



ECONOMIC
SECURITY COUNCIL
of UKRAINE



Briefing paper

INTERNATIONAL DEFENCE PROCUREMENT AGENCY FOR UKRAINE

2025



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“Infantry wins battles; logistics wins wars”

U.S. General John J. Pershing

Introduction

Timely and adequate provision for the needs of the defence forces is a key factor in deterring unprovoked Russian aggression against Ukraine. Regardless of whether hostilities continue or a real and lasting ceasefire is established, the primary task for Ukraine and its partner countries is to build a robust deterrent. This involves building up the military-industrial and technological base, as well as developing effective mechanisms for coordinated planning and defence procurement.

An **International Defence Procurement Agency for Ukraine (IDPA)** can serve as such a mechanism. In the current environment, it can address the problems of coordination among partner countries, the need for reform in the Ukrainian procurement system, cost estimating, intellectual property protection, and the timely provision of defence needs.

At the outset of Russia’s large-scale war against Ukraine, Kyiv moved rapidly to establish processes to mitigate emerging risks and threats. Ukraine and its partners have consolidated significant efforts to stabilise the situation, adjust operational processes, and shape strategic thinking aimed at the state’s effective withstanding against the enemy. The initial improvised logistics in Poland to meet urgent operational needs in 2022 marked the beginning of non-standard thinking in shaping military operations for large-scale operations. Subsequently, it evolved into broader, more structured coordination formats in Stuttgart and then Wiesbaden. These later expanded into the Operational Force Development Framework (OFDeF), the Ukraine Defence Contact Group in the “Ramstein” format, and other multinational coordination platforms contributing to Ukraine’s defence.

Since June 2025, NATO has assumed responsibility for Ukraine’s defence capability development through the newly established NSATU structure. While these frameworks have improved information exchange and planning, they have also proven to be highly bureaucratic and slow in decision-making. National priorities within NATO-led formats often diverge, and partner countries frequently compete for influence, contracts, and industrial advantages. As a result, procurement decisions and funding allocations are often shaped more by domestic political and industrial considerations than by Ukraine’s immediate operational requirements.



With the financial granting system becoming less reliable and current resources falling short, Ukraine urgently needs a dedicated institution that earns partners' trust and ensures procurement is based on frontline needs.

The SHIELD team proposes the IDPA to fulfil this critical role. The IDPA would provide a transparent, efficient, and centralised procurement mechanism, consolidating partner efforts, prioritising Ukraine's needs, and accelerating delivery through credible channels. Its mandate would ensure all procurement decisions are aligned with Ukraine's operational priorities. It will assume the role of the trusted platform for coordinating international resources.

The IDPA is envisioned not just as a functional improvement of existing formats, but as a structural reform essential for sustaining Ukraine's defence. By offering a credible, legally sound, and independent framework, it would enable the consolidation of international resources under a common governance structure, reduce the fragmentation of partner initiatives, and ensure compliance with both Ukrainian and partner legal frameworks. This briefing paper examines the legal and organisational models available for establishing the Agency, assessing their feasibility, strengths and weaknesses in light of immediate operational demands and Ukraine's long-term integration into the European defence ecosystem.

In this paper, we provide the background for the creation of such an Agency, outline possible legal options for its deployment, and, most importantly, argue that this instrument can become a condition for the allocation and proper management of additional funding aimed at strengthening Ukraine's defence capabilities.



Executive Summary

The establishment of the International Defence Procurement Agency (IDPA) is crucial to addressing Ukraine's defence procurement needs amid the ongoing aggression from the Russian Federation. This briefing paper evaluates three primary options for creating the IDPA: a Ukraine-focused specialisation (function) at the European Defence Agency (EDA), a new standalone company, and a new treaty-based international organisation.

Ukraine-focused Specialisation at the EDA. This option is the easiest to implement, as it leverages the EDA's existing procurement infrastructure and expertise. It requires minimal structural changes, as a Ukraine-focused sub-unit can be created through an internal by-law without modifying the EU acquis. However, Ukraine would lack ownership in terms of equity, decision-making, or personnel, limiting its influence over procurement processes.

New Standalone Company. Establishing a new company co-owned by Ukraine, EU Member States, and potentially other international partners (e.g., the UK and Norway) is another accessible option. It offers Ukraine partial ownership and decision-making power, fostering deeper cooperation. However, its scope may be limited by national laws of EU Member States, and political will remains a potential obstacle.

New Treaty-Based International Organisation. While the most challenging to implement, this option is the most appealing in the long term. A treaty-based organisation would provide a resilient and sustainable framework, transcending the current conflict and supporting Ukraine's reconstruction after the war. It ensures independence, transparency, and international oversight, while fostering deeper integration between Ukraine and the EU defence ecosystem. Although labour-intensive and requiring broad political consensus, this model offers the highest potential for scalability, adaptability, and long-term impact.

Recommendation. While the specialisation at the EDA and the standalone company are practical short-term solutions, the creation of a treaty-based international organisation is the most strategic and sustainable option. It aligns with international law, ensures robust governance, and positions Ukraine as a key partner in European security architecture. This approach will not only address immediate defence needs but also lay the foundation for Ukraine's long-term integration into the EU defence market and its post-war reconstruction.



Background

Ukraine needs defence articles and dual-use items to repel the full-scale armed aggression of the Russian Federation and liberate Ukraine's sovereign territories. In 2024, the Ministry of Strategic Industries of Ukraine estimated the capacity of the Ukrainian military-industrial complex at EUR 20 billion. It is expected that in 2025, they will increase to EUR 35 billion. At the same time, the State Budget of Ukraine had and still has limited financial resources to engage the idle capacity.

The EU Joint White Paper for European Defence Readiness 2030 stresses the need for *“a massive ramp-up of European defence industrial production capacity, which is a prerequisite for Member States to be able to acquire the critical capabilities they currently lack”* considering that at its current level it is not capable of meeting the EU defence needs and those of Ukraine. Ukraine's existing production capacity is already sufficient to address this goal.

To increase the financial resources available for the procurement of Ukraine's defence articles, Ukraine has implemented several options. One of them is the ZBROYARI initiative, which allows Ukraine's international partners to finance the purchase of Ukrainian defence articles by allocating and disbursing funds to special accounts of the Ministry.

Ukraine is also working closely with its global partners to expand the “Danish Model” of support for the Ukrainian defence industry, based on which the Armed Forces of Ukraine received defence articles valued at nearly EUR 538 million.

In Ukraine's defence sector, the central agencies tasked with the procurement of defence and other articles for the Armed Forces of Ukraine are:

1. The State Enterprise of the Ministry of Defence of Ukraine “Defence Procurement Agency” (DPA); and
2. The State Enterprise of the Ministry of Defence of Ukraine “State Operator for Non-Lethal Acquisition” (DOT).

The budget of DPA, which is mandated to procure defence articles, is financed by Ukraine's state budget as well as by the Danish Model financing, which is channelled through the state budget.

It should be noted that not all international partners, due to their legislative restrictions, have the opportunity to finance the purchase of defence articles in the manner above through the available options. As a result, they are obliged to use their own rules, procedures and institutions to conduct procurement for the needs of the Armed Forces of Ukraine.

Special legislation of Ukraine, in particular the Law of Ukraine "On Defence Procurement", establishes a state monopoly on the procurement of defence articles for the Armed Forces of Ukraine, except for:

- 1) procurement of defence articles through international specialised organisations, their representative offices, specialised funds, enterprises, institutions and



organisations, as well as through international military procurement programmes, the list of which is determined by the Cabinet of Ministers of Ukraine as follows:

- NATO Communications and Information Agency;
- NATO Support and Procurement Agency; and
- U.S. Government Programme "Foreign Military Sales".

2) procurement within the framework of cooperation programmes on research and development for military purposes, carried out by Ukraine together with other states by international treaties; and

3) procurement of defence articles implemented on the territory of another state for use outside of the territory of Ukraine.

Such exceptions are provided for in the Government's Resolution approving the List of International Specialised Organisations and their Representative Offices that Procure Defence Articles, Works, and Services (Resolution of the Cabinet of Ministers of Ukraine No 527, dated 26 May 2021).

As a result, specialised foreign procurement organisations and/or their contractors, except through the international specialised organisations mentioned above, are deprived of the opportunity to purchase Ukrainian defence articles at the expense of global partners for their further transfer to the Armed Forces of Ukraine.

The aforementioned regulatory restrictions imposed by Ukraine's international partners, which impede their ability to procure Ukraine's defence articles for the Armed Forces of Ukraine directly, call for the creation of a mechanism that is compliant with such restrictions while also being transparent, efficient, accountable, and user-friendly for stakeholders. Such a mechanism is presented in this paper by the International Defence Procurement Agency.

By streamlining processes, reducing corruption risks, and optimising the use of international funding, the IDPA will aim to ensure that Ukraine's defence needs are met with speed and accountability. Beyond immediate support, the IDPA will position Ukraine as a stronger partner in the European security architecture, fostering deeper integration with the European Union's defence ecosystem. This initiative is both a practical response to an urgent crisis and a strategic investment in Ukraine's sovereignty and Europe's collective defence.

Problem statement

Ukraine has available defence production capacity that can be engaged now, but Ukraine lacks sufficient financial resources to do so. Ukraine's economic resources to procure defence articles across the border are also limited. The prospects of US military aid to Ukraine, once the current assistance ends, remain unstable. The European Union, the UK, and Norway do not have idle defence production capacity and seek to ramp up their defence industries to ensure their defence capabilities,



the key element of which is Ukraine's resilience in the face of Russia's ongoing full-scale aggression.

Solution

Create a mechanism, IDPA, to increase absorption capacity under the EU Security Action for Europe (SAFE) Initiative, attract additional concessional funding to the amount of 40-50BUSD secured by the frozen Russia's assets, boost the procurement of Ukraine's defence articles and dual-use items, as well as foreign assets acquisition of which can be delegated to IDPA by Ukraine and its international partners outside of Ukraine's Defence Procurement Agency and/or State Operator for Non-Lethal Acquisition (DOT) scope.

Feasibility analysis of the available legal forms for creating IDPA

Factors that affect the choice of legal form

Table 1. Main EU-funded defence procurement scenarios involving Ukraine

Scenario	1. Procurement of the defence articles in Ukraine, from the Ukrainian defence manufacturers, for the needs of Ukraine's defence	2. Procurement of defence articles in Ukraine, from the Ukrainian defence manufacturers, for the needs of an EU Member State, with the subsequent supply to the EU	3. Procurement of defence articles in the EU for the needs of Ukraine's defence, with the subsequent supply to Ukraine
Supply (domestic, export, import)	No cross-border supply of goods	Cross-border supply of goods to the EU	Cross-border supply of goods to Ukraine
Governing law	Governed by Ukraine's substantive law (precedent of local defence procurement law)	Ukraine's substantive law (procurement compliance and export control) and the EU Member State's substantive law (contract law)	EU Member State's substantive law

The choice of IDPA legal form is affected by the scenario in which it operates (domestic supply, export from Ukraine or import to Ukraine) and the governing law. For instance, in the first scenario, there is no cross-border supply of defence assets, as they are procured in Ukraine for Ukraine's defence needs. The substantive law of Ukraine prevails in this scenario, with a limited impact on IDPA by its residents. It potentially provides a possibility of using a company, co-owned by Ukraine and EU Member States, since the defence procurement and supply are happening outside of the jurisdiction of the EU Member States, and there is no monopoly on implementing the defence procurement only by the designated public law entities, like the central government defence procurement agencies.



Options for delegating the defence procurement function

1. Delegation at the EU level to a supranational procurement agency (e.g. EDA);
2. Delegation at the EU level to the NATO Support and Procurement Agency (this option is not included in this analysis);
3. Delegation by a consortium of two or more EU Member States and Ukraine to a supranational procurement entity or an existing national procurement agent; and
4. Delegation by a consortium of an EU Member State and Ukraine to a national procurement entity.

This briefing paper focuses on delegating the procurement function to a supranational entity or a new or existing entity. The analysis of empowering the NATO Support and Procurement Agency (NSPA) to procure defence assets from or for Ukraine is excluded from this paper. However, if such an option is considered, it would still require the creation of a Ukraine-focused specialisation (function) in the NSPA similar to the one outlined here for the EDA.

Modes of cross-border participation of the Ukrainian defence manufacturers in the EU-funded defence procurements

Mode 1 - direct cross-border procurement;

Mode 2 - procurement via EU subsidiaries or consortia of an EU company and a Ukrainian company; and

Mode 3 – subcontracting and/or outsourcing to a Ukrainian manufacturer by a prime EU contractor.

This briefing paper focuses solely on Mode 1, direct cross-border procurement by an EU procurement agent from a Ukrainian manufacturer. The existence of the other modes is acknowledged, but they can be effectively implemented without creating the IDPA.

Options for creating IDPA

1. IDPA at the European Defence Agency by creating a Ukrainian defence procurement specialisation (function) in this Agency;
2. IDPA as a new standalone treaty-based organisation with the participation of two or more EU Member States, other international partners of Ukraine and Ukraine.
3. IDPA as a new company with its equity owned by two or more EU Member States, other international partners of Ukraine and Ukraine.
4. IDPA at the level of an EU Member State (specialisation (function) at the existing national defence procurement agency).



Feasibility analysis – a Ukraine-focused specialisation (function) at the EDA

EDA Constitutional Status

The European Defence Agency (EDA) is a TEU-based Agency. The EDA is explicitly mentioned and given its mandate in the Treaty on European Union (TEU). Specifically, Article 42(3) TEU states: *"The Agency in the field of defence capabilities development, research, acquisition and armaments...shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities"*.

Article 45(1) TEU reiterates the EDA's tasks, including contributing to the identification of military capability objectives, promoting the harmonisation of operational needs, proposing multilateral projects, supporting defence technology research, and strengthening the defence industrial and technological base.

Article 45(2) TEU further mandates the Council, acting by a qualified majority, to *"adopt a decision defining the Agency's statute, seat and operational rules"*. This highlights that the EDA is not merely an agency created by secondary legislation but has its roots firmly in the foundational Treaty of the European Union.

Legal Personality under Council Decision (CFSP) 2015/1835

The EDA possesses the legal personality necessary to perform its functions and achieve its objectives. This legal capacity enables it to acquire or dispose of property, be a party to legal proceedings, and enter into contracts with private or public entities or organisations. Member States ensure that the EDA enjoys the most extensive legal capacity granted to legal persons under their national laws.

EDA is registered in Belgium under an enterprise number 0723.708.783.

Mission and Core Purpose

Mission - to support the Council and Member States in their efforts to enhance the Union's defence capabilities for crisis management and to sustain the Common Security and Defence Policy (CSDP) by identifying operational requirements, promoting measures to meet these needs, and contributing to strengthening Europe's defence industrial and technological base (EDTIB).

The 2024 Long-Term Review highlights that the EDA acts as the *"intergovernmental defence nexus at EU level"*, helping Member States along all steps of the capability development cycle and beyond.

In line with the Strategic Compass for Security and Defence adopted in March 2022, the EDA enables Member States to collaboratively develop next-generation capabilities collaboratively, contributing positively to global and transatlantic security and complementing NATO.



Governance and Authority

The EDA operates under the authority and political supervision of the Council, to which it provides reports and receives guidelines for its work.

The High Representative of the Union for Foreign Affairs and Security Policy (currently – Ms Kaja Kallas) serves as the Head of the Agency. The High Representative is responsible for the Agency's overall organisation and functioning and ensures the implementation of Council guidelines and Steering Board decisions by the Chief Executive.

The Steering Board is the decision-making body of the Agency, composed of representatives from each participating Member State (authorised to commit their government) and a representative from the European Commission. The Head of the Agency convenes and chairs the Steering Board's meetings, which typically meet at the level of Defence Ministers.

The Chief Executive is responsible for the day-to-day administration and efficiency of the Agency, ensuring the implementation of its three-year Planning Framework and managing its budgets.

Financial Framework

The EDA's budget includes its general budget, budgets associated with ad hoc projects or programmes, and budgets resulting from additional revenue.

Its financial operations are governed by Council Decision (EU) 2016/1353, which lays down the essential financial rules.

The general budget is primarily financed through contributions from participating Member States based on the gross national income (GNI) scale.

Enhanced Core Tasks and Role

In 2023, Ministers of Defence strengthened the EDA's role by mandating it to support capability development at every stage and outlined five core tasks:

1. Identifying shared capability needs and priorities at the EU level.
2. Enabling collaborative defence research, technology, and innovation.
3. Harmonising requirements and engaging in joint capability development.
4. Aggregating demand towards joint procurement.
5. Interfacing with EU civilian and defence policies and voicing the Ministries of Defence's joint positions.

The EDA is to act as a facilitator and, where appropriate, as a balancing actor within the EU, ensuring the coherent alignment of current and future EU defence initiatives, policies, and legislation.



Legal Mandate of Procurement Functions

The EDA's procurement function is grounded in the Treaty on European Union (TEU) and further elaborated in Council Decisions:

- Treaty on European Union (TEU)

Article 42(3) TEU mandates the EDA to *"promote measures to satisfy [operational requirements]" and "contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector"*. This foundational role underpins the need for effective procurement.

Article 45(1) TEU explicitly tasks the EDA to *"promote harmonisation of operational needs and adoption of effective, compatible procurement methods" and to "propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes"*. It also contributes to strengthening the defence industrial and technological base (EDTIB) and improving the effectiveness of military expenditure.

- Council Decision (CFSP) 2015/1835

This Decision establishes the EDA's continuation in the field of defence capabilities development, research, acquisition, and armaments. It reinforces the EDA's mission to promote cost-effective and efficient procurement by identifying and disseminating best practices. The EDA can take responsibility for managing specific programmes at the request of Member States and prepare programmes to be managed by other entities, such as OCCAR.

The Chief Executive is *"empowered to enter into contracts"* within the Agency's various budgets. The Decision also clarifies that the Agency's activities may cover *"acquisition using public contracts, awarded in compliance with the relevant Union rules governing the award of public contracts"*.

- Council Decision (EU) 2016/1353 concerning the financial rules of the EDA

Article 34(2) explicitly grants the Agency the ability to use joint procurement procedures in collaborative activities with Member States. For contracts where a Member State's share is 50% or more, or in other justified cases, relevant EU directives such as Directive 2014/24/EU or Directive 2009/81/EC (on defence and security procurement) apply.

Organisational Framework for Procurement

The EDA's organigram reflects a dedicated structure for its procurement and contractual activities. Under the Corporate Services Directorate (CSD), there is a specific Procurement & Contract Unit. This unit is part of the horizontal services and enabling functions that ensure the Agency's acquisition operations.



Core Procurement Functions and Principles

The EDA's procurement function centres on aggregating demand and facilitating joint procurement to enhance European defence capabilities:

The EDA's Core Task 4 is *"Aggregating demand towards joint procurement, to fill capabilities shortfalls"*. It is considered the *"best placed EU entity to aggregate, harmonise, and consolidate demand coherently, and prepare procurement options"*. This process helps prevent market fragmentation, ensures better value for money, allows for faster delivery, and strengthens the European Defence Industrial Base (EDIB) by creating predictable and coherent demand.

The Agency can actively *"engage in joint procurement"*. While it is currently *"best equipped to deal with the joint procurement of services"* (e.g., support for operations and training) or *"simple off-the-shelf equipment"* for more complex projects, it provides pre-planning and bridging functions to national procurement authorities or international organisations like the Organisation for Joint Armament Cooperation (OCCAR) and NATO Support and Procurement Agency (NSPA). The EDA has standardised arrangements for joint procurement projects to reduce administrative burdens and accelerate timelines.

Current Procurement Activities and Financial Aspects

The EDA's procurement efforts are evident in several key initiatives and financial figures. Since 2007, Member States have agreed on a common target of 35% of total defence equipment procurement to be done collaboratively, a goal mirrored in Permanent Structured Cooperation (PESCO) commitments. This target is now proposed to be swiftly stepped up to at least 40% in line with the European Defence Industrial Strategy (EDIS).

Ammunition Initiative. A prominent example is the joint procurement of 155mm artillery ammunition and 84mm Carl Gustaf anti-tank ammunition. The EDA signed 60 framework contracts with European manufacturers for 155mm ammunition, with a combined maximum value of €1.6 billion. Nine Member States have placed orders through the EDA, with the first deliveries scheduled for May 2024.

Other Joint Procurements. The Agency is aggregating demand for CBRN equipment (masks, filters, protective suits) and soldier equipment (helmets, body armour).

Satellite Communications (SATCOM). The EDA manages the EU Satellite Communications Market, its most significant project, which provides commercially available satellite communications. A new contract, running until 2028, has a higher ceiling of €250 million.

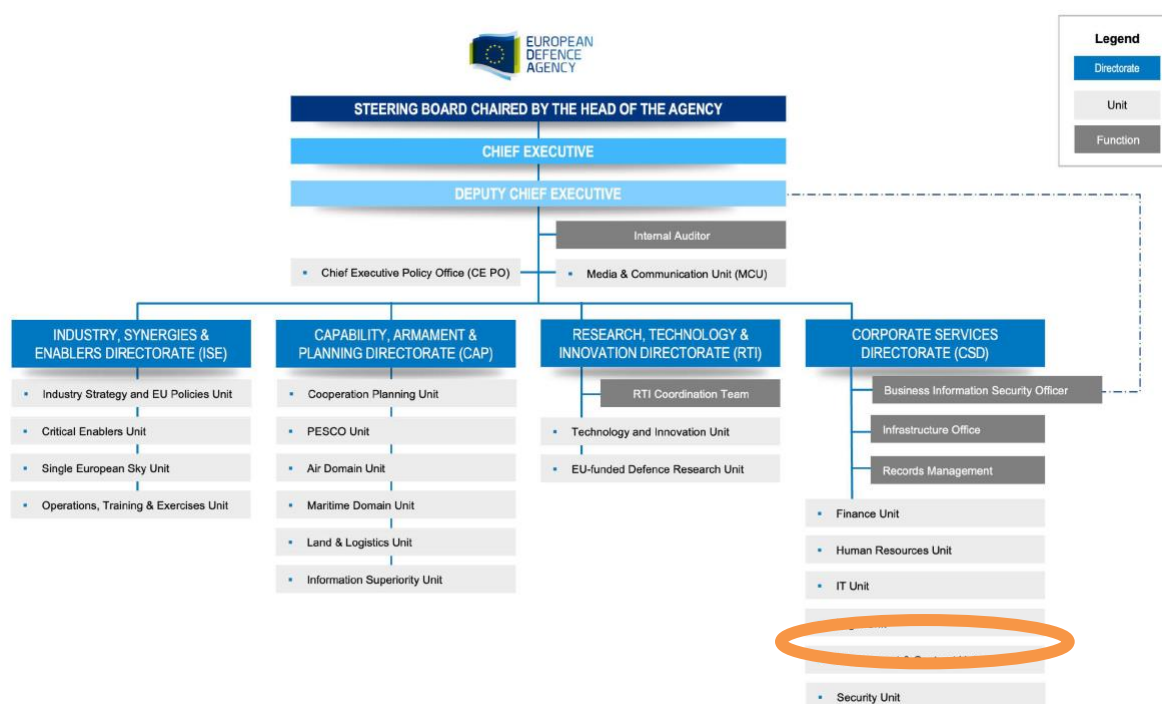
Air Medical Evacuation (AIRMEDEVAC). The EDA manages framework contracts for air medical evacuation services, with a €140 million contract signed in 2023 for a period of up to four years.



EU-funded Defence Research. The European Commission has entrusted the EDA with 24 European Defence Fund (EDF) projects, including those for small and medium-sized enterprises (SMEs) and disruptive technologies, which may lead to future procurement opportunities.

Capability Development Projects. In 2024, the EDA supported 36 capability development projects worth €186 million. Overall, as of the end of 2024, Member States' contributions to ad hoc capability development and R&D programmes and projects (excluding PESCO and 155mm ammunition procurement) total €562.1 million. The EDA also lists 171 ad hoc projects (43 capability and 128 R&D) and 28 EU-funded projects under the EDF.

The EDA's total expenses in 2023 were €43.16 million for the general budget and €129.18 million for ad hoc projects. The budgetary surplus for 2023, repayable to participating Member States, was €3.58 million. The 2024 total budget is €70.1 million for the general budget, €253.7 million for ad hoc budgets, and €51.9 million from additional revenue. Initiatives like the proposed Security and Action for Europe (SAFE) instrument, with up to €150 billion in loans, aim to support further investments by Member States in common procurements for priority capabilities, including a VAT waiver for purchases financed by SAFE. The EDA will also play a role in coordinating with the European Commission on the European Defence Industrial Strategy (EDIS), which aims to strengthen the EDTIB and facilitate faster, more efficient procurement.



Graph 1. EDA Internal Structure



EU cross-border procurement state of play

Foreign participation in EU public procurement has increased over time but remains modest, with only 7% of EU procurement authorities receiving foreign bids between 2016 and 2019¹.

Mode 1 (direct cross-border procurement) accounts for a small share of international procurement.

Mode 2 (via EU subsidiaries) and **Mode 3** (subcontracting/outsourcing) are more significant but lack detailed data.

Foreign participation in EU procurement is not excessive but remains limited due to low participation rates rather than discriminatory practices.

The EU has limited foreign participation in its public procurement overall, and in terms of Ukraine's involvement, it is likely to be even more insignificant. The experience in cross-border collaborative defence procurement at Ukraine's end is likely negligible.

Only a small number of Ukrainian companies have ever bid on EU public tenders. Ukrainian defence manufacturers lack practical experience in EU procurement and are unprepared for direct cross-border business with the EU.

Regardless of the IDPA incorporation options (specialisation (function) in the EDA, standalone agency or an EU Member State Agency), the specialisation (function) on the EU end should be created.

Conclusions

The EDA has a dedicated Procurement and Contract Unit that has experience in collaborative defence procurement, but lacks expertise in cross-border business with Ukraine's defence sector.

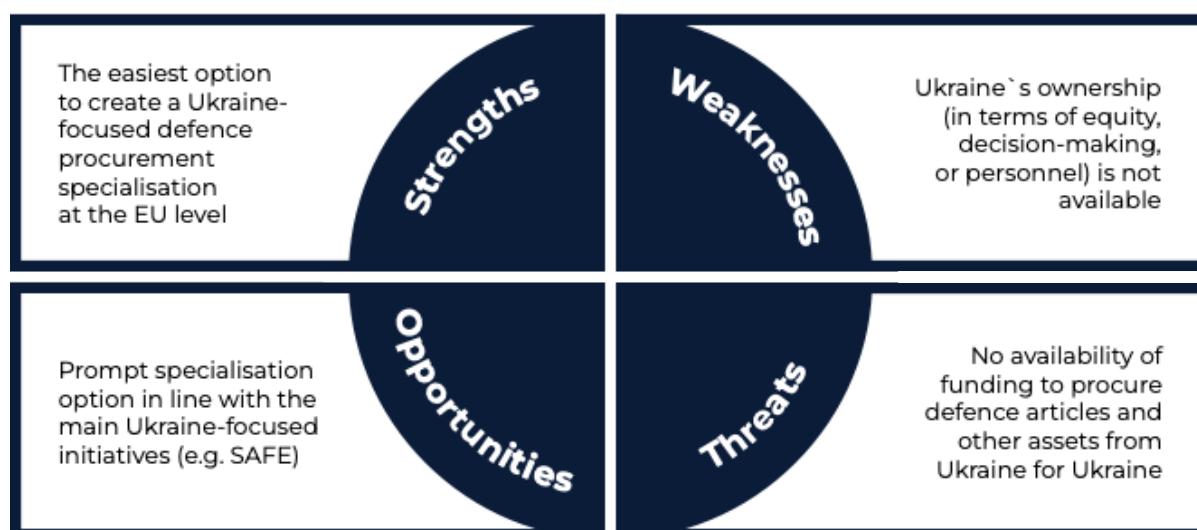
The EU has allocated significant financial resources, among others, for Ukrainian defence manufacturers (under SAFE alone – 150B€) and the NATO 5% defence ceiling also provides additional financial resources at the level of EU Member States.

To ensure an adequate level of absorption capacity, provided that the collaborative defence procurement targeting Ukraine is partially or fully vested in EDA, EDA should establish a Ukraine-focused Sub-Unit under its Procurement and Contract Unit.

The creation of a Sub-Unit does not require modification to the EU acquis and can be secured via an internal by-law that changes EDA's structure, subject to the EDA Statute.

¹ Data available at Policy Brief No 05/2025, European Centre for International Political Economy, February 2025, Lucian Cernat, The Participation of Foreign Bidders in EU Public Procurement: Too Much or Too Little? (at <https://ecipe.org/publications/participation-foreign-bidders-eu-public-procurement/>)).

Graph 2. SWOT Analysis - a Ukraine-focused specialisation (function) at the EDA



Feasibility analysis - IDPA as a new standalone entity (company or an international organisation)

The creation of a new EU supranational entity focusing on Ukraine's defence procurement is not regarded as a feasible option, as the EU acquis does not provide for such a development. It would require a broad political consensus and cannot be implemented promptly.

The IDPA is envisioned as a centralised, independent, common effort entity. Its headquarters would be located outside Ukraine to ensure independence from domestic political pressure and to facilitate continuous operations, thereby enhancing coordination with foreign suppliers and international partners. The exact country of incorporation and legal form will be determined during later consultations with global partners, taking into account tax, customs, and regulatory aspects. It may include a permanent establishment in Ukraine.

The creation of a new treaty-based supranational entity focusing on Ukraine's defence procurement will require significant will under a broad political consensus, and it cannot be realised in a short timeframe. It is feasible, yet labour-intensive.

The third option, establishing the IDPA as a new company, is considered the most accessible and feasible option for efficiently and transparently procuring defence articles and dual-use items for Ukraine. However, it is subject to certain scope limitations. This model would involve the IDPA's share or trust capital being co-owned by participating international partners, potentially including two or more EU Member States, the UK, Norway, and Ukraine itself.

There are several examples of the supranational public defence procurement (TEU-based, treaty-based organisation) entities:

- European Defence Agency (EDA);
- NATO Support and Procurement Agency; and
- Organisation for Joint Armament Cooperation.



The option of creating a Ukraine-focused specialisation (function) in the EDA has been addressed above. A multilateral treaty between Ukraine and the EU Member States establishing a Ukraine-focused supranational entity is a feasible option, albeit labour-intensive.

National defence procurement agencies are predominantly legal entities of public law (like the agencies, directorates, central government authorities) due to the special provisions of national laws of EU Member States that do not, in general, allow companies to procure defence articles:

- France — Direction Générale de l'Armement (DGA) (government department);
- Germany — Federal Office of Bundeswehr Equipment, Information Technology and In-Service Support (federal authority);
- Italy — Segretariato Generale della Difesa e Direzione Nazionale degli Armamenti (SGD-DNA) (department); and
- Poland - Agencja Uzbrojenia (Armament Agency) (government agency).

There are examples at the national level of the EU Member States of central government procurement agencies in the form of a company:

- Italy - Consip S.p.A. (joint-stock company wholly owned by the Ministry of Economy and Finance);
- Finland - Hansel Oy (limited liability company 100% state-owned); and
- Austria - Bundesbeschaffung GmbH (limited liability company).

Incorporation of a new company co-owned by Ukraine, EU Member States and potentially open to other international partners (e.g. UK, Norway) is a feasible option most likely only for the procurement of defence articles in Ukraine, from the Ukrainian defence manufacturers, for Ukraine's defence, since it will operate outside of the national laws of the EU Member States.

Table 2. Procurement scenarios and the legal form of an entity

Scenario	1. Procurement of the defence articles in Ukraine, from the Ukrainian defence manufacturers, for the needs of Ukraine's defence	2. Procurement of defence articles in Ukraine, from the Ukrainian defence manufacturers, for the needs of an EU Member State, with the subsequent supply to the EU	3. Procurement of defence articles in the EU for the needs of Ukraine's defence, with the subsequent supply to Ukraine
Complication	Under this scenario, an EU-based company, co-owned by Ukraine, EU Member States, and other international partners (e.g., the UK and Norway), operates exclusively in Ukraine and is not subject to the national laws of its home state. Subject to the modification of Ukraine's defence procurement laws, it will be able to act as a procurement agent.	Under this scenario, either a supranational entity or a new or existing public law legal entity of one of the EU Member States (e.g., an agency, directorate, or central government authority), procures defence articles in Ukraine and then exports them from Ukraine to the EU. Thus, it is subject to the national law of its residence state and that of Ukraine regarding defence procurement.	Under this scenario, either a supranational entity or a new or existing public law legal entity of one of the EU Member States (e.g., an agency, directorate, or central government authority) procures goods or services in the EU but imports them to Ukraine. In this case, it is subject to the national law of its residence (an EU Member State).

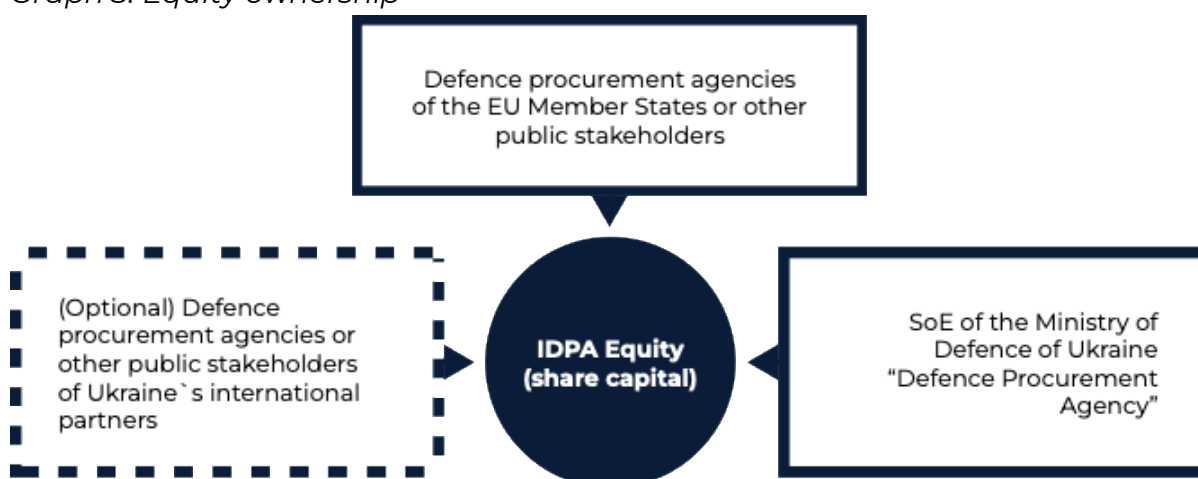
Co-participation (EU and Ukraine) under the two-tier board system

Regardless of whether a new standalone procurement agency focusing on delivering defence articles to Ukraine is established as a company or a treaty-based organisation, its corporate governance structure will adhere to relevant OECD corporate recommendations. It entails the existence of independent oversight under a one-tier or two-tier board system.

Setting up a new defence procurement company

The decision to incorporate an IDPA in the form of a company will be subject to the constitutional documents (i.e., their statutes, charters, or articles) of the EU defence procurement agencies or other public stakeholders. This will be preceded by the decisions of the national governments agreeing on such a form of cooperation with Ukraine.

Graph 3. Equity ownership



Graph 4. SWOT Analysis - a new company





Setting up a new treaty-based supranational entity

Establishing the IDPA as a standalone international treaty organisation is a comprehensive process that aligns with principles of international law, such as those found in the Vienna Convention on the Law of Treaties. This approach, although demanding significant political will and a broad consensus, is considered the most resilient and sustainable option for the IDPA, and it is not expected to be established as an EU supranational entity.

Here are the steps required to conclude such an international treaty:

1. Negotiation to Establish the Treaty

The negotiation phase is crucial for defining the purpose, structure, and operational modalities of the IDPA.

The process would begin by convening a meeting of partner nations, hosted by Ukraine. This meeting would involve representatives from interested countries to discuss and conceptualise the establishment of IDPA, its governance, operational, and financial considerations.

Following this initial meeting, a technical group comprising representatives of participating countries would be established to articulate and develop the modalities pertinent to the IDPA mandate.

After that, this technical group would be responsible for formulating and proposing an operating and financial model for the agency, including detailed funding. This phase would also involve sharing the draft concept note with stakeholders and developing a legal model, including considerations for the hosting jurisdiction.

It is understood that the IDPA would be governed by international institutional law, derived from its founding instrument and international agreements. The competences of such an organisation would be limited to the powers expressly granted in its constitutive instrument, as well as customary and implied powers essential for its duties. The founding international agreement, typically a written treaty, would define the organisation's objectives, structure, and powers. Memoranda of Understanding (MOU), while often informal, can be legally binding if they reflect an intent to be legally binding. The creation of a new treaty-based supranational entity focusing on Ukraine's defence procurement is considered feasible, though labour-intensive, and would require significant political will and broad consensus.

2. Consent (Signature and/or Ratification)

Obtaining the formal consent of participating states is a crucial step in transforming the negotiated text into a binding commitment.



Once the operating and financial models, along with an action plan, are formulated, they would be considered and approved by the participating international partners. This approval signifies the political commitment to proceed.

The establishment of a new treaty-based organisation, such as the IDPA, requires a broad political consensus among participating nations. The treaty would ideally be signed and ratified by all involved states in accordance with their respective constitutional requirements, a process that ensures its long-term viability and sustainability [narrative].

3. Entry into Force and Publication

For the IDPA to become operational, the treaty establishing it must formally enter into force, and its existence and core principles should be publicly accessible.

Ukraine would establish a working group to revise its applicable laws and regulations to comply with the forthcoming IDPA mandate. This task is expected to be completed before the IDPA becomes fully operational.

Upon approval of the operating and financial models and action plan, the IDPA would be ready to proceed to the appointment of the governing board(s). The formal entry into force of the treaty would likely occur following the completion of ratification processes by the signatory states.

4. Enforcement (Seat of Business, Budgeting, Staffing, etc.)

The enforcement stage involves the practical implementation and ongoing operation of the IDPA, guided by the agreed-upon treaty.

The IDPA, as an international treaty organisation, would possess an international legal personality distinct from that of its member states, allowing it to have rights, duties, powers, and liabilities under international law. It would also need a legal personality in the domestic legal systems of its member states.

The Agency would be headquartered outside Ukraine to ensure its independence from domestic political pressure and maintain continuous operations. The specific country of incorporation and legal form would be determined considering tax, customs, and regulatory factors.

Its internal governance would be compliant with the OECD principles. A governing board (or boards under the two-tier system) comprising Ukrainian and international representatives, along with an independent oversight body, would be appointed to monitor operations and staffing. The corporate governance structure could adhere to a one-tier or two-tier board system.

The IDPA, as a treaty-based international organisation, is seen as the *"most resilient and sustainable option"* that will transcend the current conflict and can be repurposed for Ukraine's reconstruction after the war, despite the challenges of political will and consensus.

Graph 5. SWOT Analysis - a new treaty-based organisation



Feasibility analysis - IDPA at the level of an EU Member State

Main features

An existing national defence procurement agency of an EU Member State could potentially act as a procurement agent to acquire defence articles for Ukraine, both within Ukraine and in the EU, utilising allocated funding, such as SAFE funding. This approach is viewed as an existing option, meaning there is no need to spend time and resources on creating a new entity from scratch.

In such a delegation, it would be recommended to create a Ukraine-focused specialisation or function within the existing national agency, similar to the concept of a Ukraine-focused sub-unit suggested for the European Defence Agency (EDA). This specialisation would handle the specific procurement tasks for Ukraine.

Scope and Limitations

The scope of such a procurement function would be dependent on the national laws of the participating EU Member States. For instance, there might be limitations on engaging defence vendors outside the agency's country of residence due to national regulations.

Examples of national defence procurement agencies that are predominantly legal entities of public law include:

- France - Direction Générale de l'Armement (DGA);
- Germany – Federal Office of Bundeswehr Equipment, Information Technology and In-Service Support;
- Italy - Segretariato Generale della Difesa e Direzione Nazionale degli Armamenti (SGD-DNA); and
- Poland - Agencja Uzbrojenia (Armament Agency).

Ukraine's Ownership

A significant limitation of this model is that Ukraine would not have ownership (in terms of equity, decision-making, or personnel) in an existing national defence procurement agency of an EU Member State.

Graph 6. SWOT Analysis - IDPA at the level of an EU Member State

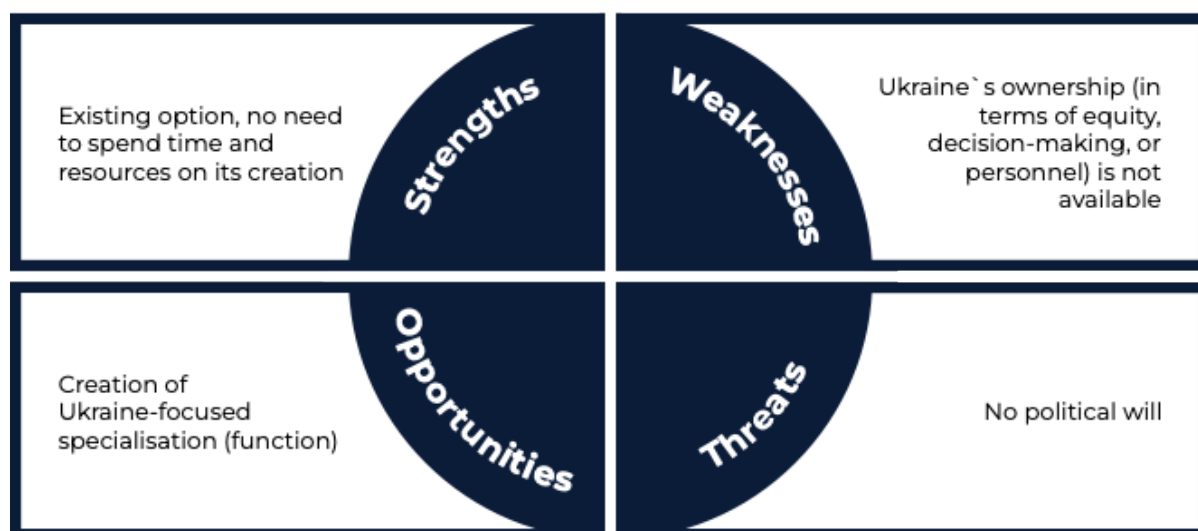


Table 3. SWOT Summary

	Ukraine-focused specialisation (function) at the EDA	New standalone company	New standalone treaty-based organisation	Ukraine-focused specialisation (function) at a national procurement agency
Strengths	The easiest option to create a Ukraine-focused defence procurement specialisation at the EU level	The easiest option to create a new standalone entity with Ukraine`s ownership	The most resilient and sustainable option that will transcend the Russo-Ukraine War and can be repurposed for Ukraine`s reconstruction	Existing option, no need to spend time and resources on its creation
Weaknesses	Ukraine`s ownership (in terms of equity, decision-making, or personnel) is not available.	Due to the national laws of EU Member States, its scope will likely be limited.	Requires broad political consensus	Ukraine`s ownership (in terms of equity, decision-making, or personnel) is not available.
Opportunities	Prompt specialisation option in line with the main Ukraine-focused initiatives (e.g. SAFE)	A more advanced level of cooperation, from ad-hoc arrangements to	Move from the Ukraine Donor Platform to the institutionalised form	Creation of Ukraine-focused specialisation (function)



		company co-ownership		
Threats	No availability of funding to procure defence articles and other assets from Ukraine for Ukraine	Lack of political will	No political will	No political will

IDPA Objectives

The IDPA will pursue a set of achievable objectives:

- Streamline the procurement process to ensure the timely delivery of essential defence articles to Ukraine at the initial stage, subsequently extend its expertise on the facilitation of technology transfers, purchasing of intellectual property, production licences, and other defence-related capabilities and assets.
- Implement transparent management and procurement mechanisms reinforced by independent audits and external oversight.
- Availability of additional financial resources allowing for effective utilisation of diverse funding sources, including revenues from frozen Russian assets, donor contributions, innovative financing models and long-term financing, to maximise procurement capacity.
- Act as a communication platform to strengthen ties between the EU and Ukrainian defence industries, promoting initiatives like localisation, technology transfer, public-private partnership, and other forms of industrial cooperation of mutual benefit.

IDPA Operating Model Features

The exact IDPA operating model will be articulated at a later stage. Currently, the following elements are available:

- **Incorporation:** The IDPA will be headquartered outside Ukraine to safeguard its independence from potential domestic political pressure and ensure continuous operations. The external location will also enhance its coordination with foreign suppliers and Ukraine's international partners. The exact IDPA country of incorporation and/or legal form will be determined during consultations with global partners at a later stage. Based on tax, customs, and regulatory considerations for procuring Ukraine's defence articles, it may have a permanent establishment in Ukraine.



- The IDPA share capital, if a limited structure is used, or trust capital if IDPA is to rely on a trust structure, will be co-owned by the participating international partners.
- **Governance:** The internal governance will be compliant with the OECD principles of corporate governance and will be designed at a later stage once the legal form is determined. The IDPA will manage the procurement process, sourcing suppliers, negotiating contracts, and overseeing logistics. However, Ukraine will retain final approval authority over all contract decisions to ensure purchases align with national priorities.
- The Agency will be staffed by a diverse team of independent professionals, defence procurement experts, financial analysts, logistics specialists and legal advisors with professionalism and impartiality backed by the transparent hiring process to dominate during a recruitment campaign.
- **Financial Model:** The exact financial model will be developed at a later stage. The procurement pool of funds can include donations from volunteer countries or frozen Russian assets to amplify purchasing power.

Participating Nations

The IDPA's activities will be overseen and supported by a consortium of partner nations. Proposed participants include:

- The United Kingdom, a key ally with extensive experience in defence logistics and a history of significant aid to Ukraine;
- Germany, an EU leading economy with a strong economy, defence manufacturing, offering industrial expertise and resources;
- France, a leader in self-sufficient military strength and a significant influencer in EU defence policy;
- Denmark, Norway, Sweden, Finland and the Netherlands are nations with strong traditions of international cooperation and innovative and reliable support for Ukraine; and
- Latvia, Lithuania, Estonia, Poland, and the Czech Republic are Eastern European countries with a direct stake in regional stability and a proven commitment to countering Russian aggression.

Benefits

The establishment of the IDPA will provide several key benefits:

- By centralising procurement and financial resources and negotiating framework agreements with suppliers, the agency will streamline



procurement processes and significantly reduce the time required to equip Ukrainian forces.

- International oversight and independent management will minimise the potential for corruption, safeguarding donor funds and public trust.
- Centralised procurement will reduce costs and eliminate redundancies, enable economies of scale and optimise the use of financial resources.
- IDPA will foster closer collaboration between Ukraine and its international partners in defence procurement, building a model for future defence initiatives.
- By facilitating joint projects, the agency will help to integrate Ukraine's defence industry into the EU market, enhancing mutual economic and security benefits.

Next Steps

1. Developing a legal model for setting up the IDPA (hosting jurisdiction, legal form, governance structure, funding mechanism (e.g. trust co-funding model)) based on the most feasible and politically possible model.
2. Draft IDPA high-level concept note.
3. Sharing the IDPA draft high-level concept note with the stakeholders and accommodating their feedback in the paper.