospect of enlargement to 27 or more member states and anxieties about the efficiency and transparency. In 2001, the European Council called a 'Convention on the Future of Europe' and asked it to address four issues:

1. The division of responsibility between member states and the Union without sacrificing the dynamic of integration;

2. Simplification of the Union's instruments and clarification of the criteria by which they operate;

3. More democracy, transparency and efficiency in the European Union so that a Union of 'some thirty member states' can operate effectively; and

4. Consolidation of the various treaties and whether this would amount to a constitution.

Following the Convention, a 'Draft Treaty Establishing a Constitution for Europe' was agreed in the European Council. In May 2005, French voters rejected the constitution and in June the Dutch did likewise. Under the Portugese presidency in 2007, a compromise document, the Lisbon Treaty, was agreed by the Heads of State and Government. That Treaty was rejected by Irish voters in a referendum in June 2008. The Irish government sought and obtained a set of legally binding guarantees relating to tax rates, military neutrality and the right to life. A declaration on workers' rights and the importance of public services was also adopted. A further referendum on the Lisbon Treaty was held in October 2009 and was passed by a two-to-one majority and entered into force on 1 December 2009.

Ratification of the Lisbon Treaty in 2009 brought to an end a long cycle of institutional reform and, in that respect, marks an important achievement. The global crisis provided an early test of the reformed decision making system and continues to provide a stern challenge. After initial hesitation and strains, important collective responses to the crisis were agreed in 2009 and 2010 and, as discussed further in Chapter 11, major initiatives to enhance EU coordination have recently been agreed. It is too early to assess whether the outcome of this decade-long process of institutional reform will achieve the goals which motivated it, as listed above. It does seem that the day-to-day functioning of a union of 27 member states has been improved by the changes introduced by the Lisbon Treaty. We can also observe that, to date, there are limited signs that a decade of treaty revision has communicated an understanding of the potential of the EU architecture to reconcile economic, social and environmental concerns.

10.2.6 Europe's External Voice, Leverage and First-Mover Advantage not used to the Maximum

Framing a common foreign and security policy for the EU has been a relatively recent development. But the EU has long had a significant international presence thanks to the attractiveness of the single market for producers and investors. In addition, its approach to standard-setting has been globally influential across a wide range of areas, from consumer rights to environmental protection. It is worth bearing these points in mind when noting the disappointment of many commentators that the EU is not projecting itself effectively in matters of foreign policy and may be 'punching below its weight'. The outcome of the Copenhagen Summit on climate change, which did not incorporate the EU's preferred approach, has been deemed by some to signal a future where the EU has a marginal role rather than capitalising on its many strengths. This is a possibility, but it may also be the case that the EU can draw on capacities that have made it a pioneer in many respects and can shape the approach to global problems.

10.3 Progress, Ending in Crisis, at National Level

10.3.1 Introduction

The primary purpose of this chapter is to reflect on Ireland's experience of, and changing engagement with, the European Union in the past decade or more. We have seen that the EU itself has achieved real progress, but, overall, has had an unfulfilled decade. At national level, the overall assessment is similar, but more extreme. Ireland achieved remarkable economic and social progress in the 1990s—and, in certain respects, in the past decade—but this has ended in a profound crisis. In this section we summarise Ireland's policy engagement in the EU, as analysed in more detail in Chapters 3 to 9, noting both the achievements and the difficulties.

10.3.2 Use of the Internal Market to Achieve Growth and Employment

In Chapter 3 we analysed the impact of the internal market programme on Ireland. That analysis, along with many studies by others, suggests that Ireland was able to make great use of the internal market, plus the Structural Funds, to achieve unprecedented economic and social progress. This is evidenced in the growth of output, exports, incomes, infrastructure, public services and, most of all, employment, in the period from 1993 to 2000. The reasons for these positive effects are relatively clear. The internal market increased the flow of FDI to Ireland and opened market opportunities for firms in both manufactures and services. The negative effects of increased competition on indigenous industry had largely occurred between 1973 and 1985, and the removal of remaining non-tariff barriers was advantageous to a small peripheral member state. Some less positive experiences in the internal market, in the networked sectors, are discussed below. The macroeconomic context, as shaped by the launch of the euro in 1999, also played a role in generating Ireland's growth; we discuss Ireland's experience in the euro in Section 10.3.8 below.

10.3.3 Difficulties with the EU Model of Regulation in Telecoms and Energy

In Chapter 3 we paid particular attention to Europe's new regime for regulation of networked sectors, especially telecommunications and electricity, introduced as part of the drive to complete the internal market. The EU's motivation in adopting policy and regulation in these sectors was to create the conditions in which cross-border trade, competition and investment could occur within Europe. This was viewed as allowing Europe to achieve the benefits of scale economies, competition and technological progress that characterise continental-scale economies, such as the US. The core EU approach has been to create conditions in which each national market—in telecommunications, electricity and other networked sectors—is contestable by firms from other EU member states. This, in turn, is seen to require a number of principles and rules. These include separating control of capital assets, such as power stations, from the distribution of services, a process known as 'unbundling'. Although the EU regime does not require privatisation of state-owned energy and telecoms companies, it does demand that the financial relations are transparent, state aid to national providers is limited and the sectors are governed by independent regulators.

Our discussion in Chapter 3 and other studies show that Ireland has had some difficulty in successfully implementing the standard EU regime for regulation of networked sectors, especially telecommunications and electricity. There were benefits to consumers, but these derived in large part from technological development (such as the emergence of mobile phones and associated applications). There was progress in building regulatory agencies in telecoms and energy and embedding these in the emerging EU networks. The creation of a fully integrated energy market across two jurisdictions (the Republic and Northern Ireland) was notable in EU terms. However, as a country with an historic infrastructure deficit, Ireland required strategic investment more than competition. Ireland's approach to implementing the EU regime in telecommunications—the privatisation of Telecom Éireann and regulatory control of pricing—reduced the state's role in driving strategic investment in broadband without passing this role to any other actor.

As a small end-of-pipe market, Ireland has not easily attracted new entrants to contest the electricity and phone markets. Attempts to limit the dominance of the incumbent firms have sometimes required that prices rise in order to make the market attractive to new entrants to create competition that is designed to drive down prices. Indeed, some tend to respond to the limits of the new regime of 'competition' by simply calling for more competition—in the belief that a further dose of the same medicine will work eventually. These difficulties are an important part of the story of Ireland's engagement with the EU in the past 15 years. They highlight our finding, outlined in 1989 and again throughout this report, that the existence of EU policy does not reduce the need for well-worked-out national policies. It seems that in both telecommunication and energy, at policy level, Ireland did not, in the decade from 1997 to 2007, have a thorough analysis of the underlying challenges facing the country and a strategic policy approach to addressing them. In the absence of such an analysis and strategy, policy would seem to have been dominated by a concern to change the networked sectors in order to comply with the emerging EU regime. In this context, the creation of skilled regulatory bodies was a necessary, but not a sufficient condition for success.

The problems in Ireland's approach to implementing the EU regime having been stated, it is important to note that the EU, and the EU internal market for energy and telecommunications are, in essence, critical for Ireland. In energy, the core constraints facing Ireland—a small home market, peripheral location and dependence on imported fossil fuels—require interconnection between Ireland, Britain and Continental Europe. This, in turn, requires an EU regime for the sale of electricity across frontiers and an associated institutional framework creating a 'level playing field'. In addition, the challenge of climate change is prompting technological, business and social innovation in energy and this is an inherently international process to which Ireland needs to be connected.

10.3.4 National Policy Frameworks Created

A further aspect of Ireland's remarkable progress of the past 15 years was the creation of national policy frameworks in important areas. Some of these were over-arching strategies, such as the national partnership programmes (in 1987, 1990, 1993, 1996, etc.) and the National Development Plans (1993, 1999, 2007). Indeed, the 'Towards 2016' social partnership programme adopted a 10 year horizon and set out an ambitious strategy to achieve a successful society by, among other things, 'reinventing and repositioning Ireland's social policies' (Government of Ireland, 2006: 5). Others had a thematic or sectoral focus. These included the National Anti Poverty Strategy (1 and 2), the National Disability Strategy, the National Climate Change Strategy, the National Children's Strategy and others. In addition, frameworks for defining and enforcing standards in a range of human services- such as health, disability and eldercare- have been created. With the establishment of the Health Information and Quality Authority (HIQA) and similar bodies is an important step towards ensuring greater quality and accountability-the impact of which NESAC is currently studying. These developments were significant in a number of ways. Some of them created a framework for policy and service development in spheres where Ireland had traditionally limited or disjointed service delivery, such as disability and childcare. However, as we note below when we discuss the unfulfilled nature of overall progress, the results flowing from these national policy frameworks have, in many cases, been disappointing.

10.3.5 Ireland's Growing Role in the European Research Area

An important national achievement of the past decade has been the creation of a stronger scientific research infrastructure and a greatly increased Irish profile in international research. While this has increasingly been funded out of national resources, it does have a European dimension. The creation of a 'European research area' has been a major EU project in the past decade, in an attempt to overcome the fragmentation of research in Europe along national and institutional lines. It aims to enhance the overall quantity and quality of research in Europe and to exploit the synergies between the research activities within each of the member states.

In recent years, Ireland has given research a greater priority through enhanced funding. However, it is increasingly recognized that increased investment in basic research is only one step in the construction of a national system of innovation suited to Ireland's situation (NESC 2005b; Government of Ireland, 2010 and Department of Enterprise, Trade and Innovation, 2010). To create this wider and deeper innovation system requires increased investment in applied research, better systems for linking research to enterprises, and ensuring that the wider education system is resourced to continue making a major contribution to Ireland's economic success.

Recently the EU has emphasized the importance of R&D and innovation policy in its *Europe 2020 Strategy* (discussed in Chapter 11). It has called for a strengthening of every link in the innovation chain, from 'blue sky' research to commercialization. Various actions have been outlined at both the EU and national levels with member states commited to reform national (and regional) R&D and innovation systems, ensure a sufficient supply of science, maths and engineering graduates and prioritise knowledge expenditure to promote greater private R&D investments. It would seem that there is increasing convergence between the developmental goals articulated at national and European level. The goal now is to move to a smart, green, economy—something we discuss further in Chapter 11.

10.3.6 Agriculture

Access to Europe's relatively high-priced and supported food market was a major part of Ireland's motivation for joining the EEC in the early 1970s. There is no doubt that Ireland as a whole was a strong net beneficiary of CAP over the decades. Furthermore, although the original CAP instruments, being largely output-based, supported large farms much more than others, it was still of significant benefit to small, less-productive, farms. Hannan and Commins (1992) have demonstrated how membership of the EU provided benefits for small landholders through supports for farming in 'disadvantaged areas'. Families supplemented their limited farm income through off-farm employment and utilised the expanding education system to create opportunities for their children. These benefits may have meant that the 'project of Irish modernisation and European integration did not become divisive along urban-rural lines' (O'Donnell 2000: 173). However, Hannan and Commins did warn that 'those smallholders who are unable to supplement farming income by off-farm employment now constitute one of the main recruitment bases for poverty in Ireland' (1992: 104).

In its 1989 study, NESC argued that the persistence of very low farm incomes was related to existence of structural problems such as the small size of many holdings, the age profile of these occupants and the rigidity of the land tenure system. CAP, for all its advantages, was not an appropriate vehicle for the resolution of these problems; rather, they were primarily a challenge for national government. NESC concluded that despite its enormous net benefit to Ireland, CAP, in certain respects, may have hindered the reform of Irish agriculture as it had helped to 'conceal the need for a range of long-term national policies concerning the role of agriculture in the overall development of the economy and the need for national polices to achieve agricultural objectives which were not, and probably could not be, addressed by CAP' (1989: 214).

Since then there have been several rounds of CAP reform, as described in Chapter 4, and significant technical and business progress in the agri-food industry. CAP reforms have decoupled supports from current output and linked them to EU environmental goals. The completion of the internal market involved standard-setting in a huge number of agricultural and food products and this should be seen as a real enhancement of the technical and market capability of the sector in Ireland and elsewhere. Major food safety scares across Europe, such as mad cow disease and foot-and-mouth, prompted the construction of a quite remarkable world-leading food safety regime, and Ireland has been a high-performing participant in this. The development of Ireland's agri-food industry can be hard to assess because of its comparison with the phenomenal recorded output and export performance of the foreign-owned high-technology sectors of electronics and chemicals. The agri-food and fisheries industry currently accounts for over half of manufacturing exports by Irish-owned firms with €7bn in exports and serves in excess of 160 export destinations.

While these reforms, technical innovations and business developments have largely been positive, it is clear that some long-standing problems still exist and pose challenges to policy, especially at national level. Among these are strengthening the export performance of the agri-food industry and addressing structural and social problems in rural areas; indeed, these two are somewhat inter-related.

The government has set out the goal of increasing agri-food exports to €12bn by 2020. However, it recognises that achieving this goal will require increasing scale and improved productivity and market orientation. Each of these interim goals will require individual firms within the agri-food and fisheries industry to collaborate to a greater extent than before, both to achieve necessary levels of scale and to project a brand for Ireland's foods in tune with environmental requirements. For the industry to position itself to sell higher- value products will require 'continuous feedback and discourse between all stakeholders and the consumer to understand and respond effectively to current future needs' (Department of Agriculture, Fisheries and Food,, 2010: 29).

It has been clear for several decades that off-farm employment has been critical in ameliorating the effects of structural problems and and the fragile economic viability of many farms. The dramatic collapse in construction and the gradual decline in cost-sensitive manufacturing have reduced opportunities for off-farm employment. Furthermore, the *Food Harvest 2020* document envisages a process of consolidation. In this context, it is worth recalling NESC's observation, in its 1994 report on rural development, that policy should not 'conflate rural development objectives with those of sorting out the structural problems in agriculture' (1994: 236).

10.3.7 The Euro, Financial Regulation and Macroeconomic Management

Joining the euro on its creation in 1999 was undoubtedly a profound change in Ireland's engagement in the European Union. NESC is in no doubt that, overall, membership of the euro has been beneficial to Ireland. Nevertheless, the developments of the past decade, and the crisis since 2008, suggest that the euro must play a central role in any reflection on Ireland's changing engagement in European integration. In Section 10.2.1 we discussed the strengths and weaknesses of the euro, and its supporting system of economic coordination, at EU level. These strengths and weaknesses were strongly echoed at national level.

Problems in Financial Regulation

As noted above, there is no doubt that the design of EMU allocated too much responsibility for banking supervision at member state level and too little to the ECB. However, this design flaw was common across the euro area and should not deflect attention from the weaknesses of Irish banking supervision in the past decade. A number of important recent studies—notably Honohan (2010) and Regling and Watson (2010)—confirm that the financial regulator took insufficient action to restrain reckless borrowing and lending by Irish banks.

Macroeconomic Policy, Costs and Competitiveness

The analysis suggests that Ireland's systems of fiscal policy, cost determination and wage- bargaining were not adequately attuned to the disciplines of the euro. Indeed, in line with a number of other countries, awareness of these disciplines seems to have been greater under the Maastricht criteria in the 1990s than after membership of the euro (Meyer and Umbach, 2007).

In Chapter 5, we summarised NESC's view that the problems of Irish macroeconomic policy in the past decade can be traced to a combination of technical issues which were uncertain and political economy issues that were not resolved effectively (NESC, 2010: 63–4). The result was an inconsistent policy approach across the three categories emphasised by NESC since 1990—distributional, structural and macroeconomic policies:

a. Some of the problems of fiscal policy reflected unresolved distributional tensions concerning earnings, taxation, transfers and public services;

b. Some of the problems of fiscal policy reflected unresolved, or dysfunctional, structural features of Irish policy, economy and society—such as the tax system (not designed optimally to support economic efficiency or fund a public system which was taking on increasing tasks), the approach to housing and land, the continuing high benefit dependency among working-age adults and the weakness of innovation-driven growth;

c. In this context, a macroeconomic perspective on the situation was muted and was not sufficiently adopted by a range of key actors and interests.

The tax windfall created by the property boom allowed an inconsistent policy approach to continue and the underlying distributional, structural and macroeconomic tensions to be glossed over—at least so long as the flow of capital to Ireland fuelled the economy.

Difficulties With Sterling

One area of difficulty, or at least complexity, has undoubtedly been Ireland's journey from the sterling link (in place from 1826 to 1979), through the EMS, to euro (NESC, 2010: 9–11). The most recent aspect of this difficulty has been created by the dramatic depreciation of sterling since 2007. In a context of severely depressed international trade and domestic demand, this put Irish firms, especially indigenous industry, at a competitive disadvantage.

Ireland's Long Quest for a Suitable Monetary Regime

The long view of Irish development, and our core perspective on Irish development, suggests that these difficulties should be seen as the latest episode in Ireland's long quest for a monetary/currency regime that is suited to our structural position and developmental challenge. A part of this long quest has been the search for a stability culture – both internationally and at home. Without recognising this long quest, it is easy to focus on the latest episode of currency or monetary difficulty and draw partial conclusions about the desirability of Ireland's membership of the euro. Likewise, it is possible to overlook the fact that, in the past decade, Ireland itself lost some of the stability culture so painstakingly constructed between 1979 and 1999.

10.3.8 Irish Social Policy and the European Union

Traditionally the EU is often thought to play a supportive but low-key role in influencing member states' social policies. In the case of Ireland, it was central in the move towards legal provisions for equal pay and opportunity and, through both the Structural Funds and Community Initiatives, provided a stimulus to the creation of programmes for disadvantaged groups. But the EU's lack of a significant budget and the difficulties of finding agreement on appropriate social policies across a diverse set of countries has prevented it from acquiring the instruments of traditional social policy, especially redistributive transfers.

Since the time of NESC's last report on the EU, the manner in which the EU engages with national social policies has changed so that the traditional 'sovereignty view' of national social policy needs to be amended. The first important change has been the emergence of formal processes of benchmarking and learning between member states, typified by the Open Method of Co-ordination that was formally inaugurated by the Lisbon Strategy. Some commentators believe that its achievements have been largely procedural and that substantive goals, such as a significant reduction in the at-risk-of-poverty rate, have not been achieved (Fraser and Marlier, 2010). Member states have often been content to use the OMC as a reporting device and so their sovereignty in respect of their own social policies has not been disturbed.

However, the EU's 'market-making' programme has had major ramifications for national social policies. Some areas that were thought to be free from the obligations of the single market have been subject to its disciplines as a result of case-law from the ECJ. This has not been a unilateral process and member states have sought to reassert their control over national social policies, either by seeking clarity from the ECJ or else by seeking to make certain public services exempt from the rigours of the 'single market'. But areas like healthcare and pensions, that are increasingly comprised of a mix of public and private elements, may still be partially subject to the rules of the single market. As a result, it is frequently argued that the EU is witnessing the emergence of 'semi-sovereign' national welfare systems over which member states have only partial control.

Some press this argument further and point to how the inability of member states to reach collective agreement leaves social issues vulnerable to the rulings of the ECJ which views its roles as defending the 'four freedoms'. In effect, this means promoting an economic agenda of liberalisation which is given priority over the social standards and protections embedded in particular member states, the so-called imbalance thesis. It is true that some ECJ decisions have caused trepidation, but member states have been able to respond in a way that protects their perceived interests. Semi-sovereignty is a state in which member states have given up some autonomy in relation to social policy but not all. There is a balance to be struck on the one hand, between breaking down accreted national privileges that do not give appropriate recognition to concerns of other EU citizens and on the other hand maintaining distinctive national forms of organisation or, as Ferrera and Scachi (2009) puts it, 'dismantling local immunities and privileges and that of preserving legitimate national diversities'. The important point to note is that this balance is still to be struck—it is always in the balance, as it were—and it will be member-states who achieve this harmony.

It is important to remember that many welfare systems are being transformed because they face similar challenges, such as changing demographics or gender relations that are endogenous to particular societies and that often require an individualised rather than universal response. This means that successful answers to social dilemmas are not easily available and puts a premium upon learning from experience. This necessity for learning can only be enhanced by fuller participation by Irish policy actors in an EU- wide system of monitoring and assessment.

10.3.9 Environmental Policy

Viewed from a long-term perspective, Irish environmental policy has made remarkable strides in moving from a situation where there was very little consideration of the issue to one where there have been significant achievements in many sectoral areas. Under EU influence, Ireland established an effective agency, the Environmental Protection Agency (EPA), and a system of Integrated Pollution Control. It is because of this system that the greatly increased industrialisation of Ireland in the past three decades has not given rise to significant environmental damage.

In terms of water quality, there have been great efforts made to implement the Water Framework Directive and in so doing establish a sophisticated measurement system of water quality. In relation to waste, there is evidence of a movement away from a reliance on landfill, assisted by the use of economic instruments, reviews of landfill licences and segregated collections of a range of materials. Several targets for recycling have been attained ahead of schedule. In addition, large-scale illegal dumping has largely been eliminated. Regarding the protection of biodiversity, extensive efforts have been made—with the essential input of various NGOs—to identify and designate particular areas for protection and conservation under the Habitats and Birds Directives.

Reflecting these EU and national developments, the environment is one of the areas where Ireland's engagement in European integration has had a significant impact on domestic systems of public administration. As we discuss further in Section 10.4.7, EU environmental policy has been a catalyst in the development of new forms of intra-organisational review and inter-organisational networking.

Notable though these advancements are, nevertheless they demonstrate two significant limitations to current Irish environmental policy. The first relates to an inadequate administrative infrastructure that may not be capable of accomplishing some of the objectives required by EU environmental law. Ireland continues to face 'implementation problems' in relation to surface and groundwater quality, waste management and nature and biodiversity protection (OECD, 2010). Current administrative structures are not best placed to manage the implementation of river-basin management plans (Department of Environment 2010) or to deliver the local biodiversity plans as required under the National Biodiversity Plan (OECD, 2010). Many water-treatment facilities still do not have adequate risk-management systems in place.

The second issue relates to how, in Ireland and elsewhere, progress on the most basic forms of environmental damage has drawn attention to the root causes of certain kinds of environmental degradation. The decrease in emissions of nitrogen oxide has been slow and means that, in respect of this gas, Ireland will face difficulties in meeting its targets under the National Emissions Ceiling Directive. This difficulty has been linked to a failure to implement a sustainable transport and travel plan. Similarly, the generation of waste has not been decoupled from economic growth, except in manufacturing. This indicates that enhancing our understanding of 'sustainable development' will be a key to further progress on several of the more traditional environmental problems. In this sense, the progress of EU (and Irish) environmental policy is gradually uncovering the 'root cause' of a range of environmental problems. In a general sense, that root cause is an unsustainable model of development. But it seems likely that finding out what sustainable development will look like can only be done by applying the same methods of improvement, comparison and learning used to get this far.

10.3.10 Successful Enlargement, But Anxieties Arising with Large Scale Immigration

As reviewed in Chapter 8, large-scale immigration to Ireland between 2003 and 2008 had a complex series of effects, many of them positive. An important aspect of migration to Ireland after enlargement was that a high proportion of those arriving had education and skills. This meant that their arrival tended to boost economic output, moderate upward pressure on salaries and was, at the very least, consistent with increasing demand for low-skilled labour. However, the fact that many migrants did not get jobs which fully reflected their educational attainment means that their impact on the Irish labour market was, to a certain degree, more akin to a 'lower-skill impact' that a 'high-skill impact' (see Section 8.6). If it undoubtedly had a positive effect on total GNP, its effect on GNP per capita is more ambiguous. Indeed, placing the surge in migration in a macroeconomic context, it now seems that it may have been a factor in facilitating Irish growth to continue above its 'natural' and sustainable rate in the past decade. Nevertheless, it did give rise to anxieties on two main fronts: labour standards and the provision of social infrastructure. These pressures and anxieties did, in turn, prompt policy and institutional developments. Indeed, there was intense focus on labour standards and consideration of how standards could be protected in the context of a voluntarist regime of industrial relations. Among other things, it became clear that it is more feasible and desirable to protect labour standards, rather than rely on controlling entry to the country (NESC, 2006). The real challenge of protecting labour standards was placed in the wider context of achieving integration of migrants and avoiding labour market, social and linguistic segmentation. This resulted from Ireland's reflection on the difficulties faced by other EU member states that experienced immigration in the 1960s and 1970s (NESC, 2006). These perspectives highlighted the need not only for strengthened law and institutions to protect labour standards, such as the National Employment Rights Agency (NERA), but also for the wide involvement of the social partners and NGOs in both labour standards and integration.

Our overall orientation on national development and the EU allows us to put the recent challenges of migration in context in other ways also. As highlighted in NESC's 2006 study on migration policy, there was a global increase in migration in the past decade and a half (NESC, 2006). This has subsided to a significant degree, but further waves of migration could be prompted by geo-political and other developments in the coming decades. Ireland's strategic interest in participation in an internationalised economy and system of governance means that we are bound to be affected by global trends in migration. This is not to suggest that Ireland should not have a national immigration policy, but that we see migration issues in this wider context.

As pointed out in Chapter 8, the surge of migration to Ireland and Britain associated with the EU's Eastern enlargement may turn out to be largely a one-off event, rather than a harbinger of a continent of much greater labour mobility. Furthermore, pressure for future migration to EU member states, including Ireland, may be more from outside than inside the EU. Given Ireland's underlying interest in both the EU right to travel and the Common Travel Area with the UK, we have a definite interest in the emergence of common EU approaches to third-party migration, notwithstanding the need to adopt a national view on any particular proposal within that area.

10.3.11 Justice, Home Affairs and Foreign Policy

The areas of justice, home affairs and foreign policy are good examples of the evolution of the EU's and Ireland's changing engagement. These are areas in which all member states are somewhat sensitive about natural prerogatives. Yet the increasing interdependence between member states and their shared vulnerability—in areas such as migration, human rights, international terrorism, security and global resources—has prompted them to develop joint approaches. These approaches tend to include a strong role for the member states and more often commit them to information sharing and mutual monitoring than binding directives. As a small and extremely open country, with a strong interest in an open international system, global development and human rights, Ireland has every reason to participate in these processes.

In the field of security and defence policy, Ireland has been an active contributor in what are known as 'civilian missions', dedicated to restoring good rule and a stable political environment in places such as Bosnia. Gardaí and other civilian experts have participated in a number of these. Ireland has also been a notable contributor to EU military missions which are conducted in areas that are too unstable to host civilian missions.

Ireland has maintained a more tentative engagement in the area of freedom, security and justice given its ties with the UK and its distinctive legal traditions. This has not prevented it from pledging, to the fullest extent possible, co-operation in the matters of police and judicial co-operation. Given that this will take place in the context of co-operation between 27 different jurisdictions, it will not be an automatic process. The Commission has recently proposed a system of peer evaluation, which would facilitate better understanding of national systems in order to identify best practice and obstacles to cooperation.

Although participation in these ventures has caused some anxiety about their effects on Ireland's traditional policy of neutrality, the legal guarantee attached to the Lisbon Treaty, that ratification would not affect this policy, has convinced many people. But there still may be a need for greater communication about the need for Ireland to participate in helping the EU tackle major issues like terrorism and climate change.

The changing nature of sovereignty within the EU offers an explanation of why Ireland should support these initiatives. NESC endorses the view that sovereignty 'no longer consists in the freedom of states to act independently, in their perceived self-interest, but in membership of reasonably good standing in the regimes that make up the substance of economic life' (Chayes and Chayes, 1995: 27). The experience of Ireland within the EU has been a testament to capacity of the Union to catalyse the development of member states in concert with others. In so doing, sovereignty, capacity of a state to fulfill national preferences, has become tied to status, the vindication of a state's existence as a member of an international system.

In acting within such a system, the greatest challenge may well lie in achieving a unity of purpose amongst various institutions and between member states. Since there are no ready-made procedures in these policy areas to which policy actors can appeal for guidance, there has to be an emphasis on learning from experience through continuous monitoring.

10.3.12 Progress Ending in the Five-Part Crisis

We have seen that Ireland's deep engagement with the EU was an important factor in the very considerable economic and social progress made in the 1990s and the early years of this decade. The undoubted national progress summarised above is hugely qualified by the major reversal experienced in the crisis of 2008 to 2010 (NESC, 2009a and b). Furthermore, our review of Ireland's experience in the EU since the early 1990s shows that several of our national problems arose in areas in which national policy must engage with EU frameworks and policies. There is both a national and an EU dimension to Ireland's successes and failures over the past fifteen years.

10.3.13 Summary: An Unfulfilled Decade at European and National Level

Despite remarkable achievements, at both national and EU level the past decade must be judged as unfulfilled. At national level, a period of enhanced business performance, participation, educational attainment and social pending gave way to a property-led boom funded by excessive private sector lending and borrowing, ending in a severe five-part crisis (NESC, 2009a). At EU level, the monitoring and coordination of member states' economies was ineffective and there was partial success in enhancing productivity and social inclusion through the Lisbon Strategy and in maximising Europe's influence in the world.

10.4 Comparison with Earlier Analyses and Lessons

In Chapters 1 and 2 we summarised earlier studies of Ireland's experience and performance in European integration, particularly NESC's reports in 1989 and 1997. We argued that it is valuable to recall earlier analyses for two reasons. First, earlier studies examined a period in which Ireland's European performance deteriorated, which clearly parallels our current situation. Second, earlier work contrasts Ireland's relatively poor performance in the period from 1973 to 1986 with a much more successful use of European integration from 1987 to 2000. If we need to remind ourselves of what we learned from past failure, we can also benefit by recalling what underpinned Ireland's remarkable success in the EU in the period 1987 to 2000.

In this report, and the recently published study *The Euro: An Irish Perspective* (NESC, 2010), we identify findings and policy lessons remarkably similar to those reported in Chapters 1 and 2. It is striking that twenty years after their initial statement, a new review of Ireland in the EU yields such similar findings and criticisms. In restating these findings we also adapt or extend a number of them in the light of subsequent experience.

10.4.1 Macroeconomic Policy

In Chapter 2, we reported that earlier studies were critical of both the domestic macroeconomic policies pursued from the late seventies into the eighties and the limited macroeconomic capacity at EC/EU level. Our current analysis leads to broadly similar conclusions, with a number of modifications. After 1999, also, Irish macroeconomic policy was, at significant times, pro-cyclical, unsustainable and not consistent with membership of the euro. Developments in the last decade make it necessary to restate the fact that successful participation in monetary integration requires a consistent approach to macroeconomic policy, wage-bargaining and taxation. In addition, we now see that effective financial regulation and supervision is a precondition, one that was definitely lacking in Ireland in the past decade. The earlier observation that the 'public and private sector spheres interact to an enormous extent' referred to the impact of poor fiscal policy on the private economy. In recent years, the connection between the public and private spheres seems to have operated in the opposite direction: excessive credit creation and indebtedness led, through the collapse of the banking system, to increased public deficits and debt.

Earlier anxieties about the degree of EU-level capacity for macroeconomic coordination turned out to be well-founded, given the failure of the Stability and Growth Pact to diagnose or prevent major fiscal and other imbalances, and insufficient EU-level financial regulation and supervision. As we mentioned in Chapter 5, it seems that the crisis is inducing a step-change in the degree of EU-level financial supervision and macroeconomic coordination—something we discuss further in Chapter 11.

10.4.2 The Effects of Integration can take Time

Recent experience confirms that the full effects of integration—in this case monetary and financial integration—can take a considerable time to work themselves out. Although monetary and financial integration proved relatively benign between 1999 and 2004, further significant impacts are being felt ten years later (in the context of policy weaknesses at Irish and EU level).

10.4.3 Priority to Short-Term Goals

As in the 1970s and the first half of the 1980s, we find that in the past decade priority was frequently given to short-term goals, certainly in taxation, public expenditure, banking practice, macroeconomic management and aspects of pay bargaining. As in the earlier period, this was evident in government policy, but also reflected priorities in the society.

10.4.5 Unresolved Distributive and Developmental Issues

As in the 1970s and first half of the 1980s, the current fiscal crisis reflects not only macroeconomic policy mistakes, but deeper developmental, distributive and public service issues, which were not adequately resolved by Ireland's political, administrative and interest-group system over the past decade. Our analysis of EMU suggests that Irish fiscal policy was weakened not only by technical uncertainties but, more fundamentally, by unresolved political economy issues. The inability to resolve such issues was seen, by NESC and others, as a key reason for Ireland's relatively poor early performance in the EC and slide to crisis in the 1980s; the development of greater consensus on macro and distributional parameters, while improving supply-side factors, was widely seen as a key factor in Ireland's much more successful engagement in European integration from 1987 to 2000 (NESC, 1996, 1997; Cassells, 2000; McAleese, 2000; Hederman O'Brien, 2000; FitzGerald, 2000; O'Donnell, 2000; Laffan and O'Mahony, 2008). It is disappointing that, in certain respects, the past decade bears more resemblance to the 1970s and early 1980s, despite the existence of partnership processes for identifying stresses and mediating conflicts. This warrants further analysis and reflection.

10.4.6 A Developmental Perspective

Earlier analyses by NESC and others highlighted the importance of bringing a developmental perspective to bear on national approaches to EU policy. It was also noted that, after the unavoidable focus on fiscal retrenchment in the late 1980s, the EU Structural Funds had the effect of re-igniting Ireland's earlier developmental emphases, as well as greatly increasing the use of monitoring and review. The present study underlines the importance of this lesson. There are two ways in which it might be qualified or extended. First, as we come through the current fiscal crisis we cannot rely on EU Structural Funds to re-inject a developmental focus into Irish policy. This must be found within national analysis and policy. Second, our understanding of what constitutes developmental policy has widened in the interim. We now see that the action of Ireland's networked developmental state—in attracting FDI, promoting indigenous business and supporting innovation—needs to be complemented and supported by a developmental welfare state, combining income transfer, quality services and innovation (NESC, 2005a and b; 2009a and b).

10.4.7 Effects on Ireland's Policy and Administrative Systems

Earlier studies reported that engagement in Europe had significant effects on Ireland's policy and administrative systems between 1973 and 1995. In particular, the Commission's approach to the increased Structural Funds prompted a step-increase in the scope and quality of programming, monitoring, evaluation and auditing of public expenditure in Ireland, at least in the period when Ireland was a major recipient (Matthews, 1994; O'Donnell, 2000; FitzGerald, 1998; Laffan and O'Mahony, 2008; McNamara *et al.,* 2009).

The phase of European integration reviewed in this study had a different kind of impact on Ireland's system of public administration. Engagement in the evolving EU processes prompted developments in intra-organisational review and inter-organisational networking, involving the development and use of systemic and diagnostic indicators. This is evident in agencies such as the Environmental Protection Agencies, the Food Safety Authority and the local authorities. In developing these capacities, these agencies were, in fact, coming to resemble Ireland's most prestigious public agency, IDA–Ireland (NESDO, 2009).

How widespread this effect is remains unclear, and is an important subject for further research. The depth and nature of engagement with this new EU direction certainly varies significantly across policy spheres and organisations. At one end of the spectrum, in the context of innovative and sometimes urgent EU policy initiatives, we saw remarkable development of new-style information systems and associated disciplines of review in environmental protection, waste management, food safety and animal health. At the other end, there are examples of Irish departments and agencies who were engaged with the EU in a more traditional way—partly because the EU's approach was less sophisticated and less effective in their areas policy. In such policy spheres and organisations—notably public finance, economic policy, banking supervision and, to a lesser degree, employment and social inclusion—the process of goal setting, data generation, monitoring and review was less effective and led to limited diagnostic inquiry into Ireland's problems. In public finance and banking supervision the lack of sufficient real benchmarking and diagnostic monitoring, at either EU or national level, eventually had disastrous consequences (Honohan, 2010; Regling and Watson, 2010; NESC, 2009a and b).

In other areas, limitations of both national and EU processes had more subtle effects. For example, in the context of the EU's Open Method of Co-ordination on social and employment policy, there was a decade-long debate on whether the EU's preferred measure of poverty was appropriate in Ireland and a sustained high-level campaign to resist its incorporation in Irish strategies. In making this observation, it is not denied that the Irish state had a case to make, given the factors driving median household income, recorded GDP and other considerations. The point is that a protracted high-level argument (conducted at both national and EU level) on the best systemic indicator of poverty may simply have displaced or postponed a focus on diagnostic inquiry into Ireland's social problems—although these were analysed and debated at home.

In any sphere, the possible inappropriateness of a given systemic indicator or target can be seen in at least two ways: as evidence that Ireland does *not have* the problem as measured, or as an invitation to explore what problem Ireland *does have*, and to find appropriate systemic and diagnostic indicators. It seems that in environmental protection, food safety or waste management, doubts about any given indicator or target were likely to be treated in the latter way—probably because the Irish organisations involved have been part of an effective EU process of joint goal setting, decentralised execution, information sharing and system revision. In fiscal policy and financial supervision, it seems that the ambiguity of indicators and targets was more likely to be treated in the former way—possibly because the Irish agencies were linked to EU regimes that were less effective and not geared for mutual learning. Employment and social policy would seem to lie somewhere between these extremes. The EU set general goals and adopted the

Open Method of Co-ordination. Some real convergence of thinking across member states, and reform within member states, including Ireland, was achieved. But, ultimately, the effectiveness of the OMC depends on whether national actors use it as an opportunity to learn from other members states and to deeply interrogate their own systems and policies.

10.4.8 The Central Role of National Policy

More than anything else, our review of Ireland's recent experience and changing engagement with the EU confirms NESC's 1989 observation that 'membership of the Community does not reduce the need for clear Irish policy aims and methods', even in areas where there is an EU policy. In many areas—such as public finance, banking, telecommunications, energy and others—the need for 'national policies that are informed by clear analysis of national needs' is strongly echoed,

But this central observation also has wider and deeper additional implications now than it had in 1989 or 2000. First, the pluralisation of EU influences means that many more branches of Irish policy are engaged in EU processes and must play a role in enhancing Ireland's performance in the EU. Second, while the earlier focus was on the critical role of national *policy,* we have learned in the intervening years that effective *implementation* is as important and, indeed, the two are more intertwined that was earlier thought (NESC, 2005b; OECD, 2008; Government of Ireland, 2008). Third, the changes in the EU—summarised in Chapter 1 and explained in Chapter 2—provide new opportunities and constraints on how national policy is best developed and improved. In Chapter 11, we summarise these changes and discuss their implications for the policy process and public administration.

10.4.9 Ideas Still Matter

Our current review confirms the earlier finding that ideas matter. The conception that member states and others bring to the EU process—for example, of whether EU involvement in a given policy area creates constraints or possibilities—shapes the outcome of the process. It confirms the earlier finding that the ideas and orientations of organisations beyond central government have a material influence on how well Irish policy, cost determination, wage-bargaining and other behaviours are attuned to EU realities. These points were—certainly from the early 1960s to the late 1990s—a part of the narrative of Ireland in Europe. What the current review adds to them is the observation that more fine-grained ideas on policy making, implementation and policy learning, at national and EU level, seem now to matter also. In Chapter 11, we identify this as part of a new narrative of Ireland in Europe.

10.5 Reflections on Ireland's Changing Engagement

10.5.1 Ireland's Engagement has Become More Plural, Contested, International and Complex

Taking account of the material in this report—the changes in the EU discussed in Chapters 1 and 2, our analysis of various sectoral policies in Chapters 3 to 9 and the summary above—it is possible to identify some broad trends. Ireland's engagement with Europe has changed in four significant ways in the past fifteen years:

- *Pluralisation*: there has a been a pluralisation of the channels through which the EU impacts on Ireland and through which Irish people and organisations engage with the EU;

- *Contestation*: in Ireland and other member states, European integration has increasingly touched on policy areas that are more contested than the initial trade liberalisation and CAP and, in consequence, there is a greater *politicisation* of EU issues;

- *Internationalisation:* many of the issues have a global as well as an EU dimension;

- *Complexity:* challenges of governance in many policy areas increasingly arise not only because of initiatives and bargaining at EU level, but also within Ireland because of the complexity of technology, society, business and ecology.

While these changes do not explain Ireland's policy successes and failures, they help us to understand the pressures on policy. Since these trends are unlikely to be reversed, they describe the context in which future policy will have to be made, as we discuss in Chapter 11.

10.5.2 Ireland Succeeded Where Policy Was Attuned to Effective Processes at EU Level

Ireland has succeeded where its policy system, public agencies and partnership approach have been attuned to effective processes at EU level and have adopted a similar problem-solving approach at domestic level. Examples include large parts of the internal market, building a new employment rights infrastructure, creation of agencies and networks for environmental monitoring, licensing and enforcement, food safety and many others. Ireland has failed, or had less success, precisely where it has not grasped the new range of EU methods and possibilities, or where the EU itself has been ineffective:

- Both where national policy actors have seen EU involvement as an *intrusion on sovereignty* (as on the fiscal stance) and, conversely;

- Where government has seen the task as mere conformity with a fixed EU regime, without a sufficiently clear view of the specific national policy challenge (as in the initial policy approach to telecoms and energy);

- Where government and others have not seen EU goal setting and data monitoring as an opportunity for in-depth review and policy learning, or have not had capacity to undertake this (as in banking supervision, public fiance, biodiversity protection, childcare and, to a lesser extent, in employment and social inclusion); and

- Where national policy and/or partnership processes fail to resolve underlying conflicts (as in aspects of waste management, water quality, taxation, housing and distribution) and are, therefore, incapable of progressive application of EU policy processes and norms.

At the start of the 21st century, it seemed that Ireland's model of governing was developing in tandem with the new governance regime that was manifesting itself within many EU policy sectors (O'Donnell, 2000). The landscape of public institutions in Ireland was certainly profoundly changed by the creation of numerous regulatory agencies, in line with EU developments. The government made local development a theme of its 1996 presidency and Ireland's approach to policy and partnership were the subject of much international interest. At EU level, the subsequent spread of governance modes that had been more sectorally specific a decade earlier, meant that the diverse processes of EU decision making began to display something of a common architecture, discussed above. However, at national level subsequent developments in policy, public administration, the economy and social partnership suggest that, in general, the expected evolution of disciplined policy development and review, focused on problem solving with social partners and others, and nourished by international benchmarking, did not happen.

In this context, our review of Irish policy throws some light on the question of the engagement of stakeholders in policy development and implementation. Given the elaborate partnership structures and processes in place in the past decade, Ireland is generally considered to have had one of the more participative public policy systems. The Irish experience with the Open Method of Co-ordination (OMC) processes in employment, social inclusion, pensions and other areas suggests that that participation is a necessary but not sufficient condition for success. What is critical is whether a country's policy system and approach to OMC, including its participative or partnership element, is geared to review and learning (Zeitlin and Trubek, 2003). Indeed, such learning is often a key guide to ways in which participation might be extended in any given policy sphere. This is confirmed by the fact that some of Ireland's recent successes in EU policy—for example in the areas of environmental protection and food safety—have been based first upon a system of systematic review, undertaken by agencies such as the EPA and the Food Safety Authority, which is then used to indicate whether and how participation within a network should be extended.

10.5.3 What Do We Learn From the Unfulfilled Decade About Ireland's Policy in the EU?

We have seen that very significant progress at national level has ended in a severe economic crisis and, in addition, that Ireland has experienced only partial success in a range of EU-related areas. As noted above, some of these difficulties undoubtedly reflect weaknesses in EU policy and process; indeed, we have argued that the EU also has had an unfulfilled decade. But there must surely be lessons to be derived about national policy. Partial success, or failures, could have occurred for a number of reasons. Among them are:

- National policy and/or implementation might have been weak;
- The balance of national and EU policy might not have been correct;
- The engagement with EU policy and processes might have been suboptimal.

A central message of this report is that, in the modern EU, where one of these weaknesses exists, the others are likely to also. To make progress within the EU requires an increasing engagement from actors within member states, based upon disciplined review and interaction with peers to establish how much progress has been made. While there have been remarkable changes in some areas, many of Ireland's public institutions seem not to have fully engaged with or availed of this relatively new system with its emphasis on organisations' capacity to record, compare, analyse and discuss their own policy and service systems, with a focus on outcomes and continuous improvement. In Chapter 11, we discuss the possibility that this reflects an insufficiently wide understanding of the EU and the opportunities it offers. In particular, it is possible that—outside of the policy actors whose central role is to manage Ireland's high-level EU engagement and the independent agencies that are part of the EU networks—an overly hierarchical, uniform and compliance-centric view of the EU may have prevailed.

PART THREE

Key Challenges

11

European Challenges and the New Conditions for Success

11.1 Introduction

As outlined in Chapter 1, NESC has long taken an interactive view of Ireland's participation in European integration. This sees the impact and potential of EU membership as strongly shaped by the approach adopted at national level, and it sees the EU itself as constituted by and largely driven by the member states. It rejects the idea of Ireland as passive, acted upon but not acting, in its relations with the EU. Adopting this approach, we have examined both the national level and the European level in reviewing the experience of membership and Ireland's changing engagement. Likewise we must jointly consider Ireland and Europe in assessing the prospects for the future. Our discussion of the future significance of the EU to Ireland proceeds in three steps:

- We state a basic orientation towards the role of EU membership in Ireland's development and towards the European Union;
- We recall the finding of Chapter 10, that, despite significant achievements, at both national and EU level, the first 10 years of the 21st century might be seen as an unfulfilled decade;
- We identify the main substantive challenges for policy and public governance at both national and European, level, stabilisation of the euro and reform for sustainable growth and canvass some ideas of how national policy might be enhanced.

We outline the reason why improved EU processes are required in each of these areas and consider the ways in which national policy and institutions have to adapt to make the most of Ireland's participation in the EU.

11.2 Basic Orientation

In its 1989 study, NESC argued that the prevailing conception of the Community and European integration has a powerful effect on the behaviour of member states and European institutions and on the nature and success of their joint action. This relation operates at both European and national level. Not only is the nature of European integration shaped by member states' attitudes to the substance and nature of their cooperation, but the effectiveness of membership for any one state is greatly conditioned by the national understanding of the European institutions and processes. Not surprisingly, this relation between over-arching conception and day-to-day action is particularly significant at times when Europe is unsettled and/or a nation is confronted by serious problems. It is clear that these conditions apply now.

Consequently, a key question is: what understanding and approach does Ireland need now in order to best address current problems and make the most of EU membership in the coming decade? In this section we outline a basic orientation to the role of EU membership in Ireland's development (Section 11.2.1) and to the European Union and European integration (Section 11.2.2).

11.2.1 The Place of European Involvement in Ireland's National Development

European Integration is a Condition for Irish Development

Any consideration of Ireland's future approach in the EU must begin by recognising that European integration is a condition for Irish development. Because of the relatively small size of Ireland's economy and small scale in international affairs, affiliating with the EU has enabled Ireland to access an international environment for trade, investment and technology, which nurtures high-value manufacturing and services—which underpin prosperity and social development. Difficulties in Ireland's experience in the process of European integration—as documented in Chapters 3 to 10—should be seen in the context of Ireland's fundamental interest in the open international economy to which the EU is committed.

International Trade and Investment with Reregulation, rather than Deregulation

History shows that international trade and investment can, of course, occur in contexts quite different from European integration. But these contexts—imperial conquest, the hegemonic power of dominant states, or the unbridled exercise of commercial power—tend to be unfavourable to small, peripheral, historically agricultural countries surrounded by larger neighbours. They also tend to be damaging to many individuals, social classes and cultural groups that lack resources and power. If Ireland needs international trade and investment for development and prosperity, the European approach to achieving this is far superior to the alternatives. This is because the European approach has a number of core characteristics, which we mention briefly here.

European integration has created a zone of international trade and investment largely through the voluntary cooperation of states in a law-based framework. Furthermore, it does this in a way that, through various mechanisms, reduces the differences in power between the member states. From its origins, the EU was deliberately designed to prevent the emergence of any one nation as a hegemon that could dictate the shape and scope of the political order within Europe. The EU removes obstacles to trade and investment more by re-regulating than by wide-scale de-regulation. One of the most important insights in the study of European integration, as opposed to textbooks on international trade, is that 'the market integration of mixed economies is political'.

Brings the EU into Plural and Contested Areas

This feature of Europe has important implications, noted towards the end of our review of Ireland's experience and changing engagement in the past 15 years. It brings EU policy, processes and rulemaking into many areas of economic, social and environmental activity. Indeed, as demonstrated in Part Two, one of the notable trends is the pluralisation of the channels through which the EU influences Ireland and multiplication of the Irish organisations that engage with the EU. A further, related, implication is that the EU has become involved in certain areas of policy and regulation that are contested both within Ireland and in other member states. Ireland's earlier engagement with the EC was dominated by a small number of large-scale policies—CAP, access to the common market and the Structural Funds; in the past 15 years, European integration has impacted on, and the EU now has a role in, a wide range of more fine-grained policy areas. Some of these—such as agricultural pollution, water management, labour standards, habitat protection or foreign and security policy—are the subject of debate and contest between different interests within Ireland (and, indeed, within other member states). This is, in large measure, an inevitable and normal feature of a European integration process that aims for deep economic integration, a high-quality environment, occupational health and safety and a high level of social protection. For, as explained above, these goals imply a degree of re-regulation, harmonisation or, at the very least, comparison of the complex provisions that govern economic and social life in the 27 member states of the Union.

But it is important to note that the need for complex regulation of a wide range of fine-grained areas of economic and social life does not arise solely because of the EU and European integration. Much of it arises because of the increased complexity of products, services and markets and because of the need to ensure the interests of a wider range of stakeholders are protected. The complex governance challenges arising in the EU—such as how to define and ensure 'safety at work', 'good water quality' or 'competition' in complex services—would almost all arise at national level even if there was no EU or we were not a part of it. It would be necessary at domestic level to frame principles, rules and procedures governing products, services, social relations and environmental protection.

Combining these observations, it is important to distinguish contestation about the substance of any given policy with an EU dimension—whether it be fiscal policy, water quality, labour standards or competition—from contestation *about the EU* and Ireland's full participation in it.

Brings the EU to a Greater Global Role

A further implication of the European approach to economic integration, social cohesion and environmental protection is that it increasingly makes the EU a global player. As noted in Chapter 10, a third trend evident in Ireland's experience and changing engagement is that intercontinental and global issues have become increasingly significant in the EU's policy portfolio and in Ireland's interests in the EU. An early example is the role of the EU in global liberalisation of trade and investment, mainly through the World Trade Organisation. Ireland's route to prosperity is one that is greatly supported by global trade and investment flows and Ireland benefits from the powerful EU voice in negotiation on these matters. Later developments include the increased role of the EU in third-world development, the EU's efforts, as yet incomplete, to achieve energy security and a global response to climate change. The increased global role of the EU is, by and large, in Ireland's interest. Nevertheless, it does bring with it a significant change in Ireland's engagement with the Union. As a very small country, Ireland has traditionally had a limited foreign policy remit. Now, because of the EU's increasing global role and the increased internationalisation of economic and social life, Ireland has to concern itself with a wider range of foreign policy issues. Second, despite Ireland's general interest in the EU's increasing capacity in global affairs, common foreign and security policy has been a sphere in which the EU has, to date, adopted a fairly intergovernmental approach. While this provides a degree of assurance to small countries, such as Ireland, it equally means that the traditional foreign policy influence of large and post-imperial states retains some of its strength.

The Context Within Which Ireland's Difficulties Should be Understood and Analysed

In summary, NESC emphasises three core features of the role of the EU in Irish development and the nature of Ireland's changing engagement:

- The fact that European integration is a condition for Irish development;
- The EU as a mode of internationalisation that is voluntary, law-based, and seeks to combine economic integration with social protection and environmental quality;
- The increased pluralisation, contestation and globalisation of EU influence and engagement.

This basic orientation provides the context within which the difficulties in Ireland's engagement with the EU should be seen.

11.2.2 The Evolution, Achievements and Failures of the European Union

Broad Changes in the EU

The conventional approach is to focus on the *amount* of policy competence at EU level, and the *amount* of policy autonomy remaining at national level; it is, however, equally relevant to consider the *pattern* of policy making and implementation and ways in which they are changing (Laffan *et al.,* 2000: 198). We have seen that, over the past decade, the role and methods of the EU have changed in fundamental ways for three main reasons. First, as its membership has increased to twenty seven it has become more diverse. Second, many of the issues it deals with now have a global dimension. Third, it increasingly deals with economic, social, environmental and political problems that are complex and contested. In consequence, issues concerning the four freedoms, social goals, environmental impact and fundamental rights increasingly interact with one another. The EU is called upon to find a balance between these goals in both its high-level frameworks and its fine-grained decisions. Many of the anxieties concerning the EU arise in areas where these dimensions interact.

The Evolution of EU Governance—from Rules to Frameworks for Making Rules

While the EU retains a number of policy modes, there is a discernable trend in the systems of decision making and implementation over the past fifteen years. In a number of areas where the EU has explicit competence, such as competition, policy making has become less centralised, hierarchical and uniform. In many areas where member states have primacy—such as social policy, the labour market, health and justice—policy making and implementation increasingly take place in an EU framework. The result is that in many areas the EU approach combines elements of 'hard law', 'soft law' and financial instruments. Within this 'hybrid' approach, the hard law elements create framework goals and imperative for engagement, and the soft law dimension enables member states and other actors to explore the meaning of the agreed goals and the methods for attaining them. As a result of these trends, in a range of policy spheres the EU has developed an effective system of joint goal setting, decentralised execution, information sharing, learning and system revision.

Reflecting these changes, we argued in Chapter 2 that while the EU can be seen to display five modes of policy making, these cannot be rigidly separated and increasingly exhibit a common architecture, with four key features:

- Framework goals (such as full employment, social inclusion, or 'good water status') and measures for gauging their achievement are established by joint action of the member states and EU institutions;
- National entities (such as ministries or regulatory authorities and the actors with whom they collaborate) are given the freedom to advance these ends as they see fit;
- In return for this autonomy, they must report regularly on their performance, especially as measured by the agreed indicators, and participate in a peer review in which their results are compared with those pursuing other means to the same general ends;
- The framework goals, metrics, and procedures themselves are periodically revised by the actors who initially established them, augmented by such new participants whose views come to be seen as indispensable to full and fair deliberation (Sabel and Zeitlin, 2008: 273–74).

It is important to see that this general approach to decision making applies not only in areas in which the EU has a 'soft law' approach, but also in aspects of the internal market, regulation of telecoms, energy, drug authorisation, environmental protection, occupational health and safety, maritime safety, rail, data privacy, anti-discrimination, competition policy, state aid and, in different ways, in employment promotion, social inclusion, pension reform, healthcare and, in recent years, in financial services. The effectiveness of EU goal setting and benchmarking varies across these and other policy domains, as we discuss below.

This recursive form of governance has particular attractions and advantages when there is a degree of strategic uncertainty about how a problem can be addressed and when member states and other actors are interdependent. Where it works well, it turns the diversity of member states from a paralysing disadvantage into an opportunity for learning.

The increasing prevalence of this core governance architecture confounds conventional and stereotypical views of EU as essentially seeking compliance with fixed rules and uniform standards (see Chapter 2). Rather than viewing diversity between member states as a threat to integration, the system capitalises on it by recognising that there is no *ex cathedra* or definitive answer to the resolution of issues such as full employment or environmental protection. By requiring participants to pool their learning and adjust strategies in light of others' greater relative success, experimentalist governance makes a virtue out of diverse ways of working. Accordingly, integration is not a uniform process in the sense that all member states follow the same route, but is predicated upon member states discovering, in concert with others, the most appropriate and effective way of responding to particular issues. As the complexity and cross-border effects of various economic, social and environmental issues—such as financial regulation, climate change, cross-border migration or international terrorism—have increased, even larger nations find that they are unable to resolve them independently of others. It is for this reason that for all but a few isolated nations, 'sovereignty no longer consists in the freedom of states to act independently, in their perceived self-interest', but in 'membership in reasonably good standing in the regimes that make up the substance of international life' (Chayes and Chayes, 1995: 27). 'Sovereignty, in the end, is status.' 'In today's setting, the only way most states realise and express their sovereignty is through participation in the various regimes that regulate and order the international system' (Chayes and Chayes, 1995: 27):

Areas of EU Success and Relative Failure

The EU has mostly succeeded where its institutions and member states have adopted this approach and made it effective. This is evident in many aspects of the internal market (such as the 'new approach' to standard setting and certification, drug authorisation, food safety, and competition policy), network regulation (as in energy and telcommunications), environmental protection (such as the Water Framework Directive), anti-discrimination, justice and home affairs and the way in which the EU has enlarged to include 10 member states in Central and Eastern Europe (see Sabel and Zeitlin, 2010).

It has failed both where it seeks excessive uniformity and, conversely, where its member states are reluctant to fully buy in to a process of joint goal setting, mutual monitoring and discussion of collective and national problems. Although the EU has, over the past fifteen years, moved strongly away from making detailed prescriptive rules, remaining instances of uniform rules and burdensome procedures can frustrate citizens and firms and make them sceptical about the EU. Of greater significance is the fact that in key areas the EU has not achieved sufficient benchmarking or coordination of member states' approaches.

In particular, the global financial crisis and the severe imbalances within the euro area have exposed the weakness of EU coordination in key policy areas. Because of lack of member state buy-in or weak EU institutions and processes, or both, the EU did not create an effective system of joint goal setting, monitoring and learning in several of the policy areas that most strongly shape member states' economic and social performance. This is most starkly true in fiscal policy coordination and banking supervision. Indeed, since mid-2010 it is recognised that insufficient monitoring and coordination of member states' economic and financial imbalances and banking systems threatens the euro. This has prompted urgent steps to design and agree a more effective system of economic policy coordination, as we discuss below. In a less dramatic way, the EU has had limited success in a number of the policy areas identified in the Lisbon Strategy areas, employment and social policy.

11.2.3 Progress, but Unfulfilled

Despite remarkable achievements, at both national and EU level the past decade must be judged as unfulfilled. At national level, a period of enhanced business performance, participation, educational attainment and social pending gave way to a property-led boom funded by excessive private sector lending and borrowing, ending in a severe 5 part crisis (NESC, 2009a). At EU level, the monitoring and coordination of member states economies was ineffective and there was partial success in enhancing productivity and social inclusion through the Lisbon Strategy and in maximising Europe's influence in the world.

11.3 Policy and Governance Challenges

11.3.1 Introduction

Having outlined NESC's basic orientation on the role of European integration in Ireland's national development (Section 11.2) and on the evolving nature of EU governance, including its successes and failures (Section 11.3), we now consider the policy and governance challenges that lie ahead. In its 2009 reports on Ireland's crisis, NESC has discussed many of the difficult challenges that face Irish policy actors at the present time (NESC 2009a and b). We do not intend to revisit most of these here. The EU has a vast array of economic, social and environmental policies, and has concerns not only within the Union of 27, but also at 'neighbourhood' and global level. It is not possible for NESC to provide an expert commentary on each of these policies. Our concern is with the major new policy initiatives at EU level and how Ireland can make the most of its membership in the years ahead.

The basic orientation outlined in Section 11.2 has one immediate implication for how Ireland should view the role of the EU in the current profound crisis. Not since the 1930s has the world experienced an economic crisis of this magnitude. On that occasion, the economic crisis gave rise to highly negative political effects within many countries, and increased animosity between countries, in Europe and elsewhere. The result was increased economic and political nationalism and a closure of the international economy, which took many years to be reversed. In that context, Ireland's policy options for pursuing national development were severely restricted. While protectionism did increase industrial employment, its potential was greatly limited by the small size and low income of the domestic market.

In the current crisis, the EU is a critical force that can prevent a repetition of the 1930s, certainly in Europe and, to a degree, at global level. For a country whose prosperity requires international trade and a stable global monetary system, this is an additional reason to value very highly the existence, coherence and capacity of the EU. The achievements of European integration since the 1950s make it virtually inconceivable that the current deep economic crisis will prompt significant protectionism and conflict, *between* European countries. The existence of some form of social dialogue or partnership within the majority of member states—and a balance between economic, social and environmental concerns in EU law and policy—make it less likely that economic crisis will prompt deep social division and conflict *within* European countries, of the kind seen in Europe in the 1930s. From both an Irish and European perspective this means that there must be sufficient European action to address the crisis, or the crisis is likely to undermine European integration.

11.3.2 Three Key Challenges

Our analysis supports the emerging view that three key challenges must be addressed by the EU and by Ireland in its approach to European issues and processes:

- The EU, including Ireland as a member of the euro area, must rapidly develop sufficient economic coordination and policy instruments to protect the euro, address the deficit and debt problems of member states, support economic recovery and sustainable growth, prevent the re-emergence of banking and policy actions that generate macroeconomic imbalances and systemic risks and protect the European economy and the member states against the effects of asymmetric shocks. Within this context, Ireland must ensure that its fiscal policy, cost and price determination and wage bargaining maintain our international competitiveness (NESC, 2010);
- The EU and Ireland must make a success of the *European Strategy for Smart, Sustainable and Inclusive Growth* (known as Europe 2020), by strengthening the processes of goal setting, implementation and learning and by ensuring ownership of the strategy at member state level;
- The EU must achieve greater unity of purpose and coherent action on key global affairs, and Ireland must find ways to maximise its influence in that context.

The EU has recently taken important initiatives on all three fronts. Given NESC's remit, our focus is primarily on the first two. In addressing these, we first summarise, and underline the significance of, the enhanced system of economic governance adopted by the Ecofin Council and the European Council. We then summarise the *Europe 2020 Strategy*, since a key concern of the EU is to achieve a closer fit between macroeconomic coordination and structural reform. We then explain how the EU and the member states intend to put in place the new annual 'coordination cycle' and the 'European semester'. This will create a demanding schedule for Irish policy and pose challenges to all organisations that wish to contribute to the formulation, implementation and review of Ireland's economic, social and environmental policies. Despite the EU's intentions, some might fear that the urgency of the fiscal and financial crises means that the enhanced system of economic governance could downgrade the *Europe 2020 Strategy*. In Section 11.3.6, we discuss this possibility and argue that successful reforms to the governance of the euro area require the same kind of methodologies necessary to realise the ambitions of the Europe 2020 strategy.

11.3.3 The EU's New System of Economic Governance

Our views on economic coordination in the euro area are outlined in our recent report *The Euro: An Irish Perspective* (NESC, 2010). That study shows how developments in international finance and international economic policy, and the crisis these have yielded since 2008, have revealed significant problems within the euro area. These include imbalances between member states sharing the single currency, insufficient financial sector supervision at European level, ineffective surveillance of member states economic policies yielding unsustainable credit expansion, deficits and debt in some member states, asymmetric economic developments and weak overall growth. These problems within the euro area can be seen as reflecting insufficient political, policy and popular 'buy-in' to the euro as a project of prosperity, stabilisation and global governance. The effect has been that the EU's system of decision making, monitoring and learning, though remarkable in many other spheres, has not been as effective as it needed to be in the areas most closely associated with the euro.

Drawing on that analysis, our three main policy findings on the euro were summarised as follows:

- The future stability of the euro area depends on more effective surveillance of member states' fiscal and economic policies, leading to the consolidation of their public finances as well as to increased coordination of economic and structural policies,stronger EU-level financial regulation, as already agreed, and an ongoing reform process which addresses both the immediate problems and the dangers that threaten the prosperity of the euro area;

- To succeed within the euro, Ireland must learn the lessons of the past decade and take the necessary measures to ensure that future fiscal policy is counter-cyclical and sustainable, prices and costs maintain Ireland's competitiveness, and financial supervision prevents irresponsible banking practice;

- At both EU and national level, the effectiveness of policy depends on greater understanding of EU processes and a wider public perception that they are being used in support of coherent strategies for prosperity, stability and inclusion.

Consequently, in our August 2010 report we described and welcomed the reform process under way, based on Commission proposals of June 2010 and centred in the European Council and the Task Force on Economic Governance, chaired by President Van Rompuy. In October 2010, the Task Force issued its recommendations for proposed reforms of economic governance within the EU. Reforms to the rules and procedures pertaining to effective economic governance in the EU and euro area reflect the fact that economic policies of member states are a 'matter of common concern', and all member-states have agreed to co-ordinate of their economic policies through the formulation of broad economic policy guidelines (Article 121, TFEU). The Task Force's Recommendations centre on an enhanced monitoring and co-ordination within the euro area as well as establishing a process of broader economic surveillance of all member states. The reforms are described and analysed as follows:

(i) fiscal discipline, notably through a stronger Stability and Growth Pact;

(ii) broadening economic surveillance to encompass macro imbalances and competitiveness;

(iii) deeper and broader coordination;

(iv) a robust framework for crisis management; and

(v) stronger institutions and more effective and rules-based decision making

Strengthened Stability and Growth Pact

In the preventative arm *of* SGP, there will be greater focus on fiscal sustainability and public debt. A faster adjustment path for member-states with a debt level exceeding 60 per cent of GDP is envisaged.

Under the assessment arising from the Excessive Deficit Procedure (EDP), member-states will be judged on whether the budget deficit is consistent with a continuous, substantial and sustainable decline in the debt-to-GDP ratio.

The Task Force has recognised that the dynamics of public debt are not only driven by the budget deficit so that a deeper assessment will be required before launching an Excessive Deficit Procedure. All relevant factors will be assessed when assessing the pace of debt reduction, especially the impact of pension reforms.

To ensure a strengthened SGP, the range of available measures to ensure stricter compliance will be extended. New reputational and political measures—such as intensified reporting and monitoring procedures by the Commission, Council and Eurogroup—will be introduced as required.

Indeed new financial and enforcement measures in relation to the SGP are also envisaged. The Task Force, the decision making procedure on these new financial enforcement measures should ensure a higher degree of automaticity.

The Task Force has acknowledged the need to strengthen the member states' ownership of EU fiscal rules. A two-tier approach is recommended. A set of agreed minimum requirements for national frameworks needs to be met no later than the end of 2013. These requirements pertain to (i) public accounting systems and statistics; (ii) numerical rules; (iii) forecasting systems; (iv) effective medium-term budgetary frameworks; and (v) adequate coverage of general government finances. Over and above these minimum requirements, a set of none-binding additional standards should be agreed upon, covering budgetary processes, fiscal rules and the role of bodies such as fiscal councils who be would tasked with providing independent analysis and forecasts relating to domestice fiscal policy matters.

Broadening Economic Surveillance

According to the Task Force, persistent and large macroeconomic imbalances and divergences in competitiveness, particularly among euro-area member states, have aggravated the vulnerability of the EU economy and are a threat to the smooth functioning of the monetary union. The Task Force recommended deeper macro-economic surveillance with the introduction of a new mechanism underpinned by a new legal framework based on Article 121 TFEU.

- An annual assessment of the risk of macroeconomic imbalances and vulnerabilities, in the context of the assessments of member states' National Reform Programs (NRPs) and Stability and Convergence Programs. If the alert mechanism signals actual or potentially excessive imbalances, the Commission should conduct an in-depth analysis of a member state.
- An enforcement framework involving a corrective phase designed to enforce the implementation of remedies in case of harmful macroeconomic imbalances. A member state deemed to have excessive imbalances would be obliged to report regularly on its implementation of recommendation. If not implemented, the member state could face sanctions.

Deeper and Broader Co-ordination

A reinforced cycle of policy coordination, the so-called 'European semester', has been endorsed by the European Council (see section 11.3.5) and will be implemented as of 1st January 2011. This cycle of reinforced ex-ante coordination will cover all elements of economic surveillance. Earlier discussion at EU level will ensure that the EU/euro area dimension is better taken into account when countries prepare budgets and reform programmes, and will therefore contribute to a higher degree of policy coordination among member states. In order to further reinforce national ownership of the recommendations issued under the 'European semester', governments, when submitting the draft budget to the national parliament are expected to include policy recommendations by the Council and / or the Commission accompanied by an explanation of how these have been incorporated.

Towards a robust framework for crisis management

Events in 2010 demonstrated that financial distress in one member state can rapidly threaten macro-financial stability of the EU as a whole through various contagion channels. This is particularly true for the euro area where the economies, and the financial sectors in particular, are closely intertwined and where crisis management facilities were missing.

The Task Force considered that in the medium term there is a need to establish a credible crisis resolution framework for the euro area capable of addressing financial distress and avoiding contagion. Issues to be addressed for such a new future permanent mechanism may include the role of the private sector, the role of the IMF and the very strong conditionality under which such programmes should operate.

Stronger institutions for more effective economic governance

The Task Force argued that there are further specific issues that require special attention in order to reinforce both central and national fiscal institutions.

At the national level, it recommended the use or setting up of public institutions or bodies to provide independent analysis, assessments and forecasts on domestic fiscal policy matters as a way to reinforcing fiscal governance and ensuring long-term sustainability. At the supra-national level, it welcomed the Commission's announcement that its analysis of economic developments be made more visible by being distinguished from the subsequent decisions of the College of Commissioners and decisions by the Council of Ministers.

Decision of the European Council in October 2010

The Task Force's recommendations on strengthening economic governance within the EU were endorsed by the European Council in October 2010. The Council also called for a 'fast-track' approach to the implementation of the recommendations, calling for agreement to be reached by the summer of 2011. The Council also agreed on the need for member states to establish a permanent crisis mechanism to safeguard the financial stability of the euro area as a whole and invited the President of the European Council to undertake consultations with the members of the European Council on a limited treaty change required to that effect.

The proposals of the Van Rompuy Task Force, endorsed by the European Council, constitute a step-increase in the degree of surveillance and coordination of member states' fiscal and economic policies. It is important that it be recognised and understood by economic and social actors in Ireland.

11.3.4 The Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth.

The second major EU initiative is the adoption of the *Europe 2020 Strategy*. Since this will also shape Ireland's engagement in the coming years, we describe its main elements here. We begin with a thumbnail sketch of this complex strategy. The *Europe 2020 Strategy* has the following elements:

- Three overall priorities;
- Five headline targets;
- Seven 'Flagship Initiatives':
- Ten 'Integrated Guidelines';
- A process of member state reporting and planning through National Reform Programme (NRPs); and
- A new coordination cycle in which the early months of the year are a 'European semester'.

We now outline each of these in a little more detail.

Three Broad Goals and Five Headline Targets

At its meetings in June 2010, the European Council adopted a new 10 year strategy *Europe 2020: A European Strategy for Smart, Sustainable and Inclusive Growth* (European Commission, 2010b). The strategy identifies three 'mutually reinforcing priorities':

1. Smart growth: developing an economy based on knowledge and innovation;
2. Sustainable growth: promoting a more resource efficient, greener and more competitive economy; and
3. Inclusive growth: fostering a high-employment economy delivering social and territorial cohesion.

In order to specify where the EU wants to be by 2020, the strategy names five headline targets pertaining to employment, research and development, the environment, education and social inclusion (see Box 11.1). These targets are not exhaustive, and the strategy makes clear that a wide range of actions at national, EU and international levels will be necessary to underpin them. As in the Lisbon Strategy, member states will be asked to translate into national targets and trajectories, reflecting these different starting points.

Flagship Initiatives at EU Level

The strategy includes seven 'flagship initiatives' to be framed and driven by the European Commission, but involving action by the member states. These are:

- *Innovation union:* to refocus R&D and innovation policy on major challenges, while closing the gap between science and the market to turn inventions into products;
- *Youth on the move:* to enhance the quality, international attractiveness and openness of Europe's higher education system, to improve educational outcomes at all levels and build national qualifications frameworks;
- *A digital agenda for Europe:* to deliver sustainable economic and social benefits from a Digital single market based on ultra-fast internet. All Europeans should have access to high speed internet by 2013;
- *Resource-efficient Europe:* to support the shift towards a resource efficient and low-carbon economy, by means of action at EU level on trans European networks, energy and environmental policy and, at national level, through energy, transport and measures to enhance the energy efficiency of both production and consumption;
- *An industrial policy for green growth in the globalisation era:* to promote the transition to a knowledge based, green, economy, especially through horizontal measures that help the emergence and competitive advantage of SMEs, entrepreneurship and new skills; and
- *An agenda for new skills and jobs:* to help the modernisation of labour markets, with a view to raising employment levels and ensuring the sustainability of Europe's social models, with member states implementing their national pathways for flexicurity, as agreed at the European Council;

- *A European platform against poverty*—to ensure economic, social and territorial cohesion, transforming the OMC on social exclusion and social protection onto a platform for cooperation, peer review and exchange of good practice, assessing the adequacy and sustainability of social protection and pension systems and identifying better access to healthcare systems.

The strategy notes that a number of other EU policies, instruments and legal acts, as well as financial instruments, should be mobilised to pursue the objectives. In particular, the Commission intends to enhance key policies and instruments such as the single market, the EU budget and the EU's external economic agenda to focus on delivering Europe's 2020 objectives.

Box 11.1 Headline Targets of Europe 2020 Strategy

1. **Aiming to raise to 75% the employment rate for women and men aged 20-64, including through the greater participation of young people, older workers and low-skilled workers and the better integration of legal migrants;**

2. **Improving the conditions for research and development, in particular with the aim of raising combined public and private investment levels in this sector to 3% of GDP; the Commission will elaborate an indicator reflecting R&D and innovation intensity;**

3. **Reducing greenhouse gas emissions by 20% compared to 1990 levels; increasing the share of renewables in final energy consumption to 20%; and moving towards a 20% increase in energy efficiency.[i]**

4. **Improving education levels, in particular by aiming to reduce school drop-out rates to less than 10% and by increasing the share of 30-34 years old having completed tertiary or equivalent education to at least 40% (the European Council emphasises the competence of Member States to define and implement quantitative targets in the field of education).**

5. **Promoting social inclusion, in particular through the reduction of poverty, by aiming to lift at least 20 million people out of the risk of poverty and exclusion.[ii]**

   i. The EU is committed to taking a decision to move to a 30% reduction by 2020 compared to 1990 levels as its conditional offer with a view to a global and comprehensive agreement for the period beyond 2012, provided that other developed countries commit themselves to comparable emission reductions and that developing countries contribute adequately according to their responsibilities and respective capabilities;

   ii. The population is defined as the number of persons who are at risk-of-poverty and exclusion according to three indicators (at-risk-of poverty; material deprivation; jobless household), leaving Member States free to set their national targets on the basis of the most appropriate indicators, taking into account their national circumstances and priorities.

Ten Integrated Guidelines

The new approach to economic governance and the *Europe 2020 Strategy* are further linked through the adoption, by the European Council at its meeting in June 2010, of ten integrated guidelines. These are shown in Box 11.2. It can be seen that Guidelines 1 to 3 refer to macroeconomic policies and outcomes. Guidelines 4 to 6 refer to structural policies that can influence the transition to a knowledge-intensive, sustainable and competitive economy. And Guidelines 7 to 10 refer to the labour market and social inclusion. The Integrated Guidelines set out the framework for the *Europe 2020 Strategy* and reforms at the member state level. It is believed that following them in a synchronised manner will help member states reap the positive spill-over effects of co-ordinated structural reforms, particularly within the euro area. The purpose is to ensure that macroeconomic, structural and competitiveness developments, as well as overall financial stability, will be examined simultaneously.

11.3.5 The Coordination Cycle Under the European Semester

The two key concerns in both the new system of economic governance and the *Europe 2020 Strategy* are:

1. To improve the processes of policy making, reform, reporting, peer review and learning *within* each area;
2. To ensure coherence and closer co-ordination between the fiscal , macroeconomic and structural reform policy areas.

In this vein, governance of the overall process will be based on three integrated strands:

3. Macroeconomic surveillance in accordance with Guidelines 1 to 3;
4. Monitoring of growth-enhancing reforms, referred to as 'thematic coordination', in accordance with Guidelines 4 to 10; and
5. In parallel, fiscal surveillance under the Stability and Growth Pact, using the strengthened approach to surveillance, recommendations and sanctions described above.

This overall approach is represented visually in Figure 11.1. It shows how the five headline targets and the Europe 2020 Integrated Guidelines will serve as a policy framework for the production of National Reform Programmes (NRPs). The Stability and Growth Pact will be the framework for enhanced fiscal surveillance and the preparation of national Stability and Convergence Programmes (SCPs).

Box 11.2 Europe 2020 Integrated Guidelines

Guideline 1	Ensuring the quality and the sustainability of public finances;
Guideline 2	Addressing macroeconomic imbalances;
Guideline 3	Reducing imbalances in the euro area;
Guideline 4	Optimising support for R&D and innovation, strengthening the knowledge-triangle and unleashing the potential of the digital economy;
Guideline 5	Improving resource efficiency and reducing greenhouse gases emissions;
Guideline 6	Improving the business and consumer environment and modernising the industrial base;
Guideline 7	Increasing labour market participation and reducing structural unemployment.
Guideline 8	Developing a skilled workforce responding to labour market needs, promoting job quality and lifelong learning;
Guideline 9	Improving the performance of education and training systems at all levels and increasing participation in tertiary education;
Guideline 10	Promoting social inclusion and combating poverty.

An important innovation to achieve the desired level of action within each strand and coherence between them is the creation of the European Semester. Under a new governance scheme, there will be one annual policy cycle for economic policy co-ordination in which the instruments of Europe 2020 and the Stability and Growth Pact will be brought more closely together (see Figure 11.2). Within this, the first part of the year will be designated as the 'European Semester of Policy Co-ordination'. The Commission's *Annual Growth Survey*, presented each January, will be the main input for discussions at the Spring meeting of the European Council. The Survey will include both retrospective and prospective components that encompass the three main strands of surveillance outlined in Figure 11.1.

The retrospective part of the *Annual Growth Survey* will focus on fiscal and macroeconomic developments in the EU and euro area; thematic developments in the EU, particularly overall progress achieved on the EU headline targets as well as progress on the flagship initiatives and in removing bottlenecks in the single market; overall progress towards fiscal targets; and issues related to imbalances and competitiveness within the Euro area (to be discussed by the Euro group).

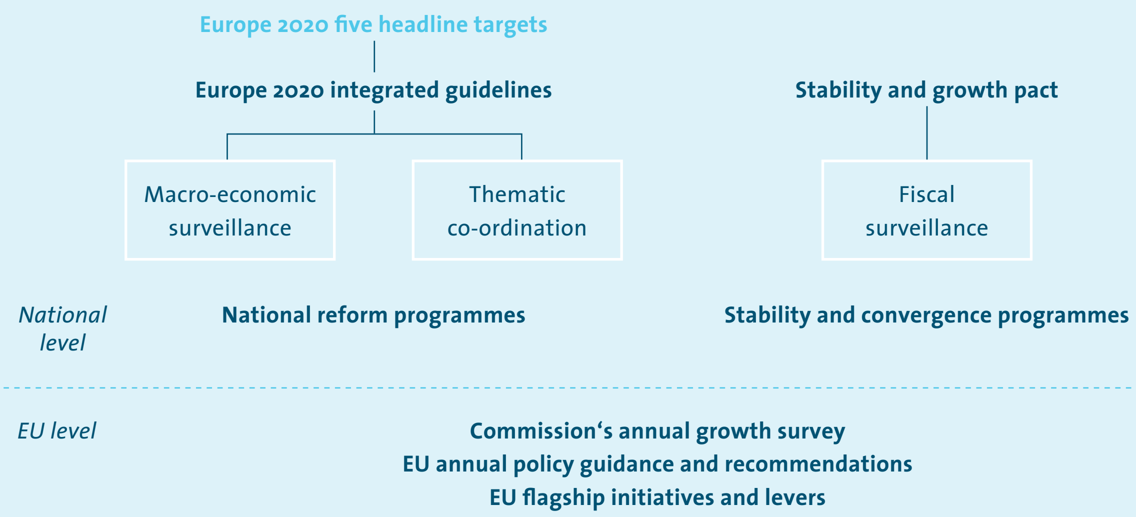
The forward looking part of the *Annual Growth Survey* will describe the main challenges for fiscal and macroeconomic policies and identify measures to address these challenges; the priorities for action in the area of structural reforms to advance the thematic part of the strategy; and how the Commission's draft employment report will play a part in addressing employment policies. Input will be provided by the relevant sectoral councils—such as the Economic and Financial Affairs Council (ECOFIN) on macroeconomic surveillance and the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) and others on issues related to thematic co-ordination. Throughout the year, the sectoral councils will play a key role in examining progress towards the EU headline targets, through appropriate monitoring and peer review, as well as advancing the Europe 2020 flagship initiatives.

To enable the EU to undertake effective monitoring, surveillance and peer review of progress will require member states to carry out reporting both through the Stability and Convergence Programmes (SCPs) and National Reform Programmes, which will be submitted simultaneously in April of each year.

In June of each year the Commission will propose a single set of country-specific recommendations and/or draft opinions attached to a single-country report and an overall report for the euro area, to reflect the integrated nature of the Strategy.[28] The Commission will consider on a case-by-case basis whether it would be appropriate to issue a recommendation for a period beyond that of the annual cycle — for example two years — to give sufficient time to implement important structural reforms.

The first full cycle that will exemplify this new approach will commence in 2011. In preparation, member-states will submit a draft NRP by mid-November 2010, identifying key structural reforms with a large macroeconomic impact, which are compatible with fiscal consolidation. The draft NRP should also articulate national targets that translate the Europe 2020 headline targets, identify the main obstacles to growth and jobs and the main measures that will spur growth-enhancing initiatives. Member-states will not be expected to produce draft NRPs in subsequent years.

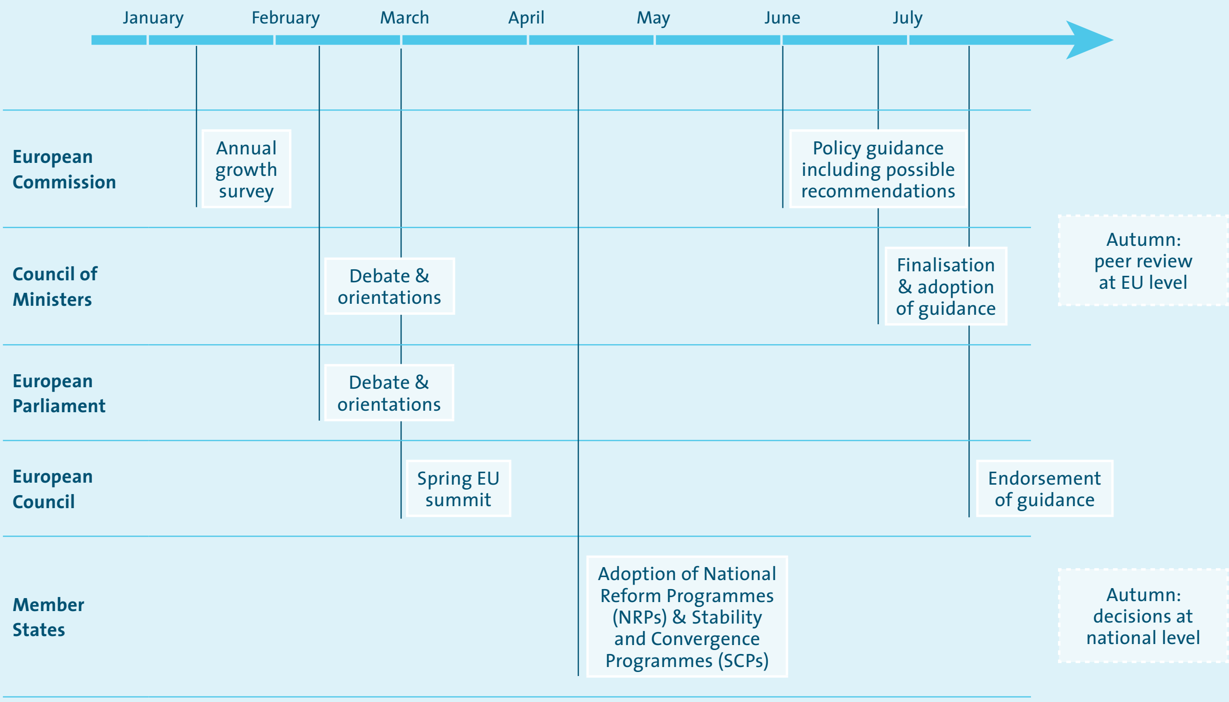
Figure 11.1 Governance of Europe's Economic Coordination and the Europe 2020 Strategy



Source European Commission

28 These will be issued under separate legal instruments as follows: Council opinions on fiscal policies; recommendations on other elements of Macroeconomic surveillance will be issued under Article 121 of the Lisbon Treaty (ex article 99 TEC) and other secondary legislation; and recommendations on thematic issues will be issued under articles 121 (ex article 99 TEC) and 148 (ex article 128 TEC).

Figure 11.2 The European Semester of Policy Co-ordination



Source European Commission, 2010d

In summary the new European Semester will proceed as follows:

Year 1

January: Commission will present its Annual Growth Survey, reporting on progress and setting out orientation for coming year;

February/March: Spring Council meeting will give guidance to member-states;

April: member states will submit NRPs and SCPs taking account policy guidance issued to them;

June: Based on these reports, the Commission will present proposals for country-specific opinions and recommendations;

June: ECOFIN will discuss and adopt opinions and policy recommendations on fiscal and other macroeconomic policies; EPSCO will adopt policy recommendations under article 148;

July to December: member-states will finalise national budgets and policy measures taking into account EU and country-specific guidance received.

Box 11.3 Main Elements of National Reform Programmes

1. The macroeconomic scenario, cross-referencing the Stability and Convergence Programme;
2. Macroeconomic surveillance—identifying non-fiscal macroeconomic policies in accordance with Integrated Guidelines 1–3;
3. Thematic co-ordination—setting out member-states' proposals for meeting agreed national targets derived from 5 EU headline targets and tracking progress towards these targets. This encompasses integrated guidelines 4–10. NRPs should include a description of key measures to achieve national targets including time-tables and budgetary impacts. They should set out how they will tackle obstacles to achieving the objectives laid out in the guidelines with a focus on demonstrable outcomes;
4. It is advised that the NRPs should focus on a limited set of priority measures, based on the principle that reforms must be sequenced. NRPs should also indicate how national authorities plan to involve relevant stakeholders in defining and implementing the reform programme and how they will communicate about both Europe 2020 and their own NRP. They will also be invited to report on their own experience of sharing good practices.

Year 2

January: The Commission will present its Annual Growth Survey in which it will assess how member-states have taken EU guidance into account.

In the coming decade, this demanding schedule will set the parameters for the Irish government's engagement with the core EU strategies and needs to be understood by all economic, social and environmental organisations that wish to engage with the formulation, implementation and review of the national strategies for fiscal consolidation, economic growth, structural reform, employment, social inclusion and environmental sustainability.

Here we have merely described the emerging framework for economic governance and the Europe *2020 Strategy*. Our earlier analysis suggests the urgency of stronger economic co-ordination, banking supervision and benchmarking of structural, labour market and social policies. We close this section by discussing a critical issue—whether the current urgency of fiscal coordination warrants a downgrading of the *Europe 2020 Strategy*.

11.3.6 The Need for *Both* Enhanced Economic Governance and Europe 2020

Given the urgency of the fiscal and financial issues, some might fear that the enhanced system of EU economic governance could downgrade the *Europe 2020 Strategy*. This could occur if it were believed that the substantive and procedural challenges are very different in each case:

- *Substantively,* it might be considered that the urgent challenge of fiscal correction, banking resolution, fiscal consolidation and stronger surveillance must displace the goal of knowledge-based, sustainable and inclusive growth;
- *Procedurally,* given the undoubted fiscal crisis and the pressure of time it is tempting to think that the improvements in fiscal and economic reporting, EU recommendations and member state planning are different kinds of processes from, and must take priority over, more effective monitoring and learning on innovation, employment, social inclusion and sustainability.

The much stronger new approach to economic coordination does indeed demand that member states and the EU think freshly about how they approach the *Europe 2020 Strategy*, which was framed before the Greek crisis became acute. A National Reform Programme that reported existing and planned actions across a wide spectrum of departments, agencies and national strategies is unlikely to be effective and will not persuade our EU partners that Ireland is addressing the key factors that will shape economic and social outcomes in the coming years. But simply replacing the *Europe 2020 Strategy* with the fiscal convergence programme, either explicitly or in practice, would be unlikely to succeed:

- *Substantively,* while the dominant challenges in the enhanced process of economic policy coordination, via the next National Reform Programme, are undoubtedly fiscal correction, bank resolution, the structural deficit and economic growth, addressing these will require consideration of innovation, participation, service reconfiguration, social inclusion, tax reform and sustainability. For example, it does not seem possible to achieve the necessary fiscal adjustment without in-depth knowledge of how well different programmes work, how the welfare system can be made more developmental, and which taxes are most supportive of economic growth, employment and sustainability—including awareness of international best practice on these issues. Discussing the new approach to economic coordination, the President of the ECB, Jean-Claude Trichet, says 'Experience suggests that the short-term costs of fiscal consolidation can be contained if the consolidation strategy is effectively designed and includes a comprehensive programme of structural reforms' (Trichet, 2010). This is the challenge of 'combining retrenchment with reform' identified in NESC's report on Ireland's 5 part crisis (NESC, 2009a and b);
- *Procedurally,* despite undoubted differences in timing and method, what is required in both cases is a much more reliable, better-understood, more-disciplined, widely endorsed and clearly articulated process for joint setting of goals, discussion of collective and national-level problems, and how these two relate to each other. Since many of Europe's goals and initiatives refer to complex supply side policies and growth processes, the starting point is less significant than the ability to animate reform and learn from success and failure.

Consequently, the challenge is to frame Ireland's National Reform Programme, addressing the big-ticket items—banking resolution, deficit reduction, fiscal consolidation and the engines of growth—in a way that is genuinely informed by the transition to knowledge-intensive, inclusive and sustainable growth, as reflected in the agreed EU headline targets and Integrated Guidelines. In some respects, this is a familiar task as Ireland has had a number of encompassing national strategies in the past 20 years. In other respects, it is a formidable challenge, as these strategies tended to include an ever widening agenda, left key distributive and structural issues unresolved and definitely fell short in implementation (NESC, 2006a, 2009a, 2010).

11.3.7 Europe's Third Challenge: Ensuring Greater Unity of Purpose in Global Affairs

In considering how Ireland's interest should be framed and pursued in the coming years, the third general challenge identified above was ensuring that the EU speaks and acts with a greater unity of purpose in key global affairs, and finding ways to maximise Ireland's influence in that context.

Increasingly there are calls for the EU to project itself in a more effective manner into global matters. This is precisely what the institutional reforms instituted by the Lisbon Treaty are designed to do, and in particular the appointment of the president of the European Council and High Representative of the Union for Foreign Affairs and Security Policy.

That the EU needs to present a unified front is more important now than ever before. In a world that is characterised by multiple sources of power and influence, rather than being dominated by a single hegemon, the dangers of zero-sum bargaining and of races to the bottom are obvious. Yet in this era of multi-polarity, countries and their interests are more interdependent than ever before in relation to some fundamental issues such as economic growth, energy security and environmental sustainability. Mismanagement of these issues threatens not only prosperity or even political stability but also the viability of future generations (Grevi, 2009). The EU has already identified climate change as a 'threat multiplier' that can unsettle political regimes around the world with extremely negative consequences for the EU itself. It seems evident then, that 'interdependence no longer mainly concerns trade and investment but involves issues that are central to economic well-being and even survival of large parts of the world's population' (ibid. 26). The key challenge, then, is how promote a relatively co-operative form of multi-polarity in an era of extreme interdependence.

Garnering support for action on climate change is symptomatic of one of the major global challenges for the EU in the 21st century, namely nudging the other global actors towards a multilateral global grand bargain. Without such co-operative agreements, the emerging multi-polar world is likely to be riddled with conflict and tensions without victories for any party (Howorth, 2010).

What part can a small state like Ireland play in such a putative system? In an uncertain world, where many states are unsure of their interests—is climate change an attempt to stave off global degradation or a device to restrict the economic growth of developing countries?—Ireland's willingness to embrace a larger international order, whilst enhancing its interests, could have some influence on other small nation states and encourage them to commit to a 'global grand bargain'. In addition, the capacity of member states to embrace sustainable development in a more overt fashion can serve as a template for other wealthy nations.

Any potential sway offered by Ireland might be enhanced if its own historical legacy of being largely subjugated by global forces is considered and contrasted with its experience of EU membership as largely liberating. Indeed, to an extent that was a part of the projection of Ireland's EU experience in earlier decades, and of social scientific analyses of that experience (O'Donnell, 2000b). To be revived, it requires a clear new narrative of Ireland's place in the EU. The question of whether Ireland's durable alliance with the EU negates its long-standing affiliation with many developing countries has been rejected as a false choice (Tonra, 2007). Within the EU, Ireland has been able to pursue many of its traditional concerns with developing countries, such as aid and peacekeeping, in a more effective fashion. There seems no reason why Ireland could not build on both relations to help create global bargains that enhance the well-being of all.

11.4 Ireland and the New Conditions for Success

11.4.1 Re-think and Communicate What Integration Is and Where it Happens

The account of Ireland's relationship with the EU offered in this report has some significant implications for our understanding of what it means to participate in European integration. For some time, integration was understood as a process of convergence whereby policies were harmonised toward a common goal, compensated by transfers to member states lagging behind. According to this understanding of integration, the role for national actors was, first, the negotiation of defined EU laws and resource transfers and, thereafter, implementation and compliance with the specifics of EU law—qualified by selective derogations or delays in compliance in areas of particular domestic sensitivity.

Since the launch of the single market, the idea of integration has necessarily widened to become more flexible and less prescriptive. An expanded idea of integration involves an open-ended search in pursuit of common goals, underpinned by methods of disciplined review, benchmarking the results of this monitoring with suitable peers, and subsequent reconfiguration in light of this comparative assessment. Integration or convergence towards common goals involves a much more intensive effort of exploration 'at home', within member states, and a much more extensive effort of benchmarking 'abroad', *between* member states. This is what is meant when the process of Europeanization is described as one of 'embedding the national in the European and the European in the national' (NESC, 1997; Laffan, *et al.*, 2000). If this process of integration is distinctive, in terms of what it involves and where it takes place, Ireland's less than complete engagement with it to date may be explained by a failure to both communicate and understand what it involves. Gaps in Ireland's engagement with the ongoing project of European integration may be related to lack of knowledge about the European Union and how it connects to domestic issues and processes. In this vein, the Oireachtas Joint Committee on European Affairs (2008: 75) has stressed the 'need to find ways to bring our membership of the EU into national politics'.

11.4.2 Wide Understanding of the EU is a Requirement for Irish Success

In this chapter, we have restated a perspective on the role of European integration in Irish development that informed Irish policy from the early 1960s. That perspective was articulated at key points in the evolution of both Ireland and the EU and was generally accepted by key actors and organisations. Indeed, agreement on key aspects of the EU—such as CAP, the EMS and the 'relaunch' of the Community in the late 1980s—was a part of the shared understanding in several of the national social partnership programmes of the past two decades. This was seen as important if Irish policy and partnership were to adequately reflect the degree of interdependence created by Ireland's deeper involvement in the international economy (NESC, 1996). In this sense, NESC rearticulates much of the earlier narrative on Ireland in Europe.

We have now documented Ireland's changing engagement in the EU. This has highlighted the pluralisation of channels of influence and engagement, an increased EU role in policy areas that are complex and contested and the increasing prominence of global issues in the EU's policy portfolio. One consequence of these trends has been to emphasise the need for the more flexible model of integration discussed above. These new realities now challenge a more hierarchical understanding of how the EU operates, in which 'Integration' is something that is 'done' to a country, either in the form of removal of national obstacles to the four freedoms or in the provision of material aid. This might be termed a 'compliance-centric' mentality. This report shows that such an understanding of how the EU works is increasingly out of date, even in areas of hard law. Often the EU announces a package of measures in relation to a single issue that might involve hard and soft law as well as financial instruments. Member states like Ireland need to develop the capacity to assess this package of measures against the Irish situation, instigate a process of deliberation amongst relevant organisations and examine whether any changes need to be made within the domestic situation rather than allow problems to emerge later. Increasingly, the EU is setting goals but leaving it to member states and the entities within them to figure out how best to achieve them. This open-ended process does not coincide with the view of the EU 'enforcing' carefully delineated rules from which there can be no divergence.

These trends increase the need for Irish understanding of the EU. While the earlier interdependence required an understanding among strategic actors, the new context requires, in addition, a much wider understanding of the EU, its methods and the kind of public problems it seeks to address.

Thought should be given to how to achieve this wider understanding. It may be that some of the institutional changes brought about by the Lisbon Treaty, which accentuate the role of both the European Parliament and national parliaments in the policy making process, may be of assistance. This may introduce a greater element of democratic scrutiny and debate to processes that have hitherto been regarded as relatively closed. The Oireachtas Joint Committee on European Affairs identified the role 'of national parliaments in holding to account national government representatives who participate in EU law making through the Council of Ministers [as] an important mechanism through which public engagement with the European Union can be promoted' (The Oireachtas Joint Committee, 2008: 61). The Committee has suggested introducing a number of reforms to facilitate this greater level of accountability, including the need for national parliaments to be consulted formally about the European Commission's annual policy strategy, and introducing a more structured arrangement for Oireachtas Committees to meet with Ministers before Council meetings to consider the government's negotiating positions on agenda items.

Although others are better placed than NESC to design programmes to address these challenges, three broad approaches can be identified—organisational, participative and educational.

First and most critical, in reiterating the core finding that national policy is the key determinant of success in the EU, our analysis suggests that this now has not only strategic/policy implications, but also poses profound organisational challenges to our overall public system. We discuss these below.

A second approach is participative. The Council has argued that a successful path through the crisis requires the engagement of a wide range of agencies and actors (NESC, 2009a). Ireland's system of consultation, participation and partnership—developed over the past two decades—has, at the very least, been altered by the crisis. For all its earlier achievements, the difficulties experienced in recent years and the disappointing outcomes on many fronts, confirm NESC's view that the system of policy, implementation and partnership suffered 'implementation problems' and other weaknesses (NESC, 2005b). Our analysis of the EU, and the new conditions for success within it, suggests that, in one form or another, it will be necessary to build more effective mechanisms for wide engagement and problem solving. Whether a focus on EU policies and processes offers a route to such a reconstruction remains to be seen.

The final approach is to enhance the educational programmes, at various levels, which support students in learning about the EU and Ireland's engagement with it. When the curriculum of civil and political education is being revised, it would be important to ensure that the EU component is brought fully up to date and reflects the practical functioning of EU processes in fine-grained policy spheres such as the environment, standard setting and regulation—as well as the high politics of negotiation and treaty revision.

11.4.3 Preparing to Meet the New Organisational Conditions for Success

Thought needs to be given to how Ireland's system of policy making, consultation, monitoring and implementation need to be adapted to achieve the largely congruent goals set out in national strategies and the EU plans for economic coordination and *Europe 2020*. In Chapter 10 we argued that the developments in EU governance, the failure of some domestic policy in the past decade, and the conditions for policy progress in a range of areas, mean that we must now extend our view of how the policy system must be adapted to make the most of EU membership. To do so, the Irish public system must greatly extend the use of systematic review at all levels. It will not be possible to even begin to make serious use of the various EU co-ordination processes—such as the new approach to economic policy and the various OMCs and OMC-like processes—until major steps are taken towards the key goals set out in the government's statement *Transforming Public Services* (Government of Ireland, 2008). In particular, the move from input control to a focus on outputs and outcomes, based on a 'performance dialogue', is essential if Ireland is to use knowledge of what works (and what dosen't) as a basis for urgent fiscal adjustment and reform. Success in the 21st century EU requires a national policy system with greater ability to record, compare, analyse and discuss its own policy and service systems (in a wide range of policy areas) at agency, departmental, political and EU level.

Regardless of how well the EU has identified and addressed the weaknesses of its past coordination processes—or of how willing other member states are to engage—Ireland should now see it as its mission to maximise its policy learning across a wide range of spheres. Our review of Ireland's experience in diverse areas of EU policy suggests that the orientation and capacity for policy learning through participation in EU processes varies greatly across Irish government departments and public agencies—although much more research could be undertaken on this. It tended to reflect the effectiveness and learning-orientation of the respective EU policy processes. Thus, the strongest examples of Irish policy participation in EU processes to enhance inter-organisational review, diagnostic monitoring and policy leaning would seem to have been in environmental protection, food safety, waste management, animal health and related areas. We did not have an opportunity to consider the degree of engagement in the European Competition Network, energy, transport and many other areas—where further research would be valuable (Scott and Brown, 2010). Judging by existing research on the policy processes at EU level and outcomes at both EU and national level, the weakest areas would seem to have been economic and fiscal policy and banking supervision (Linsenmann, *et al.*, 2007). The picture of both EU and national-level benchmarking and learning in employment and social policy would seem to lie somewhere in the middle, and to vary across member states.

Consequently, in identifying possibilities for enhancing Ireland's engagement with and learning from EU processes, it would be worthwhile to consider the methods adopted by Ireland's best agencies—such as the Environmental Protection Agency and the Food Safety Authority. Regulatory institutions such as these have a high international standing in the most up-to-date systems of standard setting, monitoring and system revision. Indeed, in developing these systems of review, these agencies were coming to resemble Ireland's most prestigious agency, IDA Ireland (NESDO 2009). These methods of 'reflexive regulation' are similar, in many respects, to what the designers of the various EU coordination processes intended in economic policy, employment, social policy and many other areas. Indeed, one interesting development in the environmental area may offer a clue to wider possibilities. Having developed Ireland's capacity to participate in the EU's system of framework environmental goals, decentralised execution and monitoring, the EPA found it necessary to build an Enforcement Network—involving local authorities, the Gardaí and others—with which it has to work in achieving environmental compliance. Not only was the EPA expert in these new methods, but it taught them to other Irish authorities (NESDO, 2009). It may be worth exploring the possibility that the Irish departments and agencies that have been involved in areas in which EU processes have involved less effective monitoring, peer review and learning, and in which national policy outcomes have been most disappointing, might learn from those that have been connected to more successful EU processes and, partly as a consequence, have mastered the new methods of joint goal setting, decentralised execution and learning. Indeed, such knowledge transfer and mentoring may be critical in making a success of the necessary large-scale budget consolidation of the next four years.

But the launch of a new EU strategy may also offer the opportunity to build new approaches to reform and participation, in the absence of an encompassing partnership process. A number of possibilities should be identified and evaluated.

The requirement to faithfully transpose EU law could also represent an opportunity to undertake necessary domestic reform and a recalibration of administrative structures in Ireland. For example, the *Report of the Local Government Efficiency Review Group* (Department of the Environment 2010) has stated, in the context of an examination of possible cost savings and efficiency gains, that current administrative systems do not facilitate the optimal analysis and identification of issues required to manage water quality at river-basin level as required by the Water Framework Directive. The report recommends the development of a regional office approach at river basin level for the infrastructure delivery and implementation of river basin management plans. Over time, these regional offices might take on a range of other monitoring functions.

A further possibility is to connect Ireland's participation in EU learning processes with national processes of deliberation. In their analysis of the OMC in employment and social inclusion, O'Donnell and Moss (2005) identified a link between the hard questions that the EU employment and social inclusion strategies asked of Ireland on specific issues, such as an 'inclusive labour market' and childcare, and NESC's wider review of Ireland's system in *The Developmental Welfare State* (NESC, 2005a). That led them to canvass the possibility that the range of actors that participate in the OMC might be widened, to include, in some way, bodies whose task it is to analyse long-term economic and social development. While the detailed work on the many fine-grained elements in economic co-ordination and the *Europe 2020 Strategy* will, properly, remain in the domain of the relevant government departments and sectoral actors, thought might be given to mechanisms for periodic wider deliberation and engagement.

In the absence of an encompassing partnership process, the launch of a new *Europe 2020 Strategy* may offer the opportunity to build new approaches to consultation and participation. Further ideas on enhancing Ireland's engagement with EU processes are outlined in the report of the Oireachtas Sub-Committee, *Ireland's Future in the European Union* (The Oireachtas Joint Committee, 2008). These should be considered in conjunction with possibilities for the administrative system and agencies.

Finally, the task of maximising Ireland's learning in, and benefits from, EU processes cannot be a task for government alone. Two key findings of this study underpin this proposition. First, our review of the past fifteen years revealed a significant increase in the number and range of Irish organisations that are impacted by, and engaged with, EU policy. Second, both Irish experience and international research shows that the effectiveness of the new hybrid EU processes depends critically on whether they are seen by domestic actors—not only in government and public agencies, but also in civil society—as opportunities to improve the monitoring of national policies, compare them with those in other member states and learn from the best performers.

11.4.4 The EU as a 'Spanish Inn' - You Eat What You Bring

Irish political and policy leaders long ago recognised that Ireland could gain enormously by sharing its sovereignty, and this guided the high-level approach to European for several decades. More detailed studies—such as those undertaken by NESC and scholars of European integration—emphasised the continuing role of national policy in a European regime in which all member states were becoming semi-sovereign. This was the original narrative of Ireland in Europe. Important elements of it are confirmed in the present study—particularly Ireland's strategic interest in the success of the EU and the fact that national policy remains the central determinant of success. The earlier idea of semi-sovereignty had two implications: first, it was critical to use remaining sovereignty intelligently and to the full and, second, national systems, such as interest mediation, had to be adapted to the disciplines of an integrated Europe. Now, what was said of the European Competition Network is true of much of the rest of the EU: it is like the proverbial 'Spanish Inn'—you eat what you bring! In many policy spheres the design and implementation of *national* policy must be undertaken in—and can be greatly enhanced by—a process of European goal setting, benchmarking, disciplined review and continuous improvement. Only states that can do this will succeed in the new Europe. This kind of intensive engagement, which encompasses organisational reform, must be part of the new narrative of Ireland in Europe.

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