Framing the defence industryequipment issue - the case of the European commission

Ulrika Mörth

SCORE Rapportserie 1999:1
ISBN 91-7153-881-1

SCORE
(Stockholm Center for Organizational Research)
Stockholm University
S-106 91 Stockholm
Sweden
Phone int+46 8 674 74 16
Fax int+8 16 49 08
E-mail ulrika.morth@statsvet.su.se

Introduction

This paper analyses boundary problems in the European Union's policy-making process, especially regarding the European Commission. It argues that horizontal policy issues do not fit into the vertical and functional structure of the Commission and the pillar structure of the EU. The boundary problems are a function of the fact that issues concern several different policy areas, or pillars, and of how political life is organised.

Empirically the paper deals with issues that fall between the first and second pillars, that is, with issues that relate both to civilian aspects of EU co-operation (including economic, trade, research, and industry issues) and also to foreign affairs, security and defence. The overlap between these pillars is a source of conflict within the EU. A recent example is the issue of the restructuring of the European defence industry and the creation of a European defence equipment market. At present, Article 223 in the Treaty of Rome excludes defence equipment from the internal market. However, the process of national deregulation, and thus the abolition of Article 223, is not only an economic and a commercial process, but also concerns national security interests and the common foreign and security policy (CFSP). Consequently, the question of how to *frame* this issue arouses political controversy. To which pillar does the defence industry belong – to the first pillar (the Internal Market) or to the second pillar (CFSP)? These pillars are subject to different decision-making procedures, are handled by different general-directorates, etc. The defence industry issue seems to fall between the two pillars, and could be described as pillar one and a half. The boundary problems are obvious.

The conceptualisation of an issue area is a complex process. As Guy Peters puts it: “Policy issues do not define themselves but rather are shaped through complex social and political

processes" (Peters 1994:69, see also Mazey & Richardson 1995). Ideas and interests do not float freely (Risse-Kappen 1996). Issues must be conceptualised, framed, and put on the agenda. How issues are framed and linked to each other legitimises political decisions and determines the direction of the integration process. Indeed, defining the nature of the issue area "is the first step to establish what kind of interests might be affected, since the answer determines in which context the issue is situated" (Kohler-Koch 1997:62). This building of a common conceptual framework is an important component in the governance of the EU. This is so because the fluid system of the EU generates a rather porous policy-making process and many channels for influence. The political system of the EU is characterised by a large number of influential policy advocates and "a wide range of policy options" (Peters 1994:11). This means that making policy is an exercise in the mobilisation of ideas and policy conceptualisations. The struggles "over the naming and framing of a policy situation are symbolic contests over the social meaning of an issue domain, where meaning implies not only what is at issue but what is to be done" (Schön & Rein 1994:29, see also Jachtenfuchs 1996).

The process of framing takes place in a complex organisational setting. The notion is that the Commission is not merely a transmission belt for national politics or an arena for national exchanges of interests, but influences EU politics. Thus, the organisation of political life makes a difference. The Commission is often characterised as the motor in the integration process. The administrative and political roles of the Commission are complex and take many forms. The Commission's dual character can be regarded as the result of competing demands from the external environment. The Commission is expected, on the one hand, to function as a mediator in intergovernmental negotiations and be a guardian of the legal framework, and, on the other hand, it is also expected to function as a proposer and developer of EU policies (Articles 155–163 of the Treaty of Rome). There is thus a tension between the role of preserving the present, on the one hand, and of changing European politics, on the other. It is very likely that this tension manifests itself most clearly in horizontal issues. How does the Commission handle this tension? How does the Commission generate organised action? What are the mechanisms behind this cohesion process?

EU literature often treats the Commission as a strategic actor. It is assumed that the Commission knows what it wants, namely to expand its powers. Thus, activity from the Commission is interpreted as flowing from different strate-gies. The Commission is an agenda-setter (Peters 1994), policy entrepreneur and regulator (Majone 1996), purposeful opportunist (Cram 1997), and strategic actor (Haaland-Matlary 1997). However, this notion of a rational and homo-genous actor does not square with the well-known fact that the Commission is a complex and fragmented organisation (Cram 1997, Hooghe 1997, Nugent 1997). I argue that one way to analyse the Commission, without falling into the trap of a rational choice analysis, is to approach it from an organisational perspective. An organisational approach recognises intentional-ity but also the fact that rationality is embedded in a complex organisational and institutional setting (March & Olsen 1996).

Two questions are asked in the article: How has the Commission framed the defence industry and equipment issue? How has the Commission handled the dilemma of being both the guardian of the pillar structure, on the one hand, and responsible for developing and changing that pillar structure, on the other?

The defence industry and equipment issue is closely connected to the issues surrounding civilian and military-related research and technology develop-ment (RTD) and export control of dual-use technologies or goods and defence equipment. This paper aims to outline the framework for an analysis of how these grey zone issues (that is, those falling between the first and second pillars) are framed and handled.

The multi-organisation and its environment

Breaking down the conception of the Commission as a monolith allows for a better understanding of the everyday policy-making process. The agenda-setting phase, in which issues are politically and legally defined, lacks the dramatic and political components that characterise the history-making level. As Laura Cram puts it: “Many elements of the Maastricht Treaty might perhaps have been predicted had more attention been paid to the ongoing activities of the various DGs of the Commission” (Cram 1994:197, see also Lequesne 1996).

The everyday, informal policy-making process is in fact in a reciprocal relation-ship with the formal, constitutional policy-making process. Given the nature of the beast, the political system is determined by the policy-setting and policy-shaping levels that are in their turn determined by the decisions on the history-making level (Peterson 1995).

The complexity of the internal life of the Commission is seldom problema-tised. “Organizations do not have simple, consistent preference functions. They exhibit internal conflict over preferences” (March 1981:215). Indeed, conflicts between various general directorates (DGs) are well-known. These conflicts have many sources, but obviously the administrative structure is an important factor. The structure of the various DGs is not clear. Lines of authority are often blurred. “One reason for this is that a poor match often exists between Commissioners' portfolios and the policy responsibilities of the DGs” (Nugent 1995:93). In addition, the bulk of the DGs are policy-oriented, a legacy from Walter Hallstein, the former president of the Commission. These DGs are characterised as vertical. Other DGs are horizontal, like DG IX (Personnel, etc.).

The policies of the autonomous DGs reflect various ideologies, especially regarding the role of the state. The more liberal and non-interventionist DG IV (Competition) has often been in conflict with the more interventionist-oriented DG III (Industry). However, the ideologies of various DGs change and new conflicts emerge. The policy of DG III has, for instance, changed drama-tically since Martin Hangman became the Commissioner and it is now characterised by its market-liberalism. Furthermore, horizontal policy areas create conflicts between the relatively autonomous DGs. Environmental issues, which concern almost every DG, seem to be a new area of conflict. Another boundary problem involves different types of external policy. Every part of the Commission has an interest in external policy of some kind (although only DG I, IA, and IB formally have this competence). Action taken for internal purposes “can have important external policy ramifications. In recent years, the development of the world economy and the European inter-nal market has magnified this tendency” (Smith 1994:254–255). Another source of conflict is the tension between economic, trade and research issues and issues relating to defence, foreign relations and security. Overall, internal cohesion is now more difficult than ever before.

The organisational set-up within the Commission is constantly changing as policy areas are transferred from one unit at one DG to another unit in another DG. These changes are a function of the new political priorities of national governments, constitutional changes, disagreements between Commissioners, etc. Indeed, these changes must be analysed in terms of the interplay between the policy-setting and policy-shaping levels, on the one hand, and the constitutional level, on the other (Peterson 1995). Transferring a policy area to a new DG

not only entails administrative changes but also has political and legal implications. Discussions of the legal base of a policy area and to which DG it belongs are concerned with the formation of the political agenda and how to conceptualise a policy. Thus, conflicts over the legal basis for a measure reflect different views on the direction of the integration process. The legal framework and the organisational set-up have a decided influence on the agenda-setting and policy-making process. Every policy area is also linked to a network of actors, including national experts, interest organisations, the business community, etc. When a policy area is moved from one DG to another, this means that the policy area will be framed in a different perspective. The close interactions between the Commission and the external environment suggest that these fluid coalitions are held together not only by instrumentally defined self-interest, but also by collectively shared values and consensual knowledge. Thus, we can identify different epistemic communities (Haas 1992).

Indeed, the Commission's relationship with the external environment is complex. A traditional understanding of the relationship between an organisation and its environment argues that organisations adapt to their environments and thus become matched with their environments by technical and exchange interdependencies. John Meyer and Brian Rowan argue that the explanation for the parallelism "between organisations and their environments ... is that organisations structurally reflect socially constructed reality" (1991, see also Berger and Luckman, 1966). Furthermore, organisations have to depend on the fact that some part of the environment finds them worthy of support. This environment is seldom homogenous. An organi-sation often has two environments, one technical and one institutional. This means that an organisation has a double basis for legitimacy; it has to produce appropriate actions and reflect institutional norms (Brunsson 1989). The two requirements are at odds. One way of handling the inconsistent demands is to build the inconsistencies into the organisation. This is the case with the Commission. The Commission has several formal roles and is organised on various organisational principles, some of which focus on purpose or function, while others focus on national or geographic concerns (Egeberg & Trondal 1997).

Another way of handling these inconsistent demands is to separate between the informal and formal organisation. This lack of congruence between the formal and vertical structure of an organisation and its work activities is a well-known phenomenon in organisation literature. It is called decoupling (Weick 1969, Brunsson 1989). Decoupling can be done in many different ways, for instance, chronologically, by subject matter, in different environments, in different organisational units. The basic argument in the theory of decoupled organisations is that the "formal structures of many organisations in post-industrial society dramatically reflect the myths of their institutional environ-ments instead of the demands of their work activities" (Meyer & Rowan 1991:41). Thus, an organisation must reflect various myths of their institutio-nal environment (the pillar structure) and retain political support, but it must also attend to practical activity (the horizontal issues).

The European defence industry

Dual-use technology and the fifth framework programme

In April 1997 the Commission presented a proposal for the fifth framework programme (F5P) for research and technological development (1998–2002, COM (97), 142). The proposal

contained a more streamlined and focused programme than previous proposals. The overall theme was how to cope with globalisation on a European level by making European research more effective and giving European added value. The programme thus covered a very broad area, including such issues as the knowledge-based society, employment, economic globalisation, European competitiveness, and foreign policy. The international profile of the programme was emphasised more than in previous programmes, especially in regard to Central and Eastern European accession candidates.

A significant part of the framework programme pertained to dual-use tech-nology[1]. According to some estimates, some fifty per cent of research projects funded by the European Commission's framework programme are dual-use (De Vestel 1995). Within the areas of space and aerospace the figure is traditionally very high. The Commission estimates that the figure for the entire framework programme is approximately thirty-three per cent, that is, one-third of the technologies within the framework programme involve dual-use technology (COM (96) 10). However, the Commission's formal proposal for the fifth framework programme made no mention of whether dual-use technology should be part of the programme or not, although this matter had been mentioned in an early internal draft and had been raised by several member-governments. In the French position paper in the spring of 1996 the French Government took an explicit stand on this issue and declared that it was "desirable to have closer co-ordination between the 5th FP and a redefined EUCLID[2] programme".

In January 1996 the Commission presented a COM document, "The challenges facing the European defence-related industry: a contribution for action at European level", which raised the issue of incorporating dual-use technology into the framework programme (COM, (96), 10). The Commission argued that it was necessary to consider how, and to what extent, increased civil-defence synergies could be promoted at the European level with the aim of optimising the overall use of research and development. Clearly, the end of the Cold War has fundamentally changed the ways in which these issues are discussed and handled. There is a determination among "certain national actors, WEU and European institutions to form a 'defence economic pillar'" (De Vestel 1995:56, see also p. 91).

In March 1997 a working group in DG XII, consisting of participants from industry and research centres, presented a report that favoured a policy which acknowledged the existence of dual-use in Community research and encouraged the promotion of civil-defence synergies (Etan, DG XII, March 1997). Thus, the group recommended that F5P explicitly acknowledge the exis-tence of dual-use areas and that such synergies are legitimate ("no negative discriminations"). It recommended the creation of a "tripartite working group (WEAG-EU-Industry) to investigate possible mechanisms for an effective co-operation between defence and civil research programmes at European level" and to "launch a pilot action, co-ordinated with organisations dealing with defence research, for instance WEAG, in specific dual-use domains to test and

[1] Dual-use refers to technology that can be used for both civilian and military purposes.
[2] EUCLID (European Co-operation for the Long Term in Defence) is a military equivalent to the civilian RTD programme EUREKA (The European Research Co-ordinating Agency).

demonstrate the feasibility and interest of a co-operative approach to exploit possible synergies" (ibid. p. 6). [3]

However, the suggestion that dual-use considerations be taken into account in the framework programme proved to be very controversial and sensitive, not only within DG XII and the Cresson cabinet but also among member states. Consequently, the status quo prevailed. It is still possible to finance dual-use technology indirectly in the programme. Defence-related organisations can already participate in research, provided of course that they comply with the civilian objectives and rules of the programmes. In addition, the key actions supported in the proposal are closely linked to military-oriented technology, especially aeronautics. It is, in fact, difficult to see in what ways an explicit incorporation of dual-use technology would have changed anything.

The communication on the European defence industry (COM (96), 10) had taken a long-term perspective and questioned the civilian objectives of the framework programme, while still stressing the civilian orientations of the programme. It could, in fact, have questioned the civilian status of the first pillar. The boundary problems are obvious. The controversial question is not about the boundary problems per se, but about whether it is possible to make the linkage between the civilian and defence-related spheres official and part of the *aquis communautaire*. In fact, the dual-use issue has long been part of that informal process because of its sensitive political nature. The importance of dual-use technology in civilian RTD programmes can be characterised as an "unofficial secret" that has very seldom been the subject of an open discussion.

The fifth framework programme also has an important role in strengthening the scientific and technological base in Europe as compared to the USA and Japan. Consequently, strengthening the civilian economic and technological base will have consequences for the military sphere. Traditionally, the military sphere has generated technology for the civilian sphere – the so-called spin-off effect – but this has been replaced by the so-called spin-in effect, whereby the defence industry is becoming more dependent on civilian industry and civilian RTD programmes (Rohde & Scherpenberg 1996). The question of incorporating dual-use technology in the framework programme therefore concerns a fundamental issue in European politics, namely the relationship between the EU and the WEU (the Western European Union) and the formation of a European defence policy.

Two frameworks

In the wake of the Cold War, defence budgets have decreased drastically. In 1996 world military spending was $811 billion – the lowest figure since 1966 and 40 per cent below its 1987 peak (*The Economist*, June 14–20, 1997). Unlike civilian industries, defence industries are national. Due to national security interests, defence companies the world over remain determinedly national.

The end of the Cold War has confronted European governments with the dilemma of balancing national security interests, on the one hand, and the internationalisation of economy and technology, on the other (Walker and Gummett 1993). Economic

[3] WEAG stands for West European Armaments Group.

competitiveness requires a closer relationship between civilian and defence-related industry, but a strong European defence industry is also an important foundation for a European defence identity. Europeans also fear that the USA will take advantage of Europe's disarray. This is not a new phenomenon. However, this time the restructuring required to combat this concerns the very heart of state sovereignty – the national defence policy.

The future of the European defence industry and related issues were discussed at the intergovernmental conference, Maastricht II, in June 1997 (see the so-called Westendorp report). Article J.7 (formerly J.4) of the Amsterdam Treaty declares that "The progressive framing of a common defence policy will be supported, as member states consider appropriate, by co-operation between them in the field of defence equipment". Thus, co-operation within the field of defence equipment is possible but only in an intergovernmental fashion.

The restructuring of the defence industry has military as well as economic aspects. These issues are, however, interlinked. Two aspects of this interlinkage are discussed below, namely the question of abolishing Article 223 in the Treaty of Rome and the question of the relationship between WEU/WEAG (and other "acronyms") and the EU. These issues are discussed from the perspective of the Commission and not from those of the various member governments.

Most of the argument about restructuring the European defence industrial market centres on Article 223 in the Treaty of Rome. This Article allows governments to exempt defence firms from EU rules on mergers, monopolies, and procurement. The reason for this is, of course, national security interests. Article 223 is thus a major obstacle to a unified defence equipment market. In 1990 the European Commission noted that "It is also in the interest of the Community to bring defence equipment protection and trade fully under the discipline of the common market, which would involve inter alia the removal of 223" (COM (90), 600 final, p. 5).

The question of the abolition of Article 223 is of course politically sensitive since this would bring defence equipment under the regulations of the internal market. The Commission would gain an important role in the defence indust-ry if this sector were to become subject to the rules of state aid, public procure-ment, customs, etc. Consequently, national governments would also be limited in their efforts to support a defence industry. However, it should be noted that EU rules on mergers, etc. already apply to those parts of the defence industry that also produce civilian products. In addition, the creation of the internal market has created pressure for change in the defence industry since the bulk of this industry has double identities.

When the Commission presented "The challenges facing the European defence-related industry, a contribution for action at European level" (COM, (96), 10) in January 1996, it called for a more proactive and consistent European approach to the defence industry. The communication showed the Commis-sion's ambition to pursue a more overall industrial policy – an action plan – that not only included the civilian industry in Europe but also the defence-related industry. The document has been the subject of heated debate within the Commission and the European Parliament, and between member states. The communication

was the first comprehensive document from the Commission to address the problems of the defence industry. It is clear that the document has functioned as a catalyst for a more open discussion within and between EU institutions of a topic that has been debated for quite some time without any official, formal document.

The industrial directorate general, DG III, heavily influenced the COM document. It is clear that DG III pursues a policy of introducing more of industrial policy into the defence industry, meaning that the rules of the internal market could, after necessary adaptations, also be used for this industry. However, the incorporation of the defence industry into the first pillar must be implemented in stages. In the autumn of 1997, DG III presented a "Draft Action Plan for the Defence-Related Industry" outlining measures for the short as well as the long term. A first step is to begin a process of standardisation of European defence equipment, intended to rationalise the different sets of standards currently being used by the defence ministries of the member states. This process of standardisation also entails common rules of public procurement. In a longer perspective, this standardisation process must also extend to differing national export policies in regard to conventional arms (see below). The next step would be to incorporate the defence industry sector into the EU's competition policy and state-aid regulations. During this stage there would also be a need for a European Armament Agency in charge of conducting armament co-operative and R & D programmes.

Although DG III recognises that the defence industry is a very special market and differs from other sectors of the economy, it is also obvious that it approaches this sector from a perspective of cost effectiveness. This is also its task within the Commission. The similarities between the creation of the internal market and the standardisation of the civilian industry and technology are striking (Peterson 1992, Sandholtz 1992, Mörth 1998). However, this time the standardisation process concerns a far more controversial sector.

The COM document on the European defence industry was not only influenced by DG III but also by DG IA. The document was the result of teamwork by the two DGs, which highlighted the tensions between two different approaches to the restructuring of the defence industry. DG IA, which deals with common foreign and security policy (CFSP) matters, does not share the communitarisation approach to the defence sector. In its view the question of the restructuring of the defence industry is a CFSP issue, that is, it belongs to the second pillar in which intergovernmental co-operation is the rule. An early version of the communication was presented in 1993, within the Commission. In the view of DG IA, this early draft placed too much emphasis on the economic aspects of the restructuring of the defence industry. In early 1995 CFSP aspects were incorporated and the final report showed more of the influence of DG IAs policies[4]. The differences between DG IA and DG III do not seem to concern the diagnosis of the situation but rather the solutions suggested and the ways to handle these delicate and politically sensitive matters. It is interesting to note that the restructuring of the defence industry has been handled by the civilian-oriented DG III (which is concerned with issues in the first pillar) and the external and security-oriented DG IA (which deals with issues in the second pillar). It is obvious that the problems of the defence industry necessitate close co-ordination between DGs within the first and second pillar.

[4] It should be noted that some of this information is disputed within DG III, which claims that the two DGs wrote their different parts and that DG IAs role in the final phase was rather limited.

In March 1997, a team of researchers presented a study for DG IA on "The role of the Armaments Industry in Supporting the Preparation and Conduct of Military Operations" (Taylor and Schmidt 1997). Although the study does not represent the official views of DG IA, it does give a picture of the kind of problems that are connected to a CFSP perspective. The central question concerns the extent to which nations are becoming dependent on defence industrial support and the ways in which this dependence will affect their ability to use military force. "Will the industry-led drive for more cost efficiency by transnational specialisation and work sharing in Europe contra-dict the current state of affairs in European defence policy by undermining the capability of individual European nations to act militarily without active support by other European countries?" (ibid.:4).

Underlying this dilemma is the fact that military operations need considerable industrial support. The experience of the Gulf War and trends in defence budgets since then show that military dependence on timely industrial support will persist or even increase. The budget reductions in Western countries will prevent "Western armed forces being comprehensively modernised with equipment of very high reliability" (ibid.:43). In order to engage in military operations, national defence equipment needs to be modernised. This moder-nisation is costly, which means that nations must co-operate. Multinational military operations also require common equipment or standardised sub-systems, components, munitions, etc.

The authors of the study take the view that the defence equipment policy in Europe is inefficient and that there is a "real threat to the survival of a European defence industrial base that is able to provide European forces with state-of-the-art equipment" (ibid. p.8). "Under these circumstances the big challenge for European defence industrial policy is to avoid a situation where there are only two policy options left: either to buy less capable but national or European equipment with security of supply ensured but military superiority undermined, or to buy highly capable US-equipment providing military superiority over potential opponents but with security of supply being dependent on US willingness and capability to support European forces in specific scenarios" (ibid.:48–49). If decision-makers want to avoid this choice and improve the prospects of a globally competitive European DTIB (European Defence Industrial and Technological Base), European arms and defence industry co-operation has to be improved dramatically and quickly.

The research report also points out that the process of privatisation of the defence sector and incorporation of the defence industry within the first pillar can jeopardise the security of supply of defence equipment. There is thus a tension between the rules of an economic market (which mean that stocks are costly) and the national security need for a reliable supplier of timely defence support in a military operation.

Although there are some European arrangements in the procurement of defence equipment, it is still a national prerogative. However, the establish-ment of a European Armaments Agency (EAA) would change that and would also mean a closer relationship between the EU and the WEU. During the 1990s, the focus for European procurement co-operation has been WEAG (Western European Armaments Group) which operates under the NADs (National Armaments Directors). The linkage between WEAG and WEU is obvious, although the

formal linkage is weak. WEAG is divided into three panels that handle harmonisation issues, research, and the defence market. In 1995 the NADs agreed to create a new organisation, WEAO (the Western European Armaments Organisation). This new body is an executive organ of WEAG and a subsidiary body of the WEU. The responsibility for managing EUCLID has been transferred to WEAO (Hayward 1997).

The WEAG/WEAO framework has been discussed as a beginning of a European Armaments Agency (ibid.). However, in January 1997 the Joint Defence Equipment Co-operation Organisation (JACO) [5] was created to act as a joint programme office on behalf of France, Germany, the United Kingdom, and Italy. The process leading to the creation of this new organisation began in 1992 with a bilateral procurement arrangement between Germany and France.

The "world of acronyms" within the defence industry sector is very complex. It should be noted that there is also activity within this field in NATO (for instance, CNAD – the Conference of National Armaments Directors, and NIAG – NATO Industry Advisory Group, for an overview see De Vestel 1998). In addition, the defence sector has its own organisation in Europe – EDIG (the European Defence Industry Group) which works closely with WEAG. The relationship between WEAG and the Commission is slowly getting closer. Industry has called for a complementarity between the two organisations, asking WEAG and the EU to formulate an efficient work-sharing model. Recently, the relationship between DG III, the General Directorate for Industry, and WEAG was strengthened. This could be taken as a sign of the increased importance of the industrial aspects of the defence sector and the need to begin a radical restructuring of the European defence sector. Such a process will, however, be incremental.

In November 1997 the European Commission presented a Communication on "Implementing European Union Strategy on Defence-related Industries" (COM (97), 583 final). This communication is a continuation of the earlier report on the defence industry (COM (96), 10). Interestingly, it takes a rather pragmatic view of the defence industry and the market for defence products. The communication is very clear on the dual nature of the defence industry and does not pursue one perspective, but two – a community and a CFSP perspective. "An integrated European market for defence products must be set up using a combination of all the instruments at the Union's disposal: Community and Common Foreign and Security Policy, legislative and non-legislative instruments" (ibid.:2). The defence industry is both a "major means of production and essential to foreign and security policy. Any action by the EU has to take this dual nature into account, if necessary by adapting the resources within the Community's jurisdiction" (ibid.:5).

It is obvious that DG III and DG IA are the main authors of this communi-cation. They also seem to have divided the issues in a constructive work-sharing arrangement. The communication consists of two parts. The first part discusses a proposal for a common position on drawing up a European Defence equipment policy. A CFSP perspective dominates this part. The second part presents an action plan for defence-related industries. Clearly, this communication entails a combination of the first and second pillar instru-ments.

[5] The French abbreviation is OCCAR – Organisme conjoint de coopération en matière d'armement.

A European defence equipment policy would be linked to Community policies (industry, trade, customs, the regions, competition, innovation and research) and CFSP measures – it would be a pillar one and a half.

Export control of defence equipment and dual-use goods

A crucial issue in the restructuring the European defence industry is agree-ment upon a common export policy on defence equipment. The current EU export control system does not include defence equipment. As discussed previously, Article 223 specifically excludes defence equipment from the internal market. One of the major problems concerns the possibility of controlling exports of conventional arms. In June 1991 the European Council adopted eight arms export criteria, which were supplemented in June 1992. The heads of state and governments expressed a desire for a common approach leading to harmonisation of national policies on arms' exports, based on these eight criteria. While the criteria contained in the "Declaration on Non-proliferation and Arms Exports" represent a small step towards common export control policies, any such policy is dependent on progress towards a common defence and foreign policy. In May 1998 a proposal for a new code of conduct – a Union-wide ethical arms' sales policy – was decided by the European Foreign Ministers.

Earlier EU experience of linking security and trade aspects shows that this is a tricky business. A common regime for dual-use export controls was adopted by the Council in December 1994[6]. The regulation is based on two legal instruments – Article 113 in the TEU (Regulation No 3381/94) and Joint Action under the Common Foreign and Security Policy (J3, 94/942/CFSP) – which together form an integrated system. Thus, the legislation is based on the first pillar (trade policy) and the second pillar (CFSP). The security and trade aspects of dual-use goods and technologies necessitated a compromise between two conflicting interests – the interests of completing the internal market and the interests of maintaining strategic decisions on the intergovernmental level. In the Commission the export control mechanism is handled by DG I and DG IA. DG IA handles the CFSP aspects and DG I the commercial and trade aspects.

The Commission's handling of these issues gives a rather complex picture of the decision-making process. DG I seems to advocate communitarisation of export control legislation (based on Article 113) whereas DG IA has no ambition to incorporate the legislation into the first pillar. Communitarisation of the legislation would mean acceptance of qualified majority voting and not unanimity, which is the basic rule within the second pillar.

The 1994 decision meant that new exporting licensing rules regulate the transfer of dual-use products among and beyond the EU's fifteen member states. The EU countries have agreed on a common list of dual-use goods and technologies. Due to the strategic nature of this list, any changes must be approved unanimously. The countries also reached agreement on the principle of mutual recognition, which means that export licences from one member state are recognised as valid by all other member states. Thus, an internal market does exist, except for some restrictions on highly sensitive items. The intergovernmental agreement aims to protect countries' essential security interests and meet their international commitment to multilateral non-proliferation treaties. The most fundamental change, referred to as Annex I, establishes a common list of dual-use goods that are subject to control when exported from the EU. This list

[6] See also COM (92) 317 Final and SEC (92) 85 Final.

consolidates several existing international non-proliferation regimes, and covers everything from steel valves to computer software lasers. [7]

To sum up, the first steps that were taken in 1994 in principle created an inter-nal market for dual-use goods and technologies. The next step is to create a common policy on the export of these commodities. This is a far more controversial issue than the creation of an internal market within the Community. A common export policy requires co-ordination of the various countries' export control legislation, which differs substantially between EU countries.

Although the export control legislation is based on both the first and second pillar this does not mean that the tension between the economic and trade interests and the CFSP has been resolved. On the contrary, the tensions have been institutionalised in the EU political system and are part of EC law. Export control issues relating to dual-use goods and technologies – one of the grey zone issues between the first and second pillar – are part of the *acquis communautaire.* Consequently, this political conflict is subject to the rulings of the Court of Justice. Several court cases have dealt with the tension between foreign and security aspects and the Community's common trade policy. The court seems to put commercial aspects, that is, the first pillar, before foreign and security aspects (see for instance C-124/95).

Conclusion: Parallel processes and the decoupled organisation

The Commission has been very active on questions of dual-use, the restruc-turing of the European defence industry, and export control issues. Various units within different DGs together form a sectorial network in which these issues are handled. This does not mean that there is consensus on how these issues should be dealt with. Instead, it is quite clear that the most radical view concerning grey zone issues is to be found in DG III. The research directorate, DG XII, seems to be one of the most sceptical DGs concerning the linkage between military and civilian-oriented RTD. Grey zone issues, especially defence industry issues, are clearly a resource for DG III and other market-led proponents but a problem for DG XII and DG IA. There are competing policy conceptualisations within the Commission on these issues and consequently competing agendas. Some want an open debate on these issues and formal changes in the treaty. Others pursue a more cautious policy or chose to keep silent about the issues. Perspectives on the issues at stake are highly dependent on whether they are seen as technological, research, economic, and industrial issues, or whether they are seen as affecting foreign affairs, security, and defence. Thus, there are two different ways of framing the defence industry issue. The latest communication from the Commission (COM (97), 583 final) suggests that there is also a third way of framing the defence industry and equipment issue, namely a modified market perspective.

One of the problems faced by the Commission concerns boundaries. Where does domestic policy end and where does external policy begin? What are economic, political and security

[7] The Annex I list consists of goods from the Australia Group on chemical and biological weapons, the Missile Technology Control Regime, the Nuclear Suppliers Group, and the former Coordina-ting Committee for Multilateral Export Controls (COCOM).

issues? These problems are well-known in a national context but they are also very much a reality for the Commission. An obvious problem concerns the formal competencies of the Commission. Another problem concerns the actor capacity of the EU – the process leading to coherent Community external action. The boundary problem means that issues cut across sectors and raises problems of co-ordination and the policy-making process. The legal capacity to deal with these issues varies. The weakest legal status concerns the issue of dual-use and civilian RTD and the restruc-turing of the defence industry. It is, however, obvious that there is progress towards a more coherent institutional capacity, especially concerning the defence industry. The empirical material suggests that various parts of the Commission are trying to deal with grey zone issues and to establish an institutional identity and capacity. This institutional identity and capacity are based not only on the legal framework but also on other factors such as the perceived status of the Commission as a focus of attention by the European Council and the Council of Ministers. Thus, the Commission has both been given political room for manoeuvre and has also created such political room (Kingdon 1984).

Figure 1 shows the official structure of the EU. However Figure 2 shows that the vertical and functional structure is partly misleading.

Figure 1. General Directorates and the pillar structure

First pillar	Second pillar
DG III, DG XII, DG I	DG IA

Figure 2. General Directorates and grey zone issues

Defence industry	Dual-use and 5FP	Export control
DG III, DG IA, DG XII	DG IA, DG III, DG XII	DG I, DG IA

The sectorial network within the Commission has horizontal and informal links. The empirical findings suggest that there is a small group of people within the Commission who closely monitor the grey zone issues and have a broad perspective on the linkages between research and technological develop-ment, the defence industry, and export control issues. In the everyday work of the Commission, civilian and defence-related issues are analysed and discussed in a way that does not square with the pillar structure of the EU and the vertical structure of the European Commission. Hence, there is no such thing as *the* Commission, it only exists as a coherent unit in a legal sense. The actorness of the Commission must constantly be recreated. In addition, various parts of the Commission are part of a defence-industrial network. Represen-tatives from the Commission, the member governments, the WEU, the WEAG, the industrial organisation EDIG, etc. form this defence-industrial network.[8]

[8] For reasons of space this defence-industrial network is not discussed any further in the paper. The European Parliament is positive to the Communication on the defence industry (see the Titley Report and Resolution A4-0076/97. ESC (Economic and Social Committee) and IRDAC (Industrial R & D Advisory Committee of the European Community) are also very positive towards a restructuring of the European defence industry (1993

The empirical study shows that there is a discrepancy between the pillar struc-ture in terms of which the work of the Commission is organised and the actual day-to-day work activities. We can distinguish two parallel processes – one formal and another informal – in dealing with the defence industry issue. The Commission handles the conflicting demands of the formal pillar structure and the horizontal issue as two processes. In order to maintain ceremonial conformity, the Commission buffers its formal structures from the actual work activities. This phenomenon is called decoupling. In this way the Commission can handle the dilemma of being both the guardian of the pillar structure, on the one hand, and responsible for developing and changing that pillar structure, on the other. In the long run, however, a modified market perspec-tive – a "pillar one-and-a-half-perspective" - challenges the pillar structure.

To sum up, the end of the Cold War has created a window of opportunity for the Commission to establish an institutional identity and capacity within the defence industry issue by linking the internal market with security and defence policy. Clearly, parts of the Commission are offering various solutions to the delicate problems concerning the defence industry. Further research should be directed towards the interplay between various networks consisting of parts of the Commission, the Council (especially the work within POLARM[9]), the European Parliament, the VEU, NATO, and the European defence industry. [10]

---

and 1997). An influential research centre in Brussels, CEPS (Centre for European Policy Studies) seems to function as an important meeting place and 'think tank' for defence-industrial issues, especially those concerning multi-national forces and the preconditions for such forces, one of which is the standardisation of defence equipment.

[9] POLARM – Ad Hoc Working Party on a European Armaments Policy

[10] I wish to thank Professor Peter Ludlow at CEPS, Centre for European Policy Studies, who was kind enough to provide me a working place during my stays in Brussels.

References

Official documents

Regulation No 3381/94 and OJ No 367, 31/12 1994.

Commission of the European Communities

Commission Opinion of 21 October 1990 on the Proposal for Amendment of the Treaty Establishing the European Community with a View to Political Union, (COM (90), 600 final).

Proposal for a Council Regulation on the Control of Exports of Certain Dual-Use Goods and Technologies and of Certain Nuclear Products and Technologies, (COM (92) 317 final).

The Challenges Facing the European Defence-related Industry, A Contribution for Action at European Level, (COM (96), 10 final).

Draft Action Plan for the Defence-related Industry, (Directorate-General III, Brussels 20 August 1997).

Report of the Industry/Research Centres Working Group on Dual-Use Technologies and Research, (Etan, DG XII, March 1997).

Concerning the 5th Framework Programme of the European Community for Research, Technological Development and Demonstration Activities, (COM (97) 142 final).

Implementing European Union Strategy on Defence-Related Industries, (COM (97) 583 final).

The European Parliament

Resolution on the Commission communication on the challenges facing the European defence-related industry: a contribution for action at European level, (A4-0076/97).

Other official reports

EDIG (European Defence Industries Group), Position Papers 1996.

ESC (Economic and Social Committee): Opinion on the Communication from the Commission – The Challenges Facing The European Defence-Related Industry: A Contribution for Action at the European Level, 19–20 March 1997.

IRDAC (Industrial R & D Advisory Committee of the Commission of the European Communities): IRDAC Opinion on Framework Programme V, 8 October 1993.

Books and articles

Berger, P. and Luckman, T., 1966, *The Social Construction of Reality*,. New York: Doubleday.

Brunsson, N., 1989, *The Organization of Hypocrisy – Talk decisions and actions in organizations.* Chichester: John Wiley.

CEPS (Centre for European Policy Studies), 1996, *Defence Equipment Cooperation*. Report of a CEPS Working Party No 15.

Cram, L.,1994, The European Commission as a multi-organization. *Journal of European Public Policy*, Vol. 1, No. 2, pp. 195–217.

Cram, L., 1997, *Policy-Making in the EU*. London: Routledge.

De Vestel., P, 1995, *Defence Markets and Industries in Europe: Time for Political Decisions?* Chaillot Papers, 21, Institute for Security Studies, Western European Union.

De Vestel, P., 1998, The future of armament cooperation in NATO and the WEU, in Eliassen, K. (ed.), *Foreign and Security Policy in the European Union.* London: Sage.

The Economist, June 14–20, 1997.

Egeberg, M. and Trondal, J., 1997, *An Organization Theory Perspective on Multi-level Governance in the EU*, Working Paper, ARENA.

Haaland-Matlary, J., 1997, The role of the commission: a theoretical discussion, in Nugent, N. (ed.),*At the Heart of the Union: Studies of the European Commission*. London: Macmillan.

Haas, P., 1992, Introduction: epistemic communities and international policy coordination. *International Organization*, Vol. 46, No. 1, pp. 1–35.

Hayward, K.,1997, *Towards a European weapons procurement process*, Chaillot Papers, June 1997, Institute for Security Studies, Western European Union.

Hooghe, L., 1997, *Serving Europe: Political Orientations of Senior Commission Officials*, European Integration online papers, Vol. 1, No. 008; http:/ / eiop.or.at / eiop / texte / 1997-008a.html

Jachtenfuchs, M., 1996, *International Policy-Making as a Learning Process?* Aldershot: Ashgate.

Kingdon, J., 1984, *Agendas, Alternatives, and Public Policies.*
New York: HarperCollins.

Kohler-Koch, B., 1997, Organized interests in European integration: the evolution of a new type of governance?, in Wallace, H. and Young, A. (ed.), *Participation and Policy-Making in the European Union*.
Oxford: Clarendon Press.

Lequesne, C., 1996, The French central government and the European political system: change and adaptation since the Single Act, in Meny, Y., Muller, P. and Quermonne, J.-L. (ed.), *Adjusting to Europe: The Impact of the European Union on National Institutions and Policies.*
London: Routledge.

Majone, G., 1996, *Regulating Europé*. London: Routledge.

March, J., 1981, Decision making perspective, in Van de Ven, A. and Joyce, W. (ed.), *Perspectives on Organization Design and Behavior*.
New York: John Wiley & Sons.

March, J. and Olsen, J., 1996. Institutional perspectives on political institutions, *Governance*, Vol. 9, No. 3, pp. 247–265.

Mazey, S. and Richardson, J., 1995., Promiscuous policymaking: the European policy style?, in Boulder *The State of the Union*. Colo. Lynne Rienner.

Meyer, J. and Rowan, B, 1991, Institutionalized organizations: formal structure as myth and ceremony, in Powell, W. and DiMaggio, P. (ed.), *The New Institutionalism in Organizational Analysis.* Chicago: The University of Chicago Press.

Mörth, U., 1998, Policy Diffusion in Research and Technological Development: No Government is an Island, *Cooperation and Conflict*, Vol. 33, No. 1, pp. 35-58.

Nugent, N., 1995, The leadership capacity of the European Commission, *Journal of European Public Policy*, Vol. 2, No. 4, pp. 603–623.

Nugent, N., 1997, *At the Heart of the Union: Studies of th*e *European Commission*, London: Macmillan.

Peters, G., 1994, Agenda-setting in the European Community, *Journal of European Public Policy*, Vol. 1, No. 1, pp. 9–26.

Peterson, J., 1992, The Politics of European Technological Collaboration. An Analysis of the Eureka Initiative, Ph.D. dissertation, London School of Economics and York University.

Peterson, J., 1995, Decision-making in the European Union: towards a framework for analysis, *Journal of European Public Policy*, Vol. 2, No. 1, pp. 69–93.

Risse-Kappen, T., 1996, Exploring the nature of the beast: international relations theory and comparative policy analysis meet the European Union. *Journal of Common Market Studies*, Vol. 34, No. 1, pp. 53–79.

Rohde, J. and van Scherpenberg, J., 1996, *European Commission/DG I Seminars on Economic Security, 1st Seminar: Technology Trends: The Security/Economic Challenge*, Stiftung Wissenschaft und Politik (SWP).

Sandholtz, W., 1992, *High-Tech Europe: The Politics of International Cooperation*. Berkeley / Los Angeles / Oxford: University of California Press.

Schön, D. and Rein, M., 1994, *Frame Reflection*, Basic Books

Smith, M., 1994, The Commission and external relations, in Edwards, G. and Spence, D. (ed.), *The European Commission*. Cartermill.

Walker, W. and Gummett, P., 1993, *Nationalism, Internationalism and the Defence Market*, Chaillot Paper, 9, Institute for Security Studies, Western European Union.

Weick, K., 1969, *The Social Psychology of Organizing*. Reading, Mass.: Addison-Wesley.

Taylor, T. and Schmidt, P., 1997, *The Role of the Armaments Industry in Supporting the Preparation and Conduct of Military Operations*, Stiftung Wissenschaft und Politik (Study for the Commission of the European Communities).

Interviews

Officials from the Commission (especially DG I, IA, III and DG XII).