MAKING THE SYSTEM WORK

ENHANCING SECURITY ASSISTANCE FOR UKRAINE

Author: The Independent Defence Anti-Corruption Committee/Nezalezhny Antikorrupciynii Komitet z pytan oborony (NAKO)

© Cover photo: Dmitrii Muravskyi, edited by NAKO

Ministry of Foreign Affairs of the
Netherlands

TABLE OF CONTENTS

ACRONYMS

AFU - Armed Forces of Ukraine

ATO – Anti-terrorist operation

CMU - Cabinet of Ministers of Ukraine

EEUM - Enhanced end-use monitoring

EXBS - Export Control and Related Border Security Program

FMF - Foreign Military Financing

GS of the AFU - General Staff of the Armed Forces of Ukraine

HA - Humanitarian aid

IMET - International Military Education and Training

INCLE - International Narcotics Control and Law Enforcement

ITA - International Technical Assistance

LOA - Letter of Offer & Acceptance

LOR - Letter of request

MAB - Military Administrative Body supply service

MEDT - Ministry of Economic Development and Trade of Ukraine

MMD of the MOD - Military-Medical Department of the Ministry of Defence of Ukraine

MOD - Ministry of Defence of Ukraine

NADR - Nonproliferation, Anti-terrorism, Demining, and Related Programs

NVD - Night vision device

UAV - Unmanned aerial vehicle

USAI - Ukraine Security Assistance Initiative

SUMMARY

The purpose of this report is to analyse corruption-related risks related to the provision of security assistance to Ukrainian armed forces. The Independent Defence Anti-Corruption Committee (NAKO) and Transparency International Defence & Security analysed the process by which security assistance is provided and diagnosed corruption-related risks, which can result in assistance being wasted or diverted. More widely, we have looked at the provision and supervision of security assistance within the larger ecosystem of Ukrainian institutions involved in defence governance, diagnosing the extent to which security assistance helps in the construction and strengthening of a robust, effective, accountable and legitimate security forces in Ukraine.

Since 2014, Ukraine has made significant progress in monitoring and accounting for security assistance at the operational and tactical levels. Security assistance providers have imposed requirements that have encouraged recipient institutions to put in place more robust monitoring and reporting systems. Donor interviews indicate positive shifts between 2014 and 2017, with greater appreciation by Ukrainians of the need for monitoring and improvement in their systems. More rigorous processes and monitoring have reduced the risks of small-scale misappropriation and sale on the black market, for example. There remains significant room for improvement and better management in the provision of security assistance: some monitoring processes still work slowly, which delays end-use reporting and makes it more difficult to track training or equipment provided.

Our research also found that security assistance is not always provided in accordance with the needs of the Ukrainian defence forces, and in some cases, the equipment provided is missing components that are vital for it to work efficiently and to its full capacity. Equipment is also sometimes distributed to troops who lack the training to operate it effectively, and a lack of spare parts and maintenance capability renders some equipment useless. These shortcomings do not necessarily directly lead to corruption, as there is little evidence of private gain, except in a few instances in which individuals misappropriate equipment. However, they do represent a waste of donor funds and a failure to meet the strategic needs of the Ukrainian defence forces.

On a strategic and political level, reform remains slow and incomplete. Oversight and access to information remains poor, with excessive secrecy hindering reform and oversight throughout the defence establishment; for example, acquisition documents remain classified, and according to donors interviewed, planned priorities remain vague.[1] The opacity of the Ukrainian defence establishment, particularly around the state-owned defence giant UkrOboronProm, reduces donor trust and leads to poor planning and less proficient provision of security assistance. We believe donors could do more to leverage their influence to bring about more fundamental reforms in the Ukrainian defence sector.

Ultimately, if donors are to ensure that their taxpayer funds are used to best effect in Ukraine, they should leverage the influence that comes with their training and equipment to press for greater pace on systemic reforms and improved transparency and accountability, particularly in the procurement and security assistance planning process. This will help ensure that the training and equipment they provide meets Ukraine's most important requirements and help create a more stable and accountable defence sector.

---

[1] Interviews 6 and 7

INTRODUCTION

After the Russian annexation of Crimea in 2014, Ukrainian armed forces received significant assistance from European and North American partners. By the summer of 2016, 18 countries provided non-lethal aid to Ukrainian armed forces.[2] Top donors – the United States, United Kingdom, and Canada – have transferred non-lethal equipment, deployed advisers to assist with reform of the Ukrainian defence forces, and provided training to selected Ukrainian units; the Lithuanians have also delivered security assistance, including bullets.

Assisting the armed forces of aligned nations can be beneficial to both donor and recipient. What is known as "security assistance" in the US, "defence engagement" in the UK, and "military aid" in Canada, can help allies address shared threats; foster cooperation and interoperability; share resources; and build up the capacity of partner armed forces. The components of security assistance usually include donations and sales of equipment, training of partner militaries, and provision of advisers; less often, assistance can also entail direct cash transfers.

Security assistance, if not accompanied by robust analysis of the requirements of the recipient forces, which takes into account the local context, and monitoring programmes by both the donors and the recipient, can be wasted or diverted. In Mali, for example, failure to carry out a comprehensive needs analysis and understand not only the armed forces, but also their environment, meant that US assistance played into existing divisions within the Malian Army and did not stave off its collapse in 2012.[3]

Corruption and impunity within defence and security sectors create some of the most significant risks for diversion and waste of security assistance. Widespread petty corruption exacerbates the risk of diversion or waste at the tactical and operational levels, while systemic corruption and state capture make the provision of security assistance and enterprise fraught with large-scale strategic and political risks. Evidence suggests that assistance provided to Ukrainian armed forces between 2014-2015 was at a significant risk of diversion, in large part due to low-level corruption and criminal activity. In 2014-2015, Ukrainian courts handed down 38 sentences related to theft committed by military personnel within the Anti-Terrorist Operation (ATO). Thirty five of these refer to irregularities in the supply of weapons and ammunition, with the remaining three concerning the theft of a mobile radio station (with a view to selling it for scrap), petrol, and diesel fuel.[4] Other charges include theft of helmets, clothing, footwear and food rations, with officers detained as they attempted to sell a consignment worth 200,000 Hryvnia (approximately 7,500 USD).[5] Rumours of a Canadian shipment of security assistance being diverted from the frontline by corrupt military officials prompted the Canadian government to involve Ukraine's volunteer organizations (VOs), renowned for procuring and passing supplies to frontline troops, in the distribution of their next installment of military aid.[6] Of course, while using VOs might have solved the immediate issue of diversion in the short-

---

[2] Paul A. Goble, 'Friends in need: 18 countries who gave Ukraine non-lethal military aid,' Euromaidan Press, 5 August 2016, http://euromaidanpress.com/2016/08/05/friends-in-need-18-country-who-supplied-ukraine-with-non-lethal-weapons/ (accessed April 2017); and, Bielieskov, Mykola, "How and to what extent did international assistance strengthen Ukraine's defense capabilities?" Institute of World Policy, 2017, http://iwp.org.ua/eng/public/2249.html. According to this briefing the full list of donor states that have provided international assistance to strengthen Ukraine's defence capabilities are: the US, Canada, Poland, UK, Austria, China, Turkey, Slovakia, Norway, France, the Netherlands, Spain, the Czech Republic, Albania, Lithuania, Switzerland, Latvia, and Denmark.

[3] Transparency International – Defence and Security, *Security assistance, corruption and fragile environments. Exploring the case of Mali, 2001-2012*. London, August 2015. http://ti-defence.org/wp-content/uploads/2016/03/150818-150817-Security-assistance-corruption-and-fragile-environments-Exploring-the-case-of-Mali-2001-2012.pdf (accessed December 2016)

[4] Racurs, 'Военно-финансовые махинации' http://racurs.ua/1073-voenno-finansovye-mahinacii-analiz-sudebnoy-praktiki-za-2015-god (accessed 2 March 2016)

[5] Racurs, 'Военно-финансовые махинации' http://racurs.ua/1073-voenno-finansovye-mahinacii-analiz-sudebnoy-praktiki-za-2015-god (accessed 2 March 2016); 368 media, 'Коррупция в Нацгвардии: тыловики систематически разворовывали военное имущество солдат из АТО', *368.media*, 2015 http://368.media/2015/10/11/korruptsiya-v-natsgvardii-tyloviki-sistematicheski-razvorovyvali-voennoe-imushhestvo-soldat-iz-ato/ (accessed 3 March 2016); Haivei, 'Коррупция в закупке жилья для военных, почти в миллиард грив | ХайВей' http://h.ua/story/422541/ (accessed 3 March 2016); Glavcom, 'Просчеты «тыловиков» Минобороны: глупость, коррупция или предательство?' http://glavcom.ua/articles/34036.html (accessed 3 March 2016)

[6] Alya Shandra, 'Volunteers to make sure that Canadian military aid to Ukraine reaches soldiers', Euromaidan Press, 29

term, in the long run, using alternative or parallel structures to bypass formal institutions only weakens them further.

Corruption can also undermine the Ukrainian Armed Forces in other ways as well, making the assessments of the overall strength, capability and effectiveness of the fighting force unreliable. For example, issues which affect morale, the integrity of personnel systems, or popular support for the military – such as theft of military housing budgets or the ability to avoid conscription through bribery. And as the RAND Corporation noted, the perception of corruption risks affecting international military assistance – whether justified or not – can pose a problem for donors, wary that sensitive technologies might be at risk of diversion.[7]

This report aims to trace the processes and practices governing the provision of security assistance to Ukraine, including laws and procedures on the donor and recipient sides, as well as oversight institutions in Ukraine. And to diagnose weaknesses in the systems, which can and do create the risks of corruption, diversion and waste, undermining military readiness and popular support for the war effort; to assess any progress since 2014; and to offer recommendations on creating long-term, sustainable improvement for the Ukrainian defence and security institutions.

SECURITY ASSISTANCE TO UKRAINE: MAIN TRENDS

Since 2014, Ukraine has become one of the largest recipients of bilateral and multilateral assistance. With the Defense Appropriations Acts of 2015-2016, the US Congress authorised the executive to provide training, defence equipment, and defence assistance to Ukrainian forces. By 2017, the overall value of the assistance committed (albeit not necessarily delivered by the time of writing) was more than US $658 million, placing Ukraine among the top ten recipients of US security assistance (following such traditional assistance recipients as Jordan, Pakistan Israel, Egypt and Iraq). [8] In 2016, the value of committed US assistance amounted to about 7% of Ukraine's defence budget of 113 billion UAH (about $4.5 billion[9]).

US security assistance has allowed Ukraine to procure modern technology and much-needed equipment. Between 2014 and 2017 US supplies have included the following:

November 2014, http://euromaidanpress.com/2014/11/29/volunteers-to-make-sure-that-canadian-military-aid-to-ukraine-reaches-soldiers/ (accessed December 2016)

[7] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed March 2017)

[8] H.R.1735, *National Defense Authorization Act for Fiscal Year 2016*, 14th Congress (2015-2016), November 2015, https://www.congress.gov/bill/114th-congress/house-bill/1735/text#toc-H2BE8CF3F3CE54A63A54B7BAF4B44B16D (Accessed April 2017). Also H.R.2685, *Department of Defense Appropriations Act, 2016*, 114th Congress (2015-2016), https://www.congress.gov/bill/114th-congress/house-bill/2685/text (Accessed May 2017); S.2828, *Ukraine Freedom Support Act of 2014*, November 2014, https://www.congress.gov/bill/113th-congress/senate-bill/2828/text#toc-id574535f7bf16498bb78737f3cc42b4ae Accessed May 2017); Vincent E. Morelli, *Ukraine: Current Issues and U.S. Policy*, Congressional Research Service, Washington, October 2016, available at https://fas.org/sgp/crs/row/RL33460.pdf, pp. 31-35, (Accessed May 2017)

Ivan Medynskyi, 'U.S. lethal weapons for Ukraine: mechanism and consequences', Policy Brief, Institute of World Policy 2016, http://iwp.org.ua/img/US_weapons_eng.pdf (Accessed December 2016); Department of Defense, *Readout of Secretary Carter's Meeting with Ukrainian Minister of Defense General Stepan Poltorak*, 8 September 2016, http://www.defense.gov/News/News-Releases/News-Release-View/Article/937303/readout-of-secretary-carters-meeting-with-ukrainian-minister-of-defense-general (Accessed May 2017)

[9] Calculated on the basis of data provided by the Security Assistance Monitor for Ukraine, available at http://securityassistance.org/data/program/military/Ukraine/2014/2017/is_all/Global (Accessed May 2017); and data on Ukrainian defence budget for 2016, available at 'Ukraine to increase military expenditure by 30% in 2016', *Ukraine Today*, 5 December 2015, http://uatoday.tv/politics/ukraine-to-increase-military-expenditure-by-30-in-2016-548205.html; Evgen Vorobiov, 'Ukraine's Parliament passed the much-needed 2016 budget', *Euromaidan Press*, 27 December 2015. http://euromaidanpress.com/2015/12/27/ukraines-parliament-passed-the-much-needed-2016-budget/ (Accessed December 2016).

- High Mobility Multipurpose Wheeled Vehicles ("HMMWV" or "Humvees");
- Thermal goggles and night vision devices;
- Secure radios;
- Explosive Ordnance Disposal robots;
- Counter-mortar radars;
- Raven unmanned aerial vehicle ("UAV") systems;
- Medical equipment.[10]

US forces have also provided training for the Ukrainian military through the Joint Multinational Training Group-Ukraine (JMTG-U), to special operations forces and border guard units, and provided consultancy through Doctrine Education Advisory Group (DEAG), Defense Reform Advisory Board (DRAB) and Defense Institution Building (DIB) initiatives, as well as conducting joint land and sea exercises.[11]

Other donors to the Ukrainian security sector include the UK and Canada. The UK's assistance includes:

- Defence engagement programmes run by the UK Embassy, mostly focusing on the delivery of defence education on tactical, operational and strategic levels, including funding for education at UK defence institutions. While the selection of trainees is vulnerable to corruption risks in the absence of robust recruitment and promotion processes within the Ukrainian MOD, UK sources have stated that the procedure is competitive. The Ukrainian MOD is invited to nominate trainees, but the final choice is made by the UK Government using objective criteria, and there are cases when all the proposed candidates have been rejected.[12]
- Direct engagement with the MOD and the armed forces through the Special Defence Advisor, an embedded British official, who assists the Ukrainian authorities with comprehensive defence institutional reform;
- Tactical-level training performed by small in-country teams. These teams can also deliver non-lethal assistance, which is mostly medical and logistical in nature. [13]

In terms of materiel, in 2015, the UK provided nearly a million pounds worth of 'winterized equipment' to the Ukrainian MOD.[14] According to a May 2015 parliamentary report, the materiel included helmets, GPS devices, laptops, body armour, and medical kits.[15]

Along with the US and UK, Canada is one of the leading donors providing non-lethal military assistance to Ukrainian defence institutions. Between 2014 and 2016, Canada provided around CAD $16 million (11.8 million USD) in non-lethal military equipment to Ukraine's armed forces and deployed 200 Canadian trainers to Ukraine up to March 2017. The Canadian Military Training and Cooperation Program (MTCP) also offers training to Ukrainian officers.[16]

Other donors, including Australia, China, France, Norway, the Netherlands, Poland, Slovakia, and Turkey

---

[10] Morelli, *Ukraine: Current Issues*, p32; H.R.1735, *National Defense Authorization Act for Fiscal Year 2016*, 14th Congress (2015-2016), November 2015.
https://www.congress.gov/bill/114th-congress/house-bill/1735/text#toc-H2BE8CF3F3CE54A63A54B7BAF4B44B16D
(Accessed May 2017). Also H.R.2685, *Department of Defense Appropriations Act, 2016*, 114th Congress (2015-2016), https://www.congress.gov/bill/114th-congress/house-bill/2685/text (Accessed May 2017).

[11] Ibid, page 32-33.

[12] Interview 4.

[13] Interview 4.

[14] Interview 4; Ministry of Defence, Annual Report and Accounts 2015-2016, 14 July 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/558559/MoD_AR16.pdf, (Accessed December 2016), pp36-37 & 109.

[15] Mills, Claire, "UK Military Assistance to Ukraine," Briefing Paper, House of Commons Library, 20 May 2015 https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0ahUKEwjyx67_6_7SAhWkIMAKHUz4A9sQFggyMAQ&url=http%3A%2F%2Fresearchbriefings.files.parliament.uk%2Fdocuments%2FSN07135%2FSN07135.pdf&usg=AFQjCNEFwVoTAc1HJQ13u3hPZtlxU5fh9A&sig2=iuOg1fvHQMx7gQxcm3bMUw&bvm=bv.151325232,d.ZGg&cad=rja (Accessed May 2017)

[16] Government of Canada Factsheet, *Canada-Ukraine Relations,* February 2016, http://www.canadainternational.gc.ca/ukraine/bilateral_relations_bilaterales/index.aspx?lang=eng (Accessed November 2016)

provided equipment, such as: bedding sets, ration packs, winter uniforms and other clothing, medical equipment, generators, lighting kits, sleeping bags, bulletproof vests, etc.[17]

In addition, the NATO Comprehensive Assistance Package, agreed at the 2016 Warsaw summit, obliges the Alliance to support capacity building and defence education; provide advisers for defence reform; and assist in countering IEDs and de-mining.[18] NATO has also established 5 trust funds to support Ukraine in the areas of: Command, Control, Communications and Computers (C4), Logistics and Standardization, Cyber Defense, Military Career Transition, Medical Rehabilitation, and Counter-IED.[19] As of March 2017, NATO reported contributions of more than 14 million Euros (15 million USD) to Trust Funds in Support of Ukraine.[20]

Several donors have provided support through training, capacity-building, and advisors. One example is the Defence Reform Advisory Board, comprised of four senior international defence experts drawn from NATO nations, who work with senior Ukrainian defence officials to advise on modernization and reaching NATO standards by 2020.[21] Training and capacity-building efforts have also included anti-corruption initiatives, as well as more general reform. A good example of this is the UK, through its programme "UK support to Ukraine's Defence Reform Agenda," led by the UK Special Defence Adviser.[22] The Norwegian Centre for Integrity in the Defence Sector (CIDS) has also been working on decreasing corruption in human resource management, and the NATO Building Integrity Programme also conducts training on building integrity.[23]

This report focuses primarily on identifying corruption risks in security assistance in the form of materiel. The following section outlines the process of security assistance, from drafting requests to writing assets off inventories. The report then identifies the main areas of corruption risk in security assistance, and makes recommendations to Ukrainian institutions and the donor community about mechanisms for reducing those risks.

SECURITY ASSISTANCE: THE PROCESS

Security assistance for the Ukrainian Armed Forces is primarily received through one of two paths:

- Humanitarian Aid *(HA)*
- International Technical Assistance *(ITA)*

In addition, security assistance can be provided through charitable aid or through bilateral agreements, but this report focuses primarily on HA and ITA as they are most commonly used. Since most international assistance to the MOD and the Armed Forces comes in as ITA or HA, these mechanisms are at the centre of this analysis. HA is defined broadly in this case, as it includes equipment delivered in preparation for the armed protection of the state and its protection in case of the armed aggression or armed conflict. It can

---

[17] Міноборони оприлюднило дані про обсяги допомоги українській армії від країн-партнерів: у лідерах - США і Канада, Цензор.нет, July 15, 2016, http://ua.censor.net.ua/news/397531/minoborony_oprylyudnylo_dani_pro_obsyagy_dopomogy_ukrayinskiyi_armiyi_vid_krayinpartneriv_u_liderah (Accessed May 2017)

[18] Morelli, *Ukraine: Current Issues*, p30.

[19] "Fact sheet: US and NATO efforts in support of NATO partners, including Georgia, Ukraine and Moldova," the White House, 10 July 2016, https://nato.usmission.gov/fact-sheet-u-s-nato-efforts-support-nato-partners/ (Accessed May 2017)

[20] Calculated based on information provided in "NATO Trust Fund Projects," 1 March 2017. http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2017_03/20170302_170301-trust-funds.pdf (Accessed May 2017)

[21] https://www.pressreader.com/ukraine/kyiv-post/20161118/283214442791355

[22] This programme includes the involvement of Transparency International Defence and Security, as well as the UK Defence Academy. https://www.gov.uk/government/world-location-news/uk-programme-assistance-to-ukraine-2016-2017 (Accessed May 2017)

[23] Hanssen, Mans, "International Support to Security Sector Reform in Ukraine: a mapping of SSR projects," Folke Bernadotte Academy 2016, https://fba.se/contentassets/9f9daa3815ac4adaa88fd578469fc053/international-support-to-security-sector-reform-in-ukraine---a-mapping-o....pdf (Accessed April 2017)

comprise assistance in cash, financial aid or donations, and provision of works and services. These donations in practice include not only assistance on traditional humanitarian causes like disaster relief, but also items such as night vision devices, helmets, and other equipment needed by the armed forces. [24]

ITA comprises financial and other resources and services provided in accordance with international agreements by donors to support Ukraine. ITA supplied items include property, required for the fulfillment of tasks under projects (programmes), which are imported into or acquired in Ukraine; works and services; intellectual property rights; financial resources (grants); and other resources, such as scholarships.[25]

Among state donors, only the United States provides security assistance to the Armed Forces of Ukraine (AFU) as ITA;[26] other countries use, for the most part, the HA pathway. ITA is provided through a number of US programmes, including: Foreign Military Financing (FMF); Export Control and Related Border Security Program (EXBS); International Narcotics Control and Law Enforcement (INCLE); Nonproliferation, Anti-terrorism, Demining, and Related Programs (NADR); International Military Education and Training (IMET); Ukraine Security Assistance Initiative (USAI); and others.[27] This includes US assistance through several different programmes, for example, the US Foreign Military Financing programme, which provides partner countries like Ukraine with military equipment, property and services. The US goal is to help allied foreign countries meet their defence needs and to promote US national security interests by strengthening coalitions with friends and allies. The funds are channeled through the Departments of State (which oversees and manages the programme) and Defense (which executes and implements it), and recipients are military units and the Ministry of Defence of Ukraine's training and educational institutions.

Formulating requirements

The ITA planning process starts with the definition of requirements. The process starts by commanders of military units, heads of military administrative bodies ("MABs")[28] that perform a supply function, heads of military academies, and heads of MOD and AFU agencies, who define operational and tactical security assistance needs. Recipients can make requests for specific items available through donor supply catalogues, or base their requests on desired performance characteristics that can be matched to available equipment. Each potential recipient is only authorized to request assistance from a specific category. For example, the Armed Forces Logistics department can request military uniforms, but not UAVs or other armaments – a provision which helps ensure that specific items can only be requested by those who are authorized to use them, and therefore helps to protect against diversion and waste.[29]

Potential recipients submit ITA requests each year to the supply service of the relevant MAB, which needs to approve requests before they are passed on to the Main Department of Military Cooperation and Peacekeeping Operations of the Armed Forces of Ukraine (AFU) General Staff. The Military Cooperation Department considers requests for compliance with a document called the "Priority Directions", which outlines the security assistance needs as defined by the MOD and the General Staff, and adopted by the Order of the Minister of Defence. Requests approved by the Military Cooperation Department need to be

---

[24] Law of Ukraine "On humanitarian Assistance" of October 22, 1999 № 1192-XIV

[25] Law of Ukraine "On humanitarian Assistance" of October 22, 1999 № 1192-XIV, and Cabinet of Ministers of Ukraine Resolution № 153 "On Establishing a Unified System for Attracting, Utilization and Monitoring of International Technical Assistance" of February 15, 2002

[26] Open Aid register of the MEDT

[27] Congressional Budget Justification, Foreign Operations, Appendix 3, page 113
https://www.state.gov/documents/organization/238222.pdf (Accessed May 2017)

[28] Military administrative bodies are executive authorities designed to perform management functions within the scope of their competence. For example, the MOD and the General Staff are MABs. Other MABs are, for example, The Department of Armaments of the Armed Forces of Ukraine – an authority authorized to distribute armaments to the military units, among other functions. Another example is Logistics of the Armed Forces of Ukraine Department – authorized to distribute clothing to the military units, etc.

[29] Ministry of Defence of Ukraine Order № 449 "On Adopting of the inclusion, use, accounting record and monitoring of international technical assistance in the Ministry of Defence of Ukraine and the Armed Forces of Ukraine procedure instruction" of August 30, 2016

endorsed by the Chief of the General Staff. MABs include, but are not limited to:

- Main Directorate of Operational Support of the AFU
- AFU Logistics
- AFU Armaments
- Main Directorate of Communications and Information Systems of the AFU General Staff;
- Naval Forces;
- Air Forces;
- MOD Military-Medical Department (MMD)

The HA planning process is different. Unlike the ITA process, HA does not start with the recipient's request, but rather, the donor`s proposal to provide HA for the needs of the MOD or the AFU, alongside a written consent from the recipient. Donors have preliminary discussions with the MOD and General Staff to identify needs.[30] Donors then submit documentation, including the type and volume of goods to be provided and certificates of origin for food and medications, to the General Staff's Military Cooperation Department and the relevant MAB.

Registering assistance

International Technical Assistance

Aside from the MOD, the other Ukrainian government department involved in the provision of ITA is the Ministry of Economic Development and Trade (MEDT), whose role it is to coordinate the ITA coming in and to develop strategic and annual technical assistance programmes. The MEDT also registers particular programmes and provides accreditation for implementers,[31] giving them a basis for operating in the country and for any applicable privileges such as tax relief.[32] By law, requests should be submitted to the MEDT after being signed by the Chief of the General Staff, in order to be addressed to the donor countries.[33] In fact, however, the Main Department of Military Cooperation and Peacekeeping Operations of the General Staff sends requests directly to the Office of Defense Cooperation of the Embassy of the USA without sending them first to the MEDT.[34]

After requests are signed by the Chief of the General Staff, the Military Cooperation Department passes them on to the Office of Defense Cooperation at the American Embassy in Kiev. The Office of Defense Cooperation submits Letters of Request to the US European Command, where they are formally reviewed and prioritized by the Multinational Joint Commission (MJC), a donor co-ordination body bringing together the US, UK, Canada and Lithuania. After the MJC review, the US European Command sends a consolidated and prioritised proposal to the Department of the State and the Department of Defense, where they undergo an interagency policy and technical review. After a decision is made, security assistance items are purchased in the US through the defence acquisition system and sent to Ukraine.

Upon receiving a firm offer of assistance from a donor, the potential recipient is expected to register the project with the MEDT.[35] The basis for registration are the Letters of Offer and Acceptance (LOA) specifying the amount, value, and performance characteristics of items being provided and signed by both donor and recipient – in this case, Chief of the General Staff following acceptance by the Military Cooperation Department. The LOA, agreed by donor and the implementer of the project, sets out project objectives and

---

[30] Interview 15
[31] Accreditation includes gathering information about the body implementing the project, and authorises them to implement a relevant project in Ukraine.
[32] Cabinet of Ministers of Ukraine Resolution № 153 "On Establishing a Unified System for Attracting, Utilization and Monitoring of International Technical Assistance" of February 15, 2002
[33] Interview 7
[34] Interviewees with multiple anonymous Ukrainian defence officials; conducted November-February 2017
[35] requirements of Clause 7 of the CMU Resolution № 153

types of ITA provided for the project. It also lays out cost estimates, project duration and the planned implementation phases. Upon reviewing the documents, the MEDT makes a decision, normally within 10 days, to register or decline the project. It may choose to reject a project because of non-compliance with long-term strategies, the provision of false information, or non-compliance with relevant legislation.[36] Should relevant information change, projects are subject to re-registration.[37] Registration with the MEDT is also the basis for the cargo coming into Ukraine to be recognized as ITA, which, in case of items provided by the US, is the basis for applying relevant tax exemptions specified in bilateral treaties; the only fees that apply to ITA are those for services performed by a freight company to complete clearance, loading, and storage payments. The MEDT also performs accreditation of foreign implementers, such as companies providing training as part of security assistance.

Project registration with the MEDT provides some transparency and accountability by making public the aims, cost and duration of the project. The MEDT, however, lacks the relevant defence specialists that it would need to conduct due diligence on defence-related projects. The system of registration has been paper-based (though it is currently in the process of transfer to an electronic platform): registration is confirmed by a registration card for the project, and a corresponding record is made in the State Register of Projects kept by the MEDT. This carries the potential for delays, especially with insufficient staff numbers. The MEDT receives notification of completion at the end of a project, and gets information twice a year about the state of project implementation. Military units submit relevant reports to the Chief of the General Staff, and they are then submitted to the MEDT.

MEDT registration also has the potential to create more public accountability. The MEDT is currently in the process of digitizing the registration procedure and has constructed a publicly available database of all assistance projects, including both civilian and military projects (www.openaid.gov.ua). Under-staffing, however, is likely to slow the process of digitizing the registration process down and maintaining the database. Given that there is still a requirement for greater transparency and accountability in the Ukrainian defence and security sector, and that information is often over-classified, it is not clear whether and how much information is withheld on national security grounds.[38]

Humanitarian Assistance

When a recipient institution (MOD, Office of the General Staff, for example) agrees with a donor that they will receive security assistance through HA, the relevant MAB approaches the Ministry of Social Policy. The Ministry of Social Policy completes an order that recognizes the cargo as humanitarian aid. The Department for Military Cooperation, within the Office of the General Staff, and the relevant MAB are in charge of transportation inside the country, receiving the cargo, registering it, storing it, and monitoring to ensure that the equipment is used as intended. Generally, information about HA cargo is available on the relevant Ministry of Social Policy Order that recognized the shipment as HA – the documents are scanned and available online. Security cargo, however, does not seem to be made public in the same way; researchers could not identify any defence-related orders. The Ministry performs a role similar to the MEDT in that it is the authority that can recognise, particular shipments and deliveries as HA, with accordant tax exemptions.[39]

Processing & distribution
Project implementers and recipients are responsible for timely ITA import and receipt. They are also bound

---

[36] clause 14 of the Cabinet of Ministers of Ukraine Resolution № 153 "On Establishing a Unified System for Attracting, Utilization and Monitoring of International Technical Assistance",

[37] Cabinet of Ministers of Ukraine Resolution № 153 "On Establishing a Unified System for Attracting, Utilization and Monitoring of International Technical Assistance" of February 15, 2002

[38] Government Defence Anti-Corruption Index – Ukraine Assessment, 2015. Government.defenceindex.org (accessed April 2017)

[39] Customs Code of Ukraine

to secure relevant clearances, including customs clearances (often obtained through brokers), and goods import licenses if required. Licensing is mandatory for some military items, including weapons and night vision devices. Military and dual-use goods require licenses from the State Service for Export Control, and vehicles are licensed by the Armaments of the AFU Central Vehicle Office. Other bodies may need to provide their approval or license; depending on the materiel, this could be, for example, the State Security Service of Ukraine, the Main Directorate of Communications and Information Systems of the General Staff, and the Ministry of Health.

The responsibility for obtaining import licenses sits with the relevant MAB. The MAB is responsible for issuing orders on further distribution of ITA items to relevant military units. However, if a specific military unit or units are designated as the ITA recipient, an official representative of a unit will be responsible for obtaining licenses and custom clearances. In this case, the ITA cargo will be brought in with the relevant military unit designed as the direct recipient, and it is their responsibility.

When ITA items are received by customs, the relevant MAB (through the military unit receiving the ITA) and the Military Cooperation Department are expected to:

- Inspect the cargo and receive invoices at the customs facility, within three days;
- Contract a brokerage organization accredited by the State Fiscal Service in order to obtain cargo customs declarations and conduct customs procedures, and procure any other necessary services (such as loading-unloading);
- Confer power of attorney on a designated ITA cargo recipient;
- Receive ITA cargo from freight company after customs procedures are finished;
- Deliver the ITA cargo from customs to its destination.

Upon being released from customs facilities, ITA items go to the storage facility of the MAB responsible for that particular item, or directly to the military unit receiving it. From the time ITA is received by the relevant MAB, its further distribution is conducted in the same way and according to the same regulations as all other military property. For example, HMMWVs are relayed to the Armaments Department storage facilities, while medical kits go to the MOD's Military-Medical Department storage facilities. After the cargo is delivered, the recipient becomes responsible for the items and submits receiving reports to the Military Cooperation Department, including the list and prices of materiel received.

In the final step, ITA is distributed to the military units. Depending on the category the items fall into, different units can be responsible for them. For example, the Rocket and Artillery service is responsible for bullets and UAVs, and the Armored Vehicle Service is responsible for battle tanks. Unit commanders allocate ITA to companies, as company commanders are the lowest-ranking officers who can be responsible for military property. The allocated military property is entered in a military property form, which contains information on the recipient and the military property they received, which is retained at a company level. Information on the materiel delivered is entered into the military property accounting systems and its movement recorded in the subunits' records book, lists of armament allocation to servicemen (at the platoon level), and Military IDs: each serviceman's ID includes a list of weapons and technical equipment assigned to them.

The process of distribution and record maintenance has improved significantly since 2014, when registration processes were chaotic as volunteer battalions and Ukrainian armed forces responded to the Russian invasion. In 2014-2015, volunteer battalions were integrated into the formal military system, which unified and strengthened the formal procedures, including registration of weapons and equipment.[40]

The distribution of HA proceeds along similar lines. An indicative distribution list is a part of the relevant MAB's application to have a particular donation recognised as HA by the Ministry of Social Policy, and the items can only be shipped to Ukraine after the Ministry has granted it the status of HA. Customs clearance,

---

[40] Yana Stepankovskaya, 'The vanguard of the nation: where did the volunteer battalions go'?, *Liga Novosti*, 10 February 2017, http://news.liga.net/ua/articles/politics/14688864-avangard_nats_kudi_znikli_dobrovolch_batalyoni.htm (Accessed March 2017)

any necessary fees, and subsequent distribution are planned and executed by the relevant MAB and the MOD's Military Cooperation Department, and the procedures are similar to those governing the distribution of ITA.

The final and one of the most important steps in the military property life cycle is the procedure for removing equipment from the inventory, in the event of military property becoming worn out, lost or damaged. In the event of military property being damaged or lost, the military unit commander initiates an internal investigation in order to understand the circumstances. The military unit commander assigns an officer or a commission responsible for internal investigation and they draft a report which is approved by different authorities. An approved investigation report is a basis for military property to be written off by the chief of the relevant supply service after the military unit commander issues a relevant order. The unit commander`s powers of write-off is limited by his or her rank, and the type and value of the equipment.[41]

CORRUPTION RISKS AND SHORTCOMINGS

While tracking and monitoring procedures for security assistance have improved markedly, corruption risks are still present on all levels, from strategic to tactical. On the strategic level, the biggest risk is the failure to formulate capability requirements clearly and effectively, and to implement a robust requirements formulation process that includes the appropriate political and oversight institutions. In addition, the research found a number of areas of potential mismanagement and inefficiency, which result in lower effectiveness of security assistance and can increase corruption risks related to misappropriation of materiel.

Formulating strategic requirements

Perhaps the most significant issue which can contribute to corruption risks is the continuing lack of transparency, accountability, and oversight, particularly in the process of formulating requirements and filling capability gaps based on those requirements.[42] Elements of the process are in place, but they do not yet add up into a robust, overarching process of planning and oversight, with civilian oversight and involvement from the wider defence and security sector – including relevant parliamentary committees.

Ideally, security assistance should complement state procurement, by identifying requirements and shortfalls, providing assistance and thereby alleviating pressures on the defence budget. Though security assistance and procurement are different areas of concern, and this research only touches on problems with the procurement system, they are related – the failure to provide a clear and transparent plan for what the Ukrainian defence establishment needs, and how the State intends to fulfil those needs, leads to poor coordination, opens the door to influence by powerful individuals and the largest state-owned defence company Ukroboronprom, and ultimately reduces donor trust. [43] And when donor states are helping to fund the Ukrainian defence force, while elements of the Ukrainian defence budget are wasted due to corruption, it represents a waste of taxpayer's money in donor states.

According to interviews with Ukrainian defence officials, the main document setting out the national defence requirements is the State Defence Order and the "Priority Directions" document sets out Ukraine's security assistance requirements. According to interviewees in the office of the General Staff, the "Priority

---

[41] Ministry of Defense of Ukraine Order № 17 "On Adopting of the Armed Forces of Ukraine Military Property Writing off Regulation" of January 12, 2015

[42] NAKO understands that certain information regarding security is justifiably classified as secret, and is not advocating for blanket transparency of all information.

[43] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016.
http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed March 2017)

Directions" document is drafted by the MOD and General Staff. Requests for assistance are checked to see if they align with the "Priority Directions", which should make it possible to fit them into a long-term development plan for the Ukrainian armed forces.[44] But contracts through the State Defence Order are nearly all classified and single-sourced, and contracting documents can be drafted with a particular supplier in mind. These deals can be negotiated by military representatives with ties to state-owned defence companies; this means that "individuals with conflicts of interest are in a position to affect procurement decisions."[45]

In addition, corruption concerns arise from weak oversight of both of procurement generally and the security assistance requests. Neither the State Defence Order nor the "Priority Directions" are subject to oversight by the Verkhovna Rada; nor do they appear to be effectively communicated to the donor community.[46] Though procurement generally is outside of the scope of this report, the lack of transparency in this regard has an impact on security assistance. For example, having access to these documents would help donors to be sure that the security assistance requests are comprehensive and based on a solid analysis of the capabilities gap. It would also help them better understand what Ukraine can afford and what equipment donors should provide appropriate to Ukrainian-identified needs. [47] Civilian control remains weak, meaning that there are few checks and balances in place to ensure that budgeting, planning, and the acquisition of equipment and services, either through procurement or security assistance requests, is conducted efficiently and in the best interests of the armed forces. MPs are involved in the process of defence budget oversight, so they should also have information about security assistance in order to be more informed about military planning and budgeting generally, and to make effective decisions around defence spending. Donor officials conduct outreach to Ukrainian MPs, as does the Multinational Joint Commission, but the involvement of the Verkhovna Rada in the process varies and appears to be mostly limited to the episodic engagement of individual MPs.[48] Oversight can also be impeded by the Rada's limited ability to scrutinise identified requirements and procurement decisions.[49] There is also the question of whether they have the incentive to do so; members of the defence committee have been the subjects of corruption allegations.[50]

The role of the state-owned defence industrial giant UkrOboronProm is an example of a lack of transparency about the complete picture of how acquisition decisions are made and how security assistance requests fit into them. UkrOboronProm is reportedly involved in the process of formulating requirements and influences the procurement choices made by the Ukrainian MOD and armed forces. As a provider of equipment to the armed forces, consultation with UkrOboronProm is to be expected. However, donor interviewees and a report from the RAND Corporation indicated that senior leaders within the defence establishment, rather than planning for what they really require, make agreements with UkrOboronProm officials to match the Ukrainian defence requirements to what the company and its subsidiaries can provide. While it could be argued that this is a conscious effort to make the best acquisition decisions, the lack of clarity on planning raises donor concerns about undue influence and a lack of competition. The Ukrainian defence sector, one interviewee suggested, was in a weak position when dealing with UkrOboronProm: 'They're so big and so protected that when it comes to some decisions,

---

[44] Interview 7

[45] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf page 59 (Accessed May 2017)

[46] Interviews 3, 11, 12, 15

[47] Interview 15

[48] Interviews 2, 3, 5

[49] Interviews 2, 3, 5; Government Defence Anti-Corruption Index assessment for Ukraine 2016

[50] Oleksii Bratushchak, Війна і бізнес. Як друзі Порошенка контролюють мільярдні замовлення Укроборонпрому. Частина 1, Українська правда, December 1, 2016 http://www.pravda.com.ua/articles/2016/12/1/7128509/ (Accessed May 2017)

people defer to them.' [51] As a report from the RAND Corporation identifies, UkrOboronProm's opacity, unclear legal structures, weak corporate governance and perceptions of undue influence and political interference deter investment and joint ventures. The report also identifies that "there is a perception among Ukrainian military and foreign officials that UkrOboronProm is not meeting the demands of the Ukrainian military."[52] This has an impact on security assistance and may deter increases in security assistance provided by donors. Donors provide a sizable portion of the defence budget and they have an interest in whether the primary domestic supplier is meeting defence needs.[53] For example, the fact that the State Defence Order and "Priority Directions" are fully classified makes it unclear whether UkrOboronProm is manufacturing any of the goods Ukraine is receiving as security assistance.

Donors also expressed their concerns that even though the system significantly improved since 2014, one of the most difficult but most important things is to understand Ukrainian needs. Although the MOD sometimes provides briefings on priorities, donors do not receive any formal documentation.[54] One donor noted that Ukrainians ask for items rather than for capabilities. If they asked for capabilities, donors could see what is technically releasable, affordable, and delivered according to contracting timelines. Instead, sometimes they insist on specific items that may not actually meet their needs, which they themselves may not have adequately defined.[55] Keeping the "Priority Directions" document fully classified, in particular, despite the obvious fact that Ukraine has capability gaps, reduces donors` trust. Making it more transparent to donors might help convince donors that security assistance requests are not ad-hoc, but are evidence-based and defined after relevant analysis and prioritisation.

Another donor frustration reported by the RAND corporation is that "many different organisations – including departments within the MoD and GS, the National Guard, and so on—make requests of foreign governments for assistance. Multiple and conflicting requests make it difficult for potential donors to evaluate where assistance could best be used."[56] This seems to have improved since 2014-2015, with one donor stating that they now get a single request list from the Armed Forces, and one from the National Guard.[57] Overall though, the lack of a transparent acquisition planning process makes it difficult for donors to validate what is really needed, and how they can effectively contribute to the establishment of a strong Ukrainian defence forces long-term. One donor state representative summed it up by saying that they 'lack a clear sense of who's getting what and why'.[58]

Finally, the MEDT *de-facto* does not influence the process of formulating strategic requirements for security assistance (in form of ITA), and we could identify no need to involve the MEDT in this process. The existence of two paths for security assistance (ITA and HA) creates additional difficulties for donors, who use two different systems, which operate differently, to send security assistance to Ukraine.

> **Recommendations:**
>
> 1. NAKO recommends that donors, or the MJC collectively, ensure that each request or offer of assistance submitted by a Ukrainian recipient institution is accompanied by a justification for

[51] Interview 2.

[52] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed March 2017) page 94 (Accessed May 2017)

[53] Interview 15

[54] Interview 15

[55] Interview 6

[56] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed March 2017) Page 89

[57] Interview 15.

[58] Interview 3.

how it corresponds to an identified need and aligns with the long-term strategic plans for the development of the Ukrainian Armed Forces. Donor items should not be provided unless the Ministries provide the capability required and distribution plans in advance, with the logic behind the quantities requested clearly spelled out.

2. Ukraine should consider making the majority of State Defence Order and the "Priority Directions" document for security assistance available to the donor community, as well as to the public. To initiate this, Rada should amend the Law of Ukraine on State Secrets to allow for this information to be made publicly available. Some components of each may need to be withheld for security reasons, but these should be kept to a minimum, and the full detail should be provided to MPs from the Committee on Corruption Prevention and Counteraction, the Committee on National Security and Defence, and auditor bodies. Some information may be withheld, but such restriction should be prescribed by law and justified to be necessary in a democratic society to protect a legitimate national security interest, and oversight authorities and the courts should have the right to review restrictions.[59]

3. The MOD and Verkhovna Rada of Ukraine should develop a new legal framework to govern all security assistance coming into Ukraine. All security assistance coming to Ukraine, which is currently brought in as ITA, HA, charitable donations, and through bilateral agreements, should go through this framework, and should be registered through the MOD. Additionally, a coordinating body comprised of defence and security agencies receiving security assistance should be created to evaluate, monitor and coordinate security assistance for Ukraine. This could be led by the National Security and Defence Council. The MEDT should also be included in this coordinating body and should have the ability to approve reports and to initiate audits if it has grounds to suspect diversion or misappropriation.

4. The Ukrainian Government should seek to improve their strategic planning capability. They should consider creating a Department for Capability Development within the MoD, as advised in the 2016 report from the RAND corporation on security sector reform.[60] To prevent issues of conflict of interest and poor oversight from recurring, this new function should be accompanied by steps to improve transparency in procurement more generally.

5. Secrecy in budgeting and procurement, and the role of UkrOboronProm in this process, appear to prevent the formation of clear strategic plans that aid donors in ensuring security assistance is targeted effectively. To address this, the following recommendations should be considered priorities:

- The defence budget should be published in greater detail and the percentage spent on items classified as secret should be reduced significantly. The defence budget proposal and approved budget should be comprehensive, and made public for civil society and donors.

- To reduce the secrecy, particularly around procurement. As a first step, the Rada should review existing legislation, guidance and practice to assess whether it is in line with NATO standards and the Global Principles on National Security and the Right to Information (the Tshwane Principles).

- To increase the transparency in the operations and influence of UkrOboronProm, and for UkrOboronProm to adopt and practice the OECD Guidelines on Corporate Governance of

---

[59] The Global Principles on National Security and the Right to Information (the Tshwane Principles), Part 1, Principle 3, Open Society Justice Initiative, https://www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles (Accessed April 2017)

[60] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed May 2017)

State-Owned Enterprises, including external audits, transparency of corporate leadership, disclosure of key financial and other performance-related information and the publication of annual reports.[61]

6. Weak oversight is a concern. The Verkhovna Rada should engage additional technical support to strengthen its members' capacity to oversee and contribute to defence strategy development.

Operational planning, distribution & diversion risk

Leading on from strategic risks are concerns regarding how security assistance is planned for, distributed, and controlled to ensure that supplies are not diverted.

Operational Planning

Security assistance planning has improved since 2014. Initially there was an *ad-hoc* approach, which involved sending uncoordinated requests to many donors. Although donors stated that better coordination is still needed, requests have become more focused and sophisticated.[62] There would, however, be benefit in ensuring that the process of formulating certain requirements involves adequate consultation with frontline formations. Without involvement from end users, items identified as a requirement might not meet the needs on the ground, which in turn can lead to inefficiencies. In some cases, for instance, we found MoD requests for specific devices did not include all the relevant technical components and training.

There was also evidence that security assistance provided did not always include the full components needed to fulfill the Ukrainian MOD's strategic requirements, though this information was contested. For example, while Night Vision Devices (NVDs) were provided, some interviewees stated that only a few NVDs arrived at the frontline with the mounts required to enable them to be fastened to either a rifle or helmet, which made them ineffective in combat.[63] There was also often a lack of flame suppressors. NVDs are light-sensitive, meaning that a rifle can blind the NVD and make it unusable at night, which renders the NVD unusable for combat. But at the same time, some donor interviewees stated that the US sent more mounts than it did NVDs – in fact, more than double the number of NVDs.[64]

Another interviewee, however, indicated that providing NVDs without rifle mounts was a conscious decision on the part of the US administration to avoid providing lethal equipment and risking escalation of the conflict. The interviewee reported that this was a political maneuver, allowing donors to maintain support while not delivering weapons considered as 'lethal' or 'offensive'.[65] In late 2015, US Congressmen criticized the Obama administration for providing security assistance that did not meet operational needs of the Ukrainians, including the failure to provide NVD mounts.[66] Though this may have been rectified, as some interviewees stated, the fact remains that the frontline troops reported that they didn't receive the mounts – whether it was a problem of what was provided, the donor states' political interests, or how it was distributed, could not be identified by our research.

---

[61] "OECD Guidelines on Corporate Governance of State-Owned Enterprises – 2015 Edition," OECD, 2015, http://www.oecd.org/corporate/guidelines-corporate-governance-SOEs.htm (Accessed April 2017)

[62] Interview 15

[63] Interview 14

[64] Interview 15

[65] Interview 17

[66] Rogin, Josh, "U.S. Hasn't Kept Ukraine Aid Promises," Bloomberg News, February 5, 2015 https://www.bloomberg.com/view/articles/2015-02-05/u-s-hasn-t-kept-ukraine-aid-promises (Accessed May 2017)

Distribution

There are also questions around the distribution of the assistance among different services and units, and whether this is conducted effectively. ITA is not always effectively distributed among infantry battalions. For example, most NVDs have been allocated to airborne units, which have barely been deployed in the past eighteen months. As a rule, one out of three battalions within a brigade has received night combat training and is therefore considered a "night battalion" and is the first to be called upon in case of night-time combat. A night battalion receives more NVDs than others, but in full-blown combat, this distinction between night battalions and others is likely to be meaningless: every unit in the vicinity of a battle will be engaged in the fighting.[67] This in turn calls prioritization of the 'night battalions' for receiving NVDs into question.

Distribution was also raised by interviewees regarding the RQ-11 Raven UAVs. One servicemen stated that some Raven UAVs were allocated to units, which had not received relevant training at all, whilst some of the UAV crews that had American UAV Operator Certificates failed to receive any UAVs at all.[68]

Overall, donors interviewed expressed concern about the lack of civilian oversight over the Office of the Chief of the General Staff, which has a decisive influence on how military property, including security assistance items, is distributed.[69] The Verkhovna Rada lacks the power to ask questions regarding how security assistance items have been distributed and for this to be communicated to donors.

A State Enterprise – but in the State Interest?

On 1 November 2016, Boryspil International Airport - a state-owned enterprise - started charging for security assistance storage. It takes some time for recipients to arrange clearances for entry, and the average time needed is 15-17 days. Boryspil International Airport charged the MOD 60,078.24 UAH (2,260 USD) for cargo containing night vision devices which had arrived September 29, 2016, been cleared by customs November 12, 2016 and been received November 19, 2016. This creates an illogical system, in which a state-owned enterprise is charging the state for the required storage of vital national security equipment. This goes against the intent of donors providing aid that is free or low cost to the MOD.

The problem could be solved by either the Cabinet of Ministers adopting a relevant resolution, or the Ministry of Infrastructure of Ukraine issuing a relevant order with concrete definition of circumstances when the cargo for the MOD may be stored with fees exempted.

Diversion & misappropriation

The risk of diversion has an impact on donor willingness to provide security assistance.[70] In 2014, some security assistance never reached its intended target and in some cases was sold on the black market. One example, which garnered significant media attention, was US-provided Meals-Ready-To Eat (MREs) which were found for sale online.[71]

Unfortunately, it is still relatively easy to misappropriate military uniforms, fuel, rations, and accessories. However, it has become much harder to misappropriate military equipment such as firearms, UAVs, and NVDs. Where it does happen, misappropriation is likely to be piecemeal, with individuals claiming that

---

[67] Interview 14
[68] Interview 14
[69] Interview 15
[70] Interview 15
[71] Shuster, Simon, "Corruption still plagues Ukraine as West pumps in Aid," Time Magazine, 1 April, 2014; http://time.com/45253/ukraine-corruption-tymoshenko-kiev/ (Accessed May 2017); Pugliese, David, "No safeguards stopping Canadian equipment from falling into wrong hands in Ukraine, opposition MPs say," National Post, 20 September 2014, http://news.nationalpost.com/news/canada/no-safeguards-stopping-canadian-equipment-from-falling-into-wrong-hands-in-ukraine-opposition-mps-say (Accessed May 2017)

equipment had been lost or destroyed in combat.[72] The most obvious route, identified by interviewees is for individual staff to claim that property has been damaged in combat, so it is then written off the inventory. There are now steps in place to reduce this risk. When such an event occurs, an investigation is conducted, which compares dates of artillery shelling against the location where the alleged incident was supposed to have occurred, before an item can be written off the inventory.[73] Away from the frontline, military property may be misappropriated from storage units; in such cases, however, a number of high-rank officers would need to be involved.

There remains some risk of collusion in the process of internal investigations. Unit commanders are in charge of assigning the officer or commission responsible for the internal investigation. Unit commanders may be held accountable for their subordinates[74], so possibly lack an incentive to uncover malfeasance. This however is only true for low-cost items such as jackets and ration packs; for more high value items, the process involves external oversight from an earlier stage.

The "lost in combat" conundrum

Service personnel who lose military property outside of combat are obliged to cover the cost of the item up to tenfold. If a serviceman loses or damages military property in combat, however, he or she is not liable for those costs. However, our interviews indicate that service personnel lack awareness about these rules, and many are convinced that the financial penalty applies even if the item in question is lost in combat. As a result, many refuse to use the Raven UAVs provided through ITA, preferring instead to use equipment supplied by volunteers, which they do not believe will incur financial obligations if it is destroyed. Raising awareness among Ukrainian servicemen regarding what their responsibilities are - and are not - when using security assistance would help alleviate servicemen's fear that they will be liable for the cost of equipment provided through security assistance that is lost as they are executing orders in combat.

There are also some reported cases of security assistance being diverted behind the frontline. For instance, according to one interviewee, Ukraine received 5 medical HMMWVs out of intended 30 in 2016 (the remaining 25 vehicles are intended to be delivered in 2017). They were also provided with approximately 800,000 UAH (approximately 27,500 USD) intended for procuring spare parts and maintenance. The interviewee alleged, however, that the funds were not used as intended and may have been diverted.[75] There are also allegations that high-cost medical HMMWV equipment and a field hospital have been stolen.[76]

It would appear, however, that there are now few examples of large-scale misappropriation. Interviewees repeatedly reported that misappropriation is possible on a small scale, but could not identify large-scale examples. While even small-scale misappropriation is worrying, such instances do not add up to a large scale systematic theft of military property. This is a significant change since the beginning of the war, in 2014. The risk of misappropriation during this period was high because of permanent force rotations and the constant movement of troops.

This positive change has come about for two main reasons: first, military police have access to the front line, and are now able to investigate the loss of military equipment. Commanders of military units that received assistance in 2014 are even being asked to justify losses from that period, although it is proving difficult to resolve such cases due to the time elapsed. The second reason is that Western donors have been important drivers for improvements and reform. According to interviews, Ukrainian authorities now

---

[72] Interview 8, 14

[73] Interview 13

[74] Verkhovna Rada of Ukraine Resolution № 243/95-вр "On Adopting of the Regulation on the material responsibility of servicemen for damage caused for the state" of June 23, 1995

[75] Interview 18

[76] Interview 7

send reports on the loss or destruction of security assistance equipment.[77] The Ukrainians have been working hard to increase Western donor and in particular US trust in their processes. The pressure has paid off and has made Ukrainian officers much more focused on following and reporting on procedures.

Despite these improvements, however, donors still have concerns about Ukraine's ability to monitor and protect what they receive, though Ukrainian officials have made it clear that they intend to protect donor-provided defence items.[78] From the donor perspective, the security situation in the ATO zone and shortcomings in monitoring procedures mean that their own visibility of the materiel provided through security assistance is limited. Paper-based records and lack of automation mean that it can be challenging to keep track of where items are in real time. At the regional level, implementation of SAP programmes for inventory and record-keeping have been stalled since 2015, making it even more difficult to track items at the regional and unit level.[79] So while disbursement procedures do exist and investigations are being carried out, donors lack the assurance that the procedures are adhered to in practice and the authorities have the ability to track the materiel provided.

Inadequate tracking and protection processes mean that Ukraine remains ineligible for some of the more technologically advanced assistance, as donors are worried about the risk of diversion.[80] Because of uncertainty in how Ukraine's tracks and protects sensitive defence technology, the provision of technologically advance assistance is problematic, as donors worry that technologically sensitive items cannot be accounted for.[81] The result is that in some instances, Ukraine receives equipment that does not best meet its strategic need. An example of this is the RQ-11 Raven drone, which has been submitted repeatedly in ITA requests. In practice, the RQ-11 Raven is not well-suited for the Ukrainian MOD's needs. It can be easily taken out of operation through electronic warfare and the operating range is too small for the current conflict in the ATO, as it only has a range of up to ten kilometers. This makes it ineffective to employ the RQ-11 Raven in most operations in Ukraine today. But other UAVs that have been requested have been considered either too expensive or too technologically advanced, given the perceived risk of diversion. One donor interviewed indicated that poor performance in this area raises concerns in the donor community that materiel may be transferred across the border to Russia, and cited it as a main reason that Ukraine does not receive technologically sophisticated items.[82]

The next section sets out recommendations for both Ukrainian establishments and donor states to reduce corruption risk in planning and distribution.

Recommendations:

7. In order to draft useful, coherent and comprehensive ITA requests, relevant Ukrainian authorities, including Military Administrative Bodies, should cooperate directly with units and individuals using the security assistance items. This should include consulting officers with experience in the ATO when putting together requests, to ensure that operational needs are met to the degree possible. Donor states should work with relevant Ukrainian authorities to improve forward distribution planning.

8. To improve tracking, there should also be a renewed effort by the Ukrainian MOD, with support and pressure from the donor community, to implement the installation of SAP software[83] or similar programmes for tracking, inventory, and record-keeping, which has been

---

[77] Interview 3

[78] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed March 2017), as well as numerous interviews

[79] Interview 2; Interviewee 3 also identified lack of unit-level tracking as an outstanding issue

[80] Interview 3

[81] Interview 6

[82] Interview 15

[83] SAP ("System Applications Products") software is designed to aid distribution, planning, inventory and supply chain

pressed for by volunteers but has stalled since 2015.[84] The RAND corporation has recommended that this be initiated as a pilot project, which would be pragmatic. Improved tracking of how security assistance and other supplies are distributed will help with distribution and forward planning, and build donor trust. The Ukrainian MOD, in cooperation with the State Service for Export Control of Ukraine, should also take steps to improve their technology transfer control system in order to reassure donors that the technology will reach the right end-user, be used for the intended purpose, and will not be transferred to third parties in violation of the documents of guarantee.[85]

9. Donor states should set clear reporting requirements for Ukrainian institutions to reduce the risk of diversion, and make these targets publicly available.[86] According to one interviewee, when donors have set clear reporting requirements that Ukrainian counterparts need to meet in order to receive continued security assistance, reporting has improved.

Training & integration

In order to ensure that security assistance provided by donors is effective, training and equipment integration must be considered. Weaknesses in the planning process can mean that key components required to make assistance effective and useable is not always considered, though again, donors stated that Ukrainian authorities have improved the integration of security assistance since 2014.[87] In some cases, however, equipment has been delivered, but user training, maintenance and repairs, and specialist positions within the military that would help get the most out of the equipment, is lacking. Clearly this is not an example of corruption, but it does represent an inefficient use of security assistance and donor funds. According to interviewees, this is more or less true for many security assistance items including, for example, HMMWVs, anti-artillery radars and Harris radios. There is often a lack of repair and maintenance facilities for donor equipment and the military do not always have the relevant specialist knowledge and training to operate the equipment.

This was an issue raised by interviewees in regard to the operation of RQ-11 Raven drones. All the training for RQ-11 Raven operators was conducted either in the US, or at the Zhytomyr Military Institute of Radio electronics. Interviewees raised concerns about the effectiveness of training in Zhytomyr, including the selection of personnel, some of whom were not going to use the training in their posts, and others who reportedly left military service soon after the training. In some cases, RQ-11 Ravens were allocated to soldiers who had not had relevant training at all. [88] Another example is the Harris radio, which was also provided through security assistance. During combat deployments, soldiers reported that they had forgotten or lacked the skills to use the radios, and consequently many Harris radios were not used at all.[89] This could indicate problems with distribution planning, or with training. Though units received one-off training on how to operate the radio, it was never repeated and the necessary skill-set did not have time to take root.

In another example, approximately 30 Ukrainian servicemen were provided with training on how to use five medical HMMWVs that were received in 2016, and how to provide initial medical assistance to the wounded. But the paramedics who went through the training are, according to one interviewee, currently using other vehicles; only two of the five medical HMMWVs received so far have been allocated to military

---

management. SAP Website, https://www.sap.com/uk/solution/industry/wholesale-distribution.html (Accessed April 2017)

[84] Interview 2

[85] Interview 15

[86] The precise institutions that set these targets will vary by donor state, but are generally the Defence or State Departments or their equivalents, and may also involve contribution from the legislature.

[87] Interview 15

[88] Interview 14

[89] Interview 14

units on the frontline. NATO also provided medical training for approximately 150 servicemen, but according to an interviewee within the MOD, only 10-15 of them were sent to the frontline.[90]

A similar problem arose with HMMWVs that lack spare parts, maintenance equipment, and specialized maintenance training. As a result, when HMMWVs require repair, they are sometimes taken to civilian vehicle repair shops using volunteer funds. But the lack of any AFU specialist occupational knowledge among drivers and maintenance crews seriously constrains the utility of these vehicles, as does the lack of spare parts and accessories. The US reported that it offered excess HMMWVs to the Ukrainian MOD for free, except for shipping costs, but that the offer was not accepted – the reasons were unclear.[91] Without sufficient spare parts, including tyres, some of these vehicles are reportedly remaining in storage. Ukraine has apparently now started sending requests for HMMWV spare parts, though, and training for personnel is planned for when the next shipment of HMMWVs arrives.[92] The US donor interviewed also noted they generally provide two years of spares and maintenance but beyond that the Ukrainian recipients need to project their requirements. The US has also provided a workshop to develop and train their Ukrainian counterparts on how to develop long-term sustainment plans, planning and budgeting.[93]

Donors also have concerns regarding how useful training for Ukrainian specialists or defence education abroad is in practice. In some cases the issue is about ensuring the right individual is selected for the right opportunity; in others, it is about ensuring that newly acquired expertise is recognized and then drawn on appropriately.[94] Ukrainian legislation does not recognise some of the educational certificates provided by foreign institutions, even when that education has been requested by Ukraine. Donors also mentioned that Ukraine doesn`t seem to have robust system for military personnel development. One Ukrainian officer, for example, refused to go abroad for training because he feared that he would lose his position in Ukraine. So although the Ukrainian institutions requests training as part of security assistance, the system of personnel development doesn't always facilitate this.[95]

Recommendations

10. MABs and other institutions drafting security assistance requests should consider issues of maintenance, spare parts, accessories, and training. Greater consultation with donor country officers' familiar with equipment being provided may help ensure best use is made of limited resources. This will also assist the Ukrainian MOD in integrating security assistance alongside AFU military equipment and armaments, and provide for its life cycle maintenance.

11. The Verkhovna Rada should amend existing legislation to ensure that specified overseas educational qualifications are recognized in law. The Ukrainian MOD should consider drafting this law and providing it to the Rada, to ensure the training they have requested can be used most effectively. The Ukrainian MoD must then implement the law and ensure those personnel who receive training both internally and externally abroad have the opportunity to utilize that training.

12. The Ukrainian MOD must demonstrate the benefits of donor security assistance in order to provide the international community with the assurance their funding is being used to good effect. Evidence that the materiel provided to Ukraine is adequately maintained, has enough spare parts and is used by the relevant specialists may increase what donors are prepared to offer.

---

[90] Interview 18
[91] Interview 3
[92] Interview 18 and 14
[93] Interview 3
[94] Interview 15
[95] Interview 15

Monitoring

Ensuring equipment reaches the intended end recipient also comes down in large part to effective monitoring. Domestic and donor equipment accounting requirements determine how monitoring works in practice. ITA accounting is carried out according to the same procedures, which cover all other military property. In practice this means adhering to the provision of Ministry of Defence Order № 690 - Interim guidance on the accounting record of military equipment in the Armed Forces of Ukraine. There is no single electronic register for ITA, but the Military Cooperation Department holds all ITA cargo and customs declarations that are delivered and conducts an annual visual check on whether it has been received and used. In addition, MABs account for all military property according to their assigned category (ranging from pencils to combat aircraft), including ITA provided by donor-countries. The Department also receives quarterly reports from project implementers on whether the ITA has been received and used, which are submitted to the Ministry of Finance. Finally, it submits semi-annual report cards (due in January and in July), based on reports from responsible units, to the MEDT. In the field, accounting is carried out by company commanders at least once a month, platoon commanders once every two weeks, and squad commanders every day.[96]

For HA, accounting is conducted by the Ministry of Social Policy of Ukraine, Council of Ministers of the Crimean Autonomous Republic, and the regional (oblast), Kiev City, and Sevastopol City state administrations. The Cabinet of Ministers Committee receives monthly customs reports on HA received, which is prepared by customs agencies and the National Bank of Ukraine. Recipients of HA are required to submit monthly reports on the availability and distribution of HA until the equipment is fully distributed. If HA is not accounted for and received, it is deemed to have been used contrary to its purpose. Any military property that is not accounted for is subject to investigation and possibly prosecution by the Military Prosecutors Office, whether it is ITA, HA, or received through normal procurement.[97]

Donor accountability requirements also shape the processes of accounting for ITA and HA items. The United States appeared to have the most comprehensive system of end-use monitoring and verification and information about their systems was more readily released.

There are 2 types of monitoring conducted by the US:

- Enhanced end-use monitoring (*EEUM*). ITA contracts can have provisions providing possibility for EEUM, meaning that donor-country representatives carry out visual inspections of the ITA in order to ensure accountability. According to the US legislation, for example, UAV RQ-11B Raven is not subjected for EEUM, but night vision devices are.
- Regular end-use monitoring. Ukraine has to submit to the US reports containing information on how particular ITA items are used, and if they are lost, damaged, or stolen.

The legal architecture based on the Arms Export Control Act (AECA, section 3 and 4) and the Foreign Assistance Act (FAA, section 505) establishes the criteria for eligibility to receive U.S. security assistance and requires end-use monitoring in order to ensure that recipients of US assistance comply with US requirements pertaining to final use, transfer, resale, and security of articles provided.[98] The Department of Commerce also conducts checks for dual-use and certain military items.[99]

Both State and Defense Departments operate end-use monitoring programmes. Blue Lantern, the State Department programme, pertains to U.S. Munitions List articles, technology, services, and brokering

---

[96] Clauses 112, 120, 126 of the AFU Internal Service Regulations

[97] Law of Ukraine "On humanitarian Assistance" of October 22, 1999 № 1192-XIV

[98] *Arms Control Export Act,* section 3 and 4; https://www.gpo.gov/fdsys/pkg/USCODE-2010-title22/html/USCODE-2010-title22-chap39-subchapI-sec2754.htm (Accessed November 2016); *Foreign Assistance Act* 1961, Section 505, https://www.gpo.gov/fdsys/pkg/USCODE-2010-title22/html/USCODE-2010-title22-chap32-subchapII-partII-sec2314.htm (Accessed November 2016); Defense Security Cooperation Agency, *Security Assistance Management Manual* (SAMM), 'Chapter 8: End-Use Monitoring', http://www.samm.dsca.mil/chapter/chapter-8 (Accessed November 2016)

[99] Interviews 2, 6

procured through commercial sales obtained by commercial sales or the Foreign Military Sales Programme. DOD's Golden Sentry programme attempts to prevent misuse, diversion or unauthorised transfer especially of items procured through Foreign Military Sales or other DoD-managed government-to-government transfers containing sensitive defence technology and whose diversion or theft would pose greater risks to the US, and is the primary monitoring mechanism for security assistance provided to Ukraine.[100] The programme includes two types of End-Use Monitoring: Routine and Enhanced. Routine EUM is required for all defence articles and services provided via government-to-government programmes. US security assistance personnel are required to observe and report any potential misuse or unapproved transfer and these EUM checks occur during the normal course of duties. Enhanced EUM applies to items containing sensitive technologies and requires that 100% of items are accounted for at any time from transfer to disposal.[101] Enhanced EUM requires that the US authorities need to be notified within 30 days of an item's loss or diversion.[102]

Most items provided to Ukraine through security assistance do not require specialised tracking; one interviewee stated that only night-vision devices were covered by Enhanced EUM and required close monitoring and verification of use.[103] Most of these provisions are included in the transmittal documents governing each transaction.[104] Before transferring the items to the Ukrainian MOD, US entities would conduct a thorough inventory. After transfer, monitoring can be conducted either through in-person checks by US official or by evidence provided by the recipient side – such as photographic records of equipment and its current placement. The latter is especially prevalent in conflict areas such as the ATO – when security conditions are assessed as preventing US officials from traveling into an area to conduct checks, they rely on recipient documentation.[105]

Randomised control, involvement of a number of different entities, and the challenging security situation can diminish the effectiveness of verification and monitoring programmes. It was not possible to obtain a detailed breakdown of data regarding Golden Sentry checks, as it tends to not be released.[106] The US Government Accountability Office has noted shortcomings in both Blue Lantern and Golden Sentry checks in other countries.[107]

On the policy level, US officials attempt to ensure that the Ukrainian MOD's policies, procedures (such as record-keeping) and physical safeguards such as appropriate storage facilities are in place and help reduce the risk of misuse and diversion.[108] Many noted improvement between 2014 and 2016: the two years after Ukraine began to receive larger amounts of assistance saw its officials grow to appreciate the need to account for aid and try to build up a good record in an attempt to project a cooperative and trustworthy image.[109] On the US side, the Cooperative Defence Technology Security Dialogue, formally established in 2016, engages the MoD staff and other elements of the broader defense establishment on developing policies procedures, and practices in ensuring the protection of sensitive defensive technologies (i.e., night vision) as well as advocating effective Ukrainian mechanisms on end-use accountability.[110] However, the

---

[100] SAMM, Chapter 8

[101] Defense Security Cooperation Agency, *End Use Monitoring (EUM) Responsibilities in Support of the Department of Defense Golden Sentry EUM Program* (DSCA Policy Memorandum Number 02-43), December 2002, http://www.samm.dsca.mil/policy-memoranda/dsca-02-43 (Accessed December 2016)

[102] Interview 3

[103] Interview 3

[104] Interview 2

[105] Interviews 2, 3

[106] See for example State Department, 'End-Use Monitoring of Defense Articles and Defense Services Commercial Exports FY 2015', http://pmddtc.state.gov/reports/documents/End_Use_FY2015.pdf (Accessed November 2016)

[107] Ibid; also Government Accountability Office, *Countering Overseas Threats: DOD and State Need to Address Gaps in Monitoring of Security Equipment Transferred to Lebanon*, 4 March 2014, http://www.gao.gov/products/GAO-14-161 (Accessed December 2016)

[108] Interview 2

[109] Interviews 2, 5

[110] Interviews 1, 4, 5, 6

process has not been without challenges.

Despite requirements for reporting loss of sensitive equipment up to days after it's been lost, some reports came through 6-12 months later. This is not necessarily not an automatic red flag, as donors indicate that most items appear to be lost not through corruption, but rather through combat action in the ATO.[111] However, as noted above, donors have also reported that putting pressure on the Ukrainian authorities by delaying subsequent shipments until after previous ones have been accounted for has shown some impact. Assistance to the Ukrainian navy, which saw items go unaccounted for, has been curtailed and does not include the most sensitive items due to previous lapses in accountability.[112]

Recommendations

As noted in section 4.2.1., the Ukrainian MOD should renew efforts to implement the installation of SAP software or similar programme for tracking, inventory and record-keeping. The donor community should continue to press for this to take place.

DONOR CONSIDERATIONS

Coordination

There are concerns that donors' own planning and coordination is not robust enough to ensure effective planning and distribution of assistance. Some Ukrainian defence leaders, for instance, attribute at least some problematic decisions on the allocation of equipment to donor procedures and mistakes. In an interview with *Defense One*, an advisor to the Chief of the General Staff complained about miscommunication and bureaucratic delays on the donor side that slowed the delivery of relevant assistance.[113]

There are mechanisms in place to address coordination: The Multinational Joint Commission is comprised of the US, UK, Canada, Lithuania, and Poland, and is the foremost donor coordination forum. It was initially formed as a bilateral Ukraine-US Commission in October 2014. It is headquartered in the US European Command and attempts to gather and prioritise needs, and to bring bilateral processes into a multinational forum. One donor interviewed reported that the MJC coordinates approximately 80% of security assistance coming into the country. A report by the Geneva Center for the Democratic Control of the Armed Forces (DCAF) in August 2015 identified that operational-level coordination has limited overlapping and duplicative work, and a donor interviewed said that the relatively small number of major security assistance providers to Ukraine made coordination more straightforward.[114]   NATO also hosts regular donor coordination meetings.[115]

One donor interviewed noted, however, that not all donor states are happy to share information with each other on the security assistance that they provide to Ukraine. The donor noted that some choose what capability gaps to fill without consulting each other, and that this can lead to situations in which certain

---

[111] Interview 2

[112] Interview 3

[113] Patrick Tucker, 'As Fighting Resumes, Ukraine Extends a Wary Hand to Washington', *Defense One,* 3 February 2017, http://www.defenseone.com/technology/2017/02/war-weary-ukraine-reaches-out-once-again-washington/135153/ (Accessed February 2017)

[114] Geneva Center for the Democratic Control of the Armed Forces (DCAF), "Preliminary Mapping of Security and Justice Assistance to Ukraine Phase II", August 2015, http://issat.dcaf.ch/content/download/96074/1689967/file/Ukraine%20Donor%20Mapping%20Draft%202015-09-08.pdf (Accessed April 2017); interview 3

[115] Hanssen, Mans, "International Support to Security Sector Reform in Ukraine: a mapping of SSR projects," Folke Bernadotte Academy 2016, https://fba.se/contentassets/9f9daa3815ac4adaa88fd578469fc053/international-support-to-security-sector-reform-in-ukraine---a-mapping-o....pdf (Accessed April 2017)

areas are ignored unnecessarily.[116]

Affecting systemic change

This report has focused primarily on the provision of materiel, rather than training and advisory support. Several donors are providing such support, which includes advice and support for Ukrainian leaders on governance and anti-corruption, as outlined previously. To support these advisory and capacity-building efforts, donors should consider using security assistance as leverage to press for systemic, institutional reform on anti-corruption. As the sections above have outlined, when donors have drawn on the leverage of withholding security assistance, they have seen change on an operational level. While capacity building and advisory efforts are likely to help with reform efforts, a key challenge is securing political will from senior leadership - who may be spoilers for even the most logical recommendations.

The 2017 US National Defense Authorization Act (NDAA) - the most recent annual law authorizing defence expenditure in the United States – is a step forward by a major donor towards doing this. The NDAA authorises up to $350 million for defence assistance to Ukraine, but limits expenditure to $175 million until it can be shown, through certification by the Secretaries of State and Defense, that Ukraine has engaged in significant defence institutional reform. Improvements are required in civilian control of the military, especially in enabling the Verkhovna Rada to oversee the Ministry of Defence and armed forces; improved transparency and accountability of the defence procurement procedures; and reform in the accountability and transparency of the defence industry. The latter, in particular, is viewed by the US not only as an important means of reducing corruption, but also as a means of ensuring that improvements in combat capability underpinned by US assistance are sustainable.[117] Equally, the US-Ukraine five-year Partnership Concept adopted in September 2016 includes provisions related to improving civilian control of the military and increased transparency and accountability of the defence sector.[118]

If implemented well, the NDAA could be used as leverage to press Ukrainian defence leaders to conduct difficult systemic reforms that could drastically improve defence governance. But there is still more to be done to ensure that this occurs. It is, as yet, unclear how progress on those improvements will be judged, and what criteria will be used by the State Department and Department of Defence to determine whether Ukraine has made enough progress on reform. In order to ensure a fair analysis, the assessors should also draw on input from non-governmental organisations, volunteers working with the defence and security forces, academics, investigative journalists, and other security assistance providers, in both setting the criteria for assessment, and collecting information on Ukraine's progress against them.

In addition, there are concerns about whether it is feasible to use the NDAA for leverage, given time constraints on spending. Though the NDAA has been authorized, the relevant agencies are still waiting for the funds to be appropriated. The assistance is intended to be sent in two tranches, but because of the delays in appropriation for the first tranche, and the need to spend the full amount in the financial year, there will be limited time – a matter of weeks – in which the US government can use the second tranche as leverage. To date, no appropriation has been made, leaving less than 6 months until any funding could be contracted by the end of the fiscal year.

Donors could also contribute further to the institutional development of governance bodies, like parliamentary and audit institutions, and therefore help strengthen oversight practices and overall reform

---

[116] Interview 15

[117] 114th Congress, *National Defense Authorization Act for Fiscal Year 2017* (S2943), December 2016, Section 1237, http://docs.house.gov/billsthisweek/20161128/CRPT-114HRPT-S2943.pdf (Accessed December 2016); Colby Goodman, *U.S. Defense Bill Breakdown. A Basic Guide: Major Changes to Security Cooperation*, Security Assistance Monitor, December 2016, http://securityassistance.org/fact_sheet/defense-bill-breakdown-key-military-aid-issues-fy-2017-national-defense-authorization-act (Accessed December 2016)

[118] Department of Defense, *Fact Sheet: United States – Ukraine Five Year Partnership Concept*, 8 September 2016. http://www.defense.gov/Portals/1/Documents/pubs/FACT_SHEET_-_Partner_Concept_8_Sep.pdf (Accessed December 2016)

of the sector. [119] This would help create change that is more sustainable than tactical assistance, and contribute to solving the improved management and planning, making donor investment more sustainable in the longer term.

CONCLUSIONS & FINAL RECOMMENDATIONS

Our research indicates that processes around security assistance distribution and monitoring are improving, and that corruption risks have declined in the past two years. Stronger, more accountable planning processes, improved oversight, and clear identification of requirements are, however, needed to ensure that security assistance is used most effectively. Making the State Defence Order and "Priority Directions" available with minimal restrictions to the donor community and public will, for example, provide a stronger justification for how requests correspond with needs, and build trust in the donor community that such requests are based on a clearly-defined need.[120] If Ukrainian leaders want to see security assistance continue and expand, implementing reforms around planning, monitoring and oversight will be important.

Key steps, as outlined in the chapter recommendations above and in Annex 1, include:

- Creating a coherent and unified system for military aid planning and ensure that requests are based on clearly-defined requirements.

- Distribution planning and monitoring of security assistance should be improved through SAP or a similar programme for tracking, inventory and record-keeping.

- Planning for maintenance, spare parts, accessories, and training. Those drafting requests should draw on lower-level users of the equipment when drafting requests, and donors should work with their Ukrainian counterparts in the process.

Donors have the opportunity to do more to encourage stronger, more accountable strategic planning processes and improved oversight, including by setting standards for continued or expanded assistance. Doing so will not only ensure that their equipment is put to good use and funding isn't wasted, but also help improve the governance of the defence sector in Ukraine more broadly, making provision or security assistance one element of a broader effort to construct and support a resilient, accountable defence and security sector.

Setting standards for monitoring and reporting has made a difference on an operational level – as one interviewee reported, clear descriptions of what was required in order for security assistance to continue to flow led to noticeable improvements in reporting on loss and damages.[121] On the US side, the NDAA and US-Ukraine five-year partnership concept show promise in theory, though as discussed above, there are significant barriers to them being implemented in a way that forces real political change. Setting clear, published standards that need to be met for continued or expanded support could provide a visible, important incentive for defence leaders to push forward reform.

Those standards should include progress towards security assistance specific targets, but also broader anti-

---

[119] A Folke Bernadotte Academy report into security assistance to Ukraine offers findings supporting this conclusion: donors focus on tactical-level assistance, but not on institutional capacity building. Hanssen, Mans, "International Support to Security Sector Reform in Ukraine: a mapping of SSR projects," Folke Bernadotte Academy 2016, https://fba.se/contentassets/9f9daa3815ac4adaa88fd578469fc053/international-support-to-security-sector-reform-in-ukraine---a-mapping-o....pdf (Accessed April 2017)

[120] As noted above, some information may be withheld, but such restrictions should be prescribed by law and justified to be necessary in a democratic society to protect a legitimate national security interest, and oversight authorities and the courts should have the right to review restrictions. *The Global Principles on National Security and the Right to Information (the Tshwane Principles*, Open Society Justice Initiative, https://www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles (Accessed April 2017)

[121] Interview 3

corruption reforms, including a more transparent public expenditure processes, increased access to defence and security information, strengthened oversight procedures and parliamentary access to defence information, and more open and competitive contracting, including reform of UkrOboronProm. It will be key to ensure that 'adopting standards' does not end at adopting new laws or procedures. The focus has to be on what these procedures facilitate: accountable defence and security institutions with robust planning processes and an appropriate degree of civilian oversight.

Setting standards for reform, and basing the continued provision of security assistance on whether progress is made on them, is an approach that all donor states should consider in order to speed real reform efforts at a systemic, political level, which would be an important contribution towards those pressing for change both inside and outside of defence institutions.

Recommendations

13. Donor states' relevant state institutions[122] should set clear, published standards that need to be met for continued or expanded support could provide a visible, important incentive for defence leaders to push forward reform. Such standards should include improvements in formulating strategic requirements for security assistance, planning and distribution, monitoring, and maintenance, and should be accompanied by concrete indicators and milestones.   They should also include more transparent public expenditure processes, increased access to defence and security information, strengthened oversight procedures and parliamentary access to defence information, and more open and competitive contracting, including reform of UkrOboronProm. One target should also be that UkrOboronProm take concrete steps to align with international good practice outlined in the OECD Guidelines on Corporate Governance of State-Owned Enterprises, including external audits, transparency of corporate leadership, and publication of annual reports.

14. Donor states' relevant state institutions should consult with civil society, the media and volunteers as they assess progress against those standards.

---

[122] The precise institutions that set these targets will vary by donor state, but are generally the Defence or State Departments or their equivalents, and may also involve contribution from the legislature

ANNEXES

ANNEX 1: COMPILATION OF ALL RECOMMENDATIONS

1. NAKO recommends that donors, or the MJC collectively, ensure that each request or offer of assistance submitted by a Ukrainian recipient institution is accompanied by a justification for how it corresponds to an identified need and aligns with the long-term strategic plans for the development of the Ukrainian Armed Forces. Donor items should not be provided unless Ukrainian bodies requesting it provide the capability required and distribution plans in advance, with the logic behind the quantities requested clearly spelled out.

2. Ukraine should consider making the majority of the State Defence Order and the "Priority Directions" for security assistance available to the donor community, as well as to the public. To initiate this, Rada should amend the Law of Ukraine "On State Secrets" to allow for this information to be made publicly available. Some components of each may need to be withheld for security reasons, but these should be kept to a minimum, and the full detail should be provided to MPs from the Committee on Corruption Prevention and Counteraction, the Committee on National Security and Defence, and auditor bodies. Some information may be withheld, but such restriction should be prescribed by law and justified to be necessary in a democratic society to protect a legitimate national security interest, and oversight authorities and the courts should have the right to review restrictions.[123]

3. The MOD and Verkhovna Rada of Ukraine should develop a new legal framework to govern all security assistance coming into Ukraine. All security assistance coming to Ukraine, which is currently brought in as ITA, HA, charitable donations, and through bilateral agreements, should go through this framework, and should be registered through the MOD. Additionally, a coordinating body comprised of defence and security agencies receiving security assistance should be created to evaluate, monitor and coordinate security assistance for Ukraine. This could be led by the National Security and Defence Council. The MEDT should also be involved in activities of this coordinating body. The MEDT should be included in the coordinating body, and should have the ability to approve reports and to initiate audits if it has grounds to suspect diversion or misappropriation.

4. The Ukrainian Government should seek to improve their strategic planning capability. They should consider creating a Department for Capability Development within the MoD, as advised in the report on security assistance produced by the RAND corporation in 2016.[124] To prevent issues of conflict of interest and poor oversight from recurring, this new function should be accompanied by steps to improve transparency in procurement more generally.

5. Secrecy in budgeting and procurement, and the role of UkrOboronProm in this process, appear to prevent the formation of clear strategic plans that aid donors in ensuring security assistance is targeted effectively. To address this, the following recommendations should be considered priorities:

   - The defence budget should be published in greater detail and the percentage spent on items classified as secret should be reduced significantly. The defence budget proposal and approved

---

[123] The Global Principles on National Security and the Right to Information (the Tshwane Principles), Part 1, Principle 3, Open Society Justice Initiative, https://www.opensocietyfoundations.org/publications/global-principles-national-security-and-freedom-information-tshwane-principles (Accessed April 2017)

[124] Oliker, Olga, and Lynn Davis, Keith Crane, Andrew Radin, Celeste Ward Gventer, Susanne Sondergaard, James T. Quinlivan, Stephan B. Seabrook, Jacopo Bellasio, Bryan Frederick, Andriy Bega and Jakub Hlavka, "Security Sector Reform in Ukraine," Rand Corporation, 2016. http://www.rand.org/content/dam/rand/pubs/research_reports/RR1400/RR1475-1/RAND_RR1475-1.pdf (Accessed March 2017)

budget should be comprehensive, and made public for civil society and donors.

- To reduce the secrecy, particularly around procurement. As a first step, the Rada should review existing legislation, guidance and practice to assess whether it is in line with NATO standards and the Global Principles on National Security and the Right to Information (the Tshwane Principles).

- To increase the transparency in the operations and influence of UkrOboronProm, and for UkrOboronProm to adopt and practice the OECD Guidelines on Corporate Governance of State-Owned Enterprises, including external audits, transparency of corporate leadership, disclosure of key financial and other performance-related information and the publication of annual reports.

6. Weak oversight is a concern. The Verkhovna Rada should engage additional technical support to strengthen its members' capacity to oversee and contribute to defence strategy development.

7. In order to draft useful, coherent and comprehensive ITA requests, relevant Ukrainian authorities, including Military Administrative Bodies, should cooperate directly with units and individuals using the security assistance items. This should include consulting officers with experience in the ATO when putting together requests, to ensure that operational needs are met to the degree possible. Donor states should work with relevant Ukrainian authorities to improve forward distribution planning.

8. To improve tracking, there should also be a renewed effort by the Ukrainian MOD, with support and pressure from the donor community, to implement the installation of SAP software[125] or similar programmes for tracking, inventory, and record-keeping, which has been pressed for by volunteers but has stalled since 2015.[126] The RAND corporation has recommended that this be initiated as a pilot project, which would be pragmatic. Improved tracking of how security assistance and other supplies are distributed will help with distribution and forward planning, and build donor trust. The Ukrainian MOD, in cooperation with the State Service for Export Control of Ukraine, should also take steps to improve their technology transfer control system in order to reassure donors that the technology will reach the right end-user, be used for the intended purpose, and will not be transferred to third parties in violation of the documents of guarantee.[127]

9. Donor states should set clear targets for Ukrainian institutions to reduce the risk of diversion, and make these targets publicly available.[128] According to one interviewee, when donors have set clear reporting requirements that Ukrainian counterparts need to meet in order to receive continued security assistance, reporting has improved.

10. MABs and other institutions drafting security assistance requests should consider issues of maintenance, spare parts, accessories, and training. Greater consultation with donor country officers familiar with equipment being provided may help ensure best use is made of limited resources. This will also assist the Ukrainian MOD in integrating security assistance alongside AFU military equipment and armaments, and provide for its life cycle maintenance.

11. The Verkhovna Rada should amend existing legislation to ensure that specified overseas educational qualifications are recognized in law. The Ukrainian MOD should consider drafting the law and providing it to the Rada, to ensure that the training they've requested can be used most effectively. Ukrainian MoD must also ensure those personnel who receive training both internally

---

[125] SAP ("System Applications Products") software is designed to aid distribution, planning, inventory and supply chain management. SAP Website, https://www.sap.com/uk/solution/industry/wholesale-distribution.html (Accessed April 2017)

[126] Interview 2

[127] Interview 15

[128] The precise institutions that set these targets will vary by donor state, but are generally the Defence or State Departments or their equivalents, and may also involve contribution from the legislature

and externally abroad have the opportunity to utilize that training.

12. The Ukrainian MOD must demonstrate the benefits of donors' security assistance in order to provide the international community with the assurance their funding is being used to good effect. Evidence that the materiel provided to Ukraine is adequately maintained, has enough spare parts and is used by the relevant specialists may increase what donors are prepared to offer.

13. Donor states' relevant state institutions[129] should set clear, published standards that need to be met for continued or expanded support could provide a visible, important incentive for defence leaders to push forward reform. Such standards should include improvements in formulating strategic requirements for security assistance, planning and distribution, monitoring, and maintenance, and should be accompanied by concrete indicators and milestones. They should also include more transparent public expenditure processes, increased access to defence and security information, strengthened oversight procedures and parliamentary access to defence information, and more open and competitive contracting, including reform of UkrOboronProm. One target should also be that UkrOboronProm take concrete steps to align with international good practice outlined in the OECD Guidelines on Corporate Governance of State-Owned Enterprises, including external audits, transparency of corporate leadership, and publication of annual reports.

14. Donor states' relevant state institutions should consult with civil society, the media and volunteers as they assess progress against those standards.

ANNEX 2: INTERVIEWEES

Interview 1: Ukrainian volunteer, Kiev, November 2016

Interview 2: US official, by phone, November 2016

Interview 3: Donor state official, Kiev, November 2016

Interview 4: UK official, by phone, November 2016

Interview 5: US official, by phone, November 2016

Interview 6: Three US officials, December 2016

Interview 7: Two Ministry of Defence of Ukraine officers, Kyiv, January, April 2017

Interview 8: Former battalion commander, Kyiv, January-February-March 2017

Interview 9: Two Volunteers, Kyiv, January-February 2017

Interview 10: Ministry of Economic Development and Trade official, Kyiv, February 2017

Interview 11: Former DOD official, Kyiv, January 2017

Interview 12: US Embassy official, by phone, January 2017

Interview 13: Two Military Police officers, Kyiv, February-March 2017

Interview 14: Seven active servicemen, by phone, January-February-March 2017

Interview 15: Interview with three members of the donor community, March-April 2017

Interview 16: Interview with several members of the donor community, April 2017

---

[129] The precise institutions that set these targets will vary by donor state, but are generally the Defence or State Departments or their equivalents, and may also involve contribution from the legislature

Interview 17: Interview with staff member in donor state legislature, April 2017

Interview 18: Interview with an MOD official, April 2017

ANNEX 3: LEGAL REGULATIONS ON SECURITY ASSISTANCE PROVISION

ITA legal regulation:

- Agreement between the Government of Ukraine and the Government of the United States of America regarding humanitarian and technical economic cooperation of May 7, 1992;

- Agreement between the Government of Ukraine and the Government of the United States of America regarding the implementation of international assistance programs and projects in military sphere of December 12, 1999;

- Other international agreements regarding technical economic cooperation between Ukraine and other ITA donor-states and ITA international donor-organizations;

- Verkhovna Rada of Ukraine Resolution № 243/95-вр "On Adopting of the Regulation on the material responsibility of servicemen for damage caused for the state" of June 23, 1995;

- Cabinet of Ministers of Ukraine Resolution № 153 "On Establishing a Unified System for Attracting, Utilization and Monitoring of International Technical Assistance" of February 15, 2002;

- Ministry of Defence of Ukraine Order № 449 "On Adopting of the inclusion, use, accounting record and monitoring of international technical assistance in the Ministry of Defense of Ukraine and the Armed Forces of Ukraine procedure instruction" of August 30, 2016;

- Cabinet of Ministers of Ukraine Resolution № 1225 "On Adopting of the Regulation on military property accounting, storage, use and writing off in the Armed Forces of Ukraine" of August 4, 2000;

- Ministry of Defence of Ukraine Order № 17 "On Adopting of the Armed Forces of Ukraine Military Property Writing off Regulation" of January 12, 2015;

- Ministry of Defence of Ukraine Order № 82 "On Adopting of the Conduct of Internal Investigation the Armed Forces of Ukraine Instruction" of March 15, 2004;

- Ministry of Defence of Ukraine Order № 300 "On Adopting of the Regulation on the military (ship`s) administration of the Armed Forces of Ukraine Instruction" of July 16, 1997;

- Ministry of Defence of Ukraine Order № 690 "Interim guidance on the accounting record of military equipment in the Armed Forces of Ukraine" of December 24, 2010.

HA legal regulation:

- Law of Ukraine "On humanitarian Assistance" of October 22, 1999 № 1192-XIV;

- Law of Ukraine "On charity and charitable organizations" of July 5, 2012 № 5073;

- Cabinet of Ministers of Ukraine Resolution "On approval of the interaction between central and local executive authorities and the National bank of Ukraine for implementation of the Law of Ukraine "On humanitarian assistance" of March 25, 2013 № 241;

- Cabinet of Ministers of Ukraine Resolution "On approval of the Procedure of registration of the recipients of humanitarian aid" of January 30, 2013 №39;

- Cabinet of Ministers of Ukraine Ordinance "Some issues of storage of goods recognized as humanitarian aid on the warehouses of the customs and tax bodies of Ukraine" of January 15, 2014 № 21-р.

The Independent Defence Anti-Corruption Committee/Nezalezhny Antikorrupciynii Komitet z pytan oborony (NAKO)

nako.org.ua/

Transparency International Ukraine

01024, Kyiv, 2A provulok Kostia Hordiienka, 1st floor

Phone: +38(044) 360-52-42

 E-mail office@ti-ukraine.org

ti-ukraine.org/en

facebook.com/TransparencyInternationalUkraine

Transparency International Defence & Security

7-14 Great Dover Street London SE1 8XQ United Kingdom

Phone +44 (0)20 3096 7676

Press +44 (0)20 3096 7694, +44 (0)20 3096 7695

E-mail info@ti-defence.org

ti-defence.org

facebook.com/TIdefence/