
5. Poland

*Pawel Wieczorek and Katarzyna Zukrowska**

I. Introduction

The arms procurement procedures which currently apply in Poland have been created since 1994, within the framework of the transformation of the country's political and economic systems. The changes made in the arms procurement legislation had three goals: a more transparent decision-making procedure than that in use before 1989; civilian and democratic control in the planning and procurement of weapons and military equipment, bringing them closer to the standards applied in NATO member countries; and adaptation of the rules for the placing of orders by the Ministerstwo Obrony Narodowej (Ministry of National Defence, MoND) to the general rules applied in the member states of the European Union (EU), which Poland will join.

Arms procurement planning and implementation have not been studied in Poland in the past. Consequently there is very little literature available in this field, and what is available is fragmentary in nature. The main sources for research in this field have been interviews with people engaged in the arms procurement decision-making process working in different institutions.

This chapter aims, first, to present the main elements of the arms procurement decision-making process currently in operation. Second, it indicates in which directions this process should ideally go to improve public accountability, which would serve to increase transparency. This would involve the strengthening of civilian and democratic control over the military in this regard. Third, it identifies barriers and limitations in introducing the proposed changes.

II. The management of national security and defence planning

Defence management in Poland began to be brought fully under civilian control with the political changes that were launched in 1989. Since the 1990 elections the MoND has been headed by civilians.¹ The military staff is responsible for

¹ Article 26, point 2 of the Constitution of the Polish Republic of 6 Apr. 1997 states that 'Military forces keep political neutrality and are subject to civilian and democratic control'. The constitution was approved on 25 May 1997 in a national referendum and signed by the President on 16 July 1997.

* The authors gratefully acknowledge the help of Dr Janusz Reiter and the Centre for International Relations for assistance with the workshop, held at the Institute of International Affairs in Warsaw on 26 Nov. 1997, within the framework of the SIPRI Arms Procurement Decision Making Project. Twelve working papers prepared by Polish researchers as part of the project have been used in preparation of this chapter. They are not published but are deposited in the SIPRI Library. Abstracts appear in annexe B in this volume.

purely military and technical matters but not for the running of the ministry or for defence policy. At the beginning of the political changes, authority over the armed forces was not clearly divided between the parts of the executive branch—the President, Prime Minister, Defence Minister and Foreign Minister. However, with the passage of time there has been increasing clarity, even though some ambiguity remains as to roles and authority.

The Interim Constitution of 1992² stated that a will for cooperation and compromise should prevail among the main centres of power. The experience of the period of the Interim Constitution was not encouraging, mostly because the party system in Poland was not well developed and power was often seen in terms of personal position and influence rather than in terms of effective government. When the President and Prime Minister came from different parties they were not eager to cooperate. Moreover, members of Parliament played their own games according to their relations with the President and Prime Minister (although to some extent the fact that different political parties were involved helped to provide a check on the decision-making process, in a way which might not be possible with only one party represented).

These shortcomings have been removed by the 1997 Constitution, which has clarified the division of powers.³ Article 134 states that the President is the supreme commander of the armed forces. During peacetime his power in this regard is exercised indirectly by the Minister of National Defence. The Chief of the General Staff and the commanders of the armed services are directly subordinated to the defence minister.

The President nominates the Chief of the General Staff and the Chief Commanders of the individual armed forces for a specified period of time. The method and conditions of their removal from these posts are set out in separate regulations, as is the Commander-in-Chief's subordination to the organs of state. In time of war the President appoints the Commander-in-Chief of the Polish Armed Forces, on the recommendation of the Prime Minister. All the powers of the President over the military are clearly stated in the legislation.

Poland does not publish a defence White Paper, although at this stage of development of defence policy-making methods it would be advisable. A publication of this kind should contain the main principles of the defence policy of the state: (a) threat assessment; (b) the military budget; and (c) preparation of the domestic defence industry to meet expected demand (and the share of imports). The MoND does prepare material on these issues for the Komisja Obrony Narodowej (National Defence Commission) of each of the two chambers of Parliament, but these documents do not give adequate details.

¹ 'Konstytucja Rzeczypospolitej Polskiej', *Dziennik Ustaw Rzeczypospolitej Polskiej* [Journal of legislation], no. 78 (6 Apr. 1997), poz. [item] 483. See also URL <<http://www.sejm.gov.pl/english/konstytucja/kon1.htm>>.

² 'Ustawa Konstytucyjna' [Constitution act, commonly known as the 'small' constitution], *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 75 (30 July 1992), poz. 367; and no. 84 (17 Oct. 1992), poz. 426, 23.

³ See note 1.

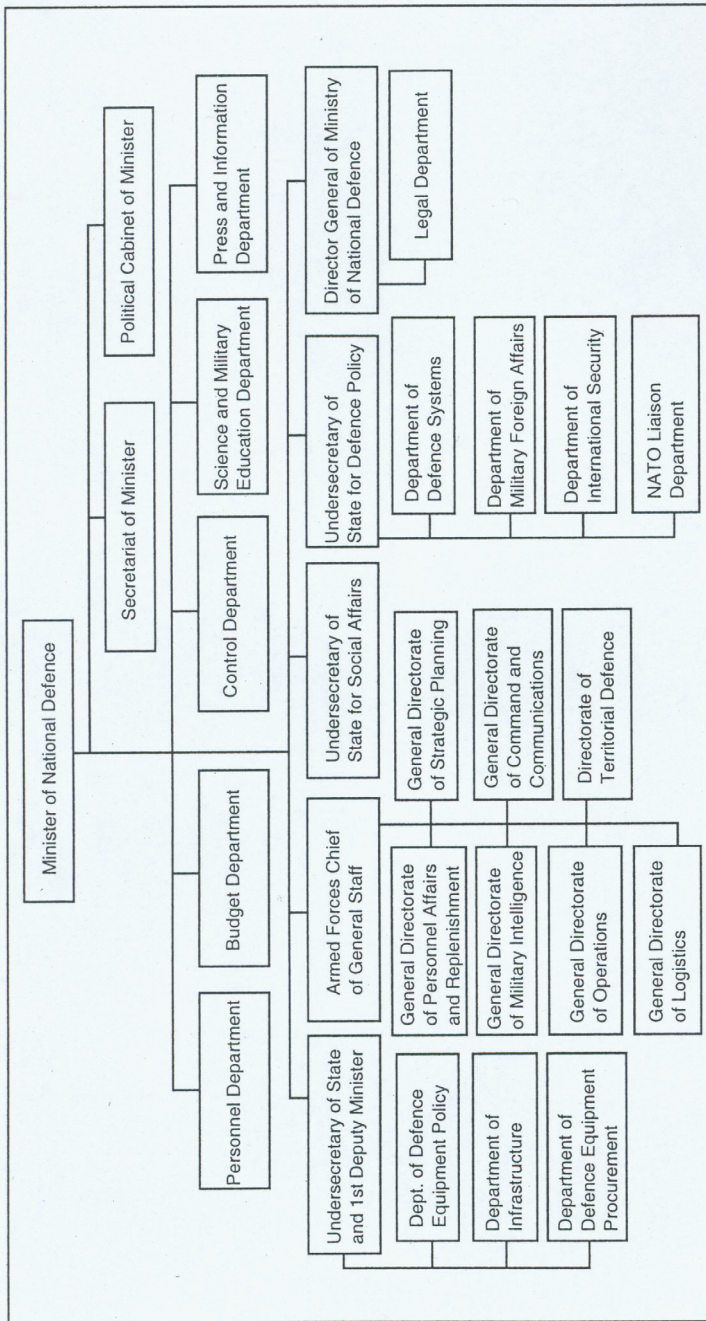


Figure 5.1. Organization of the Polish Ministry of National Defence, July 1999

Source: Polish Ministry of National Defence, 'Structure of Ministry of National Defence', URL <<http://www.wp.mil.pl/orgresa.html>>.

The actors in defence policy making and the arms procurement process

The actors in the executive branch include the MoND, the *Urząd Zamówień Publicznych* (Office of Public Procurement), the *Komitet Spraw Obronnych Rady Ministrów* (KSORM, Defence Committee of the Council of Ministers), the Ministry of Economy, the *Biuro Bezpieczeństwa Narodowego* (BBN, Bureau of National Security) and the *Rada Bezpieczeństwa Narodowego* (RBN, National Security Council). The number of actors is changing: until 1 January 2000 the Ministry of the Treasury was also involved. In certain instances the role of these bodies is limited to approval of documents; in other cases it includes evaluation, the formulation of opinions, expert advice and plans for execution. It also includes the drafting of the MoND budget requirements and the financial basis of the defence budget.

Other actors such as producers of military equipment, the trade unions and lobbies are also engaged in the process. In formal terms their role is limited, but in practice the political influence and intervention of the trade union organizations often makes the whole process highly politicized. The roles of these institutions are discussed in section VII of this chapter. The roles of Parliament and the *Najwyższa Izba Kontroli* (NIK—Highest Chamber of Control or Polish Auditing Office, the main auditing and control body) are considered further in sections IV, V and VIII.

The Ministry of National Defence

The organizational structure of the MoND as revised in July 1999 is shown in figure 5.1. The MoND is responsible among other things for defence policy, armaments, infrastructure and the defence budget. The latter engages several departments besides the Budget Department: for instance, the General Staff works out the Chief of the General Staff Guidance for Material–Financial Planning in the Armed Forces. The departments of procurement, equipment policy and infrastructure are the responsibility of the same undersecretary of state. The Undersecretary for Defence Policy deals with foreign military affairs, international security and liaison with NATO. The Chief of the General Staff has six directorates whose roles and designation are similar to those of the corresponding US military organizations, and a seventh for territorial defence. Other functions are as follows:

(a) the central logistics organizations—the three services' Commands-in-Chief, and under the General Staff the Material Directorate, the Technical Directorate and weapon and equipment users. The commands of the different branches of service also participate in working out the Requirement Specifications for Weapon Systems and Military Equipment Procurement, Maintenance, Research Work and Implementation;

(b) the departments under the Undersecretary of State (who is usually the First Deputy Minister). They prepare the Weapon Systems and Military Equip-

ment Procurement and Maintenance Annual Plan and the Research Work and Implementation Annual Plan;

(c) the Undersecretary of State/First Deputy Minister and the Chief of the General Staff, who both accept the above plans; and

(d) the Minister of National Defence, who gives final approval to the plans.

The plans approved by the Minister of National Defence are the basis for the MoND Department of Defence Equipment Procurement to start the executive procedures and for the military research centres and institutes to begin to implement the research projects approved.

Two other departments in the MoND are also involved in the procedure. First, the Control Department—the internal audit department—supervises and monitors ordering procedures in the individual departments of the MoND—the legal and formal correctness of the proceedings and compliance with the regulations concerning public procurement and the budget law. (External control is done by the NIK and Parliament.) Second, the Legal Department protects the activities of the MoND institutions which place orders.

There is also a special Komisja Bezpieczeństwa Narodowego (Commission on National Security) within the framework of the MoND, which was established to give Members of Parliament (MPs) who represent the interests of the Polish defence industry an insight in this area. Since 1997 representatives of the Parliamentary Defence Commissions have also participated in meetings of this commission, without having the right to vote. Hitherto there has been no formal component of the Parliamentary Defence Commissions to deal with these problems.

The Ministry of Economy

The ministry is involved: (a) when military technology is received from foreign sources; (b) when there is a need to issue licenses; (c) when military equipment has to be imported and exported; (d) when dual-use technology is transiting through Polish territory; and (e) when dual-use technology is exported from Poland.⁴ The main role in this particular case is played by the Department of Export Control.

The Ministry of Economy was also recently involved in the industrial restructuring plan and drafting the 1999 rules for compensation in arms purchases, which provided the guidelines on offsets in arms purchases.⁵ These are discussed further in section VI of this chapter. Since 1 January 2000 it has taken over from the Ministry of the Treasury⁶ direct responsibilities in arms procure-

⁴ Sliwowski, J., 'System kontroli eksportu w Polsce' [The system of export control in Poland], Paper prepared for the international conference on Cooperation of Enterprises with State Administration on Export Control, Warsaw, 13–14 May 1999.

⁵ 'Ustawa o niektórych umowach kompensacyjnych zawieranych w związku z umowami dostaw na potrzeby obronności i bezpieczeństwa państwa' [Regulation on certain compensation agreements concluded as part of agreements concerning supplies for the defence and security needs of the state], 10 Sep. 1999, *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 80 (1999), poz. 903.

⁶ Rozporządzenie Rady Ministrów z dnia 17 listopada 1999 w sprawie wykazu spółek, przedsiębiorstw państwowych i jednostek badawczo-rozwojowych, prowadzących działalność gospodarczą na potrzeby

ment decision making in the case of enterprises that it owns—the 38 companies in which 25–100 per cent of shares is controlled by the state.⁷ When the share it owns does not exceed 51 per cent, the control is limited to delegating representatives from the ministry to the management boards of these companies.

The Defence Committee of the Council of Ministers

All opinions concerning defence issues are evaluated by the KSORM. It comprises representatives of all the ministries that are important from the point of view of state security and often calls on the opinions of experts in developing its recommendations. It also has specialized working groups, including one which deals with arms procurement issues. Its meetings are not regular, and their frequency depends on the problems that arise.

The Presidency

Two more organizations come under the President. First, the BBN is the advisory body to the President, set up in 1991 to assess the security threats to the state.⁸ Its duties are set out in Article 135 of the constitution. It includes representatives of all the state bodies that deal with security issues as well as independent experts. Second, the RBN replaced the former Komitet Obrony Kraju (KOK, Country Defence Committee) in 1998.⁹ The division of responsibilities between the RNB, the BBN and the MoND may require further improvement. The members of the RBN are nominated by the President.

The Office of Public Procurement

The Office of Public Procurement monitors compliance with the regulations on public procurement. It guarantees that public funds are spent according to the requirements formulated in the law, which also includes competition. In the case of defence orders its role is rather limited: there are specific regulations for procedure here.¹⁰

Each ministry has a department to deal with its own procurement. The Department of Defence Equipment Procurement in the MoND is responsible for arms procurement in that ministry.

bezpieczeństwa i obronności państwa' [Regulation of the Ministerial Council, 17 Nov. 1999, on the list of joint-stock companies, state enterprises and research units conducting economic activity for state security and defence purposes], *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 95 (1999), poz. 1102.

⁷ See section VI in this chapter.

⁸ Koziej, S., *Kierowanie Obrona Narodowa Rzeczypospolitej Polskiej/National Defence Management of the Republic of Poland* (Wydawnictwo Adam Marszałek: Warsaw, 1996), pp. 41, 42 (in English and Polish).

⁹ The KOK, a body created under the communist system and not provided for in the new constitution, was responsible for drawing up policies related to national security and defence management and worked according to the decisions of the Council of Ministers. Koziej (note 8), pp. 39, 40. For background to the setting up of the RBN, see Stachura, J., 'Arms procurement decision making in Poland', SIPRI Arms Procurement Decision Making Project Working Paper no. 94 [1998], p. 7.

¹⁰ See section IV below.

The Polish defence policy-making process

Figures 5.2 and 5.3 summarize the process. It involves the following stages.

1. All the government ministries concerned and the BBN participate in formulating the defence policy.
2. The MoND prepares the initial project with the participation of representatives of other ministries and institutions. This is drafted by a team headed by the First Deputy Defence Minister and approved by the Defence Minister.
3. The KSORM analyses the draft policy and makes recommendations, consulting the RBN. Contentious issues are resolved and the final draft is sent to the Council of Ministers for acceptance.
4. If a document has to be approved by the Sejm (the lower house of Parliament), the Council of Ministers sends it to the Defence Commission of the Sejm for discussion. It then goes to the Sejm as a whole.¹¹

The participation of a number of bodies, in some cases with overlapping responsibilities, slows down the whole process by making it more complicated. On the other hand, it ensures that defence policy is formulated with the participation of all organizations responsible for its execution and in keeping with the requirements of legal and democratic procedures.

Transforming defence policy into defence programmes

Before defence planning comes defence forecasting—scientific forecasting of the future shape of the national defence and probabilistic estimates of the political, economic, social, military and other national and international factors which influence the shape of nation's defence, defining its needs. It creates the basis for decision and is done by scientific institutions, both state and private—the Akademia Obrony Narodowej (AON, National Defence Academy), the Rzadowe Centrum Studiów Strategicznych (RCSS, State Center for Strategic Studies), the Instytut Studiów Strategicznych Miedzynarodowego Centrum Rozwoju Demokracji (Institute of Strategic Studies of the International Centre for Democratic Development) in Cracow and the Centrum Stosunków Miedzynarodowych (Centre for International Relations) in Warsaw—and interdisciplinary research teams. A new centre, to assess threats to security, is also being set up in Warsaw under the auspices of the Warsaw School of Technology.

Defence planning consists of defining how to carry out the tasks identified by defence policy. It includes the creation of defence doctrine; war planning (including political and strategic defence planning); and long-term programming of the defence system and the armed forces. This leads to the formulation

¹¹ Koziej (note 8), pp. 42, 43. On the Parliamentary Defence Commissions, see section VIII in this chapter.

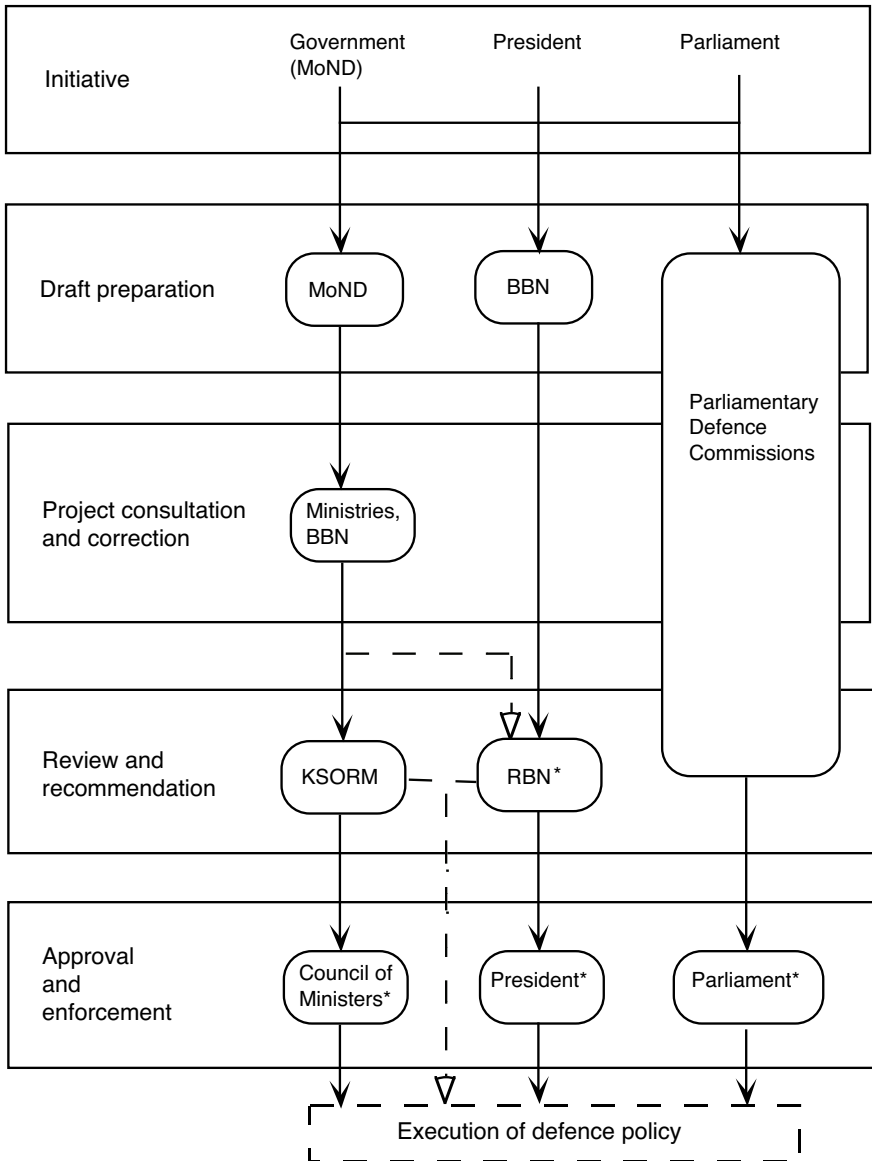


Figure 5.2. The Polish defence policy-making sequence

Notes: MoND = Ministry of National Defence; BBN = Biuro Bezpieczeństwa Narodowego; KSORM = Komitet Spraw Obronnych Rady Ministrów; RBN = Rada Bezpieczeństwa Narodowego. * = Bodies with decision-making authority.

Source: Koziej, S., *Bezpieczeństwo Narodowe i Obronność Rzeczypospolitej Polskiej/National Security and Defense of the Republic of Poland* (Wydawnictwo Adam Marszałek: Warsaw, 1996), p. 53 (in English and Polish).

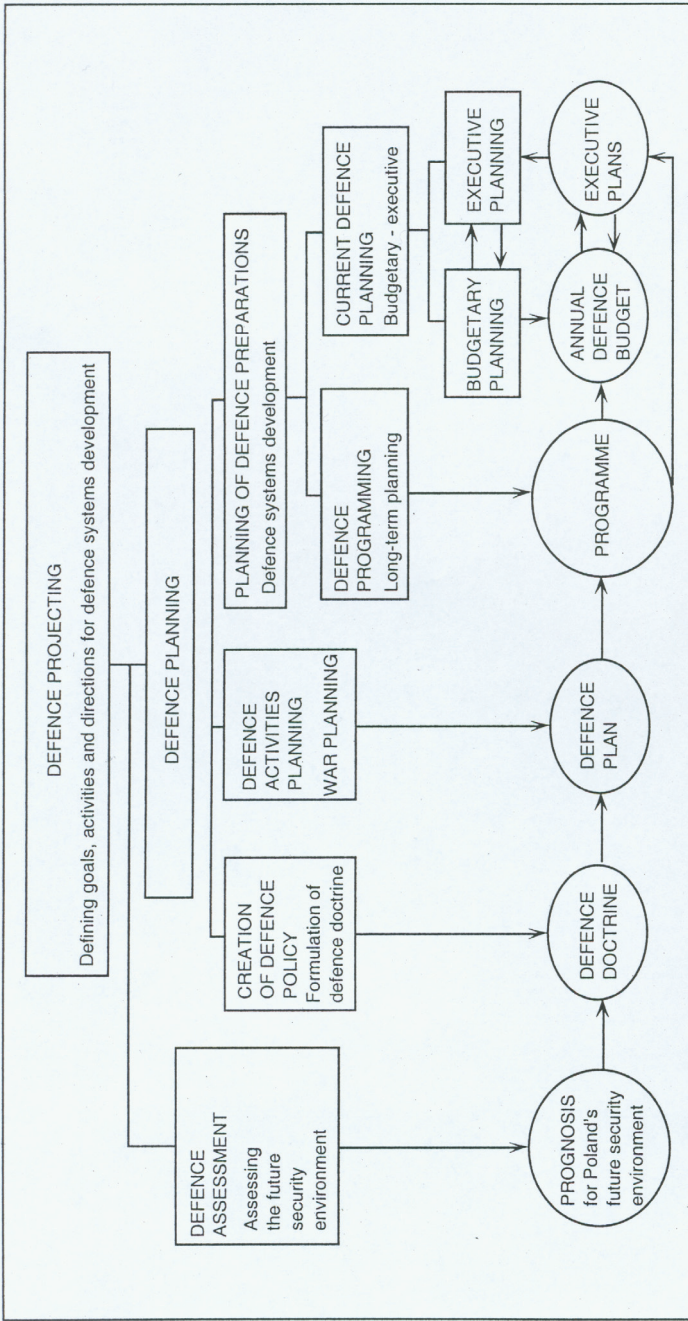


Figure 5.3. The Polish defence planning process
 Source: Koziej, S., *Bezpieczeństwo Narodowe i Obronność Rzeczypospolitej Polskiej/National Security and Defense of the Republic of Poland* (Wydawnictwo Adam Marszałek: Warsaw, 1996), p. 54 (in English and Polish).

of the Political and Strategic Plan of Defence of the Polish Republic, which is developed by the MoND (including the General Staff) in close cooperation with the Ministry of Foreign Affairs, the Ministry of the Interior, the Central Planning Office and the Council of Ministers. The method of long-term planning in the Polish armed forces is still evolving. It was only in 1997 that the 15-year long-term plan for the modernization and restructuring of the armed forces was put into place.¹²

III. The arms procurement decision-making process

The arms procurement decision-making process consists of the preparation and planning stages, which are followed by execution. At the preparation stage the following guidelines are formulated: the Armed Forces Development Plan, the Ministerial Guidance and Budgeting Limitations, and requirement specifications. Technical analyses are conducted at the level of the General Staff and in the departments of the MoND that deal with procurement (the Department of Defence Equipment Procurement) and finance (Budget Department).¹³ The planning stage involves the preparation of a Material–Financial Plan, the Weapon Systems and Military Equipment Procurement and Maintenance Annual Plan, and the Research Work and Implementation Annual Plan. At this stage the above plans are accepted by the Undersecretary of State and Chief of the General Staff, and finally approved by the Defence Minister.

There are two problems with the planning stage of the decision-making process. First, the institutions involved are still undergoing reform and their competences and responsibilities are still not finally established. The organizational structures of the MoND, the General Staff and the central military institutions underwent fundamental modifications in 1993, September 1996 and July 1999, reflecting changes required by Poland's membership in NATO.¹⁴ Second, the organizational behaviour generally observed in this stage is characterized by passivity, play-safe decisions, and the avoidance of risk and responsibility. The planning process drags on during the initial stages, but accelerates rapidly towards the end, which reduces the time for decision making. This time limitation influences strongly the shape of the Weapons Systems and Military Equipment Procurement and Maintenance Annual Plan.

If a contract has a value of over 200 000 euros (about \$200 000) then a member of the Parliamentary Defence Commissions and a representative from the MoND Department of Defence Equipment Procurement are invited to witness the work of the commission of experts that is set up to decide on each tender

¹² See section V in this chapter.

¹³ Information kindly provided by Dr Andrzej Karkoszka, former Deputy Minister of Defence, Poland, Oct. 1999.

¹⁴ The 2 latter implemented a bill on the Office of the MoND of 14 Dec. 1995. On 9 July 1996 and 19 Feb. 1999, new statutes for the MoND were adopted by the Council of Ministers. New regulations were promulgated by the Minister of National Defence on 3 Sep. 1996, whereby the General Staff was integrated into the MoND, and on 14 July 1999. This last stage brought the structure of the General Staff much closer to the models used in other NATO countries. Information kindly provided by Dr Andrzej Karkoszka, Oct. 1999.

operation,¹⁵ but without a right to vote. However, working rules for this type of decision-making procedure have not been precisely defined so far. Computer-assisted methodologies to reduce subjectivity or preconceived judgements have not yet been implemented at all levels. It is impossible to avoid external influences or pressures entirely in any procedure of this type, but some attempt should be made to increase the objectivity of the decision-making process.

IV. Arms procurement procedure

In general two models of arms procurement can be distinguished. The first is followed for procurement within the budget of the MoND. It includes the MoND, arms producers, both houses of Parliament, the KSORM and the NIK. The second model concerns the procurement process outside the MoND budget (which covers what are called 'central projects') and is carried out with capital and technological cooperation between Polish and foreign companies. The second model applies when infrastructure investments are financed in cooperation with external sources. This model includes the institutions mentioned above and the Ministry of Economy.

The legal basis of the arms procurement procedure was formulated in the law on public procurement of June 1994.¹⁶ The law on civilian and military public procurement is in principle the same and stated in the same regulation. Despite that, there are some major differences. As a temporary measure, orders for arms and related equipment aim to protect national producers.¹⁷ This means that most tenders are not open to foreign suppliers. This is a temporary solution and is regulated by internal MoND regulations. The general rules for civilian and military procurement financed from public sources are regulated according to the solutions that are in use in the advanced democracies, as an effect of the harmonization of Polish law with the EU *acquis communautaire*.

Under this law, orders to be paid from public funds can be placed using the following procedures: (a) unlimited tender (treated as the basic method of ordering); (b) limited tender; (c) two-stage contracting; (d) competitive negotiations; (e) inquiry on price; and (f) 'free choice' procedure, meaning that purchase can be made in any shop.

Unlimited tender means a public tender open to all suppliers regardless of their location, size or organization. In the case of limited tender the invitation to participate is sent to a particular group of suppliers. In two-stage contracting the contract is granted to the winner of the second stage of a two-stage competition. Competitive negotiations mean that negotiations are conducted in parallel with different suppliers. Inquiry on price, sent out by the potential customer, helps to select a group of suppliers who can offer the most competitive conditions. The

¹⁵ See section IV in this chapter.

¹⁶ 'Ustawa z dnia 10 czerwca 1994, o zamówieniach publicznych' [Law on public procurement], 10 June 1994, *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 76 (1994), poz. 344, and subsequent amendments. See also URL <http://www.uzp.gov.pl/english/a_index.html>.

¹⁷ See note 16.

free choice method is used in the case of minor purchases which can be made by the buyer without the requirement for competitive methods to be applied: the buyer can buy what he wants in any shop he chooses. The assumption is that competition on the market is sufficient to press prices down in the case of goods that are commonly used by both military and civilian customers (for instance, stationery and pens, although if large quantities of such goods are involved tender is often applied).

The value of an order is an important criterion in deciding procedure. If the order does not exceed 200 000 euros, the client decides alone, using the law on public procurement, if it is possible to depart from the general requirement of unlimited tender. If the order exceeds 200 000 euros any departure from the general rule requires the approval of the Head of the Office of Public Procurement. Up to 30 000 euros, the buyer can place the order according to the free choice procedure, and the regulations accept a simplified method, which means that some documentation is not required. If it is over 30 000 euros the order can only be placed in agreement with all elements of the procedure; in particular, full documentation linked with the contract has to be prepared.

In the case of arms procurement, a specific procedure which deviates from the general regulations can be applied in three cases—natural disaster; defence of the internal and external security of the state; and protection of state secrets. The regulations for these exceptions are formulated in a regulation of the Council of Ministers dated 20 August 1996¹⁸ and concern such issues as the openness of the procedure, basic documentation, announcements about the procedure and its results, the time-limit for tenders, the supplier's right to cancel an order, and the requirement of approval from the Head of the Office of Public Procurement for any departure from the rule on unlimited tender.

If an order is placed abroad the regulations concerning preference for national supplies can be suspended. The general rules on preference for Polish suppliers require that at least 50 per cent of the value of goods and services offered by the supplier are produced with the use of Polish raw materials and products. If these conditions are met, a Polish supplier can expect that the order will be placed with him, even when the price of his products or services is 20 per cent higher than that offered by a foreign competitor.¹⁹ In the case of orders for arms and military equipment national preference can be utilized when the input of raw materials and national products is lower than 50 per cent and the difference in price is more than 20 per cent.

If regulations linked with the protection of national security or state secrets apply and the order is to be placed abroad, the buyer can use the limited tender procedure instead of unlimited tender. When it is to be financed with public

¹⁸ 'W sprawie określenia szczególnych zasad udzielania zamówień publicznych ze względu na ochronę bezpieczeństwa narodowego, ochronę tajemnicy państwowej, stan klęski żywiołowej lub inny ważny interes państwa' [On defining special rules for the placing of public orders taking into account the protection of national security, the protection of state secrecy, natural disaster and other important state interests], *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 109 (1996).

¹⁹ [Regulation of the Council of Ministers, 28 Dec. 1994, on utilization of national preference in planning public orders], *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 140 (1994).

money and foreign financing within the framework of an international agreement which provides for a different procedure from that defined by the law on public procurement, specific conditions may apply. This is so, for instance, when Poland is granted military aid credits by a state or international organization (NATO, the EU or the European Bank for Reconstruction and Development, EBRD) to assist adjustments towards international requirements, for example, development of military infrastructure: the suppliers of goods and services may, for instance, be provided by the supplier of the credit. This has not happened hitherto in Poland, but the regulations have to be flexible enough to foresee the possibility. Such regulations can also be used in cases when Poland finds a financial sponsor for activities planned within the framework of the armed forces modernization programme.

A regulation of December 1994 requires the ministers or the heads of the central organs of state to prepare, in consultation with the Head of the Office of Public Procurement, specific internal regulations to guide the discharge of their responsibilities. The procedure for placing orders for arms and military equipment follows the internal regulations of the MoND. These regulations cover the availability of documentation and the authority of different organizations in the process. According to a regulation approved in January 1997, the Director of the MoND Department of Defence Equipment Procurement has to present detailed regulations on the procedure.

Execution involves 10 separate steps: (a) analysis and review of the Weapon Systems and Military Equipment Procurement and Maintenance Annual Plan; (b) completion of 'procurement situation' estimates; (c) decision of the Office of Public Procurement and announcement of procedure in the *Official Journal of the European Communities*; (d) preparation of a list of suppliers; (e) announcement of the procedure for tender, followed by preparation of draft agreements and documents; (f) appointment of a commission consisting of at least five experts to check the tenders and negotiate, adjust technical requirements, identify selection criteria and establish voting principles; (g) selection of the offer to be accepted; (h) preparation of the final documents; (i) closing the selection procedure; and (j) signature.²⁰

The process in the execution stage is still in a state of flux. Previous instructions of 14 September 1995 detailing the internal working procedures have been cancelled, while revised instructions are not yet ready. Because of the continuing organizational changes it is difficult to find any statistical indication of the advantages or disadvantages of the present procedure, which was introduced in 1996. The changes made then were the result of common sense and experience rather than a scientific approach. The absence of any obligation to use technology assessment (TA) methodologies is a distinct deficiency in the existing procedure. Methods are created in an ad hoc fashion and are largely dependent on the competence of the group assigned to carry out assessment.²¹

²⁰ Miszalski, W., 'Alternative procedures for military technology assessment and the selection of equipment', SIPRI Arms Procurement Decision Making Project, Working Paper no. 92 (1997), p. [17].

²¹ Miszalski (note 20).

However, time is needed before the working of the procedure can be observed and evaluated on the basis of systematic evidence.

V. Financial planning and the defence budget

All decisions on procurement are taken strictly within the framework of the national budget, which is approved by Parliament and published, and within it the MoND budget.

The share of procurement of weapons and military equipment in total military expenditure is relatively low compared with that of other NATO members—9.7 per cent in 1999.²² No increase in procurement expenditure is planned for 2000.²³ This is in spite of the plans for modernization of the armed forces in the context of Poland's joining NATO. It is expected that the share will increase when procurement and modernization go into the second stage, of active replacement of old systems by new ones, and when the share of personnel costs is reduced.²⁴ Most of the prognoses made by military specialists at the beginning of the systemic transformation (1990–93) expected the equipment the MoND had to be used by the armed forces for about 15 years, that is, until the budget had increased sufficiently to pay for renewal. The transition period for the armed forces should enable the producers to adjust to new demands and requirements and the MoND to prepare plans according to the requirements of NATO and EU membership in a changed security environment. It should also permit a progressive restructuring of the MoND budget and a gradual reduction of personnel costs.

The Programme Foundations for Modernization of the Defence Forces of the Polish Republic for the Years 1998–2012 were adopted in September 1997 in preparation for membership of NATO,²⁵ and the Programme of Integration with the North Atlantic Treaty Organization and Modernization of the Defence Forces of the Polish Republic in the Years 1998–2012 was published in 1998.²⁶ The total cost of this programme is estimated at 4.8 billion zlotys.²⁷ Expectations of an increase in the defence budget to match seem to be excessive, although an increase of MoND expenditure in real terms is possible as Poland is expected to return to high rates of growth in 2000.²⁸

²² Based on Poland's submission of statistics to NATO using the NATO standard definition of procurement. NATO, *Financial and Economic Data Relating to NATO Defence*, Press release M-DPC-2 (1999)152, 2 Dec. 1999, URL <<http://www.nato.int/docu/pr/1999/p99-152e.htm>>.

²³ Reply to SIPRI questionnaire by the Polish Ministry of Defence, 10 June 1999.

²⁴ A further fall in the number of troops is expected, to be followed by cuts in length of service and an increase in the ratio of professional soldiers to number of conscripts.

²⁵ Sköns, E. *et al.*, 'Military expenditure and arms production', *SIPRI Yearbook 1998: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 1998), p. 212.

²⁶ The foundations of the programme are presented in *Raport: Wojsko, Technika, Obronosc* [Report: army, technology and defence], July 1998 and Mar. 1999.

²⁷ 'Ustawa budżetowa na rok 2000' [Budget law for year 2000], not published at the time of writing. Information provided to the author from the draft budget law, Dec. 1999.

²⁸ Annual growth of over 5% was expected by both the European Commission and the Organisation for Economic Co-operation and Development (OECD). *Rzeczpospolita*, 27 Dec. 1999.

In the 1999 budget personnel costs accounted for 49.9 per cent of expenditure, operating and training for 32.9 per cent, 'investments' 1.68 per cent and modernization programmes 15.5 per cent. The MoND share of the national budget is now increasing after falling for some years in succession.²⁹

The national budget must be presented to the Sejm by the Council of Ministers three months before the beginning of the new fiscal year (although this strict timetable can be varied). The MoND budget, as part of the state budget, therefore has to be prepared, reviewed, presented, adjusted and accepted according to the same timetable.

Preparation of the budget consists of several stages.³⁰ The first is preparation of the guidelines for general social and economic policy. These are approved by the Council of Ministers and then the Sejm and Senate. In the second phase the Minister of Finance sends all interested departments and institutions a 'budget note' which defines the method, timetable and conditions of preparation of the budget.³¹ The budget project is prepared in accordance with these, using the previous year's expenditure and revenue figures. The materials submitted by individual ministries and other units consist of detailed objectives as well as projects of individual parts of the state budget.³²

The whole process of budget preparation is scheduled in detail from April to 15 November. In early April the various ministries are informed of new regulations that can influence their expenditure. The MoND establishes the broad outlines of its budget request at the end of April. In June all departments under the MoND and other ministries with their financial departments prepare their own budget projects, which are checked in the second part of the month by the Ministry of Finance against expected revenues. In July the preliminary budget requests are considered against the economic forecasts for the coming year—level of salaries, inflation, rate of growth in gross domestic product (GDP) and so on. The budget is discussed in August and the Ministry of Finance receives the MoND's budget proposal. In September the project is completed. October brings parliamentary debates and preparation of the detailed structure of spending. In November the budget bill is finalized and presented to Parliament for approval.

The approval of the budget lies in the competence of the Sejm and Senate. There are three readings. It is evaluated by appropriate commissions, the last one being a sitting of the Commission of Public Finances with the participation of standing committees concerned with sectors of the economy and other interested MPs. The sittings usually end with the preparation of a list of disagreements, which are then resolved by the Commission of Public Finances.

²⁹ Polish Ministry of National Defence, *Basic Information on the MoND Budget for 1999* [MoND: Warsaw, 1999] (in English; also available in Polish).

³⁰ Krasowska-Walczak, G., *Finanse Publiczne* [Public financing] (Wyzsza Szkola Bankowa: Poznan, 1997), pp. 98–99.

³¹ Jaskiewicz, J., *Prawo Finansowe* [Financial law] (Wydawnictwo Uniwersytetu Gdanskiego: Gdansk, 1988), p. 77.

³² Falkowski, A., *Pecunia Nervus Belli: Kształtowanie Budżetu Obronnego Polski* [Money is the sinews of war: shaping the Polish defence budget] (Bellona: Warsaw, 1998), p. 81.

After approval of the general framework of the budget there is a joint meeting of the Commission of Public Finances with the Commission of Legal Regulations. This is the second reading of the law and the deputies are entitled to introduce further remarks and corrections. If there are a great many changes the budget law is passed back to the two commissions before the third reading. The third reading leads to approval of the budget law by the Sejm.

After that step the budget is passed to the Senate, and can be returned to the Sejm. The Senate must approve the law within 20 days. The budget law is approved by an ordinary majority of those voting. The quorum is 50 per cent of MPs. If the law is not approved within three months of presentation of the first project, the President is authorized to dissolve the Sejm.

The President has seven days to approve the budget law from the moment when the Marshal of the Sejm presents it to him. He is authorized to turn to the Constitutional Tribunal to ask if the budget law is correct from the constitutional point of view³³ and has no right to reject it so long as the Constitutional Tribunal considers that it is.³⁴ After approval by the President the budget law is published in the *Dziennik Ustaw Rzeczypospolitej Polskiej* (Journal of legislation of the Polish Republic).

Poland attaches great importance to transparency in military budgeting. Before the budget law is passed, general information about the level of the defence budget and its structure is published in the specialized military press and the daily newspapers—*Rzeczpospolita* and *Gazeta Wyborcza*. Parliamentary proceedings are transmitted by one of the state television programmes and in some cases they are available on the Internet.³⁵

However, it is not sufficiently clear what the defence budget includes. The breakdown of the published budget is fairly detailed and covers all military expenditure, but the expenditure heads sometimes overlap. The list of budget expenditure in the MoND covers all those who have budget money at their disposal, in all 21 positions (such as the Commander of Land Troops, the Commander of the Navy, the Commander of Air Defence, the Director of the Department of Defence Equipment Procurement and so on). Individual units' expenditure is divided into planned and actual expenditure. Equipment and weaponry are divided into 32 groups which define in detail all types of weaponry, systems and spare parts. Finally, there is a document which sets out the 28 budget heads of the MoND—salaries and money owed to soldiers, goods supplied to soldiers, social expenses, ammunition and explosives, maintenance, weapons and military equipment, research and development (R&D), integration with NATO, interoperability, international obligations and so on.

³³ This happened with the budget law of 1995, when the Sejm decision to order the Minister of National Defence to buy defined type of weapon systems from domestic producers was questioned. 'Poslowie bronia decyzji o Irydzie' [Deputies defend decision on Iryda], *Rzeczpospolita*, no. 46 (1995).

³⁴ A similar procedure applies to other regulations. 'Konstytucja Rzeczypospolitej Polskiej' (note 1), art. 122, 224.

³⁵ URL <<http://www.sejm.gov.pl>> (in Polish).

Since 1997 the MoND Budget Department has published an annual booklet on the current budget.³⁶ It contains information on the share of the MoND budget in GDP and overall state expenditure, the structure of military expenditure, the costs of reaching goals defined in the programme for modernization of the armed forces, and so on. It is clear and understandable, and reflects all defence expenditures.

Monitoring of the budget is done primarily by the Sejm, as is clearly stipulated by the regulation on the budget law. In practice the monitoring is carried out by means of a report on the implementation of the budget after six months. Later the Council of Ministers presents to the Sejm and the NIK reports on the implementation of the budget law, supported by accounts of revenues and expenditures on the central and local levels. The budget law defines the contents of these reports, which are examined as background for preparation of a vote on acceptance of the accounts for the government. If the accounts are not accepted in this vote, the Council of Ministers must resign.

VI. The Polish defence industry³⁷

The Polish defence industry goes back mainly to the 1930s. During the cold war Poland maintained a substantial defence industry potential which was subordinated to the needs of the Warsaw Treaty Organization (WTO). In 1989, military production (or 'special production') was delivered by 128 companies, 39 of which manufactured final products and 89 of which produced dual-use goods or were engaged in repairs and maintenance. Many were also producing civilian goods. The range of products was rather limited. The Polish defence industry did not develop advanced types of military production because of technological and economic barriers.

The Polish armed forces were to a great extent reliant on deliveries of military materials from foreign sources. Demand from the Polish armed forces was and still is relatively small—the size of the defence industry considerably exceeds the country's needs—and production of a diverse range of armaments in small quantities was not economic. Opportunities to export were limited. The production of some types of weapon on the home market therefore became uneconomic. In numerous cases Poland faced the dilemma whether to keep production capacities in defined types of equipment or to reduce the range of national production and cover part of the armed forces' needs by imports.

The arms market for all WTO members was limited to the Soviet sphere of influence. This geographic concentration of arms imports was driven by

³⁶ *Basic Information on the MoND Budget for 1999* (note 29).

³⁷ This section is based on Wieczorek, P. and Zukrowska, K., 'The influence of equipment modernization, building a national arms industry, arms export intentions and capabilities on national arms procurement policies and procedures', SIPRI Arms Procurement Decision Making Project, Working Paper no. 98 (1998); and Mesjasz, C., 'Restructuring of defence industrial, technological and economic bases in Poland, 1990–97', SIPRI Arms Procurement Decision Making Project, Working Paper no. 91 (1998). See also Kiss, J., 'Poland', ed. J. Kiss, SIPRI, *The Defence Industry in East-Central Europe: Restructuring and Conversion* (Oxford University Press: Oxford, 1997).

economic, technological and political reasons. Cooperation within the socialist bloc was reinforced by apprehension on the part of Western states that cooperation with the socialist bloc in defence technology would have negative consequences for their national security.³⁸ Poland's relations with the USSR and other WTO states were guided by the avoidance of anything that would lead the ruling Soviet elite to doubt its reliability as an ally and a firm WTO member. This could be observed especially clearly in the 1970s. Furthermore, the R&D potential of the Soviet Union was greater than that of all the other WTO countries together. As a result, none of the WTO East–Central European countries, Poland included, had the R&D capacity to produce a wide range of military equipment on its own.

The end of the cold war in 1989 and the collapse of the WTO in 1991 put military industrial capacities under pressure to adjust to tougher competition and a shrinking market. It also brought the end of the command economy in Poland and opened up markets. Military production in Poland fell dramatically, reaching its lowest level in 1993. It has been increasing since, but in 1997 was at only 55 per cent of its 1991 level. Employment in the defence industry over that period fell from 100 000 to 66 000. Deliveries for the civilian market have, however, been growing faster than the production of military goods.³⁹

Since 1990, 38 companies in which between 25 and 100 per cent of shares is controlled by the state have been considered as the core of the Polish defence industry. Since the majority of companies in the defence sector are single-owner joint-stock companies, where the state holds a controlling part of the shares, the Ministry of Economy participates in the procedure of tendering for supply of arms and military equipment.

The legal and institutional aspects of the defence industry and 'special' production are regulated by:

(a) a regulation of November 1967 on the Common Obligation to Defend the Polish Republic. This regulation is based on the assumption that a country must keep a national industrial potential that is capable of supplying necessary military equipment, regardless of cost. Some elements in this regulation are no longer appropriate: it was prepared for a command–distributive economy in which costs were not the most important factor in decision making;

(b) regulations of December 1988 concerning economic activities in Poland. These foresee that some types of activity require concessions, such as the production of arms and military equipment;

(c) regulations concerning the control of transfers of arms and related technology introduced since 1989. The principal document is the law of 2 December 1993.⁴⁰ This was supplemented by detailed regulations and instructions, for

³⁸ This was evidenced by barriers such as the Coordinating Committee on Export Controls (COCOM).

³⁹ Wieczorek and Zukrowska (note 37), p. 3.

⁴⁰ 'Ustawa o zasadach szczególnej kontroli obrotu z zagranicą towarami i technologiami w związku z porozumieniami i zobowiązaniami międzynarodowymi' [Law on special control of trade with other countries in goods and technologies in relation with international agreements and obligations], *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 129 (1993), poz. 598, with later amendments.

instance, on the registration of companies which can participate in arms transfers and the documents needed for such transactions;⁴¹ and

(d) a regulation of December 1997 on the handling of arms exports and imports by Polish companies and the transit of arms through Polish territory.⁴²

The regulations create rules for the control of the export, import, re-export and transit of goods and technologies which are on the international control lists of the Wassenaar Arrangement.⁴³ The Ministry of Economy coordinates this type of control. Poland is in the process of preparing companies to apply the same 'catch-all' principle as the USA, which creates the conditions for control of technologies that are not on control lists but can be used in the production of military goods.⁴⁴ The regulations governing the defence industry are published in the *Dziennik Ustaw Rzeczypospolitej Polskiej*.

The survival of Polish arms-producing companies will depend on an adjustment strategy, which involves restructuring, consolidation, privatization, conversion, cooperation and internationalization, and an inflow of foreign direct investment (FDI). This has created opportunities as well as challenges.

Restructuring

The companies of the defence industry are gradually adjusting to new requirements prepared according to guidelines set by international organizations and countries that have relevant experience. The message of the regulations is clear: current conditions create a new relationship between the companies and the government. Companies have to become self-reliant by utilizing all available sources of information and knowledge. All, both in the defence sector and in civilian industry, are facing difficulties in coming to terms with the new functioning. There are several requirements if these difficulties are to be overcome. Companies' passivity, which is based on past experience, has to be replaced by active initiative, which includes seeking new partners, maintaining financial liquidity, adjusting to new conditions, and preparing and promoting new products to meet market requirements. This will require a process of learning what types of information are needed and where to find it. Companies have to adjust to new relations with the Ministry of Economy and to be more oriented to developing cooperation with international partners, international sources of financing, markets, technology, the organization of production and know-how,

⁴¹ 'W sprawie ustalenia wzoru rejestru osob prowadzacych obrot specjalny z zagranica, sposobu jego prowadzenia, a takze wzoru wniosku o dokonanie wpisu do rejestru oraz okreslenia niezbednych dokumentow i informacji, które należy dolaczyc do wniosku' [On definition of the pattern of register of legal persons engaged in special trade with foreign countries, methods of conducting it, and the application procedure for registration and definition of the required documents and information, which should be submitted with the application, Order of the Minister of Economy, 19 Jan. 1998], *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 12 (1998), poz. 47.

⁴² *Rzeczpospolita*, 31 Dec. 1997–1 Jan. 1998.

⁴³ The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technology, an informal grouping of states established in 1996. In 1999 there were 33 members.

⁴⁴ Sliwowski (note 4).

international regulations and so on. They will have to face competition and take part in international exhibitions.

This also requires certain adjustments on the part of government. The government has to collect necessary information, and process and disseminate it. It is playing a new role in preparing legislation to meet international obligations, harmonize Polish regulations with NATO and EU requirements, and represent the national interest (although according to the constitution international obligations are binding and superior to national arrangements).

A new concept of the defence sector was born in the Ministry of Economy in early 1999 and resulted in the preparation of a Programme of Restructuring of the Arms Industry.⁴⁵ An earlier programme, of April 1996, the Programme of Restructuring the Defence and Aviation Industries in Years 1996–2010, has not been implemented because of the lack of funds outside the state budget to cover the costs, and it has been largely overtaken by other developments.⁴⁶ The new programme is intended to stimulate investment and strengthen companies through specialization. These changes are expected to improve the negotiating position of the arms producers in their talks with foreign investors.

Privatization

In the case of the defence industry the main route of privatization has been commercialization by turning state companies into joint-stock companies owned by the State Treasury. This was an intermediate phase leading to capital privatization. It was also a condition of beginning conciliatory proceedings with the banks to negotiate the return of credits.

The first ownership changes in the defence industry took place in 1991. Two enterprises, Stalowa Wola Steel Mill and WSK PZL-Swidnik, were registered as limited liability companies. In 1992–93 three other companies were transformed. The privatization process intensified in 1994, when 22 companies became joint-stock companies. Also in 1994, with the approval of the Council of Ministers, shares of two companies were transferred to creditors of those companies. At least some military enterprises followed the pattern of privatization of civilian industry.

This kind of adjustment to market ‘rules of the game’ is referred to in the literature as bank-led restructuring. In other countries of the former socialist bloc a more paternalistic approach was taken, with greater involvement of the government in the process through funding from the state budget. In the case of Poland the involvement of the state central institutions was limited and generally less than in any other country of East–Central Europe.

⁴⁵ ‘Program restrukturyzacji przemysłu obronnego i wsparcia w zakresie modernizacji technicznej sił zbrojnych’ [Programme of restructuring of the defence industry and supporting the technical modernization of the armed forces], Ministry of Economy, Warsaw, 8 Feb. 1999.

⁴⁶ Since 1980 the Polish authorities supervising arms-producing enterprises have launched 7 programmes of restructuring of the defence industry. None of them has been implemented because of lack of finance.

All the 38 principal enterprises in the defence industry were transformed into joint-stock companies by the end of 1996. Of these, 25 were exclusively owned by the State Treasury. (Until 1996 the Ministry of Industry and Trade had this function. In 1997 it was taken over by the State Treasury, directly after that body was established, and in 1999 by the Ministry of Economy).

The privatization of each company of the defence industry requires the approval of the Council of Ministers. It decides on the privatization of defence companies on the basis of the following criteria: (a) the companies must continue to be able to meet the goals of national defence policy; (b) government control of company activities must be preserved in the field of special production⁴⁷ (attempts are currently being made to find a new formula, to enable the state to control companies by means other than control of stocks); (c) the companies must be strengthened through capital input and technological advancement; and (d) the current level of employment must be maintained.

Privatization of defence companies is progressing relatively slowly for a number of reasons. Potential investors (except the creditors) show rather limited interest in the defence sector, treating it as a high-risk investment because its future is uncertain and the chances of any meaningful increase in demand for its products are small. Moreover, the location of defence companies in the past was typically subordinated to military considerations, not to intrinsic factors. It is also important that production entities are economically viable, as they include vast territories and expensive capital investment. Meanwhile the companies in the defence industry do not always manifest sufficient will to privatize as they are afraid of losing state support.

Privatization is proceeding faster in companies that produce small arms than in the case of suppliers of more complex weapon systems.

Cooperation and internationalization

Examples of cooperation in defence production are still limited and they do not involve R&D, which would reduce the costs of prototypes produced in Western companies considerably. According to the Ministry of Economy, cooperation will be advantageous if it: (a) produces more orders for the Polish defence industry through offsets; (b) introduces new technologies and efficient organizational arrangements; (c) stabilizes the economic and financial situation of the defence industry; (d) increases export opportunities; (e) reduces the costs of technical modernization of the Polish armed forces, including the programme aimed at reaching NATO standards; and (f) preserves the defence potential of the country in the sense of mobilization readiness in the event of war or danger of war.

The Polish defence industry lags behind the standards achieved by the developed NATO countries in its organizational structure, its financing mechanism, the level of technological development of its machine tools and its methods of

⁴⁷ Continuation of special production does not necessarily mean that the company engages 100% of its production potential in supplies for the military market.

production. Internationalization and concentration will enable Poland to use its military budgets and their R&D components better by eliminating the inefficiencies of a small industry, which cannot achieve efficiencies of scale because the country's defence expenditure is low. In other words, it will enable more economic production of sophisticated weapons and thus in turn reinforce security. The assumption that market-driven international cooperation can improve Poland's competitiveness is based on the following arguments: (a) the costs of production of certain components are lower in less developed partner countries, as in civilian production; (b) enlargement of the market will offer economies of scale; and (c) cooperation in R&D will be possible.

As is evident in the 38 leading companies, restructuring, which requires diversification of production, adjustment to the changes in the market, the introduction of new technologies and modernization of machinery, is also being hindered by the economic and financial situation of the defence industry. As a result, most of these companies are not able to undertake major investment. They are therefore searching for foreign partners in order to enhance their production capacities through advanced technologies and attract export orders. Western companies are showing increasing interest in the Polish defence industry, as is indicated by the number of business inquiries and promotion missions sent by different companies to specialized exhibitions in Poland.⁴⁸

It seems that the internationalization of arms production will be accelerated when decisions on political integration in the EU are made.

These comments relate mainly to the production of major items of conventional military equipment such as ships, tanks, armoured vehicles and aircraft. They do not concern so much small arms, which most probably will continue to be built on a national scale and standardized internationally. The cost of R&D in the case of small arms makes it possible to retain the current national production, while the increasing costs of R&D for major equipment require international cooperation, sharing costs and enabling the production of more sophisticated weapons, especially when cooperation is linked to the creation of a cooperative security system based on NATO, the EU, the Western European Union (WEU), the Organization for Security and Co-operation in Europe (OSCE) and other regional organizations.

The NATO countries can be expected to develop cooperation with Poland because their defence industries are tending to look beyond national boundaries to the development of international structures in the defence sector, and shrinking demand for arms and military equipment on the national and international markets is forcing them to seek new markets. Cooperation in such conditions can be considered a precondition of increased sales. Three factors may encourage production cooperation between NATO and EU countries and the East-Central European countries. Most of the countries in transition lack advanced technologies; they possess skilled labour forces; and they need to re-equip their

⁴⁸ About 40 foreign companies seeking joint ventures, including the most important and well-known producers in the world, participated in the Fourth International Industry Exhibition, organized in Kielce in Sep. 1998.

armies according to the requirements of the emerging security system. In terms of common interests, these three things can be the basis for closer ties between the military industries of the two groups of countries.

Joint ventures

The most common approach to cooperation with foreign partners is the establishment of joint ventures. International cooperation in arms production is decided at the level of enterprises, not at the level of government, which is a new approach compared to the period before 1989. The first agreements of this type were concluded in late 1993 and early 1994.⁴⁹

All the current joint-venture programmes concentrate on cooperation in production. Cooperation in large R&D projects has not been established, although some studies have been conducted with foreign partners on a limited scale.

It should be stressed that all industries are treated on similar terms, which means that there is no preferential treatment from the side of government. The procedure for establishing a joint venture involves several steps similar to those found in most market economies which try to attract foreign investors. Foreign capital can be involved in a company without permission being needed from a state body. (The only exception to this is the banking system). Foreign investors can establish two types of companies in Poland, a limited liability company or a joint-stock company, the legal requirements being different.⁵⁰ Information on action to be taken by investors is provided by the Ministry of Economy or the Panstwowa Agencja Inwestycji Zagranicznych (PAIZ, Polish Agency for Foreign Investment).

Poland has not prepared a technological programme based on joint ventures. Decisions on technologies to be used are taken by the companies.

Collaboration between the Polish defence industry and civilian industry is also limited, despite the absence of any legal barriers between the two and the fact that after 1989 military R&D centres became more dependent on the civilian market to promote their products.⁵¹

From the perspective of the Polish defence industry, joint ventures provide the most important forms of technology transfer. In addition to the capital flows into Polish companies and expansion of orders, joint ventures lead to longer-term commitments.

⁴⁹ The creation of a joint venture between the RADWAR company in Warsaw and the French Thomson, over a 'friend or foe' identification kit, is a good example. Another is cooperation between WSK PZL-Kalisz and PZL-Rzeszów with the Canadian company Pratt and Whitney, which forms the framework for production of parts for aircraft engines. Recently McDonnell Douglas presented a letter of intent to produce the F-16 aircraft in Mielec.

⁵⁰ Generally, the minimum share in the case of a joint-stock company is 1 zloty, the minimum value of company capital is 100 000 zlotys and the minimum number of founders 3, while in the case of a limited-liability company the corresponding figures are: share—50 zlotys, value—4000 zlotys, and number of founders—1. PAIZ data sheets, Warsaw, Jan. 1999, pp. 2–12.

⁵¹ Mesjasz (note 37), pp. 18–20.

Offsets

Offsets seem to be the guiding idea in shaping the defence industrial policy as indicated by the Programme of Restructuring of the Arms Industry. Offsets have become a precondition of arms imports. A regulation of September 1999 introduces two conditions in the case of larger arms import transactions by the MoND: the foreign supplier which receives an order has to place an order of equivalent value on the Polish market (this can be for all industries,⁵² not only military production⁵³) and it has to participate in privatization of the Polish defence industries.⁵⁴ The regulation defines such notions as an offset agreement, offset obligation, foreign supplier, Polish enterprise, direct and indirect offset obligation, and an offset multiplier. The multiplier falls between 0.5 and 2.0, which means that offsets should amount to 50–200 per cent of the value of the orders placed by the Polish MoND abroad.

The offset regulations are very important in the context of the approaching second phase of adjustment towards NATO interoperability requirements and realization of the programme for modernizing and restructuring the Polish armed forces in the years 1999–2012. The procurement of combat aircraft, which has been suspended for a long time, is entering the realization phase. The introduction of the offset regulation also brings the prospect of orders being placed with the Polish aircraft producers (mainly PZL-Mielec).

It is as yet difficult to identify priorities in the Polish offset policy which might indicate a view of the desired future shape of the defence industry. However, some fields of specialization can be identified indirectly on the basis of competitiveness, quality and volume of sales. They are in small arms, radio detection systems and aircraft production. Capacities for the production of armoured vehicles, tanks and aircraft should be reduced.⁵⁵

The scope of public information

Despite improvements since 1990, less information is publicly available about the defence industry and defence R&D than about other branches of industry. This is the case in the advanced democracies and Poland seems to be following the same path.

Under current regulations, all joint-stock companies, including producers of military goods, publish information on their financial situation. Defence industry issues are thoroughly studied by the Defence Commissions in the Sejm and Senate and in the Defence Department of the NIK. In addition, the appropriate ministries (the Ministry of Economy, the Ministry of the Treasury and the MoND) provide the media with a wide range of information on the defence industry and its problems. Information in an aggregated form is usually given at

⁵² Referred to in the regulation as indirect offset.

⁵³ Referred to in the regulation as direct offset.

⁵⁴ 'Ustawa o niektórych umowach kompensacyjnych . . . ' (note 5).

⁵⁵ This is the authors' opinion. No official statement on this subject has been presented by the government or officials.

specific events related to the defence industry, such as the launching of the Programme of Restructuring of the Arms Industry. Information about the sector and its enterprises can also be obtained from the Główny Urząd Statystyczny (GUS, Central Statistics Office) in its publications on industry and trade—*Rocznik Statystyczny Przemysłu* (Yearbook of industrial statistics)—or general statistics—*Rocznik Statystyczny* (Statistical yearbook).

The Ministry of Economy releases specialized information sheets and publishes periodical reviews of the economy showing the state of all branches, including military and aircraft production. These publications are irregular but there are some indications that they will continue. The most recent were published in Polish and English.⁵⁶ Recently, the ministry published a set of books reviewing the branches of Polish industry in which the defence industry was also discussed.⁵⁷ They include a set of six charts illustrating the economic and financial results of the military and aircraft sector. Less complex, more general information is given in the reviews published by the RCSS.

The next channel of information about the defence sector is interviews with journalists or scholars. Both produce short items published in the media.

Many defence companies run promotion and advertising campaigns about themselves and their products. They can also be considered important sources of information. Information on military producers can be found in exhibition catalogues⁵⁸ and a growing number of military and other periodicals, such as *Polska Zbrojna*, *Mysl Zbrojna*, *Wojsko i Wychowanie*, the monthly *Raport: Wojsko*, *Technika*, *Obronnosc*, or *Wprost*, *Polityka*, *Zycie Gospodarcze* and *Nowe Zycie Gospodarcze* (published weekly).

The availability of information on the defence industry generally can be illustrated by the stages in which the Programme for Restructuring of the Arms Industry was released to the public in 1999. In the first stage the public was informed by the mass media that a programme was being prepared. In the second stage it was said that the programme was being discussed and approved by the KSORM. In the third stage the general outline of the programme was released in the newspapers (*Rzeczpospolita*, *Gazeta Wyborcza* and the specialist press dealing with military issues, such as *Raport*). Detailed information on the sector and on military expenditure can also be found in the annual budget approved by Parliament. A second volume of the budget law also provides detailed statistical data on the defence sector.

Information about the defence sector is available if the user knows where to look for it. Only a limited number of issues are covered by state secrecy. They include the current level of production, sales of armaments, reserves of capacity and conditions of deliveries (prices). The decision to stamp items 'state secret'

⁵⁶ Polish Ministry of Economy, *Poland's Report: Industry in 1998* ([Ministry of Economy]: Warsaw, 1999); *Poland's Report: Economy in 1998* ([Ministry of Economy]: Warsaw, 1999); *Poland's Report: Domestic Trade in 1998* ([Ministry of Economy]: Warsaw, 1999); and *Poland's Report: Foreign Trade 1998* ([Ministry of Economy]: Warsaw, 1999).

⁵⁷ 'Defense industry and aviation sector', *Poland's Report: Industry in 1998* (note 56), pp. 217–20.

⁵⁸ E.g., 'Katalog Polskiej Izby na rzecz obronności kraju', Światokrzyska Agencja Rozwoju Regionalnego, Kielce 1999.

are taken in central government institutions according to regulations embodied in legislation. The regulations governing those decisions are harmonized with NATO and EU requirements.

A special public system of information control is in fact being built up around the defence industry in Poland. Information is no less readily available to the public than in most EU member states. This is a fairly new phenomenon: information on military production was formerly top secret. Nevertheless, there is still a need to disseminate information and make clear what is released and what needs to be made public.

VII. Factors influencing arms procurement

The implications of Polish membership of NATO

In January 1994 Poland signed a Framework Document of the Partnership for Peace (PFP). The Individual Dialogue between NATO and Poland, which opened a qualitatively new stage of cooperation between them, began and Poland formally joined NATO in March 1999.

Formerly, the main goal of the armed forces was to defend the country from invasion. Membership of NATO will mean new tasks, such as peacekeeping, and more selective and specialized arms procurement. National armies from different countries will form international specialized units. There will be opportunity for some specific transitional arrangements to be made before the new international security system comes into being, to cover two gaps—between supply and demand, and between technical capabilities and NATO standards. Those arrangements could involve temporary leasing of major equipment from one or more NATO members. Above all, membership of NATO will mean modernization of the armed forces and interoperability of defence equipment. The 1997 Programme Foundations for Modernization of the Defence Forces for 1998–2012 set out the directions of change needed according to the resources available.

For all the NATO countries, Poland is an interesting market. To that extent, Polish membership of NATO allows pressure from Western arms suppliers to influence the decision makers directly. Poland would prefer to choose equipment from the NATO countries for reasons of interoperability. The NATO countries are also counting on the 'imitation effect' of the Polish example on other candidates for NATO membership from East–Central Europe.

One important issue for Poland, as a member of NATO, will be keeping the balance in its arms purchasing between the USA and European members of NATO. This, however, will be resolved by the progressive internationalization of the defence industry.

The implications of future membership of the European Union

Its future membership of the EU has profound implications for Poland's future arms procurement, arms procurement procedures and arms export policies. Further internationalization will be encouraged.

There are also implications for procurement procedures. In the restructuring of the economy and the legal system, the principles guiding official procurement were changed in keeping with EU requirements, including procurement by the MoND. EU procedures are, however, still not fully applied in everyday practice, and some solutions are applied which protect Polish producers to allow the country to build up its arms production potential before fully facing the competition from the EU and NATO countries. Certain suspensions of the usual regulations on public tender have been introduced. Polish arms procurement will, however, shortly be fully subordinated to regulations imposed by the EU law on public tendering. In a longer perspective, protection could result in the defence industry becoming uncompetitive.

In the EU member countries, the abolition of economic borders and shrinking budgets will enforce a more stringent approach to defence budgets. The EU is to include defence matters in its external policies and develop a capability for conflict prevention and crisis management missions. The WEU is to be incorporated into the EU structures. The Council of the European Union will be empowered to take decisions that affect the modernization and integration of the armed forces and defence industries of the member states.

Poland's adaptation to the EU is not complete. It has introduced most of the legal arrangements required of all future members, but full application of the new laws and democratic mechanisms will depend on other, intangible factors—the knowledge of those engaged in the process, access to information and the ability to discriminate between correct information and false. If these are not developed the democratic mechanism cannot work effectively even when proper institutions and the legal mechanisms which work in advanced democracies are in place.

The influence of interest groups on the arms procurement process

Suppliers of weapons and equipment

The suppliers for the military market include domestic producers, foreign manufacturers and foreign trading companies. Companies play a role in the arms procurement process insofar as they respond to invitation to tender, market their goods and demonstrate their potential to produce the weapons needed, but it is a passive role and their ability to force arms procurement decisions on the government is limited. The number of companies that are not state-owned is increasing. Their obligations and the rules of behaviour of the market are well defined in Polish law.

Foreign suppliers also respond to invitations to tender, but their influence on the Polish arms procurement decision-making process does not go beyond the rules applied in other democratic states. Arms producers and other companies which supply the MoND participate actively at exhibitions of military equipment and services, demonstrate weaponry and equipment, and advertise and market their goods in the usual way.

The defence industry trade unions

The defence industry workers in Poland are organized in two unions.⁵⁹ One, the Union of Military Industry Workers, is linked with the Sojusz Lewicy Demokratycznej (SLD, Democratic Left Alliance). The other is a branch of the Solidarity Union. In most cases they cooperate, representing the workforce in their relations with enterprises owned by the State Treasury. Since the problems of the Polish defence industry are politically sensitive and because the industry employs thousands of workers,⁶⁰ politicians try to win their support. Apart from the SLD and Solidarity, the defence industry can count on strong support from the Polskie Stronnictwo Ludowe (PSL, Polish Peasants' Party) and the Ruch Odbudowy Polski (ROP, Movement for Reconstruction of Poland), both of nationalist orientation.

The defence industry trade unions are very visible in the mass media, where they try to present their needs and the views of the industry or factory they represent. They exert constant pressure on government institutions at the national level. In some cases they have even tried to bring pressure to bear for an order to be placed in Poland by organizing demonstrations in front of government buildings. They have their representatives in Parliament and most of the members of the Parliamentary Defence Commissions act as lobbyists, analysing the defence budget from the point of view of industrial potential and looking for opportunities for 'their' enterprises to win contracts.

Lobbying

Lobbyists engage parliamentarians who represent regions in which arms production is concentrated. A specific role is also played here by lobbying organizations such as the Polish Industrial Lobby (PLP, Polskie Lobby Przemyslowe) in which corporations, industrial unions and industrial research organizations aim to strengthen Polish industry through a combination of research reports, strikes and demonstrations.⁶¹ The Polish Chamber of Defence Producers organizes trade shows, exhibitions and presentations of military equipment and weapons. It also organizes seminars, conferences, courses and publications to

⁵⁹ Stachura (note 9), pp. 16–17.

⁶⁰ In 1998 the sector (defence industry with aviation) employed 66 010 people—6.9% fewer than in 1996. This was c. 2.5% of total employment in industry. The sector produced 1.3% of total goods and services produced.

⁶¹ Tarkowski, M., 'Arms procurement decision making: process, pressure groups, inter-elite controversies and choices', SIPRI Arms Procurement Decision Making Project, Working Paper no. 95 (1998), p. 5.

disseminate information on changes both within and outside the defence industrial sector that have an impact on arms production.

A similar role can be ascribed to the regional development agencies, which participate in organizing exhibitions and conferences where they act as intermediaries between companies located in their regions and government organizations, EU and NATO bodies, and other producers, including foreign companies. The regional agency from Kielce, for instance, organizes an annual international arms trade fair accompanied by a conference on new trends in arms production and sales, defence industrial policy, and the experiences of downsizing and restructuring of the arms industries in the USA and Europe.

Economic and financial conditions

The cost of procurement projected in the programme of integration and modernization of the armed forces up to the year 2012 will be gradually linked with changes in the structure of the MoND budget. While the demands of the Polish armed forces for modern equipment are huge, the long-term prognoses of the growth of GNP and state budget are optimistic.⁶²

Poland (like the two other new NATO members, the Czech Republic and Hungary) has been planning to buy modern combat aircraft but has been prevented by the lack of funds from the state budget. It is currently hoping to lease 60 aircraft from major defence companies.⁶³ If it buys aircraft from abroad those producers who are ready to participate in an offset agreement placed with Polish producers (military or civilian) will have the best prospects.

Diversification of imports

Poland's former dependence on military technology, products and components from the USSR and other WTO countries had far-reaching military and political as well as economic and financial consequences, even after the end of the cold war. In the post-war period, and especially in 1980–81, Poland was under pressure from the USSR, as was evidenced by restrictions on supplies of military equipment and spare parts. This included supplies for civilian markets: merely postponing some deliveries was enough to produce tension in a 'deficit economy' that did not have the necessary reserves. Still, in the years 1995–97, when Polish membership of NATO was pending, Russia, possibly as part of a political campaign against Polish membership, highlighted the fact that the Polish Army was equipped with large quantities of weaponry produced by the former USSR or in Poland under Soviet licence. In 1992 Russia linked withdrawal of its objections to Polish membership of NATO to the maintenance of contracts for deliveries of military technology. Poland rejected this as being

⁶² See note 28.

⁶³ The Jas-39 Gripen (produced by a consortium formed by Swedish Saab and British Aerospace), the Mirage 2000-5 produced by Dassault of France, and the F-16 produced by Lockheed Martin in the USA. Information provided by the SIPRI Military Expenditure Project, Nov. 1999.

totally opposed to the new directions it was taking and to basic concepts of its foreign policy.

The list of suppliers to Poland, including Western suppliers, has grown considerably since 1989. However, no major contracts have been concluded since 1989, with some exceptions, such as the order in 1999 for six 155-mm artillery turrets from the UK, prior to licensed production.

In the years 1995–98 the share of imports in Poland's total arms procurement was about 5 per cent.⁶⁴ Resources were used to buy spare parts and cover costs of repairs, mainly on the former USSR and WTO markets, although some components and assemblies needed for the upgrading of equipment produced in Poland were also imported from Western markets.

In the past Poland (like other countries) sought to limit one-sided dependence by diversifying suppliers or establishing supplies within one alliance. Poland now has freedom of choice, restrained by military and economic considerations and legal provisions. The strategy is now to create relations of interdependence. This is based on the patterns that have developed in civilian production: internationalization of production followed naturally on increasing trade and international capital flow.

The negative experience of dependence on a dominant arms supplier (although it has not been studied deeply by Polish scholars, civilian or military) belongs mainly to the period of the cold war. In NATO, an alliance of a quite different kind from the WTO, the political and military repercussions of cooperation within a narrow group of suppliers should be different. This is illustrated by the experience of NATO members, which only to a limited degree, if at all, try to diversify their patterns of cooperation within the framework of the defence industry and arms production. The main division between them is in transatlantic relations and rivalry between the countries that form the European and North American pillars of the Alliance (also reflected in the pattern of competition of the main weapon producers and suppliers). Nevertheless, this is changing as shrinking arms markets and revision of Article 223 of the 1957 Treaty of Rome force the companies to cooperate in order to enter foreign markets within the alliance.

The diversification policy in the contemporary period has grown out of the activities of the MoND and the Ministry of Economy. The MoND evaluates equipment and shows how it matches NATO requirements; the Ministry of Economy examines the requirements of the regulations on control of advanced technology transfers. To a lesser extent there are pressures from the enterprises. One example is the discussion that accompanied the choice between upgrading national production by imported electronics and broader cooperation between Polish companies and foreign partners, resulting in incorporation of the most advanced technologies into the process of production.

⁶⁴ Polish National Statistical Office, *Statistical Yearbook of Foreign Trade* (annual), various issues 1995–97.

VIII. Democratic oversight

While Poland was a member of the WTO, its arms procurement decisions were based on purely administrative considerations. They were taken in the MoND within the framework of burden-sharing decisions of the WTO (although they were formally approved by the Sejm). The planning and implementation of arms procurement programmes were not subordinated to democratic control by Parliament or coordinated with other state or public institutions. Nor did this issue attract the interest of the scientific community or of the media.

The process of achieving transparency in defence planning and strengthening democratic control over the armed forces in Poland has been as much part of building a democratic state and a modern defence system as of meeting the requirements of NATO membership. The process has developed in three main stages. In the first phase, from 1989 to 1991, elements of Communist Party control over defence and national security were eliminated. Political indoctrination of the armed forces was forbidden and the officer corps was depoliticized. In the second phase, 1991–92, a civilian defence ministry was created along with a mechanism for parliamentary control over the armed forces. In the third phase, 1992–99, an integrated MoND was created and the Chief of the General Staff was subordinated to it as an integral part. The legal foundations of the defence system were completed.⁶⁵

There is a clear link between Poland's political transformation and its adjustments towards membership of NATO and the EU. The two processes should not be treated as separate. The political transformation was accelerated by the membership negotiations and by the guidelines and requirements of NATO and the EU. This resulted in far-reaching harmonization of legislation and procedural and institutional changes in the field of public procurement, including the arms procurement process. Poland has fully supported the Alliance's point of view on democratic control and transparency in decision making as formulated in the *Study on NATO Enlargement* in September 1995.⁶⁶ Its plans in this field were presented in an Individual Discussion Paper on NATO Enlargement, which was presented to NATO Headquarters in 1996.

The methods and processes applied in advanced democracies for democratic control over the armed forces often differ. Nevertheless, it is possible to define some universal principles, which are being incorporated into the Polish processes. The armed forces should not be given any autonomous authority in making security policy for the state: this would alienate them from the society and could result in their interests being promoted at the expense of society's. They should not be given special political or social privileges. They should not have strong or extensive relations with the economic sector, in particular with the defence industry. The processes for civilian and democratic control over the

⁶⁵ Polish Ministry of National Defence, 'Report on Poland's integration with NATO', Feb. 1998, p. 19 (in English).

⁶⁶ *Study on NATO Enlargement* (NATO: Brussels, Sep. 1995).

armed forces and the defence budget have to be institutionalized. This control should be carried out by transparent structures within the MoND. The state authorities should have access to independent expertise on defence matters, including those related to defence expenditure. Finally, information dissemination is a vital element of democratic control over the armed forces, arms procurement and the defence budget.

These principles of democratic control can be found in constitutional regulations and in the laws and resolutions approved by the Sejm.⁶⁷ Nevertheless, there is still a need for skills and expertise in the processes and procedures relating to the armed forces' activities. This includes an understanding of the arms procurement decision-making mechanism.

Parliament

Parliament's main role is in advising on the defence budget and in the participation of its two Defence Commissions in defence policy making. The Committee for Foreign Affairs also oversees defence policy related to treaty obligations and integration with NATO.⁶⁸

The two chambers of Parliament, the Senate and the Sejm, each have a Defence Commission. The Sejm consists of 460 MPs and the Senate has 100 members, all elected in direct, secret and general elections. The parliamentary term is four years. The powers of the two commissions are determined for each parliamentary session by internal rules of the Senate and the Sejm. This means that the work of the commissions reflects the ideas of the majority parties during the life of a parliament.

Neither commission has a specific structure. Like other committees of the Senate and the Sejm, they are headed by a chairman chosen from one of the parties of the coalition in power. The Deputy Chairman usually represents one of the opposition parties. The Sejm Commission consists of about 20 members, that of the Senate of 6–8. Outside experts can be invited to attend their meetings. The Commission in the Sejm, which is the more important of the two, has been building up parliamentary oversight from scratch.

The Commissions play a consulting and advisory role. They can give their opinion on the defence budget and on the arms procurement plan but do not have powers to force government agencies to execute their decisions. The Sejm Defence Commission, as mentioned above, also receives reports on the implementation of the MoND budget, which includes orders placed for arms and military equipment. In 1996 it suggested setting up a mechanism for monitoring the defence budget and in 1997 a joint working group was set up with the Committee on Economic Policy, Budget and Finance.

The inexactness of the regulations creates vast possibilities for rather free interpretation, which can be seen especially in the executive instructions. In the last Parliament, as mentioned above, the Commissions delegated a represent-

⁶⁷ See note 1.

⁶⁸ 'Report on Poland's integration with NATO' (note 65).

ative to participate in the procedure for placing orders worth above 200 000 ECU. One case brought before the Constitutional Tribunal in 1994 concerned the Sejm's influence on the defence budget in the case of the Iryda jet trainer aircraft. The Sejm decided to spend 300 billion zlotys (\$75 billion) on buying this aircraft, which is made by the PZL-Mielec company. The Tribunal ruled that the Sejm was abusing its powers and infringing the principle of the separation of powers. The verdict clarified that the Sejm can only make general changes in the budget and can only make recommendations when it comes to detailed allocations to projects.⁶⁹ Some questions of a similar character involving the competence of the Sejm in setting detailed policy are still unresolved in the current parliament.

Three difficulties expressed by the Sejm in its scrutiny of the budget are the lack of a detailed breakdown, the limited time available (since the budget is submitted to it on 30 November and has to be passed by the end of the year) and lack of expertise.⁷⁰ In their work the commissions use reports prepared by experts in the Sejm Biuro Studiów i Ekspertyz (Bureau of Research, BSE). They also receive help from the BSE Budget Analysis Department and from outside experts working on strategic, economic or political matters from research departments of different ministries, the academic world and independent consultative organizations.⁷¹ However, serious attempts are being made to address the problems of lack of expertise: Warsaw University has started a graduate programme in security studies and legislators are offered courses on security and military issues by the National Defence Academy.⁷²

Parliament may order special investigation committees, but responsibility for audit functions belongs to the NIK.

The national audit authority

The NIK is the highest office set up to monitor and audit the government's and other state agencies' compliance with the law and efficient use of resources. It can initiate inspections when asked by the President, the Prime Minister or the Sejm or on its own initiative. Its reports are accessible to the public to a limited extent⁷³ and its conclusions are widely reported in the media. The NIK is headed by a politically independent chairman and his deputies, whose term of office lasts six years and can be prolonged only once. It works as a collegial body and consists of specialized departments which reflect the structure of

⁶⁹ Stachura (note 9), pp. 11–12.

⁷⁰ Stachura (note 9), pp. 10–11.

⁷¹ The following institutes are those most often engaged in expert work: the Rzadowe Centrum Studiów Strategicznych (RCSS, State Centre of Strategic Studies), the Instytut Rozwoju i Studiów Strategicznych (Institute of Development and Strategic Studies in Warsaw), the Instytut Studiów Miedzynarodowych (Institute of International Studies) in the Warsaw School of Economics, the Instytut Studiów Politycznych (Institute of Political Studies) of the Polish Academy of Sciences in Warsaw, the Instytut Stosunków Miedzynarodowych (Institute of International Relations) of Warsaw University and the Miedzynarodowe Centrum Rozwoju Demokracji (International Centre for Democratic Development) in Cracow.

⁷² 'Civilian interference redefined by Poland', *Congressional Quarterly*, 7 Feb. 1998, p. 279.

⁷³ Stachura (note 9), p. 13.

government activity as well as the structure of the economy. The NIK monitors all activities of state bodies in the executive branch which use public funds. It analyses the consistency of actual expenditure with: (a) the budget law; (b) the obligatory decision-making procedures; (c) the principles of cost-effectiveness; and (d) the justifications for the expenditure. The NIK also carries out post-procurement performance audit, by continuing monitoring by an auditor present in the MoND or by annual check-ups to verify that the guidelines of state policy and the budget law are observed.

The NIK reports on its work to the Sejm by presenting its analyses of implementation of the budget law and principles of financial policy; opinions on the subject of the accounts for the Council of Ministers; information on the results of audit; and recommendations and presentations, which are defined in separate regulations. The focus of its monitoring is mainly on the formal and legal aspects of implementation of the budget.

According to currently accepted practice, the NIK audit is considered to be effective, although it has no executive powers. If it finds evidence of incorrectness or fraud, it can only direct the case to court.

Others

The media are considered to be a major element of public control. Sometimes they report very detailed information concerning major orders for weapons and military equipment. Recently the press even released information that protocols on secret sittings of the two Parliamentary Defence Commissions can be found on the Internet.

All the elements enumerated here form a fairly tight web through which arms planning and procurement are monitored publicly. The effectiveness of this system depends to a great extent on the knowledge of the people engaged in the decision-making process and in monitoring and on their ability to find, interpret and use the available information.

IX. Conclusions: an 'ideal type' of arms procurement decision-making process for Poland

The arms procurement decision-making process in Poland is based on general principles introduced by the law on public orders and recommendations of the Council of Ministers identifying the procedures to be followed. Public control of the arms procurement process is developing gradually.

This does not mean that the decision-making process will not need improvement in the future. Changes if any should be guided by the principle of democratic control over the whole arms procurement decision-making process, in order to: (a) increase the influence of representative institutions on the process; (b) increase the effectiveness of the use of public funds spent for defence purposes: this is especially important in the light of the financial constraints on

the MoND, reflected among other things in the limited resources available for arms procurement; (c) eliminate corruption; (d) eliminate personal linkages between representatives of the armed forces and the managements of defence companies; and (e) educate the officials who participate in arms procurement decision making about democratic control over the procedure.

To improve civilian and democratic control, the following steps are the most desirable. First, the status of the Senate and Sejm Defence Commissions should be enhanced. There is a need to formulate a legal basis for their functioning by a permanent law (not an internal regulation of Parliament, which changes according to the balance of power in each Parliament). Second, better-quality professional advice on defence matters is needed for the members of the two Parliamentary Defence Commissions and the NIK. This would help them to participate more actively in the discussions on the structure of the defence forces, the programme of restructuring of the defence industry and individual defence programmes. Third, stronger financial and tax control of arms producers should be introduced along the lines indicated by the EU.⁷⁴ Fourth, a more active information policy is needed on the part of the MoND.

The role of the armed forces and their position in the Polish political system seemed to be clearly defined from the 1990s, but the concept of civilian control of the armed forces has not been easy to accept and has been realized only gradually. A big step towards clarification of the system was achieved by approval of the new constitution.

The introduction of the changes to build accountability in arms procurement decision making has encountered numerous difficulties in Poland. These can be categorized into political, psychological, economic, technical and industrial factors.

First, the concept of democratic oversight of the armed forces, including arms procurement, is still new and not understood among the military to the extent it is in the developed democracies. This implies that, despite the introduction of new institutions and legal regulations to match the methods in Western Europe, much still has to be done to educate the officials engaged in the decision-making process and in control of the system.

The second problem is linked with the limited budget of the MoND, including its arms procurement budget. This means that procurement plans are often changed when procurement priorities are re-assessed (often under pressure from producers), which makes it very difficult to have a consistent policy.

The third problem is the need to maintain confidentiality and avoid information leaks. There are circumstances when information should not be made publicly known, for instance, concerning decisions on Poland's adjustments to the standards applied in NATO member states.⁷⁵

⁷⁴ These concern among other things more effective tax collection from companies. Poor performance in this field is considered by the EU as invisible state support for enterprises.

⁷⁵ 'Ustawa o ochronie informacji niejawnych' [Law on protection of non-public information], 22 Jan. 1999, *Dziennik Ustaw Rzeczypospolitej Polskiej*, no. 11 (1999), poz. 95.