

2013

# NATIONAL PORTS POLICY



An Roinn Iompair  
Turasóireachta agus Spóirt

Department of Transport,  
Tourism and Sport



Image Credit: Port of Cork Company

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# MINISTER'S STATEMENT



Image Credit: Tim Stonton / VOR

## MINISTER'S STATEMENT

Our ports play a crucial, yet often overlooked role in facilitating economic growth and prosperity. As an island nation we depend on the quality and efficiency of our port services to a much greater degree than many of our trading partners.

As barometers of the broader economy, our ports have not been immune from the turmoil of the last few years nor from the effects of globalisation generally. These global challenges require action at a national level to ensure that Ireland continues to be served by the type of port services it requires.

Our ports are more than trading gateways to the world; they are frequently centres of great historical, cultural, social and recreational importance. Many of our oldest cities and towns were founded as trading ports. Some have relinquished over time their commercial focus and now serve primarily social and recreational functions for their communities.

This new ports policy addresses the dichotomy of challenge and opportunity that faces our ports. I am confident that the reforms proposed within it, while acknowledging that current governance arrangements may not best suit those ports of a primarily regional significance, will allow for the continued development of all our State port companies.



The Government has an ambitious goal to fully use our marine resources, as set out in our new, integrated marine plan – Our Ocean Wealth. As part of this, the Government has set a target for increasing the contribution of the marine sector to the national economy. This National Ports Policy is a contribution to that vision and effort. It clearly sets out a roadmap for the ports sector for at least the next generation, setting down clear objectives, the policies to achieve them and timelines for doing so.

I should like to thank everyone who took part in the public consultation and all those who helped to research and write this document.

A handwritten signature in black ink that reads "Leo Varadkar". The signature is fluid and cursive, written in a professional style.

**Leo Varadkar T.D.**

Minister for Transport, Tourism and Sport



# EXECUTIVE SUMMARY



## Organisational and Ownership Structure

The port governance model in Ireland is broadly in line with that elsewhere in Europe. This model is one of publicly controlled port authorities with high levels of private-sector involvement in the provision of infrastructure and services.

The core objective of National Ports Policy is to facilitate a competitive and effective market for maritime transport services. The long-term international trend in ports and shipping is toward increased consolidation of resources in order to achieve optimum efficiencies of scale. This has knock-on effects in terms of vessel size, the depths of water required at ports and the type and scale of port hinterland transport connections.

Ports differ greatly in size, in current capability and future potential. The structure in place since 1996 and the *laissez-faire* policy where 'one size fits all' is no longer appropriate.

National Ports Policy introduces clear categorisation of the ports sector into Ports of National Significance (Tier 1), Ports of National Significance (Tier 2) and Ports of Regional Significance.

**Ports of National Significance (Tier 1)** are ports that:

- are responsible for 15% to 20% of overall tonnage through Irish ports, and
- have clear potential to lead the development of future port capacity in the medium and long term, when and as required.

Three ports fulfil these criteria: Dublin Port Company, the Port of Cork Company and Shannon Foynes Port Company.

**Ports of National Significance (Tier 2)** are ports that:

- are responsible for at least 2.5% of overall tonnage through Irish ports;
- have the clear demonstrable potential to handle higher volumes of unitised traffic, and
- have the existing transport links to serve a wider, national marketplace beyond their immediate region.

Two ports fulfil these criteria: the Port of Waterford Company and Rosslare Europort.

The remaining commercial ports are categorised as **Ports of Regional Significance**. This category includes the five smaller State-owned commercial port companies – Drogheda, Dún Laoghaire, Galway, New Ross and Wicklow – and all other ports that handle commercial freight.

These five State-owned port companies collectively handle approximately just 3% of total tonnage in the State. It is clear that there is no longer a role for central Government in ports that fulfil a regional or local need. The longer-term development of these ports is best placed within their regional and local communities to allow both develop in a manner that is mutually beneficial.

This is in line with broader Government reforms in respect of local government, which seek to ensure that functions of national significance are carried out at a national level, while those of a regional and local significance are carried out at that level.

It is intended therefore to introduce legislation to allow for the transfer of these smaller State commercial port companies to relevant local authority control.

## Corporate Governance

The State-owned port companies are valuable assets and have important economic, social and environmental functions. Those entrusted with the management of these assets must ensure that the ports fulfil the expectations of the shareholder, the public interest and the economy at large.

The Department intends to monitor the on-going development of port performance indicators at a European level with a view to determine how best to build on this work, incorporating work already undertaken by the Irish Maritime Development Office, and introduce a national port performance measurement system to aid Government's evaluation of its shareholding in the Ports of National Significance.

It is important that the boards of the State commercial port companies be comprised of individuals with the appropriate mix of commercial, legal and accountancy skills required of any commercial company. In line with the recommendations of the *Code of Practice for the Governance of State Bodies*, the boards of the State commercial port companies should identify any gaps in competencies at board level and advise the Minister in due time ahead of any vacancies arising.

All Ports of National Significance are expected to establish a clear financial dividend policy in line with broader Government policy. Where the Minister is not satisfied with the dividend policy adopted by a port company, consideration may be given to a Ministerial direction pursuant to section 41(4)(b) of the Harbours Act 1996.

The policy outlined in the 2005 *Ports Policy Statement* that the ports sector should receive no further Exchequer funding for infrastructure development or otherwise will be maintained.

## Ports Policy and the Planning and Development System

The relationship and interaction between the commercial ports sector and the planning and development system is extremely important in ensuring continued sustainable development of the ports sector.

The provision of adequate and efficient capacity into the future remains a crucial strategic objective; however, ports policy is not prescriptive as regards the location of future port capacity.

It is clear that there is no short-term pressure on national port capacity; however, the planning and development of large-scale infrastructure such as commercial port development demands a long-term vision.

The planning, financing and development of large-scale infrastructure projects, such as major port capacity proposals, require significant organisational, operational and financial resources. It is important that, in the State commercial ports sector, bodies bringing forward significant port capacity developments have the resources required to ensure that the State's and the public's interest is protected and enhanced.

Therefore, Government expects the Ports of National Significance (Tier 1) to lead the response of the State commercial ports sector to future national port capacity requirements. There is also a role in this regard for the Ports of National Significance (Tier 2) to develop additional capacity to aid competitive conditions within the unitised sectors in particular.

Shareholder support for major port capacity developments designed to address national capacity requirements will only be considered within this framework.

A number of our Ports of National Significance have completed or commenced port masterplanning exercises. These companies should engage with the relevant planning authorities to ensure that port masterplans and relevant planning and development strategies are complementary and consistent.

As part of the emerging revised European TEN-T network, the Department is seeking to ensure that a number of port hinterland access priorities are included as part of the proposed 'core network'. These priorities encompass both road and rail links.

## Environmental and Foreshore Issues

Ports are frequently located in estuaries or coastal zones which are recognised as being "*among the most dynamic and complex ecosystems in the world*" (Commission of the European Communities, 2011a). Development within such complex and sensitive areas is subject to stringent oversight at both a national and European level.

Recent initiatives at both national and EU levels have sought to provide stakeholders with greater clarity on the interplay between environmental legislation and proposed port development projects.

The Department has facilitated engagement between the Irish Ports Association and the Department of Arts, Heritage and the Gaeltacht with a view to establishing an administrative agreement as provided for by the European Communities (Birds and Habitats) Regulations 2011.

The issue of foreshore administration is another very important area for the commercial ports sector. The sector relies greatly on an effective and efficient system of foreshore administration to allow for clarity in procedure and certainty in timing.

The Programme for Government highlighted the need for a new planning and consent architecture for development on the foreshore, if Ireland is to leverage maximum value from its marine resource. The Department of the Environment, Community and Local Government is continuing to work on new legislation in this area.

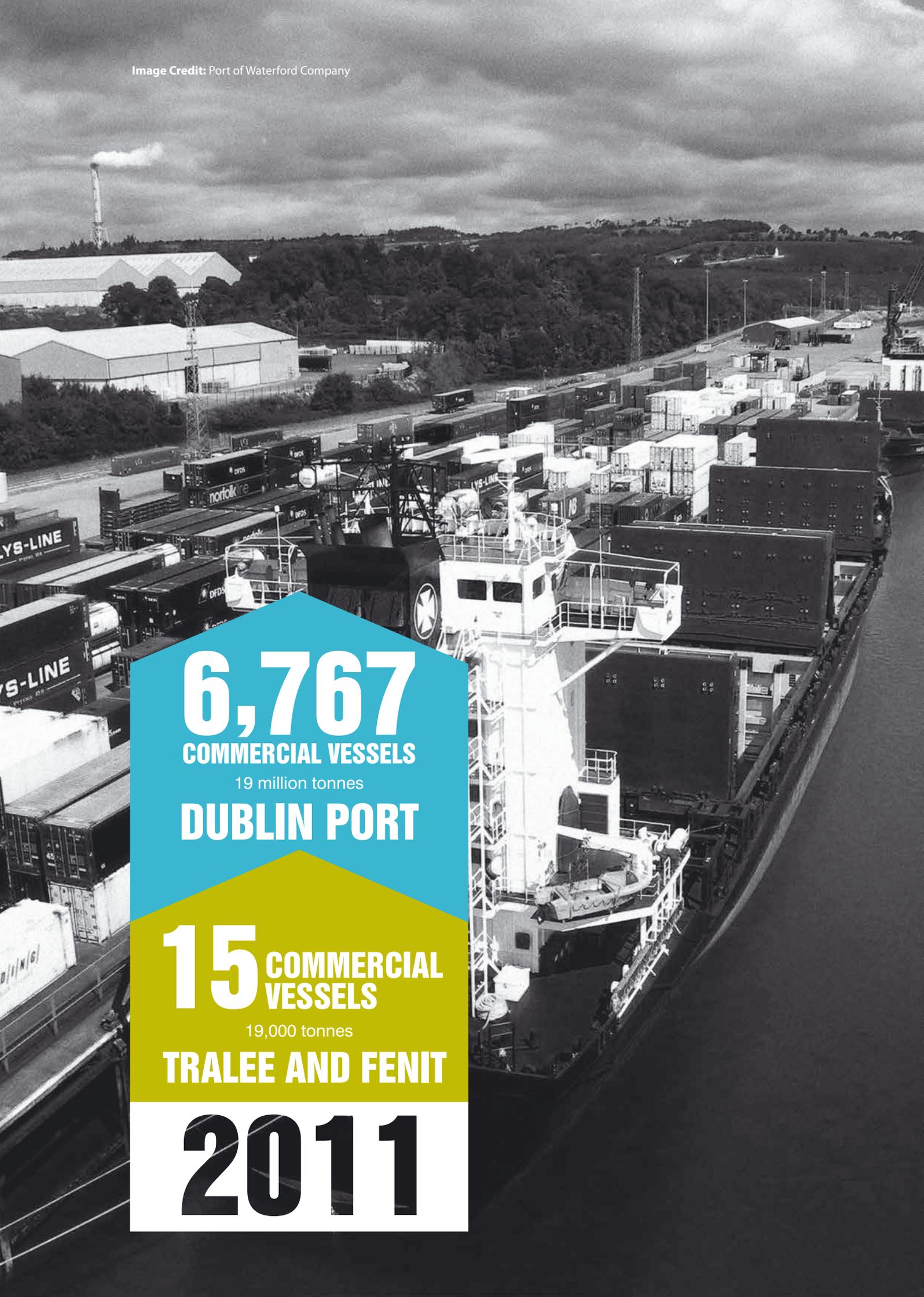
The core objective of National Ports Policy is to facilitate a competitive and effective market for maritime transport services



SECTION 1

**INTRO**

DUCTION



**6,767**

**COMMERCIAL VESSELS**

19 million tonnes

**DUBLIN PORT**

**15** **COMMERCIAL**  
**VESSELS**

19,000 tonnes

**TRALEE AND FENIT**

**2011**

## 1. INTRODUCTION

In 2011, 12,057 vessels carrying 45 million tonnes called at 19 Irish ports. The diversity apparent in the sector is reflected in figures that show Dublin port facilitated 6,767 of these vessel calls and handled just over 19 million tonnes, while at the other end of the scale, Tralee and Fenit, a port under the control of Kerry County Council, facilitated 15 commercial vessel calls and handled approximately 19,000 tonnes.

As can be seen from Table 1.1, these 19 ports operate under a variety of different ownership structures.

Table 1.1: Ports, ownership structure, vessel arrivals, 2011

Port	Structure	Arrivals (Number)
Bantry Bay	Harbour Authority	30
Castletownbere	Fisheries Centre	17
Cork	Port Company	1274
Drogheda	Port Company	184
Dublin	Port Company	6767
Dún Laoghaire	Port Company	182
*Dundalk	Port Company	51
Galway	Port Company	158
Greenore	Private Ownership	86
Killybegs	Fisheries Centre	90
Kinsale	Local Authority	37
New Ross	Port Company	131
Rosslare	Iarnród Éireann	1791
Shannon Foynes	Port Company	680
Sligo	Local Authority	20
Tralee Fenit	Local Authority	15
Waterford	Port Company	426
Wicklow	Port Company	56
Youghal	Local Authority	82

\* In July 2011 Dundalk Port Company was dissolved and its functions transferred to Dublin Port Company.

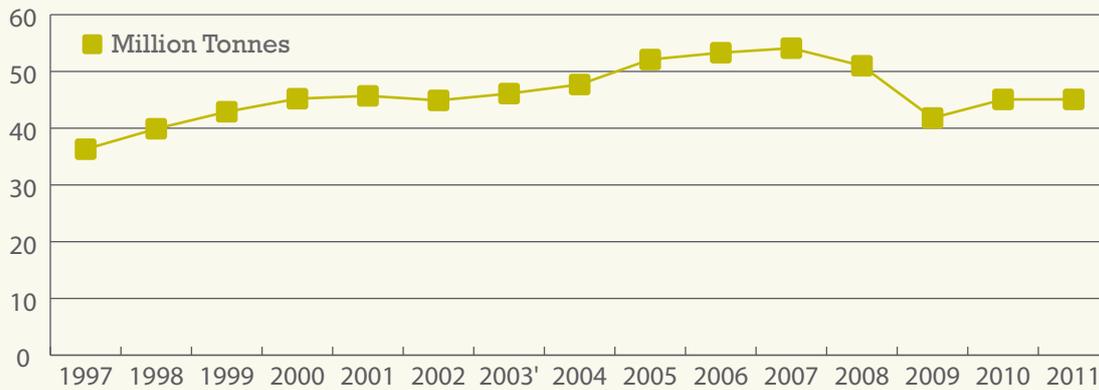
There are nine State commercial port companies established under the ownership of the Minister for Transport, Tourism and Sport. Iarnród Éireann operates Rosslare Europort under a complex ownership arrangement involving Fishguard port that dates to the 19th century.

One harbour authority, Bantry Bay, operates under the aegis of the Department of Transport, Tourism and Sport, while local authorities run four ports. Finally, there are two fisheries centres where commercial freight traffic is incidental to their primary purposes, and one privately owned commercial port, Greenore.

The various port and harbour authorities were largely established in an ad hoc fashion over the course of the past three hundred years. In the face of evolving market trends, these traditional corporate governance structures proved increasingly unsuitable and, beginning in 1997, a process of corporatisation began in respect of the larger ports.

Port companies were encouraged to compete commercially with each other while the State provided limited direction on developing an overarching vision for the sector. In addition, no differentiation was made between ports of national significance and those of more regional significance. Furthermore, due to the proliferation of ports under the Department's aegis, the primary focus of the Department's efforts in this

Figure 1.1: Tonnage handled at Irish ports 1997–2011



(CSO, 1997–2011)

In the decade between port corporatisation in 1997 and 2007, tonnage throughput at the State's commercial ports increased by almost 50%, from 36.3 million tonnes to 54.1 million tonnes. A large proportion of this increase was attributable to unitised traffic, which increased by almost 100% during that period. It is to the credit of the ports that they rose to the challenge by successfully facilitating this increase in volume without any significant disruption to trade.

However, since 2007, the ports sector has faced a very different challenge during the economic downturn. In 2008 and 2009, overall tonnage fell by almost 30%. It increased by 7.7% in 2010 and remained more or less static in 2011. The volume of traffic being handled by Irish ports is now at the level of a decade ago.

This decline has alleviated the immediate national capacity concerns that came to the fore in the period of rapid expansion up to 2007. However, transport infrastructure requires long-term planning and vision. Since corporatisation began in 1997 and subsequently with the publication of the 2005 *Ports Policy Statement*, the general policy for the ports sector can accurately be described as *laissez faire*.

area was corporate governance oversight of all of these bodies rather than providing direction to the major ports of national significance.

This National Ports Policy addresses the pressing issues facing the sector today, but also looks to the future in order to ensure that the commercial seaports make a full contribution to facilitating economic recovery and prosperity.

Therefore, National Ports Policy introduces a clear categorisation of the ports sector into Ports of National Significance (Tier 1), Ports of National Significance (Tier 2) and Ports of Regional Significance.

Furthermore, it establishes a set of overarching principles to underpin a policy framework that will allow the commercial ports sector to develop in a sustainable manner. Within the framework set out above, it provides for future decisions on port restructuring designed to suit the very different circumstances that the ports now face.

SECTION 2

# **ORGANISATIONAL** AND OWNERSHIP STRUCTURE

## 2. ORGANISATIONAL AND OWNERSHIP STRUCTURE

### 2.1 Introduction

The organisational structure of Ireland's commercial ports sector has been largely unaltered since corporatisation on foot of the Harbours Act 1996. That process mirrored a trend across the European ports sector that was characterised by a move away from traditional organisational structures toward more flexible commercialised entities better able to respond to changing market demands.

The port governance model in Ireland is broadly in line with the European norm. A recent survey by the European Sea Ports Organisation found *"that the vast majority of port authorities in Europe are publicly owned"* and that *"the ownership situation of port authorities looks fairly stable"* (Verhoeven, 2011). The United Kingdom is an exception, with many ports having been privatised in the period since 1980. However, many important UK ports remain in public ownership. In Northern Ireland, Belfast, Warrenpoint and Derry remain in public ownership. Larne is privately owned.

Since the corporatisation of the State-owned ports, ports policy in Ireland has remained *laissez faire* with regard to the organisation and development of the sector. The port companies are each independently tasked with developing their particular port and commercial business, subject to certain reserved Ministerial functions.

Government has made two relatively minor interventions in the organisational structure of the sector since 1996. In 2000, Shannon Estuary Ports Company and Foynes Port Company were merged to form Shannon Foynes Port Company. In 2011, Dundalk Port Company was dissolved and its functions transferred to Dublin Port Company. Both of these interventions were reactive developments, which arose due to a port company encountering financial and corporate governance difficulties, rather than forming part of a broader ports policy development framework.

This structure of independent competing port companies has responded reasonably well to evolving market demands. However, with the difficult challenges now facing the sector, it is timely to reconsider whether the current structure is best suited to developing the type of port services and infrastructure required for the future.

### 2.2 Report of the Review Group on State Assets and Liabilities

The Review Group on State Assets and Liabilities contained two specific recommendations in relation to the commercial ports sector (Review Group, 2011):

**Recommendation 29:** *The Review Group recommends that the State-owned ports, including Rosslare, should be re-structured into several competing multi-port companies, built around Dublin, Cork and Shannon Foynes. The Competition Authority should be consulted concerning the amalgamation process.*

**Recommendation 30:** *The Review Group recommends the privatisation of some or all of the ports should be considered, ideally after the recommended restructuring. The adequacy of competition in the sector on an all-Ireland basis should be reviewed prior to privatisation and suitable regulatory arrangements instituted if deemed necessary.*

The report's recommendations are attractive in their relative simplicity and clarity. However, the diversity of the Irish commercial ports sector militates against such a 'one size fits all' approach.

## 2.3 Issues for consideration

The core objective of National Ports Policy is to facilitate a competitive and effective market for maritime transport services. Since we are an island nation, it is critically important that our international maritime gateways be fit for purpose. The long-term international trend in ports and shipping is to consolidate resources in order to achieve optimum efficiencies of scale. This has knock-on effects in terms of vessel size, the depth of water required at ports and the type and scale of port hinterland transport connections.

These trends are not new and have over the years led to gradual consolidation among Irish commercial ports. Commercial shipping no longer uses ports such as Arklow and Westport, which were once busy commercial ports. The economic downturn has accelerated this process; port traffic has increasingly gravitated towards the larger ports in recent years to avail of capacity and economies of scale, in particular ship size. These trends in both a global and Irish context are highlighted in Tables 2.1, 2.2 and 2.3 below. These trends present obvious opportunities for development at some ports and challenges for others.

National Ports Policy is designed to ensure that the ports sector is capable of responding to these global trends. For ports that have a limited future in commercial shipping over the medium to long term, a development framework that best suits their individual circumstances is required.

The ports differ greatly in current capability and future potential. This policy recognises the role played by all our ports, while acknowledging the differences between them.

National Ports Policy therefore categorises those ports that handle commercial freight into:

### Ports of National Significance (Tier 1)

*Dublin Port Company, the Port of Cork Company and Shannon Foynes Port Company*

### Ports of National Significance (Tier 2)

*The Port of Waterford Company and Rosslare Europort*

### Ports of Regional Significance

*Drogheda Port Company, Dún Laoghaire Harbour Company, Galway Harbour Company, New Ross Port Company, Wicklow Port Company and all other ports that handle commercial freight*

Sections 2.5–2.7 deal with this categorisation and the individual port companies in greater detail.

Table 2.1: Decline in tonnage handled at selected Irish ports

Port	1998	2011	Decrease
Dún Laoghaire	240,000	12,000	-95%
New Ross	1,020,000	357,000	-65%
Drogheda	958,000	489,000	-49%
Wicklow	158,000	99,000	-37%
Galway	599,000	554,000	-7%

(CSO, 1998–2011)

Table 2.2: Average gross tonnage of vessels calling at Irish ports

	1998	2007	2008	2009	2010	2011
Average Gross Tonnage	1,057	1,407	1,554	1,672	1,733	1,855

(CSO, 1998–2011)

Table 2.3: Long-term global trends in the cellular container ship fleet

	1987	1997	2007	2008	2009	2010	2011
Average Vessel Size (TEU)	1,155	1,581	2,417	2,516	2,618	2,742	2,893

(UNCTAD, 2011)

### 2.3.1 Competition

As referred to earlier, the core objective of National Ports Policy is to facilitate a competitive and effective market for maritime transport services. The issue of competition is a critical one in terms of ensuring that our economy is served by the type of port facilities and services it requires.

The vast majority of our port infrastructure is owned by the State. The current structure of the State commercial ports sector is that of independent commercial entities, each required to further develop their individual commercial business. Competition within the sector exists both in terms of inter-port competition and indeed intra-port competition, as evidenced in the competing licensed private-sector-operated terminals within the Dublin port estate as well as the competing private-sector service providers operating in various ports.

It must be acknowledged that competition between ports can be limited due to their geographical location and thus accessibility to major shipping routes and domestic marketplaces. The natural advantage enjoyed by certain ports can be countered by the adoption of a landlord-type operating model, which provides for intra-port competition, as well as the emergence of robust, sustainable and well-connected ports capable of offering services on an appropriate scale, particularly within the unitised sectors.

A number of studies completed since port corporatisation in the late 1990s, such as the *Assessment of Shipping Costs to and from Irish ports 2000*, the *Performance Audit of State Ports in 2001* and the *Forfás Assessment of Port Services – Issues for Enterprise 2009*, have all referred positively to the competitive conditions in the sector. However, no specific independent study of competition in the sector has been undertaken to date.

The Minister for Jobs, Enterprise and Innovation announced in June 2012 that he had requested the Competition Authority to carry out a study of the ports sector in Ireland. In line with commitments given in the Action Plan for Jobs, the Competition Authority will publish the results of this market study in 2013. Its outcome will inform future Government policy on competition in the ports sector, and the Department of Transport, Tourism and Sport will deliver a reasoned response to any recommendations made to the Department within six months of publication.

### 2.4 Trans European Network – Transport (TEN-T)

The proposed revision of the European Union's Trans European Network – Transport (TEN-T) consists of a comprehensive transport network, within which there is a core network of high priority. The core network connects the major European urban areas and includes the major European transport corridors, bottlenecks and multimodal hubs. The comprehensive network includes an extensive and dense network of railways, roads, inland waterways, ports, airports and freight terminals.

The revised TEN-T programme will open up possibilities for TEN-T ports to avail of the funding facilities to be put in place through the Connecting Europe Facility, including the proposed Project Bonds. The European Commission made its proposals in October 2011. The proposals are still at a relatively early stage in the European legislative process and it will be 2013, at the earliest, before the final package is adopted.

For inclusion in the core network, ports must enjoy significant volumes of freight and/or passenger traffic, have a high level of international connectivity and, by 2030, be connected to the core European rail and road network.

Competition within the sector exists both in terms of inter-port competition and indeed intra-port competition

## 2.5 Ports of National Significance (Tier 1)

The criteria used by the European Commission are broadly similar to those used in identifying the **Ports of National Significance (Tier 1)**. These are the ports that:

- are responsible for at least 15% to 20% of overall tonnage through Irish ports, and
- have clear potential to lead the development of future port capacity in the medium and long term, when and as required.

Three ports are proposed for inclusion in the TEN-T core network: Dublin, Cork and Shannon Foynes. These ports are also identified in National Ports Policy as Ports of National Significance (Tier 1).

**The continued commercial development of these three Ports of National Significance (Tier 1) is a key objective of National Ports Policy.**

In relation to the TEN-T core network, it is proposed that the Greater Dublin Area (GDA) Ports Cluster be included as a core port. This port cluster concept encompasses the existing ports within the GDA, and any future port facilities that might be developed up to 2050. This is consistent with the current Regional Planning Guidelines for the GDA 2010–2022, which support examination of the expansion of Dublin Port and/or a new port facility on the east coast of the GDA.

However, National Ports Policy categorises only Dublin Port Company as a Port of National Significance (Tier 1)<sup>1</sup> within the Greater Dublin Area.

### 2.5.1 Dublin Port Company

Dublin Port Company is the State's largest port company. It handles approx. 43% of all seaborne trade in the State. The port's importance is even more pronounced in the higher-value unitised (LoLo and RoRo) sectors, where it handles approx. 70% of all LoLo and 85% of all RoRo trade in the State (IMDO, 2012a).

In February 2012, Dublin Port published its Masterplan, which sets out a vision of development over the next 30 years. The plan represents a comprehensive framework for the long-term development of the port and is underpinned by three core principles:

- Maximisation of usage of existing port lands.
- Reintegration of the port with the city.
- Development of the port to the highest environmental standards.

It is recognised that the location of Dublin Port Company inevitably gives the port competitive advantage over other ports and will give rise to competition concerns. However, a continuation and strengthening of the landlord model of operation in the port's estate will allow for continued intra-port competition between the privately operated port terminals within the port estate.

The Government endorses the core principles underpinning the company's Masterplan, and the continued commercial development of Dublin Port Company is a key strategic objective of National Ports Policy.

Table 2.4: Dublin Port Company overview

	1998*	2010	2011
Tonnage ('000)	13,240	19,548	19,467
Turnover (€'000)	45,240	66,969	69,111
Operating Profit (€'000)	20,415	27,031	27,830
Profit after Interest and Tax (€'000)	14,063	20,534	27,911
Employees	455	152	145

\* 1998 was the first full financial year as a commercial port company

<sup>1</sup> National Ports Policy categorises Dún Laoghaire Harbour Company and Drogheda Port Company as Ports of Regional Significance (see section 2.7).

### 2.5.2 Port of Cork Company

The Port of Cork Company is one of only two ports, the other being Dublin, capable of handling traffic across all five principal traffic modes (LoLo, RoRo, Break Bulk, Dry Bulk and Liquid Bulk). It handles approx. 19% of all seaborne trade in the State. It is second only to Dublin in its importance in the LoLo sector, handling around 21% of all LoLo traffic in the State (IMDO, 2012a).

The Port of Cork's *Strategic Development Plan Review*, published in 2010, outlined the company's intention over time to relocate commercial trade to the lower harbour area at Ringaskiddy. The Port of Cork is continuing to engage with relevant stakeholders with a view to a phased implementation of this review's recommendations.

The Government endorses the core principles underpinning the company's *Strategic Development Plan Review*, and the continued commercial development of the Port of Cork Company is a key strategic objective of National Ports Policy.

### 2.5.3 Shannon Foynes Port Company

Shannon Foynes Port Company is the largest bulk port in the country and handles approx. 20% of all seaborne trade in the State. The port's dominance in the dry-bulk sector is particularly pronounced; it has a market share of around 63% in this sector (IMDO, 2012a).

The company has sought to diversify into other sectors through, for example, promoting the estuary as a specialist energy hub, in particular in the emerging, experimental ocean energy sector (offshore wind and wave energy).

Shannon Foynes Port Company is currently undertaking a master-planning exercise with a view to outlining its vision for its development over the next 30 years. In addition, it is working with other stakeholders in the Shannon estuary area on the completion of an Integrated Framework Plan for the estuary as a whole, as provided for in the Mid-West Regional Planning Guidelines.

National Ports Policy clearly identifies as a matter of reasonable priority the improvement of the road and rail freight connections to Shannon Foynes Port. In particular, it supports the re-opening of the rail freight connection, provided it is commercially viable.

The continued commercial development of Shannon Foynes Port Company is a key strategic objective of National Ports Policy.

Table 2.5: Port of Cork Company overview

	1998*	2010	2011
Tonnage ('000)	8,895	8,466	8,434
Turnover (€'000)	13,800	21,997	21,409
Operating Profit (€'000)	5,624	2,027	1,313
Profit after Interest and Tax (€'000)	5,543	2,114	1,197
Employees	104	107	107

\* 1998 was the first full financial year as a commercial port company

Table 2.6: Shannon Foynes Port Company overview

	2001*	2010	2011
Tonnage ('000)	10,708	9,134	9,899
Turnover (€'000)	7,158	9,928	10,147
Operating Profit (€'000)	-3,266	2,531	2,858
Profit after Interest and Tax (€'000)	-2,945	1,103	2,728
Employees	55	44	42

\* 2001 was the first full financial year of the amalgamated Shannon Foynes Port Company

## 2.6 Ports of National Significance (Tier 2)

National Ports Policy also identifies a second tier of ports, **Ports of National Significance (Tier 2)**.

These are ports that:

- are responsible for at least 2.5% of overall tonnage through Irish ports;
- have the clear, demonstrable potential to handle higher volumes of unitised traffic, and
- have the existing transport links to serve a wider, national marketplace beyond their immediate region.

Two ports meet these requirements: the Port of Waterford Company and Rosslare Europort.

Bantry Bay is responsible for 11.9% of all liquid bulk handled by Irish ports, and 3.1% of all tonnage handled at Irish ports, but is not included as a Port of National Significance (Tier 2). This is due to the unique nature of its business, which is specifically focused on oil transshipment and storage. Furthermore, Bantry Bay does not have the transportation links or corporate governance structures needed to develop as a port that serves national transport needs beyond its immediate region.

In addition to meeting the above criteria, the Port of Waterford and Rosslare Europort also meet the European Commission's criteria for inclusion in the comprehensive network under the TEN-T proposal (see section 2.4). These are ports that, while not enjoying the same degree of connectivity as the core network, are still an integral part of the pan-European transportation network.

Between them, these two ports handled 8% of total tonnage through Irish ports in 2011, and they enjoy good road and rail connectivity. Both ports offer services in the higher-value unitised sectors (LoLo in Waterford and RoRo in Rosslare) that support competitive conditions within those sectors by providing an alternative to the two larger unitised ports of Dublin and Cork.

**The Government is committed to acting to ensure that both the Port of Waterford and Rosslare Europort achieve their full potential.**

Arising from consideration of the recently completed study of the Port of Waterford (see section 2.6.1), and the external advice commissioned by the Department in relation to Rosslare Europort (see section 2.6.2), the Government will publish a pathway for these two ports of Ports of National Significance (Tier 2) to achieve their full potential.

### 2.6.1 Port of Waterford Company

The port of Waterford is the fourth largest of the State commercial port companies in terms of total tonnage handled, and the fifth largest if Rosslare Europort is included. The port offers both LoLo and bulk services. In terms of LoLo traffic, the port is the smallest of the three LoLo ports, handling approx. 8% of total LoLo traffic in 2011 (IMDO, 2012a). It enjoys excellent connectivity to both the national road and rail networks.

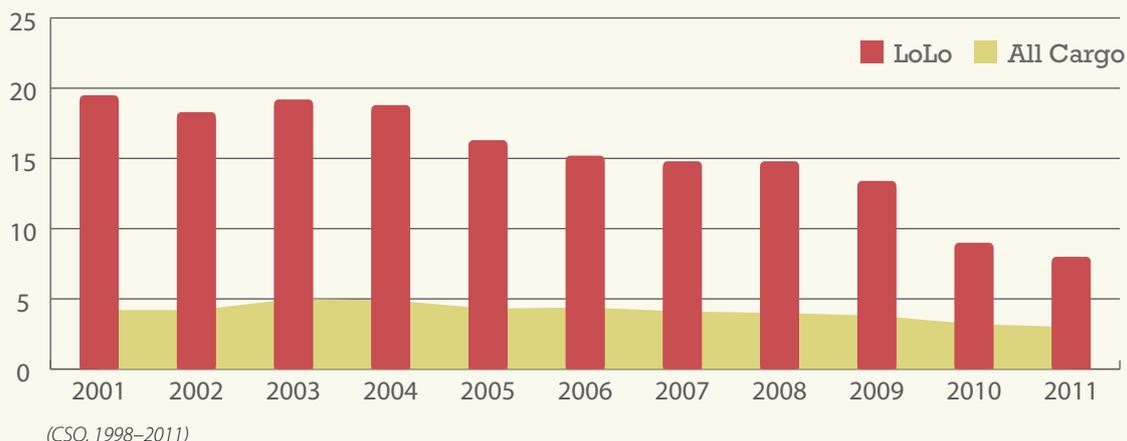
Table 2.7: Port of Waterford Company overview

	2000*	2010	2011
Tonnage ('000)	1,943	1,451	1,383
Turnover (€'000)	3,998	6,966	6,463
Operating Profit (€'000)	963	-247	-236
Profit after Interest and Tax (€'000)	-975	-574	-440
Employees	15	38**	35**

\* 2000 was the first full financial year as a commercial port company

\*\* 2010 and 2011 employee figures include those employed in Waterford Container Terminal Ltd. a wholly owned subsidiary of the Company since 2001.

Figure 2.1: Port of Waterford – traffic share as a percentage of total market



As can be seen from Figure 2.1, there has been a significant fall-off in trade in the Port of Waterford over the past decade. This is particularly severe in the case of Waterford’s share of the LoLo market, which has fallen from almost 20% in 2001 to 8% in 2011. In real terms, the drop in total tonnage handled in the Port of Waterford across all modes and by Lo-Lo is even starker, falling by 30% and 29% respectively between 2001 and 2011.

A number of factors have contributed to this decline. While the declines in recent years have been exacerbated by the economic conditions, the port has also suffered due to the impact of the underlying trends in maritime transport (see section 2.3), which has resulted in a consolidation of routes and services, particularly in the LoLo sector.

In responding to these issues, the Port of Waterford engaged consultants to conduct a strategic review of operations and make recommendations as to its future operation and development. The outcome of this review and on-going work within Government will inform future policy developments in relation to the Port of Waterford.

### 2.6.2 Rosslare Europort

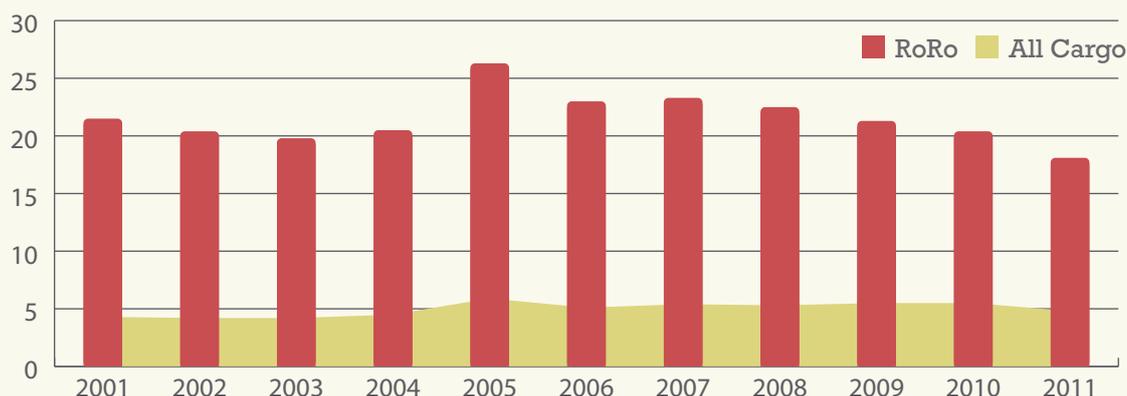
Rosslare is unique among the State commercial ports as it operates outside of the Harbours Acts 1996–2009. The port forms part of the Fishguard and Rosslare Railways and Harbour Company (FRRHC) which owes its origins to the Fishguard Bay Railway and Pier Act 1893. The constituent ports (Rosslare and Fishguard) of the company are nowadays the operational and financial responsibility of Iarnród Éireann and Stena Line Ports Ltd respectively.

On account of this historic arrangement, Rosslare Europort is operated as a division of Iarnród Éireann. As it is not a separate corporate entity, it cannot be accurately compared in terms of turnover, overheads and employees to the other port companies. This limits the ability to adequately benchmark its performance.

Rosslare Europort enjoys a significant proportion of Irish Ro-Ro traffic (see Figure 2.2), is the fourth largest port in terms of overall tonnage handled, and the State’s second largest passenger port.

Rosslare Europort is the fourth largest port in terms of overall tonnage handled, and the State’s second largest passenger port

Figure 2.2: Rosslare Europort – traffic share as a percentage of total market



(CSO, 1998–2011)

A number of studies (including the *High Level Review of the State Commercial Ports*, 2003, and the Joint Committee on Transport’s *Report on the Ports Sector*, 2010) have highlighted the potentially inhibiting factor of the port’s unusual legislative and operational status, when compared to the other State-owned ports, and recommended its integration within the State commercial port governance framework.

National Ports Policy is committed to ensuring that the full commercial and operational potential of Rosslare Europort is achieved. Therefore, external advice has been sought in order to analyse in depth the commercial and operational performance of the port, and if necessary to make recommendations as to any changes in its future corporate governance and/or operational structures.

## 2.7 Ports of Regional Significance

While commercial shipping in Ireland is centred on the five Ports of National Significance referred to above, 14 other ports handle commercial traffic and function as important facilitators of trade for their regional and local hinterland. They collectively handle 8% of total commercial traffic in the State.

As seen in Table 2.8, of these 14 ports, five are State-owned port companies: Drogheda Port Company, Dún Laoghaire Harbour Company, Galway Harbour Company, New Ross Port Company and Wicklow Port Company.

Table 2.8: Ports of Regional Significance – ownership structure and tonnage handled, 2011

Port	Structure	Tonnage ('000)
Bantry Bay	Harbour Authority	1,403
Castletownbere	Fisheries Centre	26
Drogheda	Port Company	489
Dundalk	Port Company	107
Dún Laoghaire	Port Company	12
Galway	Port Company	554
Greenore	Private Ownership	362
Killybegs	Fisheries Centre	37
Kinsale	Local Authority	111
New Ross	Port Company	357
Sligo	Local Authority	46
Tralee Fenit	Local Authority	19
Wicklow	Port Company	99
Youghal	Local Authority	82

The five companies retain important but different roles. Galway Harbour Company is an important strategic regional hub for petroleum importation, storage and distribution. While Dún Laoghaire is currently the third largest passenger port in the State, the Company has ambitious plans in terms of marine leisure and maritime tourism. Drogheda Port Company retains an important role in regional freight distribution within the Greater Dublin Area while both Wicklow and New Ross ports remain important facilities for their local communities.

The remaining nine ports<sup>2</sup> are operated by local authorities, are fishery harbour centres in which commercial freight traffic is incidental to their primary function, or are privately owned.

The volume of traffic handled at the five smaller State-owned port companies has declined in both absolute and relative terms over the past decade. Collectively, these five companies now handle just 3% of total tonnage.

It is clear that there is no longer a need for central Government shareholding in those State commercial port companies that fulfil a regional or local need. The longer-term development of these ports is best placed within their regional and local communities to allow both develop in a manner that is mutually beneficial.

Some ports operated by local authorities, as well as the only privately owned and operated port, Greenore, handle similar or greater levels of commercial traffic than that handled by State commercial port companies such as Wicklow and Dún Laoghaire.

To provide clarity for future developments in the ports sector, National Ports Policy recognises a third category of ports: **Ports of Regional Significance**. These are ports that serve an important regional purpose and/or specialised trades or maritime tourism. In the context of the long-term international trends in ports and shipping, these ports are limited in their future potential as centres of commercial shipping.

However, the National Ports Policy recognises the importance of these ports in serving their hinterlands and in supporting balanced regional development. With regard to certain specialised trades (e.g. oil/petroleum import and storage/off-shore energy servicing) and maritime tourism, a number of these ports could play a more significant role in supporting Ireland's national economic development.

In the European Union there are many instances of successful commercial ports whose ownership is vested in local or regional government. The review of port ownership structures published by the European Sea Ports Organisation in 2011 (Verhoeven, 2011) indicated that almost 41% of the ports surveyed were controlled by some level of government other than central government.

In relation to the five smaller State commercial port companies, it is clear that, notwithstanding their continuing importance as regional ports, they are not facilities of national significance that would justify their control and oversight by the Department of Transport, Tourism and Sport. There are more appropriate local governance structures that are better placed to ensure that the maximum potential for the regional hinterland of each such port is best achieved. Integration within local governance structures would also facilitate examination of the potential role offered by local or regional private-sector interests in particular circumstances.

This policy is a continuation of past practice. All but one of the harbour authorities that previously operated under the Harbours Act 1946 have transferred to the control of local authorities from the Department of Transport, Tourism and Sport over the past five years. A number of these ports continue to handle commercial traffic, while also developing recreational and marine tourism-related activities.

It is therefore considered necessary to provide a clearer framework that would allow for structural reconfiguration within the sector in order that the smaller State-owned commercial port companies develop in a manner most appropriate to their particular circumstances, as detailed below.

Table 2.9: Drogheda Port Company overview

	1998*	2010	2011
Tonnage ('000)	958	499	489
Turnover (€'000)	1,468	1,998	1,799
Operating Profit (€'000)	546	418	569
Profit after Interest and Tax (€'000)	458	161	521
Employees	20	13	10

\* 1998 was the first full financial year as a commercial port company

<sup>2</sup> Dundalk Port is an exception as in July 2011 Dundalk Port Company was dissolved and its functions transferred to Dublin Port Company.

### 2.7.1 Drogheda Port Company

Currently Drogheda Port Company principally handles bulk traffic; only a very limited LoLo service now operates out of the port. As with some other smaller port companies, the importance of non-core revenue sources has increased in recent years (Review Group, 2011).

Drogheda Port Company retains an important role in regional freight distribution and has in the past provided a competitive alternative to facilities in Dublin Port. However, given the volumes of trade that the company enjoys, shareholder oversight should be provided by a body more appropriate than the Department of Transport, Tourism and Sport. The Department will thus examine the transfer of the shareholder function to Louth County Council and Meath County Council. Consideration will also be given to the role that the private sector can play in the port.

The Department will initiate discussions with the local authorities and the Port Company to determine the most suitable method of transfer to local authority control, within the framework set out in section 2.7.7.

### 2.7.2 Dún Laoghaire Harbour Company

Dún Laoghaire Harbour Company is the smallest of the State commercial port companies in terms of overall freight tonnage handled in 2011. However, it remains the third largest passenger ferry port in the State, after Dublin and Rosslare. In recent years the harbour has moved away from commercial port-related business and is increasingly viewed as a centre for marine-related tourism and recreational activities.

The location of the port so close to the centre of Dún Laoghaire town greatly limits its future potential as a major transport hub. The port was once central in the traffic of freight and passengers between Ireland and the United Kingdom, but it now handles little or no freight, while ferry services have been greatly reduced. Since the port is located close to a town centre and is a

major local amenity as well as a tourist attraction, it would not be appropriate to re-establish large-scale handling of freight traffic through the port, and there are more suitable alternatives within the Greater Dublin Area.

While the port's location in the heart of Dún Laoghaire limits its potential as a transport hub, it provides significant opportunities. It has become increasingly clear over the past decade that the long-term future of Dún Laoghaire Harbour Company will be in terms of marine leisure, maritime tourism, cultural amenity and urban redevelopment. The Harbour Company has developed ambitious plans in this regard; these are incorporated in its 2011 Masterplan. The Department of Transport, Tourism and Sport is not the appropriate body to oversee these proposals, which are focused on urban regeneration, cultural amenity, marine tourism and leisure facilities rather than fulfilling national transportation objectives. Therefore it is appropriate that the plans be developed under the aegis of and in co-operation with Dún Laoghaire-Rathdown County Council.

The Department will initiate discussions with the local authority and the Harbour Company to determine the most suitable method of transfer to local authority control, within the framework set out in section 2.7.7.

### 2.7.3 Galway Harbour Company

Galway Harbour Company is a bulk port which caters primarily for liquid-bulk products, and the harbour is an important strategic regional hub for petroleum importation, storage and distribution. However, declining throughput levels have led to increasing reliance on non-core port activities as revenue streams. The company now derives over 50% of its revenue from non-core port activities.

Table 2.10: Dún Laoghaire Harbour Company overview

	1998*	2010	2011
Tonnage ('000)	240	2	12
Turnover (€'000)	7,630	10,676	6,835
Operating Profit (€'000)	2,990	1,860	-54
Profit after Interest and Tax (€'000)	1,957	302	-829
Employees	60	40	28

\* 1998 was the first full financial year as a commercial port company

Similar to Dún Laoghaire harbour, the location of the harbour close to Galway's city centre limits its potential for further expansion in terms of increasing trade. However, the inner harbour is an immensely attractive location for the development of marine tourism and leisure facilities, in particular a marina, as well as for urban redevelopment.

While there is no Exchequer support available for these developments, National Ports Policy endorses the development proposals in respect of the inner harbour, as referred to in the *Regional Planning Guidelines for the West Region 2010–2022* and the *Galway City Development Plan 2011–2017*, for marine tourism and leisure facilities as well as for urban redevelopment and regeneration. Furthermore, the Government notes the return of cruise tourist traffic to Galway harbour in 2012, and supports the company's efforts to develop this business.

The Department of Transport, Tourism and Sport and other relevant agencies are currently giving detailed consideration to the plans to relocate commercial port activities to a new site on reclaimed land.

Given the scale of the existing commercial freight traffic through the port (1% of national traffic), the fact that more than half of the company's income comes from non-core port activity, and the extent to which its future plans are based on urban regeneration, marine leisure and tourism, it is proposed to transfer the shareholder function

and corporate governance oversight of the Harbour Company from the Department to a more appropriate local or regional structure.

The Department will initiate discussions with the local authorities, the Harbour Company and other relevant stakeholders to determine the most suitable method of transfer, within the framework set out in section 2.7.7.

#### 2.7.4 New Ross Port Company

New Ross Port Company is a bulk port that principally handles dry bulk products. While the port company is the statutory authority for the management of the port, locally based private sector companies own and operate the principal freight-handling facilities.

As with the other smaller port companies, traffic levels have declined significantly at the port; however, it retains important regional and local economic functions. In this regard, the important issue is to maintain the port facilities as an asset for the region. In the specific case of New Ross, a number of options present themselves, including a merger with another port company, transfer to a local authority or the sale of the asset to private investors.

The Department will initiate discussions with the local authorities, the Port Company and other relevant stakeholders to determine the most suitable method of transfer, within the framework set out in section 2.7.7.

Table 2.11: Galway Harbour Company overview

	1998*	2010	2011
Tonnage ('000)	599	671	554
Turnover (€'000)	1,188	3,841	3,537
Operating Profit (€'000)	146	672	781
Profit after Interest and Tax (€'000)	128	312	1,472
Employees	14	16	14

\* 1998 was the first full financial year as a commercial port company

Table 2.12: New Ross Port Company overview

	1998*	2010	2011
Tonnage ('000)	1,020	444	357
Turnover (€'000)	1,287	911	784
Operating Profit (€'000)	86	-22	-13
Profit after Interest and Tax (€'000)	123	-45	-42
Employees	11	5	5

\* 1998 was the first full financial year as a commercial port company

### 2.7.5 Wicklow Port Company

As with the other smaller State commercial port companies, Wicklow Port Company handles only bulk traffic. The port has been particularly badly affected by the severe declines in the construction-related break bulk sector.

The port's role is of local and regional importance only. In line with the principles outlined in section 2.7, it is proposed to transfer the port to local authority control.

The Department will initiate discussions with the local authority and the Port Company to determine the most suitable method of transfer to local authority control, within the framework set out in section 2.7.7.

### 2.7.6 Other ports of regional significance

As referred to in section 2.7 and detailed in Table 2.8, a number of other ports, operating under a variety of governance models, handle commercial freight. National Ports Policy recognises their continued importance as facilitators of regional and local freight distribution.

Among these smaller ports is the last remaining harbour authority operating pursuant to the Harbours Act 1946 – Bantry Bay. Government policy since 1996 has been that those harbour authorities operating under the out-dated provisions of the Harbours Act 1946 should be moved to more appropriate and modern governance structures.

The Harbours Act 1996 allows for the transfer of such harbour authorities to the control of an appropriate local authority. Since 1999, 13 of 15 harbour authorities have transferred to the control of a local authority, while one harbour, Dingle, has been designated as a fishery harbour centre.

A process to decide on the future direction of the last remaining harbour authority – Bantry Bay – is currently under way.

### 2.7.7 Legislative amendments required for ports of regional significance

To facilitate the transfer of the five smaller State commercial port companies to local authority control, the Department will introduce enabling legislation by amending the current Harbours Acts 1996–2009 as appropriate.

Cognisant of the diverse nature of those ports proposed to be transferred, the Department is open-minded as regards the future operational arrangements that may be decided upon; however, there are a number of models used across Europe that may be worth considering in an Irish context. Drawing from these examples, the new legislation will allow for:

- the creation of separate legal entities with no share capital under the control of local government
- the continuation (in the Irish context) of separate legal entities with share capital owned by local rather than central government
- the operation of a port as an administrative unit of local government
- the potential for private investment

Table 2.13: Wicklow Port Company overview

	2003	2010	2011
Tonnage ('000)	212	89	99
Turnover (€'000)	362	217	222
Operating Profit (€'000)	107	-296	-50
Profit after Interest and Tax (€'000)	96	-266	-26
Employees	3	3	3

\* 2003 was the first full financial year as a commercial port company



Image Credit: Drogheda Port Company

SECTION 3

# **CORPORATE** GOVERNANCE

Image Credit: Wicklow Port Company



## 3. CORPORATE GOVERNANCE

### 3.1 Introduction

The State-owned port companies are valuable assets and have important economic, social and environmental functions. It is incumbent on those entrusted with the management of these assets that the ports fulfil the expectations of the shareholder, the public interest and the economy at large. To do so the ports require direction and clarity as to what those expectations are.

A key driver behind the proposed organisational restructuring is the requirement that Ireland be served by a first-class commercial port network. As our primary international trading gateways, it is critically important that our Ports of National Significance (Tier 1 and 2) provide an efficient and cost-effective service to our economy.

The ports policy review consultation document referred to the potential for a system of regular performance measurement. Since 2006 the Irish Maritime Development Office (IMDO) has provided the Department with a comparative analysis of the port companies' financial accounts from which a number of efficiency ratios have been derived to inform Departmental consideration of performance.

At an operational level, and as stated in the consultation document, the development of a performance measurement system should not occur in isolation. Rather it must be viewed within the broader context of the development of port performance indicators at a European level. This work at European level is continuing; the Department will work with relevant national stakeholders to determine how best to build on this work, incorporating the work already undertaken by the IMDO, and introduce a national port performance measurement system to aid Government's evaluation of its shareholding in the State port companies. This system will be introduced by 2016.

The Government's *Public Sector Reform Plan*, published in November 2011, contains a number of commitments in relation to improving the performance of State bodies. Included among these are proposals for robust Service Level Agreements between parent Departments and State bodies, which will focus on outputs, accountability and efficiencies.

The Department of Transport, Tourism and Sport has indicated its intention to implement new arrangements for managing the performance of state bodies, making greater use of framework agreements where appropriate, and focusing on outputs and outcomes. This renewed focus on issues such as outputs, accountability and efficiencies generally has equal relevance within the State commercial ports sector and should be at the centre of the shareholder relationship between the Department and company boards.

The Department is committed to ensuring that regular meetings at both Ministerial and official levels occur with the boards and executives of the port companies to ensure that the expectations of the State as shareholder are embedded within all levels of corporate and commercial development.

### 3.2 The Code of Practice for the Governance of State Bodies

All State bodies, including the port companies, must adhere to the requirements of the *Code of Practice for the Governance of State Bodies*.

The code seeks to provide a framework for the application of best practice in corporate governance across the State sector. Government expects State bodies to provide leadership by meeting the highest standards in all their commercial and non-commercial dealings.

Nevertheless, the code acknowledges that some of its requirements may be too onerous for smaller State bodies. In such cases, and as outlined in section 1.1 of the code, those bodies may engage with their parent Department to seek a more proportional approach toward the application of certain provisions.

As part of the broader framework for re-organisation referred to in the section on 'Organisational and Ownership Structure', the proposed realignment of those smaller ports of regional importance within more appropriate governance structures will also allow them avail of shared resources in the area of corporate services. This is in line with the recommendations contained in the *Public Sector Reform Plan*, and in addition will alleviate concerns about the onerous nature of ensuring compliance with corporate governance requirements, among what are some of the smallest State commercial companies in existence.

Government expects State bodies to provide leadership by meeting the highest standards in all their commercial and non-commercial dealings

### 3.3 Port company boards

The *Ports Policy Statement 2005* proposed a reduction in the total number of directors in order to ensure that boards were "more focused and clearly aligned, on an individual member level, solely on the achievement of the commercial objectives and well-being of the port company". Amendments contained in the Harbours (Amendment) Act 2009 have facilitated a gradual reduction in board size from 12 to eight, and by the end of 2012 all port company boards will comprise no more than eight directors.

For each company to achieve its full potential, it is essential that its board be active and contain the appropriate balance of skills. In particular, each board should contain members with appropriate accounting, legal, commercial and maritime/logistics training or experience.

The *Code of Practice for the Governance of State Bodies* states that boards should regularly review their operation and seek to identify ways to improve effectiveness. The code suggests that this review should include an identification of gaps in competencies at board level; it states that, where such gaps are identified, chairpersons should advise the Minister in due time ahead of any vacancies arising. A number of chairpersons have availed of this opportunity. The Government encourages this practice among the State commercial ports.

In line with the Government's commitment to ensure greater transparency in the State board appointment process, the Department has advertised publicly for expressions of interest from suitably qualified members of the public to serve on the boards of bodies under the Department's remit, including the port companies. This process has attracted a wider and more diverse range of candidates for port board positions than the existing statutory consultation process, which involves formal consultation with stakeholder organisations. Therefore, it is proposed to remove the statutory consultation in favour of the broader expressions-of-interest process. However, it shall continue to be the practice, on a non-statutory basis, to consult the existing stakeholders on an annual basis with regard to forthcoming board vacancies.

It is important that all board members be aware that they are Ministerial appointees who, in addition to their legal and fiduciary responsibilities, must ensure that due regard is given to Government policy in decision-making. Board members are not appointed to, and should not seek to, represent local or sectoral

interests. To ensure that conflicts of interests do not arise, the Harbours (Amendment) 2009 Act prevents ports users from being appointed to port company boards. Furthermore, the previous practice of having local authority members directly appointed by right to the board of port companies was ended.

Under section 177 of the Local Government Act 2001, local authority members are obliged to withdraw from deliberations in which they may have any interest other than that of a public representative. In November 2008 for example, the three Dublin City councillors who then sat on the board of Dublin Port Company were forced to withdraw from a council discussion on the company's planning application to reclaim and develop 21 hectares of foreshore. Given such potential conflict of interest, it is proposed to appoint local authority members to the board of commercial port companies only in exceptional circumstances.

To strengthen the relationship between the shareholder and the board members of the port companies, the Department of Transport, Tourism and Sport will develop procedures to ensure that individual company directors are aware of Government policy and any changes to it, during their term as board members. These procedures will be published by Q2 2013. Furthermore, each board member on their appointment will receive a letter of mandate from the Minister outlining matters additional to their fiduciary duties that they should have regard to during their term.

In relation to chairpersons, all new and re-appointed chairpersons shall be required to appear before the relevant Oireachtas Committee before their appointment takes effect. The only exception to this shall be short temporary re-appointments. The system of board appointments will continue to be informed by developments at Government level and the current system may be refined further in the future.

Finally, National Ports Policy places a strong emphasis on the retention of corporate memory on the boards of the commercial port companies. However, this should not impede a regular turnover of board members. Therefore, board appointments should ideally be staggered, with no more than three vacancies to any board arising within a calendar year.

### 3.4 Dividend policy

The Report of the *Review Group on State Assets and Liabilities* stated that, in respect of cash dividends from the commercial State bodies generally, financial returns were "low and reliability is patchy" (Review Group, 2011). The report also stated that the general financial performance of the ports had been disappointing since corporatisation, particularly in respect of the financial return to the State.

As this review has shown, the commercial ports sector is very diverse, with companies of very differing capabilities and financial performance. It should also be acknowledged that the ports return a non-financial dividend to the State in the form of the wider socio-economic benefits that they provide through trade facilitation, public amenity value, etc.

It is Government policy that profitable commercial State companies should pay a financial dividend to the State. The guideline figure is 30% of after-tax profits. Dublin Port Company has complied with this policy since 2007 and indeed has paid more than 30% in some years. In 2011 the Port of Cork announced its first ever dividend to the shareholder, and in 2012 Galway Harbour Company announced that it too would pay a dividend to the State for the first time.

The Government expects all the port companies to have a clearly stated dividend policy. Depending on the financial circumstances of each company, the figure it adopts may be more or less than the 30% guideline. Dividend policy should take account of issues such as current and projected profitability, capital investment plans and pension funding. Each port company should submit its dividend policy to the Department of Transport, Tourism and Sport by Q2 2013.

Section 41(4)(b) of the Harbours Act 1996 provides a mechanism whereby the Minister, after consultation with the Minister for Finance, may direct individual port companies to pay a dividend. Where the Minister is not satisfied with the dividend policy adopted by a port company, consideration will be given to initiating this mechanism.

### 3.5 Future funding

The policy outlined in the 2005 *Ports Policy Statement* that the ports sector should receive no further Exchequer funding for infrastructure development or otherwise will be maintained.

The Government is of the view that port infrastructure projects that can demonstrate stable and strong cash-flows are attractive propositions for private-sector investors and lenders in the medium to long term.

The Government is open to a variety of mechanisms for private-sector investment in the port sector. Mechanisms already exist for this type of investment within the context of a landlord port model, but consideration will be given on a case-by-case basis for investment in future port expansion through the possible sale of equity stakes, public-private partnership-type arrangements, build-operate-transfer arrangements, or other similar proposals.

Additional funding opportunities may arise through the European Investment Bank, the National Pension Reserve Fund, NewERA or other State or European sources. However, any such investment will only be made on a commercial basis with a commercial return.

There is also the possibility that, arising from the revised TEN-T programme, there will be opportunities through the Connecting Europe Facility for those designated TEN-T ports to avail of those funding facilities.

### 3.6 Port company pensions

Pension schemes in Ireland have experienced considerable challenges and change in recent years, particularly defined benefit schemes. The State commercial ports sector is no exception.

The downturn in the financial markets in 2008 had a significant impact on the funding position of pension schemes. The Pensions Board Annual Report 2011 stated that approximately 70% of defined benefit pension schemes had insufficient assets to meet the current funding standard. Another aspect of the changing nature of pension provision is the decline in the numbers of defined benefit pension schemes generally from just over 2,500 such schemes in 1991 to just under 1,000 schemes in 2011.

The National Pensions Framework, published in 2010, recognised that there are *“significant problems with the typical current design for funded defined benefit schemes”*, while stating that any changes to schemes remain *“a matter for negotiation at scheme level between employees, unions, trustees and employers”*.

A number of both administrative and legislative measures were put in place since then to help the trustees of pension schemes respond to the funding challenge.

Following a consultation process which was completed in 2011, the Pensions Act was amended in 2012 to provide for revisions to the defined benefits model. The primary change introduced a requirements for defined benefit schemes to maintain a risk reserve. This risk reserve requirement will provide a ‘buffer’ to assist schemes absorb financial shocks in the future and in this regard will enhance the protection of entitlements of scheme members. Defined benefit schemes are required to satisfy this requirement by 2023.

As is common in the broader State commercial sector, the port companies traditionally offered employees membership of defined benefit pension schemes. Many of these schemes now face funding difficulties. The port companies have taken a number of measures to address the problem. Ports whose defined benefit schemes are currently underfunded are of course actively engaged with the Pensions Board in seeking to address their funding difficulties, as provided for in legislation.

Many port companies have closed their defined benefit schemes to new members and set up defined contribution schemes for all new employees. Those port companies that have not taken this action should do so as soon as possible and ensure that future employees are offered membership of a defined contribution scheme.

New and, indeed, a number of existing port company pension schemes require the approval of the Minister, with the consent of the Minister for Public Expenditure and Reform. The Department will work with the Department for Public Expenditure and Reform to ensure that the requisite Ministerial consent process is concluded in as timely a fashion as possible.

SECTION 4

# **PORTS POLICY** AND THE PLANNING AND DEVELOPMENT SYSTEM

AVERAGE GROSS TONNAGE

**69%**  
**INCREASE**

**1,095**  
**2000**

**1,855**  
**2011**

## 4. PORTS POLICY AND THE PLANNING AND DEVELOPMENT SYSTEM

### 4.1 Introduction

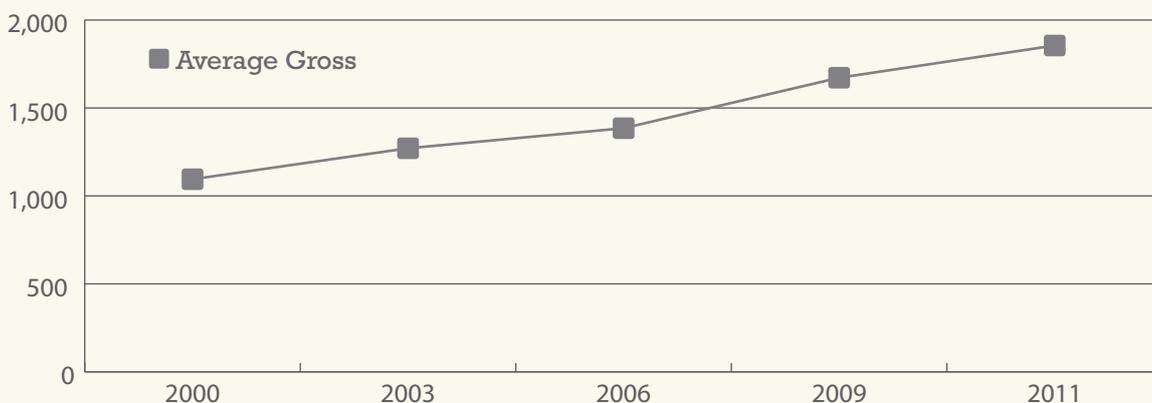
The sustainable development of the port sector depends to a large extent on the relationship and interaction between the sector and the planning system. Ports act as international gateways, generate large volumes of traffic, and are key centres of economic activity. They are located at a unique interface between land and sea, in many cases in or near to major conurbations.

National Ports Policy is not prescriptive as regards the specific location of future port capacity. Locational indications regarding the specific location of future port capacity developments are incorporated within the existing planning and development hierarchy. The role of National Ports Policy is to establish a framework for setting out the likely requirements in the future, to highlight the strategic importance of providing for the continued development of the commercial port network, and to set out the bodies tasked with developing this additional capacity.

### 4.2 Future capacity requirements

The provision of adequate and efficient capacity into the future is a crucial Government strategic objective. The policy review consultation document listed a number of emerging trends in global maritime transportation, which provide important indicators as to what may be required to ensure “adequate and efficient capacity” (Department of Transport, 2010) at Irish ports into the future.

Figure 4.1: Average gross tonnage of vessels calling at Irish ports



The first of these trends is the shift by global shipping lines toward larger vessels requiring access to deeper water and the reduced availability of vessels to use smaller ports. This trend is very evident over the past decade. In 2000 the average gross tonnage of commercial vessels entering the State's ports was 1,095 tonnes; in 2011 that figure had risen by 69% to 1,855 tonnes (see Figure 4.1).

This trend is both driven by economies of scale and is one of the shipping industry's responses to environmental regulations.

As can be seen in Table 4.1, the Department has previously commissioned several reports on current and future capacity demand.

The most recent report was the *Dublin Port National Development Plan Study*, conducted in 2009. It referred to the need for significant additional unitised port capacity within the Greater Dublin Area emerging in the 2020–2030 period. This was incorporated into the most recent Regional Planning Guidelines for the area.

Since publication of that report, the unitised market sectors have experienced fluctuating and differing fortunes; LoLo traffic in the State fell by 8% in the period 2009–2011 while RoRo traffic increased by 8% in the same period. However, recent analysis by both Dublin and Cork port companies indicates that the conclusions of the *Dublin Port National Development Plan Study* remain largely valid and the State will require additional significant unitised capacity in the post-2030 period.

The planning, financing and development of large-scale infrastructure projects, such as major port capacity proposals, requires significant organisational, operational and financial resources. It is important that, in the State commercial ports sector, bodies bringing forward significant port capacity developments have the resources required to ensure that the State's and the public's interest is protected and enhanced.

Therefore, Government expects the Ports of National Significance (Tier 1) to lead the response of the State commercial ports sector to future national port capacity requirements. There is also a role in this regard for the Ports of National Significance (Tier 2) to develop additional capacity to aid competitive conditions, within the unitised sectors in particular.

It is the Government's position that those ports considered to be of national significance must be capable of the type of port capacity required to ensure continued access to both regional and global markets for our trading economy.

Shareholder support for major port capacity developments designed to address national capacity requirements will only be considered within the framework established above.

In light of the importance of the planning for future capacity, the Department of Transport, Tourism and Sport intends to instigate a more formalised approach toward capacity forecasting through commissioning independent analyses at regular intervals from 2018 onwards.

As part of broader Departmental work on freight policy, the Department will establish a format for regular, on-going origin and destination surveys in order to independently establish freight flows to/from the ports. The Irish Maritime Development Office (IMDO) has conducted research on this matter and is expected to report shortly to the Department.

In addition to the above, there are other emerging capacity requirements and opportunities in other areas, including cruise tourism and the offshore energy market.

Table 4.1: Capacity reports

Year	Report
1998	Assessment of Irish Commercial Seaport Capacity
2000	Assessment of Irish Commercial Seaport Capacity (Update)
2004	Assessment of Irish Commercial Seaport Capacity (Update)
2006	Evaluation of port capacity proposals
2009	Dublin Port NDP Study

In the cruise tourism market, a number of initiatives are under way or under consideration by different ports. National Ports Policy recognises the potential afforded by this growing market and encourages those ports to continue to work closely with relevant public and private stakeholders to ensure that the individual ports and the wider economy benefit from expected future growth in this sector.

In relation to the emerging ocean energy sector, the recently published IMDO *Report on Irish Ports' Offshore Renewable Energy Services* concluded that the three Ports of National Significance (Tier 1) had the greatest potential in servicing current and future demand in the offshore renewable energy sector. The report additionally identified the two Ports of National Significance (Tier 2), as well as Galway Harbour Company and Killybegs Fishery Harbour Centre, as having important potential in terms of servicing future demand in this sector. National Ports Policy endorses these findings.

### 4.3 Port master-planning

Port master-planning is in line with international best practice generally and it is consistent with policy to improve integrated planning for all modes of transport. National Ports Policy recognises strongly the desirability of this process for the long-term planning of all Ports of National Significance (Tier 1 and 2). Dublin, Cork, Shannon Foynes and Rosslare have each completed or are in the process of completing masterplans.

Companies should engage with the relevant planning authorities to ensure that port masterplans and relevant planning and development strategies are complementary and consistent. There is potential to integrate masterplans within the existing planning hierarchy; this should be explored fully by the individual port companies and the planning authorities to ensure that the process becomes embedded into planning and development strategies and offers clarity to all stakeholders regarding the future development plans for each port.

National and Regional Planning Guidelines should also recognise the importance of the three categories of ports and allow for their continued development. To this end, the Department contributes as necessary to the development of Regional Planning Guidelines in order to ensure that the goals of National Ports Policy are recognised in the planning hierarchy.

### 4.4 Hinterland connections

Efficient hinterland connections are critically important to any port's ability to facilitate large volumes of traffic. The European Commission's *Communication on a European Ports Policy*, published in 2007, highlights the importance of reliable and sustainable hinterland connections as part of an integrated transport chain.

Such connections will also be an important feature of the revised TEN-T proposals. All TEN-T core ports must be connected to both the TEN-T core road and rail networks.

The vast majority of Ireland's freight movements to and from ports are via road. As acknowledged in the European Commission's White Paper, *Roadmap to a Single European Transport Area – Towards a Competitive and Resource-Efficient Transport System*, it is likely that "freight movements over short and medium distances (below some 300km) will to a considerable extent remain on trucks" (Commission of the European Communities, 2011c).

The interconnections between the national primary road network and the commercial port network will continue to be of primary importance. This is recognised in the recently adopted *Spatial Planning and National Roads – Guidelines for Planning Authorities*. These state that "the primary purpose of the national road network is to provide strategic transport links between the main centres of population and employment, including key international gateways such as the main ports and airports" (Department of Environment, Community and Local Government, 2012).

While the completion of the Major Inter-Urban routes has had both direct and indirect benefits for all ports, a number of port hinterland connections still require attention.

The Department has conducted a number of surveys of hinterland access priorities. To inform consideration of future national primary road network development, the National Roads Authority shall consult on a regular basis with the Department's Maritime Transport Division, as well as the individual Ports of National Significance (Tier 1 and 2), on future network developments.

It is also important that the port network have the potential to offer multi-modal distribution networks as part of its response to future changes in freight distribution that may arise because of both restructuring in charging regulations and our environmental obligations to reduce emissions, etc. Most of the State's ports were originally located at railheads. Most still remain close to rail-lines, although only Dublin and Waterford currently receive rail freight. As referred to earlier, the disused rail-link to Foynes port has been designated a core rail freight network as part of the review of the European TEN-T programme.

These developments, together with other supporting actions that may be taken, could result in an increased role for rail-based freight to and from the ports. However, it must also be acknowledged that, even with a substantial increase in rail freight to and from the ports, most freight will continue to be carried by road.

National Ports Policy encourages ports and local authorities to collaborate on issues of mutual benefit and work together to maximise the potential afforded by their natural, as well as manmade, environment

## 4.5 Ports and the urban environment

The relationship between a port and its city is constantly changing. The location of most major port facilities has shifted downstream over time, allowing redevelopment of previously port-related lands for other commercial, residential or recreational uses.

However, redevelopment proposals must take account of the need for sufficient replacement port capacity within the region. Any development proposal requires careful consideration by all relevant stakeholders, in particular the planning authorities, local communities, port authorities and port users.

Across the European Union, there is widespread recognition of the benefits to be gained from reintegration of a port's relationship with its city and community. In many port cities a growing spatial separation between ports and their communities has arisen in recent decades due to a multitude of factors, including the need for increased port security and the relocation of port facilities away from city centres.

While the important role of ports in facilitating economic activity is frequently overlooked, their social role in shaping a city's development and indeed its history is often completely overshadowed by the seemingly conflicting demands of a port's development and the development of the city.

In Ireland the benefits to be gained from reintegration and rejuvenation of this relationship between port and city have been demonstrated with the success of events such as the Volvo Ocean Race in Galway, the Tall Ships events held in recent years in both Dublin and Waterford, and the increasing number of cruise vessel visits, with the associated knock-on beneficial economic effects in local areas.

National Ports Policy encourages ports and local authorities to collaborate on issues of mutual benefit and work together to maximise the potential afforded by their natural, as well as manmade, environment.

SECTION 5

# **ENVIRONMENTAL** AND FORESHORE ISSUES



## 5. ENVIRONMENTAL AND FORESHORE ISSUES

### 5.1 Introduction

Ports operate in a unique environment, located at the interface of land and water. All Irish ports are located in estuaries or coastal zones, which are recognised as “amongst the most dynamic and complex ecosystems in the world” (Commission of the European Communities, 2011a). Environmental legislation in recent years has sought to strengthen the protection of such ecosystems. Development within such sensitive areas is subject to stringent oversight at both a national and European level.

The policy review consultation document listed the most important pieces of applicable European environmental legislation. Recently enacted amendments to the Planning and Development Acts have addressed shortcomings in the previous legislative framework that were identified by the Court of Justice of the European Union. The overarching principle behind these legislative measures is economic development that complies with the requirements of national and European law for the protection of the environment.

In addition to their obligations under environmental legislation, ports are subject to the consent processes under the Foreshore Acts. These Acts regulate activity carried out on foreshore and encompass a broad range of activities inherent in any commercial port’s business.

### 5.2 Environmental issues

The planning and development of maritime transport infrastructure is unique in a number of ways. The most obvious is the fact that such infrastructure involves developments both on the land and on the foreshore. Also, most Irish ports have estuarial locations and tend to be either in or adjacent to protected natural habitats. This makes the planning and development of port infrastructure particularly complex.

It is recognised at European level that uncertainties exist with regard to the interpretation and application of the Birds and Habitats Directives in respect of port development. In January 2011, the European Commission published its guidelines, *The Implementation of the Birds and Habitats Directives in Estuaries and Coastal Zones*.

These guidelines provide all stakeholders with greater clarity on the interplay between European environmental legislation and proposed port development projects. The overarching themes emerging from the guidelines are the need for early and meaningful stakeholder consultation and the importance of an integrated approach toward port planning and environmental protection. These guidelines are a useful aid to stakeholders in both their interpretation and implementation of the relevant legislation. However, the Department sees additional merit in seeking to initiate a national, port sector-specific engagement between relevant stakeholders, so that the European perspective is given national relevance.

Regulation 40 of the European Communities (Birds and Habitats) Regulations 2011 provide for such an engagement by allowing for administrative agreements between the Minister of Arts, Heritage and the Gaeltacht and public authorities, such as the port companies. Such an agreement could be a valuable tool in achieving clarity on the roles and responsibilities of the port companies in this important area. The Department has facilitated engagement on the matter between the Irish Ports Association and the Department of Arts, Heritage and the Gaeltacht. It is expected that this administrative agreement will be concluded during 2013.

### 5.3 Foreshore issues

The operation of the foreshore consent process is governed by the Foreshore Acts 1933 - 2012, which has not been amended or updated substantially since enactment of the original Act. Since January 2010 the Department of the Environment, Community and Local Government has had responsibility for foreshore consents at all commercial ports other than the designated fishery harbour centres.

The commercial ports sector and other stakeholders have consistently raised issues of concern in relation to foreshore administration. Given their location, ports rely greatly on an effective and efficient system of foreshore administration to allow for clarity in procedure and certainty in timing.

A number of administrative improvements have been introduced in recent years to improve the consent process. Further business process improvements are planned for the period to 2014, as referred to in the recently published integrated marine plan *Harnessing our Ocean Wealth*, to address identified issues with the current caseload.

Additionally, both the Programme of Government and *Harnessing our Ocean Wealth* highlight the need for a new planning and consent architecture for development on the foreshore, if Ireland is to leverage maximum value from its marine resource.

Currently all development at Irish ports is subject to the provisions of the Planning and Development Acts 2000 – 2012 while any development at or below the high-water mark is also subject to the provisions of the Foreshore Acts 1933 – 2012.

Where applicable, this dual consent process requires separate applications to both a planning authority under the Planning and Development Acts as well as the Minister for the Environment, Community and Local Government under the Foreshore Acts. A dual consent process, relating to the one proposed development, and relying upon the same supporting documentation (e.g. technical information, environmental reports, Environmental Impact Statement, Natura Impact Statement etc.) represents a substantial duplication of effort for all parties.

In addition to the duplication of effort described above, the current consent processes under the Foreshore Acts do not provide for specific timelines regarding decisions or appeals, which is at variance with the consent processes provided for by the Planning and Development Acts.

The Department of the Environment, Community and Local Government is continuing to work on the development of new legislation that will seek to modernise the foreshore consent regime and will inter alia seek to minimise the duplication of processes as previously described. A public consultation process on possible changes has recently concluded.

While the legislation proposed to be published during 2013 will address many of the concerns expressed by the commercial ports sector about consent issues and general administrative processes, other legacy issues may require specific engagement between the sector and the Department of the Environment, Community and Local Government.

The Irish Ports Association has been requested to consider the issue and collectively draw up a document dealing with outstanding foreshore-related issues, beyond the proposed legislative remit above, which may form the basis of future sector-specific engagement with the Department of the Environment, Community and Local Government.

Ports operate in a unique environment, located at the interface of land and water

SECTION 6

# **APPENDIX I**

## ACTIONS AND TIMELINES



Image Credit: Irish Maritime Development Office

## 6. APPENDIX I – ACTIONS AND TIMELINES

Section Ref.	Action	Timeline
2.3.1	Consider and respond to Competition Authority study	2013
2.6	Publish a pathway for future development of the Port of Waterford Company and Rosslare Europort	2013
2.7	Initiate and complete programme of discussions re transfer of certain port companies, as outlined in sections 2.7.1 – 2.7.5	2013–2015
2.7.7	Develop and publish legislative amendments in respect of the above	2013–2015
3.1	Introduce performance measurement system for the Ports of National Significance (Tier 1 and 2)	2016
3.3	Publish procedures to ensure port company directors are kept informed of Government policy	2013
3.4	Ensure port companies submit an acceptable dividend policy	2013
4.2	Introduce regular capacity forecasting	2018
4.2	Develop a model for on-going origin and destination data collection	2016
5.2	Work with the Irish Ports Association and the Department of Arts, Heritage and the Gaeltacht to conclude an administrative agreement under Regulation 40 of the European Communities (Birds and Natural Habitats) Regulations 2011	2013
5.3	Work with the Irish Ports Association and the Department of Environment, Community and Local Government to address outstanding foreshore-related issues	2013–2014



SECTION 7

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Image Credit: Shannon Foynes Fort Company



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