

THE KYIV SECURITY COMPACT

INTERNATIONAL SECURITY GUARANTEES FOR UKRAINE: RECOMMENDATIONS

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On International Security
Guarantees for Ukraine

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PREAMBLE

Eight years after illegally annexing Crimea, invading the Donbas and fomenting conflict in Ukraine's East, Russia has attacked Ukraine for the second time. Russian forces have levelled cities, committed war crimes, and sought to grab Ukraine's sovereign territory. They have attempted to subdue Ukraine's population and replace the democratically elected leadership in Kyiv. The war in Ukraine has far reaching consequences both for the region and the world. Stability in the Euro-Atlantic area depends on Ukraine's security.

The *Budapest Memorandum on Security Assurances* proved worthless. No sufficiently robust, legally and politically binding measures were in place to deter Russian aggression. Unless Ukraine is provided with unique and effective security guarantees – embedded in an eventual peace process – there is no reason to believe that this will not happen again.

Ukraine is on the path to EU membership and as a future EU member will benefit from the EU's own mutual defence clause. Ukraine's aspiration to join NATO and benefit from its mutual defence arrangements is safeguarded in its Constitution. This aspiration is the sovereign decision of Ukraine. Both NATO and EU membership will significantly bolster Ukraine's security in the long-term. However, Ukraine needs security guarantees now.

These guarantees should enable Ukraine's self-defence both to deter an armed attack or act of aggression (*deterrence by denial*), and – in case an attack occurs – to protect the sovereignty, territorial integrity, and security of Ukraine (*deterrence by punishment*).

The Kyiv Security Compact will fulfil this purpose by mobilising the necessary political, financial, military, and diplomatic resources for Ukraine's self-defence. The Compact will consist of a joint strategic partnership document co-signed by guarantor states and Ukraine (as well as bilateral agreements between Ukraine and guarantor states).

Alongside reconstruction efforts, these guarantees are key for the millions of Ukrainians displaced by the war to return and build a future in their home country. By designing and adopting them now, they will send a strong message of resolve and unity against the aggressor and for Ukraine's future. These will be the first such guarantees of the 21st century and can lay the foundations for a new security order in Europe.

KEY RECOMMENDATIONS

- The strongest security guarantee for Ukraine lies in its capacity to defend itself against an aggressor under the UN Charter's article 51. To do so, Ukraine needs the resources to maintain a significant defensive force capable of withstanding the Russian Federation's armed forces and paramilitaries.
- This requires a multi-decade effort of sustained investment in Ukraine's defence industrial base, scalable weapons transfers and intelligence support from allies, intensive training missions and joint exercises under the European Union and NATO flags.
- The security guarantees will be positive; they lay out a range of commitments made by a group of guarantors, together with Ukraine. They need to be binding based on bilateral agreements, but brought together under a joint strategic partnership document – called the Kyiv Security Compact.
- The Compact will bring a core group of allied countries together with Ukraine. This could include the US, UK, Canada, Poland, Italy, Germany, France, Australia, Turkey, and Nordic, Baltic, Central and Eastern European countries.

A broader group of international partners including Japan, South Korea, among others, should also support a set of non-military guarantees based on sanctions. It would include snapback sanctions, which are *automatically* re-applied in case of further Russian aggression. A legal framework should be developed which will allow authorities to seize the property of the aggressor, its sovereign funds and reserves, and the assets of its citizens and entities on the sanctions list. The funds raised should be directed to repair the war damage inflicted on Ukraine.

The guarantees framework may be supplemented by additional agreements, dealing with specific issues not covered in the layers of guarantees discussed in this document. It may include an agreement, or set of agreements, between Ukraine and countries producing anti-aircraft and anti-missile defense equipment to provide Ukraine with modern and effective air defense and anti-missile defense systems in sufficient quantity to ensure a "closed sky" from air attacks.

The package of guarantees may additionally include regional agreements on the Black Sea with Turkey and other littoral states like Romania and Bulgaria.

A. SECURITY GUARANTEES – COMMITMENTS BY A CORE GROUP OF GUARANTORS REGARDING UKRAINE’S SELF-DEFENCE CAPABILITIES AND CAPACITIES TO DETER AN ATTACK

CONCEPT AND PRINCIPLES

Given its unique geopolitical position, the most effective security guarantees lie in Ukraine’s capacity to defend itself. To be sufficiently robust and credible, Ukraine’s self-defence must be underpinned by binding commitments from a group of international partners to mobilise the necessary military and non-military resources.

Ukraine is a European country that is now on the path to EU membership. This process will further integrate Ukraine into the European political community, improve its prospects for reconstruction and development, and strengthen the country’s institutions and security. As an EU member, it will also benefit from the EU’s mutual defence clause under Article 42.7 of the Treaty of the European Union. In the meantime, EU Member States and institutions should do their part in providing security guarantees to Ukraine through sustained arms supplies, financial aid, and with training missions, among others.

Ukraine’s aspiration to join NATO and benefit from its mutual defence arrangements is safeguarded in its Constitution. This aspiration is the sovereign decision of Ukraine. In the interim period Ukraine needs iron-clad security guarantees. These will come predominantly – though not exclusively – from NATO countries.

The guarantees must not constrain Ukraine to limit the size or strength of its armed forces. Nor should they be drawn in exchange for a specific status, such as neutrality, or put other obligations or restraints on Ukraine. With those guarantees, Ukraine will sustain its capacity to ensure its self-defence. Their aim is to strengthen Ukraine’s territorial integrity, sovereignty, and political independence within its internationally recognized borders. The guarantees should also support Ukraine’s commitment to continuing democratic reforms, as specified in the European Council Conclusions of June 23-24, 2022 on granting Ukraine EU candidate status. Effective security for Ukraine is closely related to a modern society that guarantees its citizens their fundamental rights.

SCOPE

The security guarantees should be codified in a joint strategic partnership document named the Kyiv Security Compact co-signed by a core group of partners that would act as enablers of Ukraine’s self-defence. This could include, but is not limited to, the US, UK, Canada, Poland, Italy, Germany, France, Australia, Turkey, and Nordic, Baltic, and Central European countries. In addition to the strategic partnership document, Ukraine and certain guarantor states may sign bilateral agreements covering specific issues related to security guarantees between Ukraine and the guarantor states.

On top of the core guarantors, various layers of countries could join in on additional or specific issues related to security guarantees. The Rammstein Format (*also known as*

the Ukraine Defence Contact Group), made up of circa 50 countries, could form the basis of this broader group, which can become formalized into a coalition of the willing.

Provisions should be applied for Ukraine to both deter and – if needed – defend against another armed attack or acts of aggression. For this, Kyiv will need large defence forces, robust capabilities, and a strong, reformed defence industry. This must be underpinned by sustained investments in its defence industrial base, extensive weapons transfers and intelligence support from allies, and well-trained and exercised forces.

To defend itself for the long-term Ukraine will need:

- **A high-readiness force that can effectively and forcefully respond to a territorial breach.** As stated in NATO's Madrid Summit Communiqué, Ukraine is 'vital' for the stability of the Euro-Atlantic area. As such and with the support of key guarantors, Ukraine must be able to develop a robust territorial defence posture whose ultimate objective is to deter and successfully defend against acts of aggression. Ukraine needs the resources to maintain a significant force capable of withstanding the Russian Federation's armed forces and paramilitaries.
- **A massive training and joint manoeuvre programme of Ukrainian forces and partners on Ukrainian territory with international trainers and advisors.** Taking advantage of national and multinational training efforts by EU and NATO countries, Ukrainian forces will be trained at NATO standard and at the scale needed to build a robust territorial defence force and reserve force. The training activities will be supported by an extensive exercise programme both on Ukrainian soil and with Ukrainian forces on EU/NATO territory. In addition to training programmes, joint manoeuvres under the Vienna Document (144) will further strengthen the Ukrainian forces, increase military transparency, and serve regional needs.
- **Advanced defensive systems** including providing Ukraine with comprehensive defensive systems to protect key population centres and access points by deploying air and maritime missile defence, cyber capabilities, advanced radar capabilities. Those systems – so called anti-access/area denial (A2/AD) - could incorporate a mix of home-based capabilities and foreign systems. In case of a threat of the use of force or aggression, they could be rapidly augmented by ear-marked systems provided by the key guarantors.
- **Access to EU's capability funding** to re-build Ukraine's defence industrial base on EU/NATO standards – and develop with EU member states new defensive capabilities. As a candidate to EU membership, Ukraine could be granted privileged access to EU funding, mainly the European Defence Fund and the European Peace Facility.
- **Self-defence territorial force for all civilians aged above 18 years old.** Modelled on countries with active conscription, Ukraine will need to maintain a large enough territorial defence force, including a reserve service that can be sporadically called for active duty.

To achieve this, Ukraine will need the group of international guarantors to:

- Provide financial aid and direct investments, including through future reconstruction instruments, to support the national defence budget, as well as ensuring financial assistance (including non-repayable grants) to restore the infrastructure of Ukraine, which was destroyed or damaged by military actions.
- Allocate reconstruction funds, including non-repayable financial assistance, towards supporting and building Ukraine's new national defence industrial base.
- Offer technology transfers and arms export.
- Coordinate closely among each other to supply capabilities, military equipment, ammunition, and services.
- Establish regular training exercises to Ukrainian forces.
- Establish a cooperation program on cyber defence and security; and countering cyber threats.
- An enhanced intelligence cooperation, including frequent sharing of intelligence and establishing a regular cooperation between the intelligence services of Ukraine and guarantor states.

**B. SECURITY GUARANTEES – HOW WOULD THEY WORK IN CASE OF ATTACK:
LEGAL CONSIDERATIONS AND MECHANISMS**

Security guarantees should be both permanent to help build Ukraine's self-defence capacity on the long term, and scalable to adapt and reflect the level of the threat. While they could be embedded in an eventual peace process, they should be agreed and implemented in the shortest time period.

This will demonstrate the unity of the international community with Ukraine, and the continuity and amplification of the current efforts, including under the Ramstein Format. It will also signal to Russia that the cost of aggression will continue to rise.

1. LEGAL SCOPE AND ASPECTS

To avoid the pitfalls of weak guarantees, Ukraine will need:

- **Security guarantees that are legally and politically binding.** Guarantors can engage in binding commitments through a joint strategic partnership document – which would effectively be a binding pact amongst them.
- In addition to a joint document, **guarantors should make continuous and bilateral legal and political commitments to Ukraine**, both at the executive level of government and by the respective legislatures.

- Security guarantees **should explicitly commit guarantors to Ukraine's self-defence**. This means creating the parameters for a broad range of responses and not excluding any form of support to assure Ukraine's self-defence.
- **Some of those guarantees will be open-ended and on-going**: they will include training and exercises, defence investment and cooperation, and weapons supply.
- **In case of aggression, the joint document should spell out extended guarantee commitments by guarantors** to use all elements of their national and collective power and take appropriate measures – which may include diplomatic, economic, and military means – to enable Ukraine to stop the aggression, restore its sovereignty, ensure its security, military edge, and capability to deter its enemies and defend itself by itself against any threat.
- **The territorial scope of the guarantees applies throughout Ukraine's internationally recognized borders**. At the same time, the extended guarantees are to apply if Ukraine comes under attack on its territory within internationally recognized borders.
- According to Uniting for Peace Resolution 377A(V) of the UN General Assembly, **the guarantors should seek the support of the UN**, most likely via UNGA, within the timeframe discussed below. Nonetheless, all security guarantee provisions will fall under the law on individual and collective self-defence (Article 51 of the UN Charter: (*'Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations...'*)).
- Finally, to achieve the overall political objective of the security guarantees, the joint strategic partnership document should strike the **right balance between specific provisions and generic commitments**. This could be done by combining the main joint document with an annex, which will lay out more specific provisions reflecting the threat assessment.

2. MECHANISMS – HOW SHOULD THE SECURITY GUARANTEES WORK

- **Triggers should be based on a joint threat-assessment structure**: extended security guarantees should be activated through a mechanism that would require a request from Ukraine to the guarantor states, following “an armed attack or an act of aggression.” Rather than a confirmation from a third-party, such as the UNSC or General Assembly, there should be a degree of automaticity where guarantors would collectively consult with Ukraine.
- **The decision-making process should be based on the principle of collective consultations followed by individual contributions**. Upon a request from Ukraine, guarantors shall gather for collective consultations within a very short

amount of time (e.g. 24 hours) and decide on amplifying the guarantees on the basis of a coalition of the willing (e.g. 72 hours).

- **The guarantees should be agreed on an open-ended basis.** Nevertheless, the guarantees should create a mechanism for guarantors to collectively meet, evaluate and review the guarantees, to keep them meaningful and relevant – and if need be, adjust them to meet the nature and level of threat.
- **Ukraine and the guarantor states should establish a permanent and ongoing mechanism to monitor threats and security challenges,** as well as inform each other about military activities, exercises, and manoeuvres. Towards that end, Ukraine and guarantors will need to have a mechanism of collecting, exchanging, processing, and analysing intelligence, including for the purpose of early detection regarding preparations for an armed aggression.

C. INTERNATIONAL SANCTIONS

International sanctions should be an additional layer of the overall set of security guarantees, in case of aggression. This could both help deter an act of aggression and also put a punitive cost on the aggressor. Sanctions would need to balance specific elements while leaving enough room to manoeuvre, to not reveal to the aggressor the full cost of any future possible attack on Ukraine.

Notwithstanding the sanctions mechanism described below, the guarantors should refrain from lifting the sanctions on Russia agreed since 2014, until Moscow: a) stops its aggression against Ukraine; b) guarantees it will not attack Ukraine in the future; c) compensates Ukraine for the damages caused during the invasion.

Any decision on lifting or temporarily suspending sanctions, as part of a negotiated peace settlement, should be taken in close coordination with Ukraine. The security guarantee agreement should contain a provision that the sanctions will be reimposed (*snapback provisions*) in the event of new attacks or aggression. Sanctions need to be maintained until Russia is no longer a threat to Ukrainian sovereignty.

The package of sanctions shall be initiated and implemented by Ukraine's security guarantors, in close coordination with other international bodies such as the G7 and the EU. Other like-minded countries supporting sanctions (e.g., Switzerland, Norway, Singapore, South Korea, Australia, and others) should also be invited to join.

The sanctions guarantors should:

- Agree on a set of snapback sanctions that would be triggered by a well-defined event under international law, such as if Ukraine comes under 'armed attack' (Article 51 of the UN Charter) or an 'act of aggression' (UN General Assembly Resolution 3314, XXIX).

- The set of sanctions mentioned above should be at minimum the full set of sanctions as of September 1, 2022, which would be immediately re-imposed (*snapback sanctions*).
- In addition to the sanctions above, further measures and restrictions could be applied to significantly increase economic and other costs to an aggressor in case of an armed attack or act of aggression.
- Finally, measures should be agreed to allow authorities to seize the property of the aggressor, its sovereign funds and reserves, and the assets of its citizens and entities on the sanctions list. These assets could then be sold for the purpose of directing funds to repair the war damage inflicted on Ukraine.