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A Bang for Your Buck – a Commentary of the US Action Plan in Limiting Arms Diversions and Trafficking in Ukraine

MARCO MAGRIN

POLICY COMMENTARY



ABSTRACT

Illicit arms trafficking in Ukraine has been a significant issue since the Cold War, with leftover Soviet stockpiles providing lucrative smuggling routes. With over US\$100 billion in aid being provided by the West, a sizeable portion being in the form of small arms and guided infantry weapons such as MANPADS and ATGMs (Masters & Merrow 2023), and accompanying ammunition, Action Plans have been developed conducive to limiting eventual diversion of military aid into the illicit market. What this paper seeks to analyse, is the United States' 'Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe'. The plan highlights steps towards limiting illicit arms trafficking such as increased traceability, provision of end-use-monitoring (EUM) capacities and training, intelligence sharing, and capacity building for border management. This paper argues that the current iteration of the United States' effort to limit arms trafficking, though still in its infancy, has provided some benefit in Ukraine's efforts to combat the illicit diversion of arms, and could limit the presence of US-made weapons in the illicit arms market, as has been the case thus far. However, this paper does argue that, given the context of lacking institutional accountability, the role of corruption, an inconsistent and incoherent legal framework for gun ownership, as well as lacking coordination with US partners, the Action Plan will unlikely help reform the structural conditions that established Ukraine as a lucrative arms market before the war.

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INTRODUCTION

Illicit arms trafficking in Ukraine has been a persistent issue since the end of the Cold War, primarily driven by the significant stockpiles of military equipment left over from the Soviet era. As a result of Russian invasion of Ukraine, which began in February 2022, the prevention of resources such as: US\$100 billion in Western aid provided to Ukraine, including tens of thousands of small arms, over 100 million rounds of ammunition, Javelin anti-tank systems, and Stinger Man-Portable Air Defence Systems (MANPADS) units (Masters & Merrow 2023), has become a critical concern. With the largest single contribution of lethal aid coming from the United States (Glantz 2022), the State Department's 'Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe' represents the main framework through which the United States seeks to tackle the diversion of weapons into illicit markets. This paper delves into the United States' plan of action, with a particular focus on its implications for Ukraine.

The analysis aims to critically assess the plan's effectiveness in preventing weapons diversion, strengthening accountability, enhancing border security, and building the capacity of security forces. While acknowledging the plan's positive steps, this examination also considers the persistent challenges arising from Ukraine's historical role as an arms trafficking market, its fragmented legal framework governing firearm ownership, and other political realities. Furthermore, it considers the long-term consequences of the ongoing conflict, the potential resurgence of criminal networks, and the necessity for broader policy measures to address arms regulation and combat corruption. This paper offers a comprehensive analysis of the multifaceted issue of illicit arms trafficking in Ukraine and the efforts to mitigate its impact.

UKRAINE AS AN ARMS TRAFFICKING HUB

In 2017, the Small Arms Survey (SAS), estimated that Ukraine was home to 4.4 million civilian-held firearms, 3.6 million of those unregistered (Small Arms Survey 2017). Since 1991 and the collapse of the Soviet Union, Ukraine has witnessed significant internally- and externally-sourced illicit arms flows. First, a vast stockpile of small arms and light weapons left behind by the Soviets, with often little or no record-keeping quickly poured into illicit markets (Martyniuk 2017). Illicit arms traders seized the opportunity presented by the extensive stockpiles abandoned in Ukraine. According to certain approximations, they managed to abscond with approximately \$32 billion worth of military equipment during the period spanning 1992 to 1998. These weapons found their way to conflict zones in Sierra Leone, Liberia, Afghanistan, and various other locations, evading state institutions through bribery and corruption (Stohl & Yousif 2022). The 2014 Euromaidan Revolution and the outbreak of hostilities between Russian-backed separatists and the pro-Western government disrupted government arsenals and contributed to a significant diversion of weapons into illicit markets (Prentice & Zverev 2016; Buscemi et al. 2018), as demonstrated by the increase in small arms seizures by Ukrainian authorities and increased homicide rates in the immediate aftermath of the revolution (Martyniuk 2017). Indeed, between 2014 and 2019, an average of 50 grenade launchers and multiple-launch rocket systems, 200,000 cartridges, 1,800 grenades, and 50 mines were seized annually by Ukrainian forces (Schroeder 2021). Although this does indicate a short-term acceleration of arms flows, efforts by the Ukrainian authorities, and the improvement of protocols in controlling arms flows, are worthy of note. Indeed, the same report (Schroeder 2021) mentioned the success of the Ukrainian government's commitment to reform and reduce diversion of arms and ammunition. For example, investigations into theft and unauthorized activity involving firearms, ammunition, and explosives tripled in 2014 and have remained consistently higher than in the pre-war era. Yet, despite these examples (the lack of) key structural challenges persist that are discussed below (Buscemi et al. 2018).

Ukraine performs poorly on indicators relating to corruption perception and trust in state authorities, combined with a stable and high level of weapons seizures by security forces. As of 2022, according to Transparency International, Ukraine ranks 116th in the 2022 Corruption Perception Index. High levels of corruption in the security sector can also increase the probability of arms diversion, as cash payouts are particularly common in countries where government workers receive meagre salaries or do not receive regular wages (Stohl 2004). According to a report (Galeotti & Arutunyan 2023), the head of the Ukrainian Association of Gun Owners claimed in 2016 that his country had turned into a 'supermarket for illegal weapons', and cases of former Ukrainian soldiers turning into arms dealers selling rocket launchers for less than

US\$400 were common. In 2019, two Ukrainian soldiers were apprehended attempting to sell 40, RGD-5 grenades, 15, RPG-22 rockets, and 2, 454 rounds of ammunition for about US\$3 000, while another three were detained for attempting to sell 12 RPGs, 30 grenades, more than 30 grenade detonators, and almost 3,000 rounds for less than US\$2,000.

Trust in security services in Ukraine has also traditionally been a problem when observing pre-invasion levels. You (2018) describes how low-trust societies tend to be more corrupt, which in turn may further undermine trust in a vicious perpetual cycle. In 2016, only 38% of the population held favourable views of the police. In 2016, only 38% of Ukrainians trusted the police, rising slightly to 45% in 2019. This lack of trust is one reason that there are over three million unregistered firearms held by civilians in Ukraine (Small Arms Survey 2017). Despite this, as of 2023, there is a measurable rallying-around-the-flag phenomenon relating to trust in security forces, as it reached an impressive 73% in the summer of the same year. It does, however, remain to be seen whether this level of trust will hold up in an eventual ceasefire and cessation of hostilities, and a return to pre-war trends would indicate that the root conditions have not been addressed (Hideg 2023).

On the legal level, although Ukrainian firearms law is generally robust in terms of the requirements for issuing licences, the storage of weapons, and the like, Ukraine currently lacks a comprehensive and widely accepted legal framework that governs the entire spectrum of firearm-related matters, including manufacturing, acquisition, possession, storage, record-keeping, transportation, and usage (Buscemi et al. 2018). Instead, the existing system is essentially characterized by a few principal governing documents dating back to 1998, issued by the Ministry of the Interior (Martyniuk 2017), which only cover short-barrelled pistols, smooth-bore shotguns, and rifles, and makes no mention of MANPADS or RPGs, which have been distributed in quantities since the 2022 Russian invasion. Although certain criteria have been implemented, including minimum age requirements and limitations on individuals with criminal records, mental health issues, or prior incidents of domestic violence, the absence of a formal legal statute has resulted in significant flexibility in how these rules are applied practically (Galeotti & Arutunyan 2023). Evidence shows licenses being granted under questionable circumstances, frequently involving corruption and favouritism. The blurring of the line between legal and illegal firearms complicates efforts to monitor and control illicit weapons flow and, therefore, of effectively measuring the impact of potential policy responses.

THE US PLAN OF ACTION: SHORT AND MEDIUM-TERM APPLICATIONS

In October 2022, the US State Department unveiled its ‘Plan to Counter Illicit Diversion of Certain Advanced Conventional Weapons in Eastern Europe’, to build an overarching policy tool for US Departments and agencies to apply and reduce the risk of weapons diversions. The Plan of Action lays three pillars, spanning three timeframes: short, medium, and long-term. The three pillars are bolstering accountability, strengthening border security, and building the capacity of security forces. On the bolstering accountability front, the plan includes enhancing procedures and capabilities for Ukraine’s security forces to both ensure accountability for defence articles and report their activities transparently, including reporting shipments of relevant items to existing international transparency mechanisms. Strengthening borders involves conducting security training authorities in neighbouring states and expanding open-source monitoring of reporting on weapons diversion for the region. Building capacity encompasses training security forces in Ukraine and neighbouring states to support counter-proliferation activities, enhancing explosive ordnance disposal capacity for Ukrainian security actors, and training allies and partners to clear explosive remnants of war.

Despite the massive commitment by the US Action Plan, during the early months of the war, a report (2022) of the Department of Defence (DOD) Office of the Inspector General (OIG) demonstrated the challenges of US authorities on the ground to provide the necessary provisions to enforce end-use monitoring (EUM), record-keeping and training of domestic forces. This shortcoming can be attributed to the fact that initial US doctrine prioritized the flow of weapons through the Ukrainian Army ranks to halt the initial Russian offensive of February–March 2022 with little concern for potential diversion, which stunted building the necessary capacity to handle the massive influx of aid. The report suggested that of the issues faced in EUM during this period, the lack of personnel and infrastructure in the region to accommodate

the increased supply of weapons was a prominent issue. A US DOD newsletter (Vergun 2023) implied that the situation had improved, with the deployment of over 90 staff on the ground in Ukraine conducting oversight of security assistance. The same report, as well as another report by the Department of State (Edenfeld 2023) highlighted that Ukraine was being provided with the required technologies and training to track weapons provided by the US, including as scanners, and conducting remote visits to sites to monitor adequate storage of weapons.

The US has also made additional commitments in the realm of border management. The Department of State's Bureau of International Security and Non-proliferation has allocated over \$34.8 million in support to Ukraine through the Export Control and Border Security (EXBS) Program since 2017 (Department of State 2023a). This support covers various initiatives, including non-proliferation, anti-terrorism, and related programs. Starting in 2022, this support has expanded to encompass Ukraine Customs, export control, and sanctions authorities. It involves providing modernized equipment, training, and updated procedures for border control practices. The program also includes offering non-lethal assistance and advisory support to the State Border Guard Service (SBGS) and other government partners.

On the building capacity front, by 2024 the Department will have also invested a total of US\$91.5 million in demining assistance (Department of State 2023b). Clearing explosive remnants of war (ERW) is necessary not just to dismantle and dispose of belligerent and explosive material, but also allows the resettlement of displaced persons once the areas are cleared. This investment includes training for the Government of Ukraine's demining and explosive ordnance disposal teams to meet international standards, equipping them with the necessary tools for their crucial work (Department of State 2023b). Furthermore, it extends support to the deployment of additional contractor and non-governmental organization clearance teams, along with explosive ordnance risk education teams, all aimed at expediting demining efforts.

Apart from the United States, the European Union (EU) has also sought to help Ukraine limit illicit arms flows. With the abolition of internal EU border controls consequent to the establishment of the Single Market, the EU is particularly concerned about the accession of Ukraine as a source for illicit arms flows into the EU. On a broader level, the EU has several instruments in place to help its current 27 member states tackle this. Both are relevant to the Ukrainian scenario as Ukraine is a third country, with a large stockpile of weapons that would need future decommissioning and disposal, while also being an EU member candidate, with eventual accession requiring legal, normative and technical convergence with EU regulations. The EU Strategy to combat illicit accumulation and trafficking of small arms and light weapons (SALW) and their ammunition (Council Decision 2015/740/CFSP, European Parliament and the Council of the European Union 2017), and EU Action Plan on Firearms Trafficking (2020–2025, European Parliament 2024) focuses on preventing illicit trafficking, improving detection capabilities, enhancing common practices, marking of SALW, and fostering international cooperation through capacity building efforts within and outside the EU. Finally, the EU and individual EU countries have also been directly aiding Ukrainian security sector capacity building through various channels, including the Organisation for Security and Cooperation in Europe. One example of this was the initiation of a specialized canine team instructor course for eight Ukrainian specialists at the Spanish Guardia Civil's Dog Training Centre (CADEPE). This training program aims to enhance the capabilities of Ukraine's border management authorities in preventing and combating the illicit trafficking of small arms and light weapons, ammunition, and explosives, supported by European funding and collaborative efforts (OSCE 2023).

Despite these strategies, it is still unknown whether these strategies are having a direct and measurable impact on reducing illicit arms flows. As of 2024, there is little evidence of illicit arms trafficking of US or EU-provided weapons in or outside Ukraine (Yousif & Stohl 2024), although, as discussed below, other external factors might reduce the volume of arms flows. Galeotti & Arutunyan (2023) suggested that the reduction could be attributed to the disruption of criminal networks by the intense fighting following Russia's full-scale invasion in February 2022. The report also suggested that the war has sparked a surge in national solidarity and demand for weapons for national defence, shifting priorities away from profit-seeking motives to outright survival. Another report (Yousif & Stohl 2024), suggested that the sheer demand of weapons in Ukraine, undermined incentives that might exist to co-opt international aid, and that Ukraine has made notable efforts to mitigate diversion risks and reassure allies of its determination to maintain control of foreign-provided stocks. Numerous reports of Ukrainian authorities successfully thwarting criminal activities and illicit weapons diversions can also

be found. According to Britzky & Bertrand (2023), there have been several criminal activities involving illicitly acquired arms have been foiled by Ukraine's security service, the Security Service of Ukraine (SBU). For example, in June of that year, the SBU disrupted an organized crime group, allegedly under the supervision of a Russian official, which used fraudulent documents to infiltrate a volunteer battalion. In August 2022, Ukraine's intelligence services uncovered a group of volunteer battalion members who had stolen 60 rifles and nearly 1,000 rounds of ammunition, presumably for sale on the black market.

LONG-TERM TRENDS

Whether this trend of effective arms control continues in the long term is more difficult to predict, especially in the context of a possible eventual Russian withdrawal. With the dislocation of criminal networks (Galeotti & Arutunyan 2023), the massive demand for arms on the frontline with Russia, and the overall effectiveness of Ukrainian authorities in thwarting acts of trafficking, it is difficult to envision an alternative scenario as the war progresses. An accurate depiction might become murkier when trying to envision the Ukrainian case study after the cessation of hostilities. Multiple realities, many of which are already established in this paper, can be identified, which are probable to be carried over into the long-term picture.

An eventual peace with Russia might re-establish pre-existing criminal networks, as frontlines cease to exist, and borders re-open. Indeed, the port of Odesa was the main smuggling hub of the Black Sea before the Russian naval blockade. Smuggling of drugs, persons, and goods through Ukraine have moved from the South-East to the West of the country, where customs and border crossings with the EU have relaxed controls to ease the migration of refugees escaping the country (Global Initiative against Transnational Organised Crime 2023).

The re-establishment of old criminal networks could allow old problems to resurface, meaning that future outside aid, such as the US Action Plan, must be prepared to address these issues head-on. In the long term, the Action Plan outlines a commitment to bolster accountability by conducting end-use verification checks and resuming physical security and stockpile management (PSSM) activities once safe conditions permit (Department of State 2022). While these objectives can all be relevant within a broader policy matrix, The US Action Plan is short-sighted in addressing key issues. With problems of institutional corruption and mismanagement persisting in the Ukrainian security sector before the Russian invasion, as well as an inconsistent national arms regulation regime in Ukraine, and low trust towards authorities, it is not obvious whether the plan can produce long-term reduction in illicit arms flows. It does not mention capacity-building, lessons learned or training for Ukrainian authorities, reforms of legal definitions on firearms, which could help close loopholes, solidify definitions of 'registered' and 'non-registered' arms, and provide improved monitoring to guide future arms control policy (Galeotti & Arutunyan 2023). The US Action Plan also does not focus on supporting communities to better engage and raise concerns to regional and national bodies, to help build the mutual trust necessary to lower demand for non-registered household weapons and solidify the social fabric needed to reduce corruption (OECD 2013).

Finally, there is also little evidence of policy coordination between the US and EU, the latter of which, is a directly bordering entity. A long-term vision is lacking here, given the prospect of Ukrainian EU membership in the single market and the resulting significant elimination of customs and border checks. US-EU cooperation might make for a more unified approach that eases the efficiency of end-use monitoring and disposal; and simplifies bureaucratic procedures and information sharing to ensure US weapons do not enter the European illicit market in future. Finally, if Ukraine does, in fact, become a full member of the EU, not only must it be supported financially, politically, and legally in its accession to the existing EU firearms regulations, but it must also be brought within the wider architecture of information-sharing with police forces and border authorities of its neighbouring countries (Klymchuk et al. 2024), to avoid a recurrence of the diversion occurred in the 1990s and 2014.

CONCLUDING REMARKS

In conclusion, the United States' 'Plan of Action to Counter Illicit Arms Diversion in Eastern Europe' shows initial promise in addressing immediate concerns related to the diversion of

advanced conventional weapons within and outside Ukraine. However, its effectiveness in the long term remains uncertain, especially considering Ukraine's historical challenges. While the plan focuses on vital aspects like accountability and border security, it falls short in addressing broader issues such as anti-corruption measures, comprehensive arms regulation and international cooperation. To sustain long-term success, a more comprehensive and forward-thinking approach is needed to ensure lasting positive impacts.

COMPETING INTERESTS

The author has no competing interests to declare.

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