

12. EU defence industrial policy: from market-making to market-correcting

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In the post-Cold War context of the early 1990s, the European Commission (Commission) did not have the political legitimacy to develop an industrial policy in the defence sector, and nor was it within the Commission's competences, despite the signing of the Maastricht Treaty in 1992. Defence industrial policy refers to the regulation of defence procurement and to the production and acquisition by the state of military goods, such as attack helicopters, warships, tanks or drones to defend the national territory. European defence industrial policy is governed by the states that have been organizing their cooperation since the end of the Second World War, initially within transatlantic arenas, such as the North Atlantic Treaty Organization (NATO), and later within European arenas, such as the Western European Union (WEU) (DeVore 2012, 2013).¹

Defence capitalism is structured by a “sovereignty industry” (Bellais et al. 2014, 21–24) around national champions, such as Leonardo in Italy, Dassault Aviation in France, Rheinmetall in Germany, Saab in Sweden and PGZ in Poland. It is therefore not surprising that 80 per cent of arms programmes in Europe are implemented on national territory (de La Brosse 2017), nor to observe the absence of Europeanization of strategic industrial segments, such as combat aircraft (Hoeffler and Mérand 2015). This industrial architecture explains the dependence of European states on imports of advanced military technologies produced in the United States, such as the F-35 (Vucetic and Nossal 2013) and the Reaper military drone (Faure 2016a). It may thus seem incongruous to link defence industrial policy with the European Union (EU),

¹ The Independent European Programming Group (IEPG), created in 1976 by the 13 NATO Member States, was the intergovernmental cooperation body within which European defence industrial policy was developed until it was succeeded in 1992 by the Western European Armaments Group (WEAG), created by the Western European Union (WEU). Lacking legal personality and de facto limiting its capacity for action, WEAG was replaced by the Western European Armaments Organisation (WEAO) in 1996, which could award research and development (R&D) contracts, foreshadowing the creation of the European Defence Agency (EDA) within the EU in 2004.

the latter having rather distinguished itself in its international role as a “peace-maker” by obtaining the Nobel Prize in 2012 (Bazin and Tenenbaum 2017).

Major and unexpected institutional changes, however, have led to the European Commission emerging as a key player in defence industrial policy in the EU of the twenty-first century. In 2009, the EU Council of Ministers – representing the national interests of the Member States – and the European Parliament adopted, on a proposal from the Commission, two directives known as the “defence package”.² This was the first time since European integration began in the 1950s that legally binding European standards were adopted in the defence industry. One of the directives promoted trade between defence companies in order to build a European Defence Technological and Industrial Base.³ The other restricted the scope of Article 346 of the Treaty on the Functioning of the European Union (TFEU), which allows Member States to derogate from the principles of competition and non-discrimination that constitute the internal market, if the sharing of information is contrary to “the essential interests of [their] security”.⁴

The European institutionalization of defence industrial policy continued in the 2010s. In 2017, the Commission set up a European Defence Fund (EDF), an instrument for financing research and development (R&D) studies in support of the defence industry. In 2020, the European Parliament and the Council of Ministers agreed on a budget for the EDF: almost 8 billion euros integrated into the EU’s Multiannual Financial Framework (MFF) for 2021–2027, that is 1.1 billion euros per year.⁵ This would be the fourth highest military R&D budget in Europe after France, the United Kingdom (UK) and Germany, and ahead of Spain, Italy and Poland. In 2019, the Commission had, for the first time in its history, a Directorate General for Defence Industry and Space (DG DEFIS) aimed, among other things, at governing the EDF. These institutional innovations echo the numerous statements made by President Ursula von der Leyen who, since her election as head of the European executive in 2019, consistently defended the objective of a geopolitical Commission.⁶

² No government opposed this decision and only one Member State, Portugal, abstained.

³ Directive 2009/43/EC on “intra-Community transfers” (ICT).

⁴ It is also a question of prohibiting intra-Community offsets, corresponding for example to technology transfers from one state to another. Directive 2009/81/EC on “defence and security procurement” (DSP).

⁵ See https://ec.europa.eu/commission/presscorner/detail/en/IP_20_2319 (accessed 18 March 2021).

⁶ See <https://www.courrierinternational.com/article/au-programme-aujourd'hui-ursula-von-der-leyen-lance-sa-commission-europeenne-geopolitique> (accessed 31 August 2020).

How did EU industrial policy emerge and become institutionalized in the field of defence through the actions of the Commission, which had no political prerogative or legitimacy in the field only a quarter of a century earlier? What was the Commission's strategy for ensuring its institutional initiatives, such as the defence package and the EDF, were adopted in negotiations that seemed to be lost in advance in favour of the EU Member States? Using an approach at the crossroads of political economy and the sociology of public action, I update the Commission's "political work" (Smith 2019) on the issue of constituting a defence industrial policy that is not limited to the initiatives and national preferences of the Member States. The processes of "legitimation", "problematization" and "instrumentation" that constitute the political work of an institutional actor such as the Commission are reconstructed using the method of "process-tracing" or, more precisely, "practice-tracing" (Pouliot 2015), and with the help of data collected during a field survey (29 semi-structured interviews, Faure 2019a, 34).

This analytical framework contributes to research that emphasizes the political – rather than strictly technocratic – role of the Commission in generating institutional change (Ross 1995; Jabko 2009; Dravigny 2019). Moreover, the strengthening of European integration where it was not expected – the defence industry – is explained less by an institutional spillover mechanism that escapes the actors as proposed by the neo-functionalist argument (Haroche 2020), than by the endogenous effect of their professional practices and experiences within the EU (Mérand 2011, 2012; Adler-Nissen and Pouliot 2014; Lequesne 2015; Adler-Nissen 2016; Faure 2019b). In doing so, this chapter confirms the "hard" effect of the "soft" standards produced by the Commission (Bérut and Saurugger 2018; Saurugger and Terpan 2021; Slominski and Trauner 2021; Terpan and Saurugger 2021) and complements the literature on defence industrial policy in the EU (Mörth 2000, 2003; Mörth and Britz 2004; Lavallée 2011; Hoeffler 2012; Blauberger and Weiss 2013; Weiss and Blauberger 2016; Fiott 2017; Faure 2019b, 2020a).

The chapter is structured in six parts: (1) the analytical grid is explained; (2) identifying the problematization work carried out by the Commission then makes it possible to explain why the European executive aimed to integrate the defence sector into its industrial policy since the 1990s; (3) its legitimization work reveals what is at stake in the negotiations that oppose it to the Member States; (4) the instrumentation work explains how the Commission defended its positions by producing non-binding legal texts ("soft law") in the 2000s; (5) in addition, the Commission carried out relational work by building a "programmatic association" with other actors thanks to which the EU's industrial policy emerged in the defence sector – the adoption of the defence package in 2009 was a sign of this; and (6) the creation of the EDF and DG DEFIS in the

2010s is indicative of the work of institutionalizing a liberal defence industrial policy within the EU.

DEFENCE INDUSTRIAL POLICY IN LIGHT OF THE COMMISSION'S POLICY WORK

The concept of policy work is useful for capturing the way in which individual or collective actors act in order to establish a balance of power in negotiations that allows them to drive institutional change (Smith 2019, 11). The political work of an institutional body, such as the Commission, refers to three political processes, in this case used to achieve the creation of an EU industrial policy in the field of defence: legitimization, problematization and instrumentation.

Legitimation is defined as “a set of processes that make the existence of a specialised coercive power tolerable, if not desirable, that is to say, that make it conceivable as a social necessity, or even as a benefit” (Lagroye 1985, 402). The political dynamic of legitimization complements that of the professionalization of actors defined by their skills and practical “know-how”, allowing them to appear “as ‘natural’ members of the social world in question” (Smith 2019, 8). In the early 1990s, it was state actors, not the Commission, that had a legitimate monopoly on governing defence industrial policy in the EU.

The second constitutive process of the political work undertaken by the Commission corresponds to the “problematization” of defence industrial policy. This is a political framing exercise that results from political choices and priorities: “The ‘dysfunctions’ or ‘issues’ perceived by individual or collective actors ... which would require, from their own point of view, institutional change, never become the ‘problems’ seized upon by public authorities in an automatic, spontaneous or haphazard manner” (Smith 2019, 8).

Thirdly, the political work carried out by the Commission in favour of institutional change in the defence industry also involves the use of instruments of public action (Lascoumes and Le Galès 2005; Halpern et al. 2014). An instrument of public action is defined as “a device that is both technical and social and organises specific social relations between public power and its recipients according to the representations and meanings it carries” (Halpern et al. 2019, 321). In order to transform a public policy, actors almost always mobilize a plurality of instruments at varying levels of politicization.

These three constitutive processes of the political work undertaken by the Commission are not linked in a linear way according to a pre-established and mechanical order, but dialectically: the temporalities of the processes of legitimization, problematization and instrumentation of a political issue are variable and sometimes occur simultaneously. The objective is therefore less to classify them through a sequential approach where historical stages follow one another chronologically, but rather to identify these processes in order to distinguish

Table 12.1 *The three dimensions of political work*

	Discursive and symbolic work	Relational work
Legitimation	Seduce, justify and galvanize	Building loyalty, bonding, rewarding
Problematization	Framing and naturalizing the issues	Bringing together problem bearers
Instrumentation	Tooling up public and collective action	Enact, implement

Source: Smith (2019, 10).

and articulate them from one another in an interactionist perspective (Palier and Surel 2007). Finally, these three constitutive processes of the political work carried out by the Commission are the result of discursive and symbolic work consisting of formulating arguments to be put forward during negotiations that oppose it to the EU Member States. It is also produced by relational work enabling it to build alliances with other actors in order to influence the course of negotiations (Table 12.1).

FACING ECONOMIC COMPETITION FROM AMERICAN INDUSTRIAL “CHAMPIONS”

It is difficult, to say the least, to understand a priori what prompted the Commission to take a position on defence industrial policy in the early 1990s when it had no political legitimacy or prerogatives to do so. Its initiatives should be understood within the international context of the time, marked by unprecedented industrial restructuring in the United States and by the creation of the internal market in Europe.

In January 1993, Under Secretary of Defense William Perry brought together the CEOs of major US companies in a meeting that has become known as the “Last Supper”. During this meeting, he asked them to carry out industrial consolidations in order to anticipate the decrease in the American military budget following the end of the Cold War and the concomitant “escalation” in the price of military goods due to the development of advanced technologies (Fontanel and Hébert 1997, 50). This meeting triggered a wave of mergers and acquisitions, subsidized to the tune of nearly US\$1.5 billion by the American government, transforming the country’s defence industry (Schmitt 2000, 23–24). At the beginning of the 1990s, some 20 companies structured the defence industry in the United States (Masson 2003). A few years later, only four companies emerged from this movement of industrial restructuring: Boeing, Lockheed Martin, Northrop Grumman and Raytheon, all of which obtained a leading position on the world market.

In this international context, the Commission’s work consisted in highlighting a public problem to be put on the agenda of the national representatives

of the Member States: the wave of industrial consolidations underway in the United States brought with it the risk of increased competition for European companies whose national industrial organizations were not adapted to deal with such a change. According to the Commission, this national fragmentation of public defence markets in Europe, regulated by varying geometry standards, could reinforce the dependence of European companies on American “champions” or they could even be absorbed by them.

The Commission argued that an EU-wide internal defence market would be a more economically efficient – if not the only viable – organization for European companies to compete with the US (Hoeffler 2012, 445). Thus the European defence industry was “framed” (Mörth and Britz 2004) around the issue of industrial supply (the fragmentation of defence procurement), rather than the issue of state demand (the capability needs of national armed forces). In doing so, the Commission avoided confronting the Member States head-on, choosing the American players as its main adversaries and the European industrial players as its main interlocutors (Mörth 2000, 2003).

Undertaken at the beginning of the 1990s, these initiatives also came at a time of increased European integration. The Commission chaired by Jacques Delors pushed for the adoption of the Single Act in 1986, which accelerated the creation of the internal market, and the signing of the Maastricht Treaty in 1992, which strengthened the EU’s own powers. As a result of these European negotiations, the Commission gained political legitimacy vis-à-vis the Member States and also businesses, thanks to the economic expertise and international negotiating skills it demonstrated. Nevertheless, defence procurement was excluded from the rules of the internal market.

THE EMERGENCE OF A DEFENCE INDUSTRIAL POLICY THROUGH A LIBERAL PROGRAMME

This situation led the Commission to negotiate the regulatory regime for defence markets with the Member States (Lavallée 2011). If a policy agenda is defined as a set of measures that “guide and define the content of actions in the public sphere” (Genieys and Hassenteufel 2012, 95) and “bring together a set of specific instruments” to achieve this (Hassenteufel et al. 2010, 528), in the case of European defence industrial policy, there were two policy agendas. These can be described as “sovereignist” and “liberal” (Faure 2020a, 2020b, 2020c). The sovereignist agenda was combined with intergovernmental governance of the EU that relied on the Member States. In contrast, the liberal programme favoured multi-level or even supranational governance in which the institutional strengthening of the Commission was at stake (Table 12.2).

The sovereignist agenda was defended by the “big” EU Member States, such as Germany, France, Italy and the UK, which have autonomous national

Table 12.2 Opposition of two policy agendas on defence industrial policy in the EU

Programme	Sovereignist	Liberal
Main actor	“Large” Member States	European Commission
Institutional objective	Status quo	Change
Political priority	Security	Competitiveness
	National supply (demand policy)	European economy (supply side policy)
Article 296 TEC (346 TFEU)	Retain an extensive interpretation	Restrict its scope of application
“Fair return” principle	For	Against
Adoption of the defence package	Against	For
Internal market of the defence	Against	For
European governance	Intergovernmental	Supranational

defence industries (Hoeffler and Mérand 2015). This public policy agenda opposed the constitution of an internal defence market by supporting the institutional status quo that only state actors could legitimately regulate defence procurement in Europe based on national sovereignty. The political priority of these states was to ensure the security of supplies to national armed forces (demand policy), by maintaining exclusive and protectionist relations with their national companies. In the context of cooperative armaments programmes, the principle of “fair return”, which stipulates that a Member State must receive an amount of funding at least equal to the amount of its participation in a European budget, was a preferred public policy instrument for achieving this.

The Commission challenged this dominant position by carrying out a “liberal” public action programme aimed at transforming the rules structuring defence procurement by introducing market standards (non-discrimination, competition, transparency, “best value for money”) that were previously foreign to this industrial domain. Its objective was to reduce the fragmentation of industrial supply by deregulating national legislation in order to create an internal defence market: this is Europe “through the market” (Jabko 2009). This political dynamic is described as “negative” integration or “market-making” (Scharpf 2000). A supply-side policy, it aimed to improve the competitiveness of European companies in the face of American competition. Indeed, for the actors supporting this policy agenda, liberalization was seen not as a threat that would weaken the defence industry in Europe, but rather as an instrument to foster its competitiveness (Hoeffler 2012, 445).

In the 1990s and early 2000s, the confrontation between the proponents of these two policy agendas was embodied by their opposing positions on the interpretation of Article 296 TEC of the Treaty of Nice and on the adoption of legally binding European standards corresponding to the defence package.

Article 296 TEC of the Treaty of Nice – which was Article 223 TEC of the Treaty of Rome before 2001 and which became Article 346 TFEU with the Treaty of Lisbon in 2007 – provides for a derogation from the rules of the internal market for contracts relating to arms, munitions and war materials. Thus Article 296 TEC takes into account the intrinsic specificity of the defence industry, if – and only if – states invoke a danger to their security. State representatives of the sovereignist agenda argued for an extensive interpretation of Article 296 TEC in order to maintain their monopoly on the regulation of defence procurement. The defence industry should, in their view, retain an exceptional regime, impervious to the liberal rules regulating the internal market.

On the other hand, the Commission supported a restrictive interpretation of Article 296 TEC in order to avoid the damaging consequences of national industrial protectionism, such as high public expenditure, the lack of competitiveness of companies, or the impossibility of achieving economies of scale. Following the adoption of the Single Act in 1986 and the signing of the Maastricht Treaty in 1992, the Commission considered the extensive interpretation of Article 296 TEC defended by the large Member States as a derogation that became, not only illegitimate, but illegal with regard to the rules of competition and non-discrimination on which the internal market is based. In the 2000s, the Commission relied on case law of the Court of Justice of the EU (CJEU) to continue this work of legitimizing a more detailed interpretation of Article 296 TEC by the Member States (Blauberger and Weiss 2013, 1122).

NON-BINDING AND WEAKLY POLITICIZED STANDARDS AS A POLICY INSTRUMENT

The Commission's political work to promote the liberal agenda has consisted, since the early 1990s, of frequently publishing non-binding norms such as Communications and a Green Paper (Table 12.3), a strategy observed with other European public policies (Bérut and Saurugger 2018; Saurugger and Terpan 2021; Slominski and Trauner 2021). This production of "soft law", which is also characterized by a low level of politicization, represents the Commission's preferred negotiating instrument and has a double benefit. On the one hand, its non-binding nature aims to reassure the large Member States so that they do not feel endangered by the risk of strong national resistance from other states that could stall the negotiations. The failure of the European Defence Community (EDC) in the 1950s remains a reference shared by

European actors in defence industrial policy (Aron and Lerner 1956; Haroche 2018). On the other hand, the low level of politicization is consistent with the technical framing of defence industrial policy chosen by the Commission, whose strategy of institutional change is thought by some commentators to be a “quiet revolution” (Jabko 2009, 15–26).

In the early 1990s, the Commission’s Directorate General for Industry published three studies on how to maintain the competitiveness of the defence industry: one entitled *Dual-use industries in Europe* in 1991, the other two – entitled *The cost of non-Europe in defence procurement* and *Defence industries in the European Community. Towards structural adjustments* – in 1992. These publications were very well received by the Member States (Masson 2003). At a time when the dynamics of industrial restructuring were at work on the other side of the Atlantic, the Commission once again called on Member States to respond to the urgent need to adapt the European defence industry through three other publications: two Communications entitled *The challenges facing European defence-related industries – A contribution for action at European level* (1996) and *Implementing European Union strategy on defence-related industries* (1997), to which was added a lengthy Green Paper (76 pages) entitled *Public procurement in the European Union: Exploring the way forward* (1996).

The objective of the 1996 Communication was to facilitate industrial restructuring in the defence sector by making defence procurement less fragmented. In the context of the signing of the Amsterdam Treaty in 1997, the Communication released in the same year reaffirmed the Commission’s proposals for the implementation of a European defence industrial policy. Indeed, the Commission considered that, in a context of reinforced European integration and according to a neo-functionalist logic, there was a Community competence for the defence industrial sector, distinct from the Common Foreign and Security Policy (CFSP). For the Commission, it was a question of entering this “defended” sector, “from below”, by the market and the industry, knowing that if it sought to tackle it “from above” through the CFSP, its institutional prerogatives and its decision-making leeway would be nil. However, the 1996 and 1997 Communications, like those of 1991 and 1992, came up against the reluctance of Member States to support the Commission’s initiatives.

France and the UK decided at the bilateral summit in Saint-Malo in 1998 to launch the European Security and Defence Policy (ESDP), which was institutionalized by the Treaty of Nice in 2001 (Mérand 2008; Faure 2016b). While the governance of the ESDP was strictly intergovernmental, this unexpected institutional development acted as a “catalyst” for industrial cooperation in the defence sector (Giovachini 2000). The creation of the multidomestic company EADS – which later became Airbus – and the launch of the A400M military transport aircraft programme are symptomatic of this period (Jones 2007;

Table 12.3 Non-binding normative production (soft law) on defence procurement of the European Commission

Date	Type	Title
1992	Communication	The costs of non-Europe in defence procurement
1992	Communication	Defence industries in the European Community. Towards structural adjustments
1996	Communication	The challenges facing European defence-related industries – Contribution for action at European level
1996	Green Paper	Public procurement in the European Union: Exploring the way forward
1997	Communication	Implementing European Union strategy on defence-related industries
2003	Communication	European Defence – Industry and market issues. Towards an EU Defence Equipment Policy
2004	Green Paper	Defence procurement
2005	Communication	The results of the consultation launched by the Green Paper on Defence Procurement and future Commission initiatives
2006	Interpretive Communication	The application of Article 296 of the Treaty in the field of defence procurement
2007	Communication	Strategy for a stronger and more competitive European defence industry
2013	Communication	Towards a more competitive and efficient defence and security sector

Note: All the documents listed in this table can be found on the official EU websites with the exception of the 1991 and 1992 Communications: <https://eur-lex.europa.eu/homepage.html>; <https://www.europarl.europa.eu/factsheets/fr/sheet/65/l-industrie-de-la-defense> (accessed 20 August 2020).

Faure 2019a, 2019c). In addition, American industrial competition increased following the attacks of 11 September 2001 as the George W. Bush administration set up a vast programme to modernize the American military apparatus. In 2001, the American defence budget amounted to US\$400 billion, more than the sum of all the budgets of the other states in the world.

However, defence procurement remained particularly fragmented in Europe, with Member States continuing to defend the institutional status quo by resisting any proposal made by the Commission. This situation led the Commission to continue its work of instituting change in the regulatory regime for defence procurement by producing soft law. From 2003 to 2007, the Commission published no less than five documents (four Communications and a Green Paper), that is one per year (see Table 12.3).

The 2003 Communication noted that some of the ideas put forward by the Commission in the 1990s had been implemented. However, it stated that as the Member States “have refrained from acting in a number of key areas ... the Commission is concerned to make immediate progress in all areas where progress is possible” (European Commission 2003, 3). Therefore, the

Commission proposed, *inter alia*, to control exports of dual-use goods, to simplify intra-Community transfers of defence-related products and to streamline the rules for defence procurement. The objective of European economic competitiveness was at the heart of the 2004 Green Paper, as was the creation of an internal market for defence, “in accordance with the principle of subsidiarity”.

As for the 2006 Communication, it recalled that the exemption from internal market rules granted to states by Article 296 TEC is limited by the concept of “essential security interests”, thus emphasizing “the exceptional nature of the derogation” (European Commission 2006, 8). This interpretation converges with the idea that the “conditions of application of Article 296 TEC must be interpreted restrictively” (European Commission 2006, 5). In the fourth part of the Interpretive Communication, it stated that military goods on the 1958 list were not *a priori* exempted from the rules of the internal market, which was confirmed by Council Decision 255/58, which does not provide for the automatic application of the exemption. In fact, goods from the 1958 list can be exempted “if and only if the conditions for the application of this article are met” (European Commission 2006, 7).

The Commission’s instrumentation of soft law should be seen in relation to the judicial policy of strategically using case law issued by the Court of Justice of the EU (CJEU) (Weiss and Blauburger 2016). Indeed, the 2006 Communication highlighted the existence of Article 298 TEC (now Article 348 TFEU) according to which “the Commission or any Member State may bring a case directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 346 and 347. The Court of Justice shall rule in camera”. Moreover, in the judgments of 16 September 1999 (Case C-414/97, *Commission v. Spain*, para. 21) and 15 May 1986 (Case C-222/84, *Johnston*, para. 26), the CJEU held that articles which provide for derogations such as Article 346 TFEU “concern specific exceptional cases and do not lend themselves to an extensive interpretation because of their limited nature” (European Commission 2006, 5).

THE LIBERAL PROGRAMMATIC ASSOCIATION AS AN ALLIANCE AROUND THE COMMISSION

When the heads of states and governments signed the Treaty of Lisbon in 2007 – a treaty that preserved the derogation granted to Member States by Article 296 TEC, which became Article 346 TFEU – the Commission had been working for some 15 years to convince Member States to change the regulatory regime for defence procurement. This political work led to the Commission’s legitimization in its role as an economic expert, enabling it to propose two directives – constituting the defence package – to the national representatives of the Council of Ministers and the Members of the European

Table 12.4 Institutional competition for the adoption of the defence package

Programmatic actors	Liberal association	Sovereignist association
State actors	Economy ministries of the “big” states	Defence and interior ministries of the “big” states
	Swedish Ministry of Defence	Bundestag (Green Members)
	Permanent representation to the EU	“Small” states
		Permanent representation to the EU
EU-related actors	European Commission	European Defence Agency
	European Parliament	
	Council of Ministers	
Industry actors	EADS, Safran, Thales	Dassault Aviation
	Interest groups (ASD)	SME

Parliament (Hoeffler 2012; Blauberger and Weiss 2013; Weiss and Blauberger 2016).

In this political moment of increased pace and intensity of European negotiations, the Commission was working to form an alliance with other actors. This relational work allowed the Commission, through working meetings and informal exchanges, to unite actors in favour of the defence package. The data collected during a field survey conducted among European actors in defence industrial policy reveals the rivalry between two “programmatically associations”, the sovereignists and the liberals, corresponding to the two public action programmes defined above (Faure 2020a, 2020b, 2020c, 2020d). A programmatic association is a type of “programmatically actor” (Hassenteufel et al. 2010) characterized by a high level of longevity regarding their participation in the political process, as well as a low level of social homogeneity corresponding to a differentiation in terms of institutional membership. A programmatic association thus brings together civilian *and* military, state *and* industry, national *and* international actors (Table 12.4).

Opposition to the adoption of the defence package came from the sovereignist programmatic association. This alliance of European defence industrial policy actors was structured primarily around representatives of the ministries of defence of the “big” Member States and the European Defence Agency (EDA) (Table 12.4). By “big” states, we mean the main arms-producing states in Europe, namely France, Germany, Italy, Spain and the UK. The opposition of French actors was particularly pronounced: “France wants to be able to do what it wants. There is a kind of paranoia that has taken hold of the administrative decision-makers. Not political decision-makers, adminis-

trative decision-makers”.⁷ Such a finding confirms earlier research revealing French opposition to this legislative project, significant as France held the EU Presidency in 2008 (Hoeffler 2012, 445).

With limited institutional autonomy from these states, the EDA was used by the ministries of defence to defend their interests at the European level. The actors of the Permanent Representation (PR) from the ministries of defence – corresponding to the engineers of the *Délégation générale de l’armement* (DGA) in the case of France – formed another link in the sovereignist association: “The DGA has found an ally in the EDA, insofar as we [French PR] can use it to pass studies on industrial and market issues”.⁸

The sovereignist association also included national parliamentary actors. This was the case with German Green MPs, as a senior German official from the Ministry of Economic Affairs explained: “Germany is a major arms exporter, but this is still very badly perceived in public opinion. There are many opponents to the creation of a European arms market, in particular the Greens in the Bundestag”.⁹ Finally, “small” states, namely Denmark, the Netherlands and the Czech Republic, were part of the sovereignist association opposing the defence package.¹⁰ The defence package went against the interests of these actors whose defence industries depended on small and medium-sized enterprises (SMEs) at the national level and offsets at the European level. Within the defence industry, SMEs took part in the sovereignist association, for example the French company, Dassault Aviation, which was mentioned several times in the field survey: “Dassault was against the defence package!”¹¹ Without a field survey, it would have been difficult to understand, for example, that Dassault Aviation and the German environmentalists were objective allies in their opposition to the defence package, working within the same association in favour of the sovereignist agenda.

However, the Commission managed to form an alliance – the liberal programmatic association – that was broader and more structured than the sovereignist association that failed to block the adoption of the defence package. At the centre of the liberal association were Commission officials. A French defence ministry official put it explicitly: “There is a ‘highlander’ logic to

⁷ Interview 12, Senior European official, European External Action Service, EU, Brussels, 22 October 2012.

⁸ Interview 9, Senior French official, French PR to the EU, Brussels, 20 October 2012.

⁹ Interview 12, Senior European official, European External Action Service, EU, Brussels, 22 October 2012.

¹⁰ Interview 26, Swedish expert, think tank, Stockholm, 1 November 2012.

¹¹ Interview 16, Senior French official, DGA, Ministry of Defence, Paris, 21 November 2013.

them: the last man standing wins”¹² More precisely, the Commission officials who supported the adoption of the defence package during the European negotiations come from the Directorate General for Enterprise (DG ENT) and the Directorate General for Internal Market and Services (DG MARKT): “There are only about ten people who know about defence issues”.¹³ The liberal association was not limited to Commission staff, but included other EU representatives, such as a majority of MEPs on the European Parliament’s Internal Market and Consumer Protection Committee (IMCO).¹⁴ The support of the defence package on the part of MEPs could be seen as correlated to the supranational institutional nature of the Parliament and therefore not altogether surprising.

On the other hand, the position taken by the Council of Ministers for “competitiveness” appears counterintuitive.¹⁵ The field survey allows us to answer this enigma by distinguishing between the national representatives of the ministries of defence allied to the sovereignist association and those of the ministries of the economy allied to the liberal association: “It is indeed Bercy [Ministry of the Economy] that pushed hardest for the defence package”.¹⁶ Furthermore, the Permanent Representation (PR) to the EU was situated in the gap between the two programmatic associations. This was affirmed by French representatives: “We were opposed for a long time to this increase in the power of the Commission, but in the end we had to admit that it was necessary to promote a European defence market”.¹⁷ This interview indicates the progressive legitimization of the proposals formulated by the Commission vis-à-vis certain state actors and confirms the famous adage according to which “If you can’t beat me, join me!” (Blauberger and Weiss 2013).

Finally, some companies, including EADS, Safran and Thales, were also in favour of the defence package: “The Commission is working ‘from below’

¹² Interview 19, Senior French official, DGA, Ministry of Defence, Paris, 2 December 2013.

¹³ Interview 21, Senior European official, EDA, Council of Ministers, Brussels, 5 November 2013.

¹⁴ Interview 6, MEP, IMCO Parliamentary Committee, European Parliament, Brussels, 3 September 2013.

¹⁵ Interview 8, Senior European official, Council of Ministers, Brussels, 18 December 2012.

¹⁶ Interview 19, Senior French official, DGA, Ministry of Defence, Paris, 2 December 2013.

¹⁷ Interview 1, French diplomat, French PR to the EU, Brussels, 18 October 2012; similar statement in: Interview 14, French diplomat, Ministry of Foreign Affairs, Paris, 18 September 2013.

with companies and interest groups in the defence industry, through standards and industrial ownership”.¹⁸

THE INSTITUTIONALIZATION OF LIBERAL DEFENCE INDUSTRIAL POLICY IN THE EU

The adoption of the defence package in 2009 represented a first historical step in the institutionalization of liberal defence industrial policy in the EU. Following its adoption in 2009, the defence package moved from being an objective pursued by the liberal programmatic association to being an instrument of public action used by the Commission to pursue its policy work. In 2013, a new Communication entitled *Towards a more competitive and efficient defence and security sector* was published under the impetus of Michel Barnier, Commissioner for the Internal Market and Services (Table 12.3). While the term “[Commission] industrial policy” was either absent or marginal in previous Commission texts (appearing only once in the 2007 Communication, for example), in the 2013 Communication it is explicitly named as one of the EU’s main objectives: “an industrial policy that fosters the competitiveness of Europe’s defence industries and helps to deliver, at an affordable price, all the capabilities Europe needs to guarantee its security” (European Commission 2013, 2).

The 2013 Communication insisted on the “correct” transposition and application of the defence package, ensuring that Member States comply with this new regulatory framework. Furthermore, the need for a budgetary instrument to institutionalize the liberal defence industrial policy was clearly stated: “The Commission will clarify the conditions under which the European Structural and Investment Funds (ESIF) can be used to support dual-use projects, whether they are investment projects (European Regional Development Fund – budget of 140 billion) or skills projects (European Social Fund – budget of 74 billion)” (European Commission 2013, 8).

This political work at the head of the European executive continued under the presidency of Jean-Claude Juncker (2014–2019). In 2016, the Commission presented a “European Defence Action Plan” to support building up “strategic autonomy”. The aim was to strengthen the single market for defence, support investment in start-ups and SMEs, but above all to create a European Defence Fund (EDF). The creation of this financial instrument, endorsed in June 2017 by the European Council, aimed to encourage EU Member States to carry out cooperative armaments programmes, by financing research and

¹⁸ Interview 15, French journalist, specialized media, Paris, 9 October 2013; similar statement in: Interview 24, UK lobbyist, interest group, London, 24 September 2012.

development (R&D) studies (Camporini et al. 2017). For the first time in its history, the EU was funding the defence industry from its own budget. To this end, the European Commission allocated 25 million euros in 2017, 90 million euros in 2018 and the same amount in 2019 to finance research studies (Béraud-Sudreau 2017). This “research component” of the EDF was complemented by a “capacity component” to co-finance (to the tune of 20 per cent) the development phase of a European cooperation project, including at least three companies from three different Member States.

Following the European Council in December 2020, the heads of states and governments agreed on the amount of the EDF in the EU’s 2021–2027 multi-annual budget. The EDF represented almost 8 billion euros, divided between the envelope allocated to research (2.6 billion euros) and that for development (5.3 billion euros) —more than 1 billion euros per year.¹⁹ At the beginning of the European negotiations the figure mentioned had been 13 billion, but this was before the COVID-19 health crisis, which should be taken into account in understanding the decrease.²⁰ The fact remains that the sum of 8 billion euros (or 1.1 billion euros per year) corresponds to the third largest defence R&D budget in Europe, behind that of France, the UK and Germany, but larger than that of those of Poland and Spain. In comparison, the American budget was 46 billion euros in 2017 (US\$55 billion²¹) or 40 times higher. The creation of this financial instrument was complemented in 2019 by the introduction of an organizational instrument: for the first time in its history, the Commission created a Directorate General for the defence industry and space (DG DEFIS). This institutional creation was another result of the political work carried out by the geopolitical Commission chaired by Ursula von der Leyen (2019–2024), following the political Commission of Jean-Claude Juncker (Mérand 2021). DG DEFIS was made responsible for the use and management of the EDF, under the political authority of the French Commissioner, Thierry Breton, also responsible for the Internal Market and Industry portfolio (DG GROW).

The political objective stated by Commissioner Breton, together with President von der Leyen, High Representative Joseph Borrell (2020) and

¹⁹ See <https://www.consilium.europa.eu/fr/press/press-releases/2020/12/14/provisional-agreement-reached-on-setting-up-the-european-defence-fund/> (accessed 23 February 2021).

²⁰ Documentary, La chaîne Parlementaire, “Dans le secret des négociations européennes: la crise du coronavirus”: <https://www.youtube.com/watch?v=SbwTWZri5Ss> (accessed 23 February 2021).

²¹ According to the OECD database: https://stats.oecd.org/Index.aspx?DataSetCode=GBARD_NABS2007 (accessed 18 March 2021); see also: Congressional Research Service (2020, 1); Govini (2020).

the President of the European Council, Charles Michel,²² but also French President Emmanuel Macron and German Chancellor Angela Merkel, was to use these budgetary (EDF) and organizational (DG DEFIS) instruments to improve the competitiveness of companies and to integrate the internal armaments market, as well as to build Europe's "strategic autonomy" (Maulny 2019). It was a transition from the "negative" integration of arms markets (market-making) to their "positive" integration (market-correcting) through a deliberately active and interventionist role of European public power. The Commission aimed at deregulating and liberalizing national markets with the goal of constituting a European defence market and thus creating a European Defence Technological and Industrial Base to counter commercial rivals such as Boeing (Faure 2020e). More than that, the Commission was giving itself the means to intervene, regulate and make policy on a European scale, in order to govern the defence industry in Europe and to establish an interface with the international strategic issues faced by EU Member States.

This global European ambition did not, however, lead to a consensus and there were varying interpretations of what strategic autonomy is and should be (Le Gleut and Conway-Mouret 2019; Major and Mölling 2020). Some political authorities even claimed that there is no such thing as strategic autonomy, such as German Defence Minister Annegret Kramp-Karrenbauer (2020; see also, Franke and Hublet 2020) in comments made on the eve of the 2020 US presidential election results. Nevertheless, this cross-sectoral articulation – industrial policy in the service of EU military and foreign policy – had not been conceivable at the beginning of the century, and its emergence was the result of the dynamics of the institutionalization of liberal defence industrial policy in the EU.

CONCLUSION: FROM MARKET-MAKING TO MARKET-CORRECTING

The institutionalization of liberal defence industrial policy within the EU was not a "revival" of European defence in the particular political conjuncture of the mid-2010s (Brexit, Trump, Putin, Islamic State) nor "a change in approach" (Béraud-Sudreau and Pannier 2020, 11). Indeed, such an argument tends to reproduce the discourse of European policymakers, overestimating the

²² See <https://www.consilium.europa.eu/fr/press/press-releases/2020/09/28/l-autonomie-strategique-europeenne-est-l-objectif-de-notre-generation-discours-du-president-charles-michel-au-groupe-de-reflexion-bruegel/> (accessed 23 February 2021).

agency of individual actors (particularly Federica Mogherini and Jean-Claude Juncker) to “use” a political moment to drive institutional innovations.

Rather, my research demonstrates the effect of the Commission’s long-term political work of problematization, legitimization and instrumentation; the Commission began to implement this strategy in the 1990s and continued to do so until the end of the 2010s without interruption. Without this political work over a quarter of a century (publication of a dozen non-binding documents, adoption of the defence package), which was itself linked to the organization of cooperation in European armaments that began at the end of the Second World War (DeVore 2012, 2013), no window of opportunity would have opened in the political context of the 2010s. This window of opportunity was not the result of an exogenous and rather mysterious political situation – the famous “alignment of the planets” to which decision-makers often appeal to make sense of events – but of a historically situated institutional construction. On the other hand, the content of this political work (liberal policy) and the objective pursued (strengthening the legitimacy of the Commission) were constant during this period. By reconstructing this political work using the “practice tracing” method, we analysed the institutionalization of defence industrial policy within the EU and the role of the Commission in this major institutional change.

The institutionalization of liberal defence industrial policy in the EU in the late 2010s was no more the end of the story than its emergence ten years earlier with the adoption of the defence package. In the 2020s, the Commission faces a dilemma between two options to implement its policy using the normative (defence package), financial (EDF) and organizational (DG DEFIS) tools it now has at its disposal.

On the one hand, the Commission could continue in its preference for integrating the defence industry through a “market-making” dynamic by accentuating companies’ capacity for action, but to the detriment of the regulatory power of European public authorities. This strategy would involve opening up the EDF to companies from third countries such as the UK and the United States, and DG DEFIS working relations would be geared more to companies than to Member States. This *business-driven* option (supply-side policy) would aim to strengthen the competitiveness of companies in order to bring down costs: it is the continuation of the “best value for money” paradigm.

On the other hand, the Commission might want to achieve a “positive integration” of the defence industry through a “market-correcting” dynamic in order to strengthen its institutional position vis-à-vis the Member States but also the economic actors (Scharpf 2000). To do so, it would probably decide to defend a restrictive interpretation of the EDF by favouring companies from EU Member States in order to constitute or strengthen “European industrial champions” (Fligstein 2008; Faure et al. 2019a, 2019b). This *political-driven*

alternative would seek to link defence industrial policy more closely to the Common Security and Defence Policy (CSDP) in the perspective of a geopolitical Commission.

The first option would maintain European unity through a low level of politicization of negotiations, at the risk of limiting the political scope of the Commission's actions. The decision taken by the EU Council in November 2020 to allow third countries to participate "exceptionally"²³ in certain PESCO projects is a move in this direction. This position is favoured by the UK and the United States, which advocate an "inclusive" approach to the EDF, allowing third countries to benefit (Gould 2019; Mills 2019; Harper 2020). The EDF is perceived by these states as a complementary financial instrument to NATO, thus making it possible to stimulate technological innovation within the alliance. Indeed, NATO does not have a defence industrial policy in the strict sense of the word, despite the NATO Defence Planning Process (NDPP)²⁴ and the creation of the Innovation Hub,²⁵ which encourages cooperation between players in the sector. British companies and certain European groups, such as MBDA (Paitard and Bellais 2019), which carry out a significant part of their activities outside the EU, share this inclusive approach to the EDF (Bellais 2020; Béraud-Sudreau and Faure 2021, 2022).

The second option would assert an industrial policy specific to the EU, with an ambitious strategic agenda summarized by the idea of "European sovereignty" (Macron 2017). This horizon has been defended by Emmanuel Macron's France and Angela Merkel's Germany, as well as by EU leaders whose rhetoric converges (Le Gleut and Conway-Mouret 2019; Borrell 2020; Michel 2020, 2021; von der Leyen 2020). Such an approach carries the risk of fracturing the EU insofar as all 27 Member States do not share this strategic ambition. The aim of the "Strategic Compass"²⁶ is precisely to identify points of strategic convergence within the EU and to diffuse misunderstandings or even divergences between the 27 states (Institute for Security Studies 2021).

One thing is certain: the decade of the 2020s promises to be an exciting one for those interested in EU industrial policy, and beyond that, in the political dynamics of European integration.

²³ See <https://www.consilium.europa.eu/en/press/press-releases/2020/11/05/eu-defence-cooperation-council-sets-conditions-for-third-state-participation-in-pesco-projects/> (accessed 18 March 2021).

²⁴ See https://www.nato.int/cps/fr/natohq/topics_49202.htm?selectedLocale=en (accessed 18 March 2021).

²⁵ See <https://www.act.nato.int/innovationhub> (accessed 18 March 2021).

²⁶ See https://eeas.europa.eu/headquarters/headquarters-homepage/89047/towards-strategic-compass_en (accessed 18 March 2021).

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