

Chapter 1

The Policy Portfolio

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This chapter examines the EU's policy portfolio. The most distinctive feature of this portfolio is that it has continued to expand since the founding of the European Economic Community (EEC) in 1957. The result of this expansion is that today there are many policies in which the EU is actively involved, or even for which it has prime responsibility, that previously had been under the sole control of the individual member states. A very important example is that of monetary policy, in which even in the 1970s the EU had minimal involvement. Since 2002, for those member states that relinquished their national currencies and adopted the euro, all major monetary decisions have been taken at the EU level.

This chapter is thus presented as a broad sweep of the key features of the nature and character of EU policies. (Policy details are examined in Chapters 8–14.) The first section details the continually expanding portfolio in terms of the nature of the policy expansion and its variable pace. The second section examines the broadening policy portfolio, suggesting that no policy area is now beyond the EU's reach. However, the extent to which the EU is involved in any policy area varies – a subject taken up in the third section. The fourth section explains the various legal statuses of EU policies. The fifth section utilizes classificatory schemes to present the differing purposes of EU policies. The sixth section reviews policy differentiation. Differentiation has become a crucial feature in the expansion of the EU's policy portfolio, because this expansion has increasingly been predicated on acceptance of the notion that there are some circumstances in which some member states cannot, or should not, be full participants of a particular policy. The final section offers some concluding comments.

A Continually Expanding Portfolio

The nature of policy expansion

The treaties that created the European Communities in the 1950s – the European Coal and Steel Community (ECSC) Treaty of 1951, the European Atomic Energy Community (EURATOM) Treaty of 1957, and the European Economic Community (EEC) Treaty of 1957 – focused in policy terms almost exclusively on economic policies, and more specifically on market-related policies. Non-economic policies were barely touched upon in the Founding

Treaties. So, Article 2 of the EEC Treaty, which set out the EEC's goals, was, in its entirety, as follows:

The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it.

From this original market-focused base, the breadth of the EU's policy portfolio has expanded so much over the years that the EU now is involved in just about every area of public policy. The nature of the expansion is shown in Box 1.1, which summarizes the EU's evolving responsibilities in major areas of policy since 1970. Aspects of Box 1.1 can doubtless be queried, both in respect of how policies are grouped and what the precise 'balance' between the EU level and the national level at any point in time is deemed to be, but the steadily evolving nature of the EU's policy portfolio over time is not in question.

In the years immediately after the EEC Treaty came into operation in 1958, the main tasks were seen as being the creation of a common market in goods – which was achieved by 1968, when most internal tariffs and quota restrictions had been removed and a common external tariff established – and the construction of the Common Agricultural Policy (CAP). Once these early policy priorities had been dealt with, policy-makers began to broaden their policy horizons. This broadening continues to the present day and, as is shown below in the section on the increasing breadth of the policy portfolio, has mainly involved policies that:

- are intended to open the market further and to improve market performance – by, for example, tackling non-tariff barriers to internal trade, paying more attention to the free movement of capital, services and labour, and outlawing anti-competitive practices;
- are less concerned with creating market efficiency per se and more concerned with managing undesirable market consequences and problems that the market is not seen as being able to handle satisfac-

torily – such as with much of environmental policy and certain aspects of social policy; and

- are largely non-market in character, and that, until recently, have been regarded as being essentially national preserves – as most notably with foreign and external security policies, and justice and home affairs policies.

The variable pace of policy expansion

The former UK Prime Minister, Margaret Thatcher, was broadly correct when she compared EU policy development to being like a ratchet: once a notch is turned on the ratchet it is very difficult to turn it back. And over the years there have been many such turns of the ratchet. However, the turns have not occurred at a uniform rate. Rather, the pace of EU policy development has varied, both with regard to developments in particular policy areas and to general policy development.

With regard to development in particular policy areas, competition provides a good example of variable pace. The EEC Treaty identified various practices that would not normally be permitted in the common market, including anti-competitive cartels and related restrictive practices, the existence of monopolies and the abuse of dominant trading positions, and state aid subject to certain specified exceptions. However, as McGowan (2007, pp. 15–16) has pointed out, until the mid-1980s attention was focused largely on cartels and other restrictive practices, with other anti-competitive practices being given only limited attention. But since the mid-1980s there has been a much broader and more active pursuit of competition policy, with some of the more sensitive corners of protectionism, including the existence of monopolistic public utilities, being the focus of vigorous policy activity. What explains this change? A number of factors have been important, of which the most notable have been the more pro-competitiveness climate that began to emerge among policy-makers from the early 1980s (which itself was largely a reaction to the greater competitiveness of American and Asian rivals), and stronger policy entrepreneurship and leadership from the Commission's Competition Directorate General.

With regard to general policy development, the 1960s saw the rapid creation of the customs union and the CAP, but the next fifteen years or so, while not – as

Box 1.1**The development of EU policy competences**

Type of policy	1970	1985	2000	2012
Direct market				
Free movement of goods	4	4	4	4
Free movement of services	2	2	3	3
Free movement of labour	2	2	4	4
Free movement of capital	1	1	5	5
Competition	2	3	4	4
External trade	3	3	3	4
Agriculture	4	4	4	4
Consumer protection	2	2	3	3
Broader economic				
Public spending and taxation	1	1	1	2
Monetary policy	1	1	2	5*
Macroeconomic policy	1	1	3	3**
Regional	1	3	3	3
Transport	1	2	3	3
Energy	1	2	2	3
Research	1	2	2	2
Environment	1	3	3	3
Development	2	3	3	3
Social and social-related				
Working conditions	2	2	3	3
Health	1	1	2	2
Education	1	1	2	2
Housing	1	1	1	1
Justice and home affairs				
Monitoring and controlling movements across internal borders	1	1	3	4***
Movements of peoples into the EU (including visa, immigration, and border control issues)	1	1	2	3
Citizenship issues	1	1	2	2
Police and judicial co-operation	1	1	2	3
Domestic crime	1	1	1	1
External political relations and security				
Foreign policy	1	1	3	3
Defence policy	1	1	2	2

Notes:

5: All major policy decisions taken at EU level.

4: Most major policy decisions taken at EU level.

3: Major policy decisions shared between EU and national levels.

2: Most, but not all, major policy decisions taken at national level.

1: All, or virtually all, major policy decisions taken at national level.

* For eurozone members.

** Especially for eurozone members.

*** Especially for Schengen members.

is sometimes suggested – completely stagnant in policy development terms, witnessed a slowdown as the Luxembourg Compromise (the 1966 agreement between the member states that resulted in virtually all major decisions requiring unanimous support) took its toll. The launch of the Single European Market (SEM) programme in the mid-1980s led to a flood of policy activity, much of it as part of the programme itself, but some as a consequence of programme overspill into related policy areas – such as the attention given to what came to be called the social dimension, and with the movement towards EMU. Since the completion of the SEM programme in 1992, policy integration has continued, though perhaps at a marginally slower pace in terms of moving into new policy areas.

Indeed, it might have been expected that EU policy development in recent years would have been slower than it has been in practice. After all, has not most of the EU's *grand projet* – the creation of the internal market – already been achieved? Have not most other 'acceptable' EU-level policies – such as environmental and regional policies – not been developed just about as far as they can? Are not most policy areas lying largely outside of the EU's policy reach – such as education and social welfare – just too naturally 'national' in character and too politically sensitive to warrant being much touched by EU policy-makers? And has the considerable emphasis that has been given since the early 1990s to the principle of subsidiarity – that is, to the notion that policy actions should be taken at the level that is the closest to the citizens as possible – not made EU policy development into new areas very difficult to justify? EU policy practitioners have often answered these and related questions in the affirmative. But they have not always done so. In consequence, as Pollack and Ruhlman (2009) have demonstrated, the overall EU *acquis* has continued to expand steadily year by year. It has not, however, done so on a consistent basis in all policy areas: some areas have slowed down in terms of new policy development as basic policy frameworks have been established, while others have come 'on stream' in response to new or changing preferences and requirements. Among the main policy areas to have come on stream in this way are the area of freedom, security and justice (AFSJ), the Common Foreign and Security Policy (CFSP), the Common Security and Defence Policy (CSDP), energy and transport.

An Increasingly Broad Portfolio

Despite the expansion of the policy portfolio noted above, policies concerned with the internal market are still very much at the heart of the Union's policy portfolio. There are three main – in practice, overlapping and mutually reinforcing – reasons why the market remains at the core of EU policy. First, EU policy-makers are agreed that the internal market brings considerable benefits to member states. While there are often disagreements over specific aspects of internal market policies, it is not disputed that the internal market itself is desirable and beneficial in economic terms. Second, the internal market is not yet complete. The creation of the customs union by 1968 was just the first step in what have been countless ongoing actions to open up the market – and not just the market in goods, but also in services, capital and labour. These actions have involved not only the removal of barriers to internal movement – so-called 'negative integration' – but also many kinds of 'positive integration'. Among the many sorts of actions that have been, and still are, necessary to ensure that the market is truly open are the creation of cross-market standards designed to minimize non-tariff barriers to trade in the form of different national specifications for trading activity, and a highly active competition policy designed to ensure that competition is not weakened by, for example, power within markets being concentrated in the hands of just a few large companies, or by companies arranging anti-competitive cartels. Third, what has been deemed to be necessary for the creation of a truly integrated, and properly competitive, internal market has broadened over the years. While the necessary conditions for a competitive market have been disputed constantly between the member states, it has come to be generally accepted that if, for example, minimum common standards do not apply in respect of much of environmental law and labour law, then countries with the lowest standards have, all else being equal, a competitive advantage.

Economic and Monetary Union (EMU) is also a policy area where much of the rationale for its development is located in the search and drive to enhance the efficiency of the internal market. Certainly, EMU has also been seen by some of its supporters as having a political rationale – in the form of advancing the federalization of the EU – but the main case that has

been advanced for it has been that it will help to promote market performance. It is seen as potentially doing this in a number of ways, most notably: by removing uncertainties associated with the possibility of currency fluctuations so that market stability and confidence is increased and, in consequence, there is more encouragement to invest and trade across EU borders; by increasing price transparency, so that business is obliged to be more price sensitive – and therefore competitive; and by removing currency transaction costs, which saves business considerable fees.

Alongside policies that are directly concerned with creating an open and competitive market, are many policies that are market-related but have rather different goals. Four examples may be taken to illustrate this. First, some policies are designed to ensure that the market is not only open and competitive but also provides protection for potentially vulnerable participants. Such policies may be said to have the aim of ensuring that the market is socially just. Examples include policies on working conditions and consumer protection. Second, there are policies that aim to try to ensure that market growth and benefits are not – as they risk being in an open market – over-concentrated at the geographical centre and in already wealthy geographical areas. These policies are at the core of what is called cohesion policy and include regional policy and aspects of social policy, such as the funding of vocational training centres. Third, a range of policies are based on public-sector-led intervention, and some spending, to try to improve specific features of the market that are seen as not working satisfactorily and as contributing to lacklustre market performance. Starting with the launch of Research and Technological Development (R&TD) policy in the late 1970s, which arose from concerns that the EU was not promoting innovation sufficiently, especially in high-tech industries, such policies have increased considerably in importance in recent years as part of the Lisbon/Europe 2020 Strategy. As is shown in Chapters 7 and 9, Europe 2020 has among its core goals making the EU a leading knowledge-based economy, promoting internal economic and social reform, and increasing employment. Fourth, there are a small number of policy areas where policies are designed specifically to ensure that full market principles do not fully apply. The best-known of these areas is agriculture, where the CAP has long given non-market support of vari-

ous kinds to farmers – initially mainly in the form of price support, but since the mid-1990s increasingly in the form of direct income support. The Common Fisheries Policy (CFP) also curtails the full operation of market principles: to protect fish stocks, fishermen are restricted as to when they may fish and what volumes of what species they may catch.

But the EU's policy portfolio is far from being restricted to economic and market-related policies. Or, to be more precise given that most public policies can be said to have at least some economic aspects, it is far from being restricted to policies that are primarily economic and market-related in nature. Important EU policy areas that are driven to a significant degree by other considerations – mainly quality of life and security considerations – include environmental policy, AFSJ policy, and foreign and external security policies.

Taking environmental policy, which first appeared on the EC's policy agenda in the early 1970s, it is true that the very considerable policy attention that is now given to such matters as the emission of toxic substances into the air, onto the land, and into rivers and coastal waters is partly driven by concerns that the market is based on a level playing field. But it is also partly – and for many policy actors is largely – driven by demands for a clean and healthy living environment. Moreover, policies focused on issues such as the protection of natural habitats, the preservation of endangered species and tackling climate change are almost purely environmental in origin: at their base, they are quality of life policies. (Though, that being said, EU policy-makers recognize that green technologies – which involve high growth and leading edge industry – can encourage European entrepreneurship.)

Regarding AFSJ policy, its first real appearance on the policy agenda was in the mid-1980s, largely as a result of the Commission's attempt – as part of its programme to 'complete' the internal market by 1992 – to create freer movement of labour. This was seen to offer not only economic advantages but also to increase the likelihood of cross-border 'people problems', including crime. In the 2000s such 'people problems' – especially with respect to security considerations – have increased greatly in intensity, resulting in AFSJ issues rising to near the top of the EU's policy priorities. The main developments that have brought security considerations to the fore have

been the 2004/2007 enlargement (with some of the newer member states being seen as having relatively weak internal security controls and porous external borders), the increased international mobility of people, threats of international terrorism, and the uncertain political climate in many neighbouring countries (as witnessed, for example, by the 2011 ‘Arab Spring’, which led to a mass exodus of illegal migrants seeking entry to the EU). Policy areas that have been overhauled extensively to try to deal with these challenges include immigration policy, visa policy, and police and judicial co-operation.

The most important EU policy areas that do not, at first sight at least, directly have any economic base or rationale at all are the foreign and external security policies. While not being mentioned in the Founding Treaties, foreign policy began to be developed, albeit tentatively and on a strictly intergovernmental basis, from the early 1970s, under the (deliberately) vague title of European Political Cooperation (EPC). The main reason for this interest in foreign policy was a growing dissatisfaction with the fact that, while the voice of the EC was increasingly influential on the world stage in respect of economic issues, and more especially in respect of world trading issues (where the EC spoke with one voice because of the existence since 1968 of the customs union), in respect of international political issues it exercised virtually no influence – in fact, it did not even have a voice. However, over the years, foreign and security policies have been developed greatly, especially since the Maastricht Treaty, which put them on a solid legal foundation by creating the CFSP, which now has a highly-developed institutional apparatus, an extensive range of policy instruments, and oversees a wide range of policy actions. Significantly, in terms of just how wide the EU’s policy portfolio has become, in the 2000s a fledgling defence policy – in the form of the CSDP – has been developed alongside the CFSP.

It should be noted, however, that even in the ostensibly non-economic policy areas of the CFSP and CSDP, economics are not completely absent. This is witnessed in concerns not to upset major trading partners where possible, and in the increasing pursuit of reaping economic benefits for European commerce through the pursuit of a more integrated European weapons industry, which could achieve economies of scale similar to those in the US. But, for the most part, the CFSP and CSDP are based on the pursuit of

primarily political objectives, as is illustrated, for example, with the EU’s leadership in promoting the UN’s Millennium Development Goals – which arises from both humanitarian concerns and the EU’s long-standing commitment to promoting democratization.

To make a more general comment, policy development in the highly sensitive CFSP and CSDP spheres – the public policy areas that are associated more than any other with national sovereignty – is testimony to how no policy area is now beyond the EU’s reach.

The Varying Extents of EU Policy Involvement

The nature of the EU’s policy expansion has resulted in great variations between policy areas regarding the extent of EU involvement. As Boxes 1.1 and 1.2 show, in a few policy areas the EU has extensive policy responsibilities, in a few it has virtually no responsibilities, and across a broad spectrum of policy areas it shares responsibility with the individual member states.

Despite the use of the word *common* before a number of the EU’s best-known policies – as in Common Agricultural Policy, Common Fisheries Policy, Common Foreign and Security Policy, and Common Security and Defence Policy – there is in fact only one policy that is truly common: the Common Commercial Policy (CCP) (the technical term for the external trade policy), and then only as it applies to goods. The existence of a Common External Tariff (CET) on goods entering the EU market means that the member states are required to act as one (in practice via the Commission) when engaged in trade negotiations with third countries or the CET would break down very quickly. Monetary policy may also be said to be common for eurozone states, but many EU states are not eurozone members. Since the creation of the single currency, all decisions for eurozone states with regard to interest rates, exchange rates and the money supply are taken by the European Central Bank (ECB), acting within a framework laid down in the treaties.

With respect to the CAP and the CFP, virtually all major policy decisions are taken at EU level. In the case of the CAP this covers such matters as the nature of market regimes (which vary among agricultural

Box 1.2**The varying extents of EU policy involvement**

Extensive EU involvement	Considerable EU involvement	Policy responsibilities shared between the EU and the member states	Limited EU policy involvement	Virtually no EU policy involvement
External trade Agriculture Fishing Monetary (for eurozone members)	Market regulation Competition	Regional/Cohesion Industry Foreign Development Environment Equal opportunities Working conditions Consumer protection Movement across external borders Macroeconomic (especially for euro members) Energy Cross-border crime Civil liberties (especially via the Charter of Fundamental Rights)	Health Higher education Defence Social welfare Transport	Housing Domestic crime Primary and secondary education

products), income support measures available to farmers, and measures to dispose of agricultural surpluses. In the case of the CFP, it covers the conditions on which fishermen can leave port to fish, and what and how much they can catch when they are at sea. However, significant ‘second-level’ CAP and CFP decisions can be taken at the national level, albeit on the basis of usually being subject to Commission authorization. The most important of these decisions cover support measures of various kinds that national governments may wish to make available to their farmers and fishermen.

From the ‘extensive’ end of the policy spectrum shown in Box 1.2, EU policy involvement moves ‘down’ through various degrees of shared responsibility with the member states before tapering into virtually no policy involvement at all. Three generalizations can be made about the nature of this distribution of policy responsibilities between the EU and the member states:

- The more that policies are direct-market ones or, at least, market-related, the more likely they are to be towards the ‘extensive EU involvement’ end of the spectrum.
- The more that policies cover matters with clear cross-border implications, the more likely they too are to be towards the ‘extensive EU involvement’ end of the spectrum.
- Virtually all policy areas involving heavy public expenditure are at the end of the spectrum where the EU’s policy responsibilities are low or virtually non-existent.

Reasons for the nature of this distribution of policy responsibilities are considered later in this chapter and in Chapter 2.

A final point to be made concerning the varying nature of the EU’s policy responsibilities is that the sharing involved is not always restricted to a sharing between the EU and the governments of the member

states. This is because, below the level of national governments, sub-national and local levels of government often have policy responsibilities. For the most part these are confined to tasks of policy execution, with regional and local levels of government being in the ‘front line’ and acting in practice as the EU’s implementation agents in respect of the implementation of many EU policies. But, in a few policy areas, most notably cohesion policy, sub-national levels of government are involved to at least some degree in policy management as well as in policy administration.

The Varying Legal Statuses of EU Policies

There are three main sources of EU law:

- *The treaties.* The EU’s treaty structure and contents have, via a series of amending treaties, evolved considerably over the years. Under the most recent amending treaty – the 2007 Lisbon Treaty, which came into effect in December 2009 – the EU’s main treaties are: the Treaty on European Union (TEU), which was initially created by the 1992 Maastricht Treaty; and the Treaty on the Functioning of the European Union (TFEU), which is the successor to the previously named Treaty Establishing the European Community.
- *EU legislation.* This is issued primarily in the form of directives, regulations and decisions.
- *Judicial law.* This takes the form of rulings of the EU’s court – the Court of Justice of the European Union (CJEU).

There are considerable variations between EU policy areas regarding the extent to which the policies that exist have legal status. Thinking of the variations in terms of a spectrum, Box 1.3 illustrates that at one end of the spectrum are policy areas making considerable use of EU law, while at the other end are policy areas relying much more on non-legal forms of co-operation and co-ordination between the member states.

While there is considerable overlap in the category placements of policy areas in Boxes 1.2 and 1.3, there are also significant differences. There is no fixed rela-

tionship between the extent of EU policy involvement in a policy area and the propensity of that policy area to use legal or non-legal policy instruments. So, some policy areas where the EU has significant policy responsibilities make little use of EU law, while some areas where the policy responsibilities are light make extensive use of it in respect of that involvement. Foreign policy is an example of a policy area in the former category, while employment rights is an example of a policy area in the latter category.

The variations in the extent to which policies have a legal, as opposed to a political, base are extremely important. This is because policies that are based on law have a significantly different character from those that do not. Most crucially, where laws are involved, those to whom the laws are addressed – be they national governments, business corporations or citizens – must abide by them or risk being subject to legal action. Where, by contrast, policies rely more on voluntary co-operation, there may be strong political pressures on those to whom the policies are directed to fully implement them, but these pressures are not usually as powerful as the threat of legal proceedings.

Given the seemingly much greater attraction of basing EU policies on law, why is there only a limited use of law in some important policy areas? To put this another way, why do some policy areas rely more on such policy instruments as political agreements, joint understandings and common guidelines than they do on law? The answer to this apparent puzzle is considered in later chapters of this book, especially Chapter 7, but is essentially based on whether the use of legal policy instruments is or is not politically acceptable to the governments of the member states.

The Differing Purposes of EU Policies

Every EU policy naturally has its own specific purpose, or purposes. So, for example, the purpose of EU regional policy is to assist in the development of the EU’s poorer economic regions. The purpose of the Common Commercial Policy is to ensure that international trading conditions are as favourable as possible to the EU. And the main purposes of the CAP are to ensure that EU farmers are guaranteed a reasonable

Box 1.3**The varying use of legal regulation in different policy areas**

Heavy reliance on legal regulation	Very considerable reliance on legal regulation	A mixture of legal regulation and interstate co-operation	Some legal regulation but a considerable reliance on interstate co-operation	Largely based on interstate co-operation
Trade	Regional	Industry	Social welfare	Foreign
Agriculture	Competition	Environment	Energy	Defence
Fishing	Consumer protection	Transport	Police and judicial	
Market regulation	Working conditions	Movement across external borders	co-operation	
	Equal opportunities	Macroeconomic	Europe 2020	
	Civil liberties	Energy	policies	
		Cross-border crime	Education	
			Health	

income, that the EU produces as much as possible of its required foodstuffs, and that the countryside is protected.

But while all policies are unique in their specific purposes, they invariably share certain broad purposes with a number of other EU policies. The nature of this sharing varies between policies according to both the particular characteristics of individual policies and how general policy purposes are identified and thereby classified.

Of course, given the broad scope of EU policies, various classificatory systems of the purposes of EU policies are possible. In this section we make use of two classificatory systems that we judge to be particularly helpful: one devised in the context of EU policies that emphasizes the importance of the market; and the classic classificatory system initially devised by Theodore Lowi to describe various aspects of the relationships between politics and policies in the US, but which has come to be seen subsequently as having a much wider usage.

A market-focused classificatory system

Box 1.4 sets out a classificatory system that identifies four possible purposes of EU policies. The most striking feature of this system is the appearance of the word

‘market’ in the title of three of the four categories. This feature highlights the prominence of market-focused and market-related policies in the EU’s portfolio. It is a feature that, in one way or another, is inevitably prominent in any classificatory system of EU policies, because the market is at the very centre of so much that the EU does. It is at the centre most obviously in terms of direct market building – involving such activities as removing barriers to free movement and to competition – but it is also very important in terms of correcting and cushioning the consequences of the operation of the market.

A point to be emphasized about Box 1.4, and therefore also about the purposes of EU policies, is that while individual policies have only been entered once in the box, on the basis of their main purpose, in fact many policies have more than one purpose. Environmental and social policies are examples of such multi-purpose policies, with both being concerned not only with improving the quality of life in various ways (market correcting and market cushioning) but also with ensuring that the internal market works fairly by establishing a level competitive playing field (market building).

Related to this point about the multi-purpose nature of some EU policies, it should be noted that the boundaries between the categories of the classificatory system set out in Box 1.4 are porous and overlap. This

Box 1.4**Classifying EU policies by purpose**

Policy purpose	Explanation of purpose	Examples
Market building	To create a single market by removing barriers, by carrying out regulatory reform, and by stimulating market forces.	Policies concerning the customs union, product standards, competition, indirect taxation, energy, EMU.
Market correcting	To compensate particular groups for market costs, to channel or constrain the market, and to limit inequality.	CAP, CFP, cohesion.
Market cushioning	To minimize the harm economic activities impose on nature and humans.	Environment, occupational health and safety, equal opportunities.
Non-market policies (polity-building)	To develop certain policies that are not related to the market, but which have the effect of making the EU a more powerful political system.	CFSP, CSDP, aspects of AFSJ.

Source: Adapted from Sbragia, 2003, p. 131.

is especially so in respect of the market correcting and market cushioning categories – with the consequence that it is, for example, a marginal decision as to whether cohesion policy should be judged to be primarily market correcting or market cushioning.

The classic Lowi classificatory system

A very well-established way of distinguishing between policies is in terms of regulatory, redistributive and distributive policies. This typology was first advanced by Theodore Lowi (1964), who later added a fourth policy type to his classificatory scheme, which he called constituent policies (Lowi, 1972). While much of what Lowi was interested in goes beyond our scope here, many scholars have observed that his typology has a number of possible uses (see, for example, Heckathorn and Maser, 1990; Nicholson, 2002). It is for its usefulness in capturing key features of, and differences between, EU internal policies that it is

employed here. (Lowi's typology was devised to apply to domestic politics in the US, so it does not directly embrace external policies.) We thus now apply Lowi's much-used schema to EU policies. A key point to emerge from the application of the schema is that while all four policy types certainly exist in the EU, regulatory policies are the most important.

Regulatory policies

EU policies as a whole have a strong regulatory emphasis. The word 'regulatory' is very broad and can be used to embrace a wide range of EU policy activities. Most commonly, however, 'regulatory' is used to refer to the adoption of rules by public authorities to control behaviour, especially the behaviour of economic actors. There are a number of possible reasons why public authorities may wish to adopt such rules. One is to deal with and correct market failures, in the form perhaps of negative externalities such as air and water pollution, or the formation of anti-

competitive cartels. Another possible reason is to protect consumers by, for example, specifying essential standards that marketed products must meet, or providing compensation measures in the event of the sale of defective products. And a third possible reason is to protect market producers by, for example, laying down laws covering health and safety at work or imposing limits on the number of hours workers can be required to work over a specified period. (A good summary of rationales for regulation is provided in Baldwin and Cave, 1999.)

Such is the focus on regulatory policies in the EU's policy portfolio that one of the most eminent of academic commentators on the EU, Giandomenico Majone (1994, 1996), has gone so far as to suggest that the EU can be thought of as being a regulatory state. The regulatory emphasis of EU policies is seen most obviously with respect to the internal market, where an extensive legislative framework exists for the purpose of governing actors' behaviour in the market. This framework covers not just pure market activities, such as rules governing product specifications and market movements, but also some seemingly non-market policy areas that are regulated in part because they have market implications. An example of such a policy area is the environment, where much of the extensive volume of EU legislation that is in place can be explained, to some extent at least, by a desire to ensure that the internal market is based on level and fair foundations. Such foundations would not be level or fair if, say, the regulatory framework on the disposal of toxic substances into the atmosphere or on the tipping of rubbish on landfill sites was to be less stringent in some member states than in others. Accordingly, the EU requires some commonality.

The reason that EU regulatory policy is so wide-ranging and, as Pollack (2000) and Pollack and Ruhlman (2009) have shown, has displayed little sign of slowing down in its advance, is that there is both a demand and a supply for it. The *demand* comes from various quarters, not least large businesses, which want as integrated a market as possible – which means having a single regulatory system in place rather than numerous different systems with different national standards. Having a single regulatory system benefits large businesses because products do not have to be adapted to meet different regulatory requirements. Further to this, established business enterprises have the additional motivation that a single regulatory

system ensures that *all* European companies face the same compliance costs: so, a single regulatory system gives large businesses some protection from 'upstart' competitors trying to gain a foothold in the internal market by taking advantage of lower standards in one part of the market to cut costs at the expense of worker safety, environmental compliance and product standards.

The *supply* comes mainly from the Commission, which, through its policy and legislative proposals, plays a crucial role in setting the regulatory framework. The Commission produces this supply for a number of reasons. One reason is simply that it is much more able to do so than it is with redistributive or distributive policies. This is partly because the technical nature of much regulatory policy tends to make it less contentious than the other two policy types, and is partly because most of the costs of implementing regulatory policies fall not on the EU budget but on the budgets of private firms and public authorities in the member states. Another reason why the Commission produces the supply is, in the view of public choice theorists, because expanding EU regulatory powers also expands the Commission's own powers (see, for example, Hix, 2006).

The intensities of and interactions between demand and supply do, of course, vary between policy areas, with the consequence that there are many differing types of regulatory regimes in the EU. Shawn Donnelly (2010) illustrates this clearly with an analysis of the nature of the regulatory regimes in three areas: corporate governance, which continues to be primarily nationally based in that most company law is national law; the regulation of financial markets, which is more supranational – and has rapidly become much more so in the wake of the post-2008 financial crisis; and accounting standards, which are regulated by two parallel regimes based on EU and national rules. For Donnelly, the key factor in explaining the differing degrees of EU-level development of the regimes is national norms: where member state norms on such key matters as the objectives of public policy and the relationship between the state and the market broadly coincide, then EU regulation is likely; where, by contrast, national norms clash, then proposals for EU-level regulation are likely to be resisted. Donnelly's approach is thus essentially constructivist in nature, but it can easily be re-thought in terms of the extent to which there is a demand for EU-level regulation.

Redistributive policies

Redistributive policies transfer financial resources from groups of individuals (most commonly social classes), regions or countries to others. Redistributive policies loom large in the national policy portfolios of the EU member states. There are variations between the states regarding the nature and extent of their redistributive policies – variations that are accounted for mainly by the extent to which certain services rest on private or social models, and the bases on which they operate – but in broad terms policy areas that are primarily redistributive in character include education (which redistributes to the young), health (which redistributes to those who are unwell), social welfare (which redistributes to the less well-off and to those who are not part of the active workforce), and pensions (which redistributes to retired people). By contrast, the EU's policy portfolio includes only very limited provision for redistribution. Indeed, only one policy area has a significant redistributive capacity – cohesion policy, which redistributes, albeit on a limited basis, to less prosperous regions via the European Regional and Development Fund (ERDF) and to some disadvantaged groups via the European Social Fund (ESF).

There are a number of reasons why EU redistributive policies are not well developed. The first is that governments generally want to retain control over public revenues, and transfers of responsibility for redistributive policies to the EU level would weaken this control. Second, most of the more expensive redistributive policies – including health, education, social welfare and pensions – are generally seen, by policy-makers and citizens alike, as naturally being national policies. Apart from a few specific examples such as supporting educational exchanges between students and promoting some health campaigns and research programmes, no pressing reasons have presented themselves for policies of this type to be transferred to the EU level. Third, since the Maastricht Treaty identified subsidiarity as an essential principle, the practicalities of developing EU spending policies have become more difficult, since Commission proposals for EU legislation have to be justified on the grounds that policy matters covered by proposals will be pursued more effectively at the EU level. Fourth, proposals to advance spending policies tend to be more politicized than regulatory policies, and as such

tend to promote stiffer opposition. A key reason for this is that whereas with regulatory policies the likely gainers and losers are not always obvious, since much depends on how quickly and efficiently the targets of regulations adapt to regulatory change, with redistributive policies the core gainers and losers are immediately obvious: the core gainers include those member states that will be beneficiaries of spending increases, and the core losers include those states that will see their contributions to the EU budget increase. This has been brought to the fore particularly during the eurozone debt crisis, where citizens of wealthier states (Germany in particular) have resisted bailing out financially troubled eurozone member states. Fifth, since the early 1990s most member states have adopted increasingly tight attitudes towards EU spending. Key factors accounting for these attitudes are that they conform to the broad ideological shift in most Western capitalist systems in favour of a more restrictive stance towards all forms of public expenditure; the EMU convergence and Stability and Growth Pact criteria (see Chapter 10) and the related EU Broad Economic Guidelines (which apply to non-EMU members) place a strong emphasis on budgetary discipline; the prospect and then the reality of many relatively poor countries joining the EU has not encouraged EU-15 states to expand redistributive policies – from which most of them have little to gain but for which they must pay; and Germany, long the major net contributor to the EU budget, has come to suffer from 'donor fatigue'.

As a result of these pressures in the direction of EU budgetary restraint there has been a virtual standstill in spending on redistributive policies in recent years. It is true that expenditure on the Regional and Social Funds was doubled during the first of the EU's multi-annual financial perspectives, covering the years 1988–92, and was then doubled again during the 1993–9 perspective. However, though these increases were large in absolute terms they were modest in relative terms. In fact, the EU's budget has always been, and still is, tiny when compared with national budgets, hovering over the years at only just over 1 per cent of total EU wealth and around 3 per cent of total public expenditure in the EU (see Chapter 14 for an examination of the EU's budget revenues and expenses).

An important consequence of the EU having only limited responsibilities and capacities with respect to redistributive policies is that, as Moravcsik (2001, pp.

163–4) has noted, the EU plays only a minor role in most of the areas about which European voters care the most. Policies on education, health, welfare, policing, defence and direct taxation are still largely determined and financed at the national level.

Distributive policies

Distributive policies involve allocations of financial resources and benefits, but not from one ‘side’ to another (as from the better-off to the worse-off, for example) but rather from diffuse contributors (with taxation being the customary collection system) to selected beneficiaries (typically, a small, but always identifiable, group). In many political systems, including in the US, distributive policies are often ‘patronage’ policies, evoking a ‘patron–client relationship’ (Nicholson, 2002, p. 167). So, much of distributive policy is meant to be under the radar rather than ‘open and public politics’ and is obscured in budgets (Lowi, 1972, p. 308). A particular feature of distributive policy is thus that it can be difficult for ‘outsiders’ to know the extent to which it is taking place at all. A principal reason for this is that in distributive policy-making processes there are so many participants with disparate views as to the best course of action (unlike the two usually identifiable sides in redistributive policy). A second reason why the existence of distributive policy can be difficult to identify is that participants in distributive policy-making processes often engage in unpredictable alliance shifting.

But despite this identification difficulty, it is clear that distributive policies are not developed very much in the EU, and those that do exist are quite different in character from the kinds identified by Lowi in the US. The most important of the EU’s distributive policies is agriculture, which is distributive rather than redistributive because it does not consist of ‘haves’ and ‘have nots’ and is much closer to patronage politics in its operation. Nicholson (2002, p. 169) notes that distributive policies are characterized by close political ties between the bureaucracy and the clientele, where they ‘become entitlement programs and insulated from reform’ – which seems to be an apt description of aspects of the CAP, which has spawned powerful agri-interests operating at the EU level.

Another distributive policy is import protection, with its range of tariffs and non-tariff barriers. Like agriculture, it is distributive because while the costs of

the policy are widely distributed among the public, the beneficiaries are selected politically – European-based producers in this case. Other examples of EU policy activities that can be classified as distributive include some of those included in the Europe 2020 programme – most notably R&TD (a form of industrial policy because governments make judgements about promising technologies and in the process pick ‘winners’ and ‘losers’) and other activities that involve the awarding of subsidies. However, the funds assigned to Europe 2020 comprise a very small proportion of the total EU budget.

An example of a distributive policy area that might have been expected to be developed extensively by the EU, but which has not, is transportation policy. Transportation is a classic distributive policy and was given its own title (Title IV) in the original EEC Treaty, where it was stipulated that ‘The objectives of this Treaty shall, in matters governed by this Title, be pursued by Member States within the framework of a common transport policy’ (Article 74). But though there is an inherent rationale for a European transportation policy, especially in supporting the internal market, the nuts and bolts of jobs and contracts (the stuff of distributive politics) has impeded the development of the policy area and resulted in it remaining primarily a national level policy.

Developing this point about transport policy further, much of the explanation for why distributive policies are not well developed at EU level is that they are seen as being primarily national responsibilities, so only limited budgetary resources are made available for them. In Pollack’s (1995) view, another reason why the EU is not much involved in distributive policies is because they are not as closely linked with the operation of the market as are regulatory and redistributive policies. Regulatory policies are a consequence of the need to ensure standard rules and regulations in the internal market, and redistributive policies are, at least in part, a consequence of countries with specific difficulties adjusting to the internal market being given compensation or side-payments. Distributive policies are not so ‘advantaged’ and are often highly dependent on Commission entrepreneurship for advancement.

Constituent policies

Unlike the other three policy types, constituent policies are not transaction based but rather are concerned

with ‘the rules of the game’ (Spitzer, 1987, p. 678). They customarily involve elite (top-down) policy-making focused on such matters as how should decisions be made (should, for example, new administrative agencies be created); and what should be the nature of interactions between public authorities and the citizenry (should, for example, governing authorities engage in ‘propaganda to change the public’s behaviour or opinions)?

The Charter of Fundamental Rights of the European Union, which has been ‘solemnly proclaimed’ by the European Parliament (EP), the Council and the Commission, and which has legal status (albeit a rather complicated one – see Chapter 11), is an example of a constituent policy. In essence, it involves a comprehensive attempt to define civil liberties and rights in the EU. Other examples of constituent policies are the various involvements of the EU in ‘propaganda’ to promote societal goals. To take two different examples of this: in the area of promoting public health, the European Food Safety Authority (EFSA) is charged with ‘restoring and maintaining confidence in the EU food supply’ (European Food Safety Authority, 2012); and in the area of fundamental rights, the European Union Agency for Fundamental Rights is tasked with ‘promoting dialogue with civil society in order to raise public awareness of fundamental rights’ (European Union Agency for Fundamental Rights, 2012).

With respect to the establishment of administrative agencies, many specialized EU agencies have been created over the years – with both the necessity of their establishment and their headquartering usually having been the source of much wrangling among member states. Regarding headquartering, because hosting an EU agency is so valued, there is an informal understanding that each member state should in principle have the opportunity to host at least one specialized agency.

Increasing Differentiation

A central assumption when the Founding Treaties were signed was that all member states should, and would, participate in all EU policies. There was to be no picking and choosing of which policies to participate in and there were to be no laggards in honouring

policy commitments. In short, all member states were to swim abreast in policy terms.

For the most part, this expectation and accompanying obligation continues. However, it does not do so in pristine form. This is because, since the late 1970s, and more particularly since the early 1990s, there has been an increasing acceptance in EU circles that there are circumstances in which some member states will not, and sometimes even should not, be full participants in particular policies. To use the term that has come to be generally used to describe this phenomenon, the need for some policy *differentiation* has come to be accepted.

An important reason behind the pressures for a degree of differentiation is the increasing breadth of the EU’s policy portfolio. As the portfolio has broadened out from its initial internal market core to embrace at least some interest in just about every area of public policy, then so have policies come on to the agenda that have been seen to have little attraction and/or to have posed considerable difficulties for particular member states. Prominent among such policies are EMU, CFSP/CSDP, and aspects of social, environmental and AFSJ policies. The enlargement process, which has been under way almost constantly since the early 1960s, has been another important reason behind increased pressure for differentiation. Naturally, with each new member state having its own policy needs and preferences, and with the 2004–7 enlargement round having brought in a large number of states that are in many respects significantly different in character from the EU-15 states, enlargement has increased the likelihood greatly of there being member states that either have no wish or do not have the capacity to be part of particular policy initiatives.

Differentiation takes both formal and informal forms.

Formal differentiation

There are two main types of formal differentiation: *à la carte* and *multi-speed*.

À la carte differentiation is the more important type in that it involves member states choosing not to participate in a policy. Moreover, no commitment is given that they will ever participate. The European Monetary System, which was developed from the late 1970s without the participation of the UK, was the

first example of such differentiation. It was followed in the mid-1980s by the Schengen System, which was designed to enable free movement of people across internal borders. The UK and Ireland opted out of, and continue to opt out of, full Schengen participation: in the UK's case this has been because it wants to maintain its own border controls – which are helped by it being an island; and in Ireland's case it is because of its free travel area with the UK. Denmark can choose whether or not to apply any new measures taken under the Schengen title of the TFEU (the Schengen System is examined in Chapter 11).

À la carte differentiation was given a considerable boost in the early 1990s when the 1992 Maastricht Treaty gave it formal authorization. The authorization was very specific, taking the form of allowing the UK and Denmark not to participate in the third stage of EMU (which was to be mandatory for all other member states that met the EMU convergence criteria) and allowing the UK also to opt out of the Social Charter that was included in the Treaty. Along with the creation of the intergovernmental CFSP and Justice and Home Affairs (JHA) pillars, these opt-out provisions can be seen as laying foundations for a less rigid treaty base for policy development. As Majone (2005, p. 15) has put it: 'It is now clear ... that the differentiation or flexibility that appeared in several forms in the TEU was no momentary aberration – a sort of *à la carte* integration – but the clear indication of an emergent strategy for achieving progress in politically sensitive areas, even at the price of a loss of overall coherence of the system.'

The 1997 Amsterdam Treaty generalized the Maastricht 'dispensations' by providing for 'Provisions on Closer Cooperation' in the Community and JHA pillars. This authorized policy development within the treaty framework but with not all of the member states involved, subject to a number of safeguards and conditions – including that such co-operation be open to all member states, 'is only used as a last resort', and 'does not affect the "*acquis communautaire*"' (TEU post-Amsterdam Treaty, Article 43). The Amsterdam Treaty did not extend closer co-operation to the CFSP, but did allow for a different kind of flexibility within this policy area in that it allowed for member states not to apply CFSP decisions under specified circumstances. The 2001 Nice Treaty subsequently extended the remit of closer co-operation – which it renamed *enhanced co-operation* – to the CFSP pillar (but with

military and defence matters excluded), and made it easier to operationalize by replacing the Amsterdam stipulation that a majority of member states must be involved in a closer co-operation initiative by a stipulation that only eight (increased to nine when Bulgaria and Romania joined the EU in 2007) must take part. Post-Nice and after the 2007 enlargement, the proportion of participating member states in an enhanced closer co-operation initiative thus became exactly one third. The Lisbon Treaty largely confirmed the post-Nice position, though it was a little more succinct regarding the boundaries of enhanced co-operation: 'Any enhanced cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States nor shall it restrict competition between them' (Article 326, TFEU). The Lisbon Treaty also dropped the CSDP exclusion. As of late 2012, the treaty provisions on enhanced co-operation have been used twice: for the establishment of a European patent, from which Italy and Spain initially opted out because of objections to the limited use of languages in the operation of the scheme (see Tait, 2010); and for procedures designed to ease divorce arrangements when the couple involved are from different member states (fourteen member states are participating in this). (For fuller accounts of the treaty creation and development of closer co-operation, see Junge, 2007; Nugent, 2010; Leuffen *et al.*, 2012.)

As for *multi-speed differentiation*, that occurs when a member state or states wish to participate in a policy but judge themselves, or are judged by others in authority, not yet to be sufficiently prepared or able to do so. The first clear example of multi-speed differentiation occurred with the launch of the single currency phase of EMU in 1999, when Greece was excluded (though only until 2001, as it turned out) because the Commission, supported by the Council of Ministers, decided that it did not meet the qualifying convergence criteria. The 2004–7 enlargements then saw multi-speed differentiation on a mass scale, with the new member states being prevented by their terms of accession from becoming EMU or Schengen members until they had established their credentials for membership. In the case of EMU, this involved each new member state having to wait for at least two years to enable its economic performance to be judged post-accession. Since the completion of this two-year

period for the 2004 acceding states, the size of the eurozone has grown with, in 2007, Slovenia being the first of the new member states to join, followed by Cyprus and Malta in 2008, Slovakia in 2009, and Estonia in 2011. In Schengen's case, most of the new EU member states have now been admitted to the Schengen Area.

The post-2004/7 EMU and Schengen situations are particularly graphic versions of a special type of multi-speed differentiation that arises from all EU enlargements, wherein acceding states are not full participants in certain EU policies for specified periods. This lack of full engagement can take the form of new member states being granted transitional exemptions from features of the *acquis* (such as environmental standards that involve heavy capital expenditure, or being permitted to limit capital investment from non-citizens) and/or being excluded temporarily from features of the *acquis* (as with the 2004/7 accession states being excluded not only from immediate membership of the single currency and of Schengen, but also being prevented from reaping full funding support from the CAP regime under the 2007–13 financial framework).

Informal differentiation

Though the word 'differentiation' is usually applied only to the formal *à la carte* and *multi-speed* processes described above, there is, as Andersen and Sitter (2006) have argued, a strong case for applying it more widely. The basis of this case is that exclusion from a policy activity or opting-out are not the only ways in which there is variation between member states in their policy engagement. There are also other ways, though these are less formal and at times almost hidden. The nature of these other ways rests on two main foundations: the extent to which policy instruments are intended to produce policy conformity throughout the EU; and the pressures at national level for policy activity to reflect national interests and not to be set too closely within a single EU level model. These two foundations are, of course, interrelated, in that it is precisely where pressures for the recognition of national interests are strongest that EU policy instruments are likely to be the least constraining. Andersen and Sitter (2006, p. 320) suggest that this notion of informal types of differentiation is best

understood if it is set within the framework of what they suggest are four different types of European integration:

- *Homogeneous integration.* This combines: (a) tight coupling between the EU level and national levels with respect to normative and organizational requirements (that is, all member states are expected and required, and expect and require it of themselves, to act in much the same manner); (b) weak pressures at the national level for decoupling. Homogeneous integration may be thought of as the 'standard' top-down form of integration, based on reasonably tight EU laws that are expected to be applied in a uniform way at national levels. As such, informal differentiation does not apply here, except in so far as there are some variations between member states in the diligence and efficiency of their 'front line' policy implementation. Much of the internal market regulatory framework is based on this type of integration.
- *Aligned integration.* This is different from homogeneous integration in that EU policy instruments do not impose strong organizational or behavioural models on the member states, but a reinforcing impact of state and EU-level interests results in alignment occurring in any event. The liberalization of telecoms illustrates this: the Commission pressed for it strongly in the 1990s, but left the ways and the timescale in which it was to be achieved to the member states (thus allowing for abundant differentiation); the common nature of the challenges facing them resulted in a strong coalition of key market actors finding this flexibility unwelcome, and led to them pressing the Commission to provide a strong policy lead in pushing through liberalization. In other words, there were only weak national pressures for decoupling. Andersen and Sitter (2006, p. 323) observe: 'The telecoms sector is perhaps the most striking example of a broader tendency for states and other actors to accept and enact EU regulations for their own motives, particularly when this is linked to market liberalisation.'
- *Autonomous integration.* This occurs when weak central demands for particular organizational and behavioural patterns combine with strong national-level pressures for the maintenance of established national practices. Situations of this sort are common in some of the more sensitive

economic and social policy spheres, including those covering industry, employment and social welfare. In such circumstances, one of two types of policy instrument is likely to be used. On the one hand, EU rules, usually in the form of directives, may be agreed, but they are likely to allow considerable flexibility in national transposition and implementation. The Working Time Directive is an example of such a rule. On the other hand, non-legal mechanisms, or ‘soft law’ as such mechanisms are often called, may be used via the issuing of the likes of communications, recommendations and resolutions. Member states may be pressurized strongly to abide by the requirements of the contents of such mechanisms, but the mechanisms themselves have no binding force behind them. This is one of the main criticisms made of the OMC, which relies heavily on soft law.

- *Deviant integration.* Whereas the first three types of integration involve no breaches of EU requirements, this type does. It occurs when there are strong EU requirements and expectations in respect of policy implementation, but strong resistance at national level(s) results in circumventions and non-compliance with the rules. Deviant integration is found most commonly in policy areas where strong local customs are in conflict with EU rules (such as in food processes and handling), where administrative and legal capacities are relatively weak, and in new member states (which had little or no capacity to help shape the rules when they were being made).

There are, therefore, different types of informal integration. Much of it is officially sanctioned – such as in the form of autonomous integration, which sees a range of policy mechanisms being used that are designed specifically to permit member states to differ significantly in their policy behaviour and actions. But much of it is not officially approved: it arises from inefficient and poor policy implementation.

* * *

Differentiation thus takes many different forms. It is best seen in a broad perspective, with not only its high-profile formal manifestations being recognized but also its more mundane and informal aspects. In this wider sense, differentiation is, as Andersen and

Sitter suggest (2006, p. 326), ‘a common and normal phenomenon’.

Differentiation arises from the heterogeneity of the EU’s member states, each of which has its own policy interests and preferences. This heterogeneity has increased considerably over the years and seems likely to continue to do so in the future, with the continued movement of the EU into highly sensitive policy areas and the continuation of the enlargement process. As has been the case to date, the policy areas most likely to experience the use of differentiation in the future will be those where there are sharp differences between the member states, and those where policies display certain characteristics. Regarding differences between the member states, distinctive national preferences explain why Denmark, Sweden and the UK are the only EU-15 states not to be members of the single currency, and why the UK and the Czech Republic were the only member states not to associate themselves with the Fiscal Stability Treaty that was signed by all other member states in March 2012 (see Chapter 10). Regarding characteristics of policy areas, policies lend themselves most to the possibility of differentiation when: they are not part of the internal market core (it being generally accepted by policy actors that all member states must participate fully in the internal market – though there are disagreements over precisely what are necessary market policies); they are felt by some, but not all, member states to have significant sovereignty implications – as with foreign and defence policies and taxation policy; and when they are of particular rather than general interest – such as with fishing policy and Baltic or Mediterranean policies.

* * *

The increasing use of differentiation is usually presented by supporters of the European integration process as being regrettable. This is understandable in so far as it heralds a looser EU than integrationists would like. But differentiation is also highly functional in integrationist terms in that it enables vertical and horizontal integration to proceed among some member states when it would not be possible if all member states had to be involved. Furthermore, as in established federal systems – where differentiation is a normal feature – it opens up possibilities for bringing innovations into the EU system.

Conclusions

This chapter has emphasized the broad and complex character of the EU's policy portfolio. It has been shown that the EU has at least some involvement in just about every sphere of public policy, but that the extent and nature of that involvement varies considerably between policy areas.

It has been stressed throughout the chapter that the policy portfolio has never ceased to develop in an ever-expanding direction. A key question that arises from this is whether the expansion will continue. The undeveloped and only partially-developed nature of many policy areas certainly indicates that there is no shortage of areas where further policy development *could* occur. Moreover, the strong pressures from some policy actors for the further development of such areas as macroeconomic policy – which since the onset of

the world economic and financial crises followed by the eurozone crisis has been something of a special case (see Chapters 10 and 15) – AFSJ, and CFSP and CSDP, suggest that in some areas it *will* occur, albeit sometimes on a differentiated basis.

However, such development is likely to take the form mainly of incremental advances and to be confined to policy areas where a significant EU presence has already been established. The likely development of stronger fiscal policies, especially among eurozone states, illustrates this. In fact, there is no evident thirst for major advancement into new policy areas. This is because, as was explained in the chapter, the policy areas in which the EU has little involvement are those requiring substantial budget outlays and/or are culturally-sensitive policies that are viewed by most policy actors as being best made at national and sub-national governmental levels.