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Toward a Marshall Plan for Ukraine

New Ideas and Recommendations

G | M | F

IDEAS LEADERSHIP HOPE

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ABBREVIATIONS

CBAM	Carbon Border Adjustment Mechanism
DREAM	Digital Restoration Ecosystem for Accountable Management
EBRD	European Bank for Reconstruction and Development
EECC	Eritrea-Ethiopia Claims Commission
EFSD+	European Fund for Sustainable Development Plus
EIB	European Investment Bank
EU	European Union
EU ETS	EU Emissions Trading Scheme
EXIM	Export-Import Bank of the United States
FDI	Foreign direct investment
GMF	German Marshall Fund of the United States
G7	Group of large liberal democracies with advanced economies
IEEPA	International Emergency Economic Powers Act
IFI	International financial institution
IG	Inspector General
IMF	International Monetary Fund
IUSCT	Iran-United States Claims Tribunal
JBIC	Japan Bank for International Cooperation
KEXIM	Export-Import Bank of Korea
KSURE	Korea Trade Insurance Corporation
MIGA	World Bank's Multilateral Investment Guarantee Agency
MoU	Memorandum of Understanding

Introduction

The foundations of a Marshall Plan for Ukraine need to be laid now, even as the bombs continue to fall and reconstruction beyond early repairs still seems far away. Planning for post-World War II Europe started long before the conflict ended, a recognition that a foreseeably difficult period ahead required preparation. The same is now true for Ukraine. Building an alliance for reconstruction, catalyzing international support, agreeing on priorities, and putting the necessary institutions in place are all enormous tasks that need political will and time.

It will not be easy. In fact, it *is* not easy. The demands on the Ukraine coalition are manifold: to send modern weapons and equipment to the battlefield; to keep Ukraine's economy afloat and its national budget balanced; to supply humanitarian help; to host refugees; to help rapidly repair the infrastructure that is destroyed at Russian President Vladimir Putin's behest; and, on the horizon, recovery and reconstruction, with an unknown but significant price tag.

It is true that some allied countries worry that reconstruction goals may be too ambitious and whether the effort will be unsustainable over time. To build back better (and greener) means to spend more time and more money than a quick and simple rebuild requires.

But what is the alternative? To win the war at enormous cost and lose the peace? To eventually provide security assurances to a free Ukraine but allow an economically failed state to emerge? To send a signal to the Ukrainians that their sacrifices cannot lead to European and transatlantic integration, even in a decade?

Seventy-five years ago, the Marshall Plan delivered a message of hope. That is what a Marshall Plan for Ukraine must provide today. A better tomorrow is possible, and there is a path to get there. The Marshall Plan was not primarily charity; it was a strategy that considered the donor's national interests. To develop such a strategy again should be the Ukraine alliance's ambition. And ambition must come with a sense of urgency, focus, and realism.

Urgency is needed because the tasks at hand need to be tackled today to make a difference tomorrow. Focus is warranted because the magnitude of the challenge and the eventual limits to funding demand prioritization and coordination. Realism is required because Western taxpayers will not be able to stop supporting Ukraine soon, even if Russia eventually foots a good portion of the bill.

Good progress has been made in 2023. In January, the G7 launched the Multi-agency Donor Coordination Platform for Ukraine, a mechanism to bring together like-minded nation-states and multilateral development banks and to synchronize short-term assistance with long-term planning. In March, the International Monetary Fund (IMF) agreed with Ukraine's government on a new front-loaded program to stabilize and reform the country's economy. In April, Ukraine was able to announce that it had eliminated this year's wartime national budget—thanks to significant financial assistance from allies. Rapid and early recovery requires another $10 billion for 2023, a significant but manageable sum.

Priorities now need to be set for the time after the London Recovery Conference in June 2023. This report aims to contribute to that discussion. It is part of a series of reports that GMF has published on the topic, following a blueprint for Western engagement on reconstruction in September 2022[1] and an assessment of lessons to be learned from the original Marshall plan in October 2022.[2] Founded as a living memorial to the Marshall Plan, GMF has supported the idea of a Europe whole, free, and at peace as well as the concept of enlightened self-interest within a free and rules-based international order. Helping to conceptualize a new Marshall Plan for Ukraine simply embodies GMF's mission.

To make significant gains in 2023 and beyond, a set of key enablers for recovery need to be put in place by both donors and Ukraine. Public backing of war insurance should incentivize private investment. Ukraine's energy system needs to be decarbonized while being rebuilt. Russia should legally pay for its crimes through a process that invests the Kremlin's frozen public funds and through the preparation of an international claims conference. International aid must be conditioned upon continued Ukrainian reform. Civil society should have a seat at reconstruction talks. Finally, donor coordination must be improved by adding heft and strategic capability to the G7's new Multi-agency Donor Coordination Platform. These initiatives, taken together, provide a reconstruction agenda.

GMF experts Alina Inayeh, Jacob Kirkegaard, Thomas Kleine-Brockhoff, Josh Rudolph, and Bruce Stokes have studied these priority topics. Scholar Norman L. Eisen joined them from the Brookings Institution which, in 1948, drafted the original study on the Marshall Plan for the US Senate. Nearly two dozen policy recommendations are the result of this group's work. The team owes a debt of gratitude to the many issue area experts in the United States, the EU, and Ukraine who took time to speak with the analysts. Some were kind enough to review sections of the work. Collaboration with Ukrainian colleagues also made this paper possible. The authors would like to highlight and thank Center for Economic Strategy Executive Director Hlib Vyshlinsky and Ievgeniia Bodnya of the Reform Delivery Office, in particular, for reviewing the entire text (although not necessarily agreeing with each recommendation). Laura Lisboa of GMF's Berlin Office kindly organized the workstreams and the group. The team of authors is grateful for all their insights and their advice but takes full responsibility for the recommendations.

1 Ronja Ganster, Jacob Kirkegaard, Thomas Kleine-Brockhoff, and Bruce Stokes, *Designing Ukraine's Recovery in the Spirit of the Marshall Plan,* Berlin, September 2022. https://www.gmfus.org/news/designing-ukraines-recovery-spirit-marshall-plan

2 Heather A. Conley, *A Modern Marshall Plan for Ukraine - Seven Lessons from History to Deliver Hope, Washington,* October 2022. https://www.gmfus.org/news/modern-marshall-plan-ukraine

Executive Summary

Emergency assistance for Ukraine was and is a necessity dictated by Russia's war. Beginning with the London Recovery Conference in June 2023, the Ukraine alliance **should adopt a more strategic view** of Ukraine's reconstruction, with an eye toward **mid- and long-term planning**. **Five key enablers** of reconstruction should be prioritized:

Private investment

At least initially, donors need to share the risk with investors and provide **war insurance**. A **multilateral investment trust fund** should be created to provide that insurance and complement national efforts. The fund should be **open only to investors from countries that aid Ukraine** during the war.

Energy transition

Ukraine's shattered energy infrastructure should be rebuilt in accordance with the EU decarbonization goals, allowing the country's economy to **leapfrog into a net-zero future**. Ukraine should **join EU flagship climate policies soon and ahead of full bloc membership**.

Russian assets

Frozen **public funds should be temporarily invested**, with the proceeds made available to Ukraine, and an **international claims conference** should be prepared to **make Russia pay,** albeit in a **legal and transparent way, to directly aid those affected by Russian aggression**.

Transparency and accountability

Continued aid must be conditioned upon **continued anti-corruption reform**. To ensure implementation, **civil society needs to participate in a reconstruction process** that adheres to **decentralization principles**.

Donor coordination

The new G7 Multi-agency Donor Coordination Platform for Ukraine needs to be better equipped to succeed. Its **capacity for strategic planning** should be added, and its **leadership structure should be rethought**.

Reversing Ukraine's economic trajectory, uplifting its people, and enabling the country to integrate successfully into the European and world economy requires sustained, long-term growth. The recommendations in this report are enablers that will help to set Ukraine on the road to rapid recovery.

Recommendations

Creating War Insurance and Incentivizing Investment

1 Fund War Insurance

Create a risk-sharing investment trust fund for Ukraine

2 Privilege Ukraine's Donors

Extend public risk-sharing only to Ukraine's wartime donors

3 Trust Institutions

Rely on donor governance and development bank expertise

4 Expand Export Credits

Enhance the resources and broaden the scope of national export credit agencies

5 Allow for National Solutions

Insure national investors against war risk in Ukraine

Leapfrogging Into a Net-Zero Ukraine

7 Create an Electricity Market

Extend the future EU CBAM to cover Ukrainian electricity exports to the EU

8 Trade with Emission Rights

Include Ukraine's electricity production sector in the EU ETS

9 Enhance Energy Efficiency

Quickly adopt ambitious energy efficiency standards in Ukraine

10 Better Efficiency, More Aid

Assistance should come with conditions on energy efficiency

6 Keep Tariffs Suspended

Make EU and US market access permanent for Ukrainian goods and services

Making Russia Pay the Legal Way

11 Manage Frozen Assets
Invest Russia's frozen public funds and accept investment risk

12 Prepare Claims
Establish an international claims commission for Ukraine

13 Seize Private Funds
Adjust laws to enable legal seizure of Russian private assets

14 Stay United
Preserve transatlantic unity to minimize risks of retaliation

15 Be Realistic About Timeline
Do not expect Russian assets to quickly contribute to Ukraine's reconstruction

Ensuring Transparency and Accountability

16 Reforms First
Align donors around priority anti-corruption reforms

17 Upgrade Technology
Ensure that donors use cutting-edge transparency tools

18 Civil Society at the Table
Form a Ukrainian civil society advisory board

19 Devolve Power
Preserve decentralization and empower local governments

20 Improve Oversight
Create a Kyiv-based fusion cell of auditors

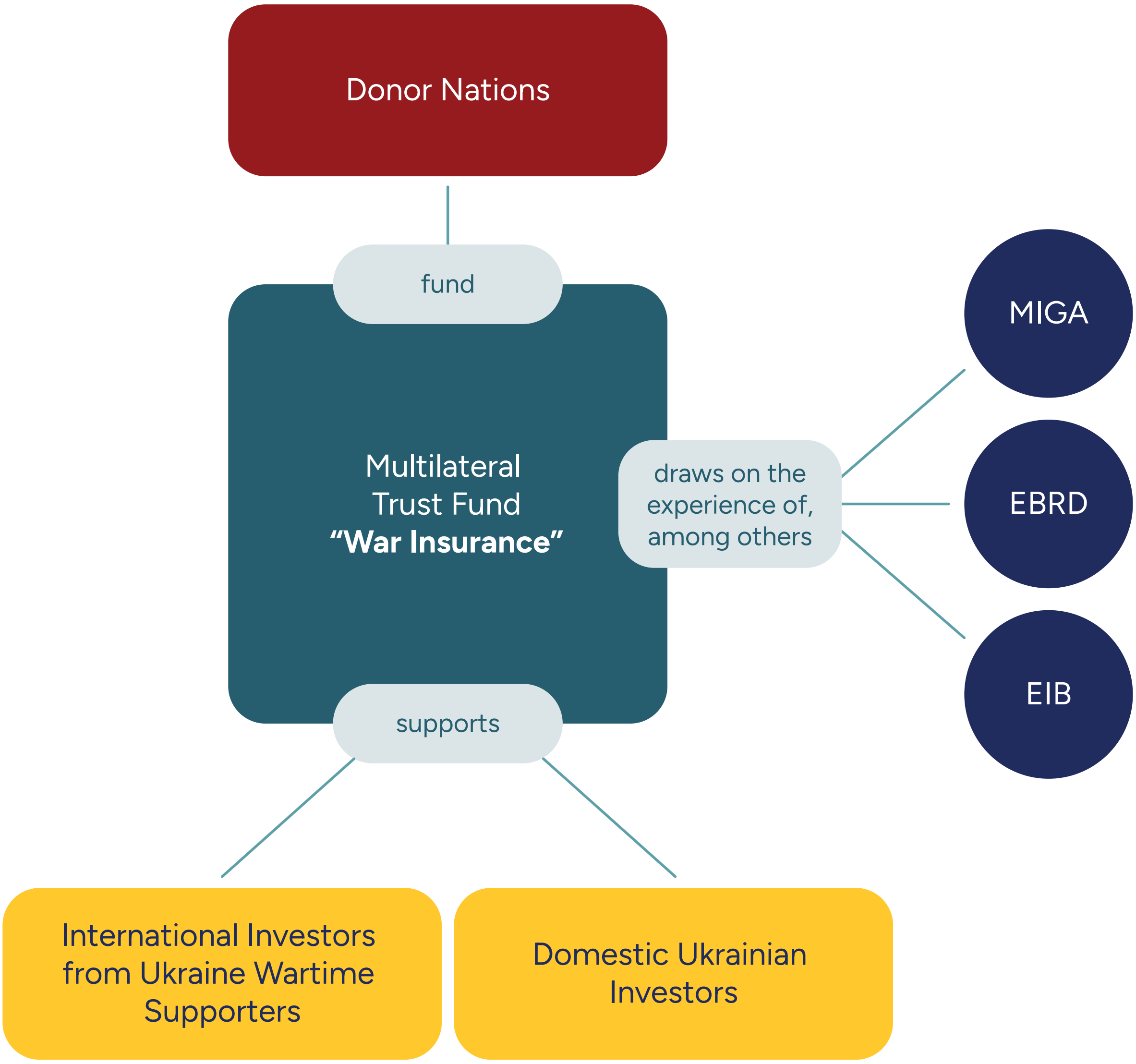
Organizing Donors to Do Big Things

21 Embrace Leadership
Empower the coordination platform

I

Creating War Insurance and Incentivizing Investment

FIGURE 1
Creating War Insurance and Incentivizing Investment



Ukraine's reconstruction will require massive international and domestic investment to fuel long-term, sustainable economic growth. The funding, institutional infrastructure, and political will for such enduring financing are not yet in place. Given the skittishness of private investors, insurance companies, and reinsurance companies about committing to an uncertain postwar Ukraine, the public sector will initially need to assume a share of investment risk. In effect, in the first few years of reconstruction, donor countries must provide war insurance for both international and domestic investors. This assumes that Ukraine's allies provide security assurances as the necessary precondition for investment and sustainable growth.

Ukraine's challenge is not simply to recover to its prewar level of economic activity. Prior to the war, Ukraine was a relatively poor country, and impoverishment still threatens the country's aspirations for EU membership. The bloc's newest members had, on average, 56% of EU per capita income on the eve of their accession. Ukraine's 2021 per capita income was 13% of the EU average. EU membership will be neither possible nor advisable if Ukraine's economy remains so dramatically underdeveloped.

Reversing Ukraine's economic trajectory, uplifting its people, and enabling the country to integrate successfully into European and world economies requires sustained, long-term growth. The country's annual economic growth averaged less than 2% in the six years prior to Russia's full-scale invasion. Much faster growth, driven by a sharp increase in productivity and fueled by investment, is necessary.

History suggests that Ukraine can attract foreign direct investment (FDI). Manufacturing wages before 2022 were comparable to or lower than those in many parts of China. Investors responded. The average annual inflow of FDI between 2016 and 2021 represented 3.3% of Ukrainian gross domestic product (GDP), roughly equivalent to that enjoyed by EU neighbors Poland (3.5%), Bulgaria (3.3%), and Romania (2.9%). Postwar Kyiv will require an inflow of investment comparable to, if not greater than, Poland's average (5.3% of GDP) in the four years immediately following its EU accession.

A few international investors—among them Bayer and Nestlé—have started to invest in Ukraine again, and domestic investment continues. The government in Kyiv would do well to reassure private investors by defining property rights more clearly. And, since many productive sectors before the war were state-owned, it should clarify the process and pace of future privatization.

Estimates suggest that Ukraine may need $180 billion in FDI and $350 billion in additional domestic private investment over the next 15 years. Around four-fifths of this investment will require some degree of investment insurance before it can proceed.

Private investors' risk tolerance will be a function largely of insurance and reinsurance providers' risk tolerance. If investors are unable to get insurance, they may not be able to secure loans for investments. Private-investment war insurance is currently unavailable since policies generally exclude losses or damage arising directly or indirectly from war. (War insurance should not be confused with political risk insurance, which is designed to cover nationalization and capital export controls, among other political risks.)

Insurance and reinsurance companies show no immediate interest in entering the postwar

Ukrainian market. Private insurers will be wary of backing private investment in reconstruction as long as war threatens Ukraine. Their unwillingness to assume the risk is also based on experience. Overall losses for the insurance and reinsurance industry due to the war could exceed $20 billion. An underdeveloped domestic Ukrainian insurance sector does not help the situation; the value of the policies underwritten in 2021 totaled only $1.8 billion.

The international public sector's capacity to provide insurance coverage for investment in Ukraine is woefully insufficient. Ukraine's annual FDI coverage needs could amount to more than all the investment guarantees issued by the World Bank's Multilateral Investment Guarantee Agency (MIGA) in 2022.

Ukraine's economic recovery will initially require the public sector to take on all risk. Once time and experience lower the risk assessment of private investors and their insurers, once it becomes evident that parts of western Ukraine or certain types of structures and businesses are less vulnerable than they are now, public-sector risk guarantees can be reduced and phased out. Even then, however, the public sector may need to subsidize unsustainably high insurance premiums.

War insurance will require governments to carry these subsidies and unfunded obligations on their books. Taxpayers will object, arguing that private investors should have skin in the game. In the end, politics, not economics, will determine the success of public risk-sharing for private investment in Ukraine. If the tools necessary to fuel a vibrant Ukrainian economy are to be put in place, governments in Europe, the United States, and elsewhere must be willing to share that political risk.

They should take the following six measures:

1

Create a Risk-Sharing Investment Trust Fund for Ukraine

The G7-initiated Multi-agency Donor Coordination Platform for Ukraine should create or identify an institution to administer a trust fund specifically designed to encourage private investment in Ukraine through joint risk-sharing by donor nations, including non-G7 donors such as Norway. Such a multilateral trust fund will minimize each nation's budgetary commitment and potential risk exposure, providing private investors in Ukraine the reassurance they need and possibly making their efforts more politically palatable at home.

Trust fund support should be provided to international and domestic investors, especially small- and medium-sized Ukrainian enterprises. Such inclusion ensures that domestic investors are not disadvantaged in the rebuilding process, thereby preventing a possible backlash against allegedly privileged international investors. Trust fund guarantees for investment loans made by Ukrainian banks or by a Ukrainian domestic finance institution could provide support for these domestic investors. Rebuilding the Ukrainian capital market and insurance industry should also be a priority, and insured projects should be in line with recovery priorities that Ukraine defines.

Ukraine's total annual investment needs from international and domestic investors could reach roughly $30 billion. The trust fund would not have to be this large, given other potential international sources of war insurance. The World Bank estimates that just $1.5 billion is needed in 2023 to support financing mechanisms to sustain and de-risk private investment. Compared with the roughly €70 billion in direct financial support that donor countries provided Kyiv in 2022, this immediate de-risking price tag is manageable.

Still, if the public sector must initially assume all risk (which the World Bank does not), the necessary initial risk coverage can be no greater than the size of the trust fund. Ultimately, Ukraine's annual investment needs will require several billion dollars from sovereign donors. Over time, as risk coverage is shared with investors and the insurance sector, the trust fund's resources will be able to back increasing amounts of investment.

2

Extend Public Risk-Sharing Only to Ukraine's Wartime Donors

The trust fund should operate on an explicit pay-to-play principle. Private investors from nations that have failed to aid Ukraine during the war should be ineligible for trust fund risk-sharing. Allowing such investors to reap the benefits of postwar reconstruction will undermine taxpayer backing for donor risk-sharing.

Ukraine should not be denied needed investment, however. Any limits on who benefits from public sector risk-sharing must be contingent on sustained G7 donor willingness to bear the cost.

3

Rely on Donor Governance and Development Bank Expertise

A supervisory board of donor representatives should govern the G7 trust fund. To assess risk-sharing opportunities and monitor investment guarantees and eventual grants, the fund should draw on the staff, experience, and expertise of the World Bank's MIGA, the European Bank for Reconstruction and Development (EBRD), and the European Investment Bank (EIB).

MIGA has experience providing war and civil disturbance insurance for international investors. It recently entered into a co-financing agreement with the EBRD according to which MIGA will issue up to $200 million in trade finance guarantees to share trade facilitation risk. Ukraine will be the first country to benefit from this agreement.

MIGA has also created a SURE (Support for Ukraine's Reconstruction and Economy) trust fund with an initial grant from the Japanese government. MIGA hopes to grow this fund to $300 million, allowing it to provide trade finance guarantees, insurance for bank reserves, and political risk insurance to support reconstruction. While $300 million is far from sufficient, MIGA's experience insuring international investment is a resource that the G7 trust fund can draw on. MIGA's global responsibilities, and the burgeoning need to support investors in Africa, Asia, and Latin America, however, will constrain a singular focus on Ukraine.

The EBRD is the largest institutional investor in Ukraine. Its principal shareholders are the United States and European countries, giving these donors control over its activities. EBRD has committed up to €3 billion over 2022–23 to help Ukraine's businesses and economy keep functioning. While the EBRD cannot guarantee investor insurance, it has provided loans and credit guarantees to banks and insurance companies to support financial-sector activities that can empower Ukrainian investors.

The EIB, which has worked in Ukraine since 2007, offers a variety of credit guarantees that can cover a portion of possible losses for infrastructure projects and small- and medium-sized enterprises. The EIB's and the EBRD's capital adequacy should be reassessed if they are to meet Ukraine's extensive wartime and recovery investment needs while continuing to support priorities in other nations.

4

Enhance the Resources and Broaden the Scope of National Export Credit Agencies

Government export credit agencies insure exports by a nation's manufacturers and service providers. Experience suggests that the availability of such insurance spurs exports and FDI, and the Organization for Economic Co-operation and Development (OECD) maintains guidelines on the nature of officially supported export credits. Considering the unique circumstances of Ukrainian reconstruction, OECD members should liberalize the financing terms, conditions for, and sectors eligible for credits for Ukraine, and lower the country's risk classification, which is currently high. Such changes would make available more export credit insurance and eventually encourage private insurers that face their own credit risk limitations.

The IMF has changed its financing assurances policy for Ukraine to reflect the "exogenous shocks that are beyond the control of country authorities and the reach of their economic policies, and which generate larger than usual tail risks". This decision enabled the IMF to provide Ukraine with an additional $15.6 billion in 2023, thereby sending a strong signal of confidence to international investors.

Given Ukraine's "exogenous shocks", national export credit agencies must introduce similar changes to their rules and practices. These agencies should create credit windows—similar to those available from the United Kingdom—to provide credits for strategically important export promotion purposes.

National export credit agencies should also broaden their remit for Ukraine. Euler Hermes (Germany), SACE (Italy), EDC (Canada), JBIC and NEXI (Japan), and KEXIM and KSURE (South Korea) already provide some financing that is not conditioned on the provision of national goods and services. EXIM (United States) and others should do more, if only for Ukraine.

National governments also need to make more resources available to exporters. EXIM has a statutory lending limit of $135 billion, much of which remains unused. Doubling the US statutory default rate ceiling from 2% to 4%, something Congress came close to doing in 2022, would enable EXIM to assume more risk and make more funds available for American exporters to Ukraine.

5

Insure National Investors Against War Risk in Ukraine

Governments should offer businesses insurance for their investments in Ukraine, at least until the G7 trust fund is established and private insurers are again willing to assume Ukrainian investment risk.

The German government recently provided insurance for a €60 million investment in building-materials production. Japan's JBIC offers overseas investment loans to support Japanese FDI. NEXI, KEXIM, KSURE, and China's SINOSURE also offer loans.

There is precedent for donor governments to assume some investment risk in pursuit of agreed goals. The European Fund for Sustainable Development Plus (EFSD+), in partnership with the EIB, supports de-risking activities that leverage private investment to foster renewable energy and sustainable agriculture, particularly in the Global South.

There is also precedent for governments to act as insurers of last resort. The governments of nine OECD countries, including the United Kingdom in the wake of Irish Republican Army bombings and the United States in the aftermath of 9/11, provide national terrorism risk insurance. That experience might be adapted for investment in Ukraine.

6

Make EU and US Market Access Permanent for Ukrainian Goods and Services

Ensuring Ukraine's future access to the markets of Europe, the United States, and other major economies could prove to be the most important long-term public-sector incentive for private investment. The Ukrainian market is underdeveloped, and private investors will need access to more prosperous markets to justify their investment.

The EU had an association agreement with Ukraine that liberalized two-way trade before Russia's full-scale invasion, and the bloc had become Ukraine's largest trading partner by the time conflict broke out. Ukrainian exports to the EU in 2021 totaled roughly €24 billion, accounting for nearly 40% of the total. Exports to the EU were primarily ferrous metals, ores, electric machines, oil, and grain.

Brussels suspended all remaining tariffs on Ukrainian industrial products and tariff-rate quotas on agricultural products in 2022. Making such suspensions permanent would signal to potential international and domestic investors that they can count on unimpeded future access to the EU market. Farmers in Poland, Hungary, Slovakia, and Romania have pushed back against the lifting of EU agricultural trade constraints, and many Europeans may resist permanently opening their markets even if Ukraine meets EU product standards. But such access could spur reform if it is tied to Ukrainian success in meeting certain benchmarks in the EU accession process.

The United States in 2021 was Ukraine's 12th-largest export market, with only $1.6 billion in purchases of Ukrainian goods and services. In 2022, recognizing that one in 13 Ukrainians were employed in the steel industry, the United States suspended tariffs on Ukrainian steel for one year.

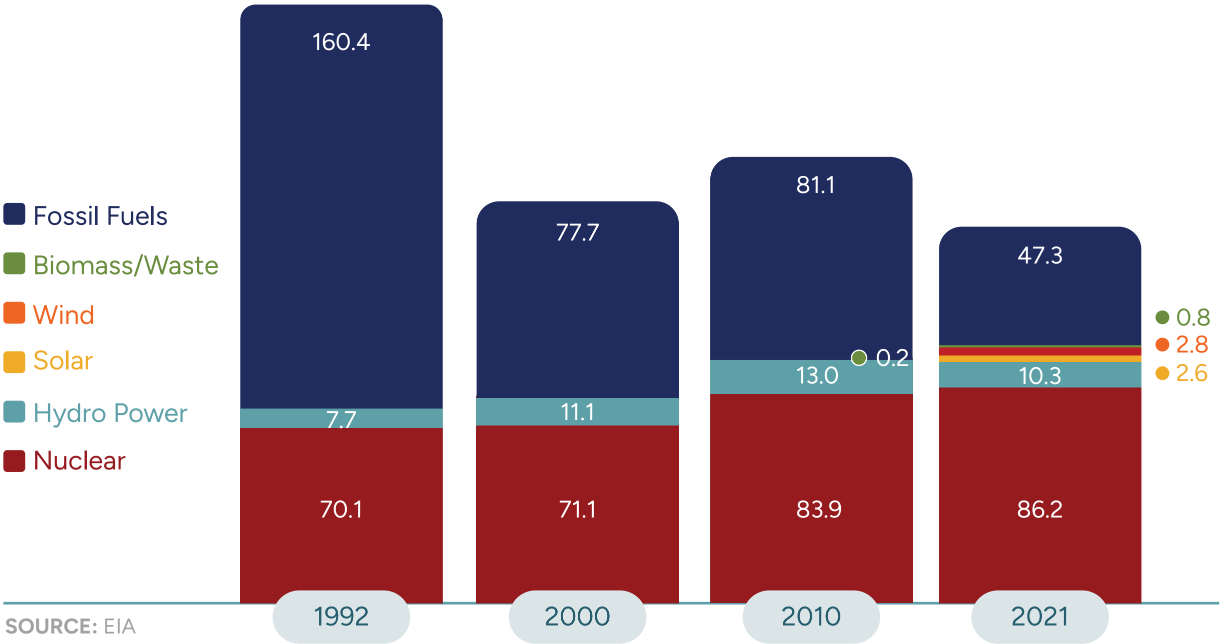
The economic benefits of permanently lifting US tariffs on Ukrainian imports would be minimal given the small amount of bilateral trade. Doing so, however, could be a strong signal of confidence to investors. It would also not spark significant domestic political backlash.

II

Leapfrogging Into a Net-Zero Ukraine

FIGURE 2

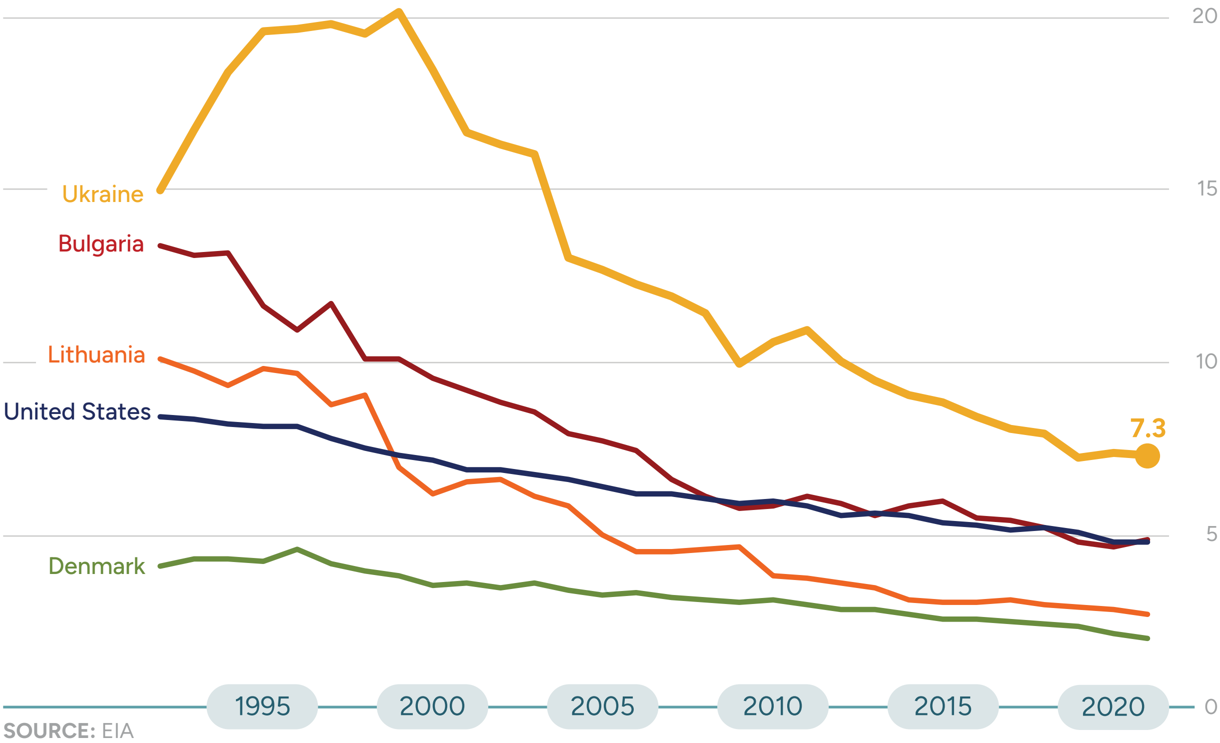
Ukrainian Electricity Generation by Source 1992-2021, billion kWh



SOURCE: EIA

FIGURE 3

Aggregate Energy Intensity 1992-2021, 1000 Btu/2015$ GDP PPP



SOURCE: EIA

In his seminal 1982 book The Rise and Decline of Nations, Mancur Olson posited that countries can emerge revived from the economic upheaval unleashed by devastating wars as long as the old political order and entrenched interest groups are swept away in favor of new political orientations and rebuilt physical infrastructure. Ukraine will, upon a strategic defeat of Russia, have an opportunity to leave its Soviet and fossil-fuel legacy behind and fully join the advanced economic democracies, including as an EU member.

Nowhere is securing Ukraine's transition more important than in the energy sector. During its reconstruction, Ukraine must be enabled to fully embrace Europe's green transition. Fossil fuel is at the core of Russia's extraterritorial economic reach and political power, while the EU that Ukraine aspires to join is undergoing an aggressive decarbonization process to be "Fit for 55" by 2030. Without a successful green transition as part of its postwar reconstruction, Ukraine will not fully escape Russia's crushing embrace. It will not develop within a politically acceptable timeframe of around a decade an economy suitable for membership in an EU approaching net-zero emissions.

The physical devastation Ukraine has suffered since February 24, 2022, not least from Russia's campaign to destroy the country's energy infrastructure, is grim. Yet it offers Kyiv a unique opportunity to build back better and greener, to leapfrog into an economy compatible with the EU's energy ambitions.

Leapfrogging is emphasized in several areas of planning for Ukraine's reconstruction, but it is a concept full of preconditions. It goes far beyond replacing existing infrastructure. It requires consistent political leadership and a commitment to change, sufficient planning and administrative capacity, and capital. It also often requires a resource in short supply in Ukraine: time. Structural change needs lead time. But for Ukraine to survive, it must rebuild its economy rapidly. There is an obvious tension between the need for speed and the need for structural change.

Energy transition is an area that best lends itself to leapfrogging, and the extent of destruction of Ukraine's energy infrastructure makes fundamental change in that sector necessary and attractive. To seize this opportunity, the Ukrainian government must quickly embrace the most important energy-sector provisions in the EU pertaining to its future Carbon Border Adjustment Mechanism (CBAM), its CO_2 emissions trading, and its energy-efficiency targets. The EU itself must recognize the importance of Ukraine's entry into these important (and controversial) energy sector structures *ahead of* its EU membership. Ukraine can secure its timely decarbonization only through such expedited institutional energy-sector integration.

Arguably the most important individual energy-sector supply shift in any decarbonizing economy is adequate yet rapid expansion of carbon-free electricity production. Fortunately, Ukraine's prewar electricity supply offers several important advantages for achieving this shift in a postwar economy. Ukrainian electricity supply before 2022 had an average CO_2 intensity of generation comparable to that of the EU average (and lower than that of EU neighboring countries) and was made up of roughly two-thirds carbon-free nuclear and hydro production, with a small solar, wind, and bio-mass contribution. Only a bit more than 30% came from fossil fuels, mainly coal (Figure 2).

The extent to which current Ukrainian electricity supply will survive the war is unknown. Ukraine's nuclear power plants are of Soviet origin, presenting a challenge to ending the country's dependence on Russian fuel and spare parts. But Western nuclear power producers, not least EDF, Urenco, and Westinghouse, potentially have a special role to play, with Ukraine's Energoatom, in securing the long-term viability of these plants.

In March 2022, Ukraine was connected to the EU electricity grid. Kyiv began exporting electricity to the bloc four months later but halted sales three months after that due to a Russian missile and drone offensive. Electricity exports resumed in spring 2023. If Ukraine continues to weather Russia's infrastructure attacks and regains control of its territory, its reliance on fossil fuel-generated electricity is likely to increase in the short term as fossil fuel-based supply capacity lost after 2014 returns to Ukrainian control. Yet, for the longer term, carbon-free remains the best option for Ukraine's electricity sector.

Several policies will be key to unleashing the potential of this energy transition.

7

Extend the Future EU CBAM to Cover Ukrainian Electricity Exports to the EU

EU imports of electricity will be included in its CBAM, which enters into force in a transitional phase on October 1, 2023. Ukraine's existing nuclear and hydropower production capacity offers the country good opportunities to begin exporting sizable amounts of carbon-free electricity as soon as interconnectors to the continental European grid are adequately expanded. Immediately including such electricity imports from Ukraine under CBAM would signal Kyiv's keen political interest in joining the EU's decarbonization drive and facilitate overall membership negotiations.

More importantly, Ukraine's large areas of relatively thinly populated land offer a compelling foundation for the rapid rollout of solar and onshore wind power and, with them, green hydrogen and other downstream zero-carbon products. Ukraine's greatest solar and wind potential lies in the south, along or near the Black Sea, but the country needs to retake that territory to take advantage of it. Ukraine will also, like all other countries that rapidly expand renewable power supply, need to invest in its domestic grid resilience, its flexible generation capacity, and its electricity storage. Harnessing its renewables potential requires comprehensive electricity-sector reform across Ukraine's entire territory.

Ukraine's existing industrial base, low labor costs, and access to the EU internal market will make the country an attractive location for production of renewable energy components and systems. Ukraine (including in currently occupied territories) also offers major deposits of lithium and several other critical minerals, giving it supplies for export and local industry use.

8

Include Ukraine's Electricity Production Sector in the EU ETS

Since fossil fuels, especially coal, remain a sizable share of Ukraine's electricity supply, realigning the prices of inputs into that supply is essential. Early entry of Ukraine's electricity production sector into the EU Emissions Trading System (EU ETS) and implementing a carbon price can best achieve this realignment. If ETS-carbon prices around €90/ton are deemed too high, an ETS-compatible national Ukrainian carbon price system that quickly transitions to the regular ETS price should be considered. ETS inclusion, or a national carbon price system, would immediately incentivize the rapid expansion of renewable solar and wind power supply, keep nuclear power profitable, and generate revenues while accelerating the decommissioning of existing fossil-fuel-based production. Meanwhile, Ukraine's high share of state-owned carbon-free nuclear- and hydro power will, with adequate compensation mechanisms in place to shield the most vulnerable consumers, ensure that effective (i.e., after government transfers) domestic electricity prices do not increase dramatically, even as the marginal pricing system is maintained and the currently high European carbon price is rapidly phased in.[3]

3 Electricity-market marginal pricing sees low-cost nuclear and hydro generation utilized first, and the last accepted bid in the merit order (i.e., supply curve) typically comes from more expensive fossil-fuel generation and set the wholesale power price. This leaves large profits in the hands of lower-cost state-owned carbon-free producers, which the Ukrainian government must channel to mitigate the full household and energy-intensive industry cost impact of the carbon price.

9

Quickly Adopt Ambitious Energy Efficiency Standards in Ukraine

The Kyiv School of Economics estimated in early 2023 that the replacement cost of destroyed infrastructure in Ukraine was $138 billion.[4] This includes 131,400 private houses, 17,500 apartment buildings, and more than 3,000 educational institutions. Ukraine's reconstruction offers an opportunity to build a greener infrastructure in line with EU energy standards. This will invariably add tens of billions of dollars in reconstruction costs and may slow the reconstruction process,[5] but future savings will benefit from some of the costs of energy efficiency improvements made in the shorter term. Ukraine's post-independence poor GDP growth and the importance of heavy industry to its economy made the country far less energy efficient than its EU neighbors or even the United States (Figure 3).

The EU has recently agreed to reduce its energy use by 11.7% by 2030 (this target is to be reached through a roughly 1.5% annual reduction in member states' overall energy consumption from 2024 through 2030 and from a level much lower than Ukraine's starting point), and it is evident that Ukraine must, to facilitate its timely EU membership, adopt as part of its reconstruction an energy efficiency target that is more ambitious than the bloc's.

In developing postwar building codes, Ukrainian regulators should implement the EU's most ambitious codes. This must be prioritized as part of the next round of EU accession milestones even if the codes are gradually phased in and differ regionally. But they should apply to war-damaged buildings to give the process a kick start.

4 Kyiv School of Economics, The total amount of damage, January 24, 2023. https://kse.ua/about-the-school/news/the-total-amount-of-damage-caused-to-ukraine-s-infrastructure-due-to-the-war-has-increased-to-almost-138-billion/ World Bank estimates are similar in dimension.

5 Estimating the costs of fully upgrading the energy efficiency of Ukraine's destroyed infrastructure is premature given the scale of destruction. Indicative of the magnitude of costs, however, is that the recent EIB-funded UPBEE Programme announced in early 2023 plans to spend €100 million to "restore hundreds of buildings across the country with the highest energy efficiency standards", according to Deputy Prime Minister for the Restoration of Ukraine Oleksandr Kubrakov. https://www.eeas.europa.eu/delegations/ukraine/small-and-medium-size-cities-ukraine-are-invited-renovate-schools-hospitals-and_en

10

Assistance Should Come With Conditions on Energy Efficiency

Energy savings pay for themselves over time, but rebuilding infrastructure to be more energy-efficient will cost more up front—potentially much more. Given that prewar Ukraine used roughly twice as much energy per capita as Poland, energy savings will be significant for private households, businesses, and, therefore, the nation as a whole. The significant financial assistance Ukraine will receive for reconstruction, primarily from the EU, will make the transition affordable since some of it can be earmarked for subsidies for private investment in new, energy-efficient infrastructure.

Energy-efficiency improvements are invariably cumulative over many years and do not provide their own "ribbon-cutting events". They will add significantly to the upfront costs of reconstruction, and even the best-designed government support measures might not be sufficient to ensure the financial viability of some projects. The short-term political instinct of elected officials everywhere, including in Ukraine, may consequently be to abandon energy efficiency requirements to complete the maximum number of other reconstruction projects as quickly as possible. This would be unwise and lead to Ukraine's missing a once-in-a-generation opportunity. The EU can play a role in ensuring this does not happen by making reconstruction funds available on the condition that some go to energy efficiency and best-practice building codes.

III

Making Russia Pay the Legal Way

FIGURE 4

Make Russia Pay the Legal Way

Once Ukraine's allies had frozen the roughly $300 billion in Russian central bank assets deposited in their countries, it seemed that seizing them would be a natural way to make the Kremlin pay for its crime of aggression. Russia's systematic war crimes made using the assets as a down payment on reparations to and reconstruction of Ukraine a moral and political imperative.

The allies, however, have made little progress toward this goal. Instead, concerns about legality and precedent, financial solidity, stability of the global order, unwanted side effects, and alliance unity have been piling up.

This paper proposes a sequence of steps to break this logjam while respecting laws and international norms. A multi-pronged approach is needed to address important concerns. Still, no proposal will satisfy all needs and demands. The process to make Russia's public assets usable for Ukraine within the framework of international law and the requirements of financial stability will necessarily be slow. Hopes of using these resources as a quick contribution to reconstruction may well be disappointed. The final result, however, will be a backloaded contribution made through a just and legal process befitting the kind of society for which Ukrainians are fighting.

The case for using Russian public assets to rebuild Ukraine remains strong. Lawlessness must have consequences, and impunity for an aggressor cannot be tolerated. It would be unfair to the victims, it would be unfair to the Ukrainian and allied taxpayers who foot the reconstruction bill, and it would be an invitation to repeat the aggression. Not least to deter such repetition, reparations after armed conflicts are customary and justified.

Lawbreaking must have consequences, but those consequences cannot themselves bypass the legal system. It is Russian President Vladimir Putin who ignores civilizational norms. Western countries occupy the moral high ground. Democracies must maintain this position. Any confiscation of assets must be legal, as commitment to justice is a core Western value. As donors insist on rule-of-law reforms and conditionality when aiding Ukraine, they cannot themselves resort to legal acrobatics to seize Russian public assets. If they do, the debate about "double standards" and "Western hypocrisy" will begin anew, especially in the Global South, where the pro-Ukraine coalition needs more support. Also, the stability of the US dollar and the international financial system could be at risk if sovereign investors decided to withdraw deposits out of fear that some nations' strategic interests could supersede international customary law.

Seizure of Russian public assets is currently not permissible under domestic law in any major Western country except Canada.[6] In the United States, the International Emergency Economic Powers Act (IEEPA) allows the seizure of foreigners' property but only in case of war or armed attack against the country. The EU's authority is limited to freezing assets. The bloc and its member states, however, are not considering legislative changes to enable confiscation. The US

6 Some legal experts in the United States disagree. See Laurence H. Tribe, Does American Law Currently Authorize the President to Seize Sovereign Russian Assets?, in Lawfare, May 23, 2022. https://www.lawfareblog.com/does-american-law-currently-authorize-president-seize-sovereign-russian-assets

Congress has yet to pass any additional relevant measures.

The real challenge is at the international level. States' countermeasures against violators of international norms are seen as a legal form of self-help. That includes freezing public assets. Countermeasures intend to bring a state back into compliance with its international obligations. Such measures, therefore, must be nonpunitive, proportionate, and reversible. Freezing assets is consequently not seen as a step toward seizing them. Instead, unilateral confiscation is generally prohibited, based on the established doctrine of state immunity, which says that states enjoy immunity in other states and that sovereigns may not be answerable before foreign courts. The EU and the United States have traditionally been supporters of strong immunity protections, but US law allows for exemptions from immunity, especially for state-sponsored terrorism. Other countries do not recognize such exemptions.

The United States would need to break new ground and advocate allowing international public law to carve out exemptions to immunity. Theoretically, a UN Security Council Resolution (which Russia and China could veto) or a General Assembly "uniting for peace" resolution could do this, though appeals at the national level could overturn the latter. The prospect of a series of lengthy trials with uncertain outcomes explains European reluctance to propose legal changes.

To avoid an immoral outcome in which immunity leads to impunity for an authoritarian war criminal, this paper proposes an alternative course of action that upholds the rule of law. Ukraine's allies should consider "temporary management" of Russia's frozen *public* assets and prepare an international claims conference with the power to adjudicate claims, with or without a formal settlement between the combatant nations. Meanwhile, legal expropriations of *private* assets would proceed.

The legal path to using Russian assets to support Ukraine's recovery might be long and circuitous. But Russia will have to pay, even if not soon enough to prevent Western taxpayers from supporting Ukraine in the medium term.

11

Invest Russia's Frozen Public Funds and Accept Investment Risk

The EU is the depository of roughly two-thirds of Russia's central bank assets, an official inventory of which is being prepared in spring 2023. The bloc, in its quest for legal ways to use these assets to benefit Ukraine, is exploring the option of investing them, or assuming "temporary management", and dedicating the returns on that investment to Ukraine's recovery.[7]

Legal assessments and the results of the mapping of these frozen or immobilized assets are expected later in 2023. In the meantime, pertinent questions remain unanswered, with those about ownership of the returns on investment in the spotlight. Who would assume the financial risk of possible losses is also unclear. Many EU member states still seem reluctant to make any move, which would, in any case, require European Council unanimity. This makes the outcome unpredictable.

The EU's assuming temporary management of the assets would create a precedent, the implications of which require careful consideration. And any action should involve close coordination with the G7 and Australia, even if the bloc remains the only entity to implement this solution.

The main benefit of the novel approach of temporary management of Russian central bank assets is preserving the principal. By doing so, the move maintains sovereign immunity requirements while pressuring Russia to negotiate. It also makes some funds more quickly available for use in Ukraine than if subject to existing legal procedures.

Once the EU assesses legal risks, calculates their repercussions, and finds ways to minimize financial risk through close monitoring and a fully accountable fund management system, the bloc should be able to move ahead with a conservative approach to investment.

Any EU temporary management acknowledges that seizing Russian public assets for immediate use in Ukraine is unrealistic, but it still holds out the possibility that this could happen one day. In the meantime, the EU is making immediate use of the funds. This is the least risky of the available pathways, although uncertainties remain. Inaction is an unacceptable alternative.

7 Council of the European Union, Working Document WK3926, March 21, 2023, in Politico Europe, March 24, 2023. https://www.politico.eu/article/eu-looks-at-investing-vladimir-putin-russia-state-assets-to-raise-cash-for-ukraine/

12

Establish an International Claims Commission for Ukraine

A settlement at the end of the war confirming Russia's obligation to pay reparations, mutually agreed by the combatants and guarantor nations, remains the ideal outcome, and one well-grounded in international law. Russia's stated views and behavior make this scenario unlikely, but it should not be ruled out.

One solution to avoid impunity and ensure payments is to establish an international claims commission to adjudicate claims for compensation arising from Russia's criminal actions. Ukraine has already asked for assistance with creating a claims commission[8], as numerous legal, financial, diplomatic, and practical aspects need clarification. Such a commission also requires a high level of legitimacy and financial resources. The UN General Assembly resolution of November 7, 2022[9] seems to offer legal grounds for establishing a commission and recommends creating a register of damages as a preparatory measure. Issues related to financing such a body are yet to be addressed.

Recent examples of claims commissions include the Iran-United States Claims Tribunal (IUSCT), the Eritrea-Ethiopia Claims Commission (EECC), and the United Nations Compensation Commission (UNCC), which paid damages for losses suffered resulting from Iraq's unlawful invasion and occupation of Kuwait. Lessons can be drawn from all these commissions. They are usually flexible instruments that can successfully resolve mass claims, but securing compensation can be a lengthy process.

International agreement must be the basis of design and jurisdiction of claims commissions, which typically resolve claims of natural and legal persons, international organizations, and states. A claims commission may have jurisdiction over Ukrainian entities only, or it may be extended to claimants irrespective of their nationality. It may also adopt expeditionary procedures to enable the resolution of a large number of claims. UNCC, for example, resolved more than 2.5 million claims through mass processing techniques that may serve as best practices for Ukraine.

In addition to handling a large number of cases, claims commissions, unlike international tribunals, can directly compensate persons affected by war. Tribunals cannot handle the volume of

8 Chiara Giorgetti, Markiyan Kliuchkovsky, and Patrick Pearsall, Launching an International Claims Commission for Ukraine. Just Security, May 22, 2022. https://www.justsecurity.org/81558/launching-an-international-claims-commission-for-ukraine/

9 UN General Assembly, Eleventh emergency special session, November 7, 2022 (A/ES-11/L.6). https://www.justsecurity.org/wp-content/uploads/2022/11/N2267912.pdf

compensation resulting from a conflict on the scale of Russia's war against Ukraine.

Ukraine has called for a claims conference[10] to begin the diplomatic process of setting up a commission. The conference should be the first step toward an international agreement, but it should also consider the source of funding compensation claims. This could be frozen Russian public assets, but these funds must be available at war's end.

10 Columbia Law School to Advise Ukraine on International Claims and Reparations, Columbia Law School News, May 19, 2022. https://www.law.columbia.edu/news/archive/columbia-law-school-advise-ukraine-international-claims-and-reparations

13

Adjust Laws to Enable Legal Seizure of Russian Private Assets

Apart from Russia's public assets, tens of billions of dollars in private property owned by sanctioned Russian citizens have been immobilized. In 2022, the EU, the G7, and Australia created the Russian Elites, Proxies, and Oligarchs taskforce (REPO), which mandated all available steps to freeze and, "where appropriate"[11], seize the assets of sanctioned Russian individuals and entities. The task force reported in spring 2023 that countries that agreed to impose sanctions on Russia had frozen $58 billion in private Russian assets.

Canada was the first to adjust a law to give the executive the power to expropriate assets of natural and legal persons when "a grave breach of international peace and security has occurred, or gross and systematic human rights violations have been committed in a foreign state".[12] The law also allows for the assets' forfeiture to benefit Ukraine.

The first cases of expropriating individual assets have revealed lengthy and cumbersome processes in several countries. The right to property is enshrined in the constitutions of most democratic countries. National legislation strongly limits and strictly regulates, even if in different ways, the expropriation of private individuals' assets. Switzerland even opposes confiscation as unconstitutional, in contrast to Canada's approach. The EU, at the start of the Ukraine war, passed regulations simplifying and unifying procedures to freeze and block Russian assets, yet confiscation remains nationally regulated.

To be legal and uncontestable, expropriation of an individual's assets must stem from a court decision that respects due process and links the individual to criminal activity. The case of Violetta Prigozhina, the mother of Wagner group owner Yevgeny Prigozhin, offers a cautionary tale. She successfully appealed restrictive measures that the Council of the EU took against her after no link to a criminal act related to Russian aggression was proved.

Measures to simplify procedures and expedite processes are welcome and necessary. But the confiscation of an individual's assets in a way that respects legal principles will continue to require more time than policymakers and public opinion would prefer.

11 US Department of the Treasury, Press Release, March 16, 2023, https://home.treasury.gov/news/press-releases/jy0659

12 Government of Canada, Special Economic Measures Act (S.C. 1992, c.17, amended June 23, 2022), in Justice Laws Website. https://laws-lois.justice.gc.ca/eng/acts/s-14.5/page-1.html?wbdisable=true

14

Preserve Transatlantic Unity to Minimize Risks of Retaliation

Western countries have demonstrated remarkable unity in their support of Ukraine, providing material and psychological benefits. Ukrainians can more easily counter Russian aggression when they can rely on unanimous support from their allies. And those allies, when acting together, can limit their exposure to countermeasures.

With this in mind, the allies have imposed sanctions and asset freezes in close coordination with the EU, the G7, and Australia. The REPO taskforce has served as the main coordination mechanism, even if countries adopt their own approaches. The United States is debating the seizure of Russian central bank assets, while the EU is focusing on temporary management of those assets and earmarking for Ukraine the returns on investment. Both, however, see debate between “doves” and “hawks”—those who argue for caution and restraint and those who argue for immediate action—heating up as budgetary pressures increase.

Russia will immediately seize on any difference as evidence of a split in the alliance and exploit multiple interpretations of international public law in an effort to erode public support for Ukraine. The Kremlin will also act against countries that act first and get ahead of their partners. Unanimous and coordinated action, therefore, remains the ideal path. The need for allied and European unity must guide debate and decision-making.

15

Do Not Expect Russian Assets to Quickly Contribute to Ukraine's Reconstruction

The debate about Russian assets has revealed legal complexities that have thus far prevented seizure. The novel solutions explored, and the sequence of actions suggested in this paper require further study and debate; they await a politically delicate decision. Given increasing budgetary pressures, the use of these assets to fund Ukraine remains a long-term objective.

Governed by national legislation, seizures of private assets need to follow legal procedures that include the owner's right to appeal. This makes for a lengthy process. Seizure of Russian central bank assets risks creating dangerous precedents and triggering unwanted effects. Even a claims commission—a legally established mechanism—may need to act without Russia's consent to distribute its frozen public funds to claimants.

Quick and full use of Russian assets to fund Ukraine's reconstruction may prove elusive, but legal pathways that may prevent impunity for Putin exist. They just require patience and perseverance.

IV

Ensuring Transparency and Accountability

Recovery and reconstruction will not be funded on a scale worthy of ongoing Ukrainian sacrifices unless the transparency and accountability of the process is clear to Western taxpayers.

For the United States, effective anti-corruption measures in Ukraine are essential to further security and recovery assistance. For Europe, the continuation of Kyiv's decade-long anti-corruption mission is the most important requirement for EU accession. Most of the seven preconditions that Ukraine must meet before starting negotiations relate to rule-of-law reforms. And for Ukraine itself, transparency and accountability are vital if the government is to make good on the post-2014 social contract, which sought to avoid seeding a new oligarchy, limit space for malign Kremlin influence, and provide a level playing field that unlocks private investment. Continued reforms are needed to ensure that public monies, including aid from Western donors, go where they are needed.

Ukraine and its donors can accomplish this. While the country is midway through a generational process of moving from Soviet kleptocracy to a modern political and economic system, historians would be hard pressed to find a precedent of facing down a kleptocracy next door while persisting through democratic transitions of power to build such transformative anti-corruption institutions in less than a decade.[13] These Ukrainian innovations have been praised by the US Agency for International Development (USAID) as "revolutionary transparency tools", including "the world's first public beneficial ownership registry, the world's most transparent public procurement system, the world's first public database of politically exposed persons, and the world's most comprehensive and well-enforced asset declaration system." Ukraine also created an international model for specialized anti-corruption agencies to investigate (National Anti-Corruption Bureau of Ukraine, NABU) and prosecute (Specialized Anti-Corruption Prosecutor's Office, SAPO) grand corruption. Kyiv has established additional bodies to ensure transparency and accountability in other areas.

Ukraine has restructured entire economic sectors that oligarchs previously exploited to line their pockets. These include energy, health, education, land, customs, and finance. Over the last decade, governance specialists employed by G7 donor agencies have worked closely with Ukrainian reformers, civil society, and other stakeholders to design national anti-corruption institutions and sustain the momentum of implementation.

This is not to say that the transition process is easy or complete. Gains have only been achieved thanks to persistent international conditionality and were regularly interrupted by backsliding. The Ukrainian governance system still suffers from informal decision-making that favors powerful interest groups and tends to bypass democratic oversight. Power, especially under wartime conditions, is concentrated in the office of the president, where some top appointees appear uncommitted to reform.[14] According to prewar

13 United States Agency for International Development, Dekleptification Guide, September 2022, pp. 12, 55–73. https://www.usaid.gov/anti-corruption/dekleptification

14 David Jackson and John Lough, Accountability in Reconstruction: International Experience and the Case of Ukraine, July 2022, pp. 4–5. https://www.u4.no/publications/accountability-in-reconstruction.pdf

reports, costs for certain large state-funded construction projects were inflated to include kickbacks for officials.

Ukraine's five anti-corruption bodies require additional resources and stronger authorities. Oligarchs continue to monopolize several sectors (media, energy, construction, and transport). And key areas of government, from the judiciary to the security service, require additional reform.

Nevertheless, Ukraine's progress in implementing reform demonstrates a continued commitment to combatting corruption. This progress was among Putin's motivations for attempting to decapitate the country's democratically elected leadership. In a speech three days before his 2022 invasion, the Russian president named several Ukrainian anti-corruption institutions and aired his grievances about their leadership selection processes and foreign support, betraying his detailed knowledge of and bitter resentment toward Ukrainian anti-corruption measures. Putin fears Ukrainian transparency and accountability because they close pathways for the Kremlin's malign influence, strengthen Ukrainian defense capabilities, prepare Ukraine for Euro-Atlantic integration, and risk inspiring people—at home and in other former Soviet states—to overthrow their kleptocrats.

The current war thus represents a contest of corruption versus anti-corruption emblematic of modern geopolitical competition. Corruption has replaced communist ideology as the glue that holds together the inner circles of authoritarian challengers to the rules-based international order, as well as the vector through which these regimes export their closed systems and subvert the sovereignty of democracies.

A modern Marshall Plan for Ukraine must consequently emphasize countering corruption through transparency. It should understand accountability as a strategic imperative on par with historic efforts to contain communism. Winning the struggle against oligarchy calls for Ukraine's allies to draw on the breadth of democracy by integrating into donor coordination the deep well of societal stakeholders, robust institutions, and experienced professionals who have supported Ukrainian reforms over the past decade.

To that end, reconstruction planning (including through the Multi-agency Donor Coordination Platform) should become more inclusive. The Ukraine Recovery Conference in London (June 21–22, 2023) is an early opportunity to issue a chair's statement that elevates transparency and accountability reform as a strategic imperative. It should pledge a sweeping anti-corruption agenda that reaches far beyond the reform story told at the conference itself.

16

Align Donors Around Priority Anti-corruption Reforms

The Multi-agency Donor Coordination Platform lacks the capacity to corral donor countries—each with its own safeguarding procedures and anti-corruption reform initiatives—into agreement on policy reform priorities. Instead, G7 ambassadors to Ukraine, who have strong working relationships with each other, the Ukrainian government, and civil society organizations, recently agreed on ten judicial and anti-corruption reforms that donors suggest Ukraine prioritize in 2023. The alignment was timely, as Ukraine is poised to complete the seven preconditions for EU accession negotiations. Focused coordination is also essential in the area of anti-corruption, given that the process of uprooting oligarchy can be met with fierce internal resistance.

The need for donor alignment around anti-corruption reform priorities will only grow as reconstruction and EU accession advance. The G7 and other donors should clarify that reconstruction assistance will be tied to Ukraine's continued success in meeting reform conditions and benchmarks. Reconstruction aid should be treated like macro-financial aid (under which the IMF and bilateral donors set reform conditions) rather than security assistance (which is unconditional) so that disbursements will be conditioned upon the delivery of reforms and held up, if needed, to await implementation.

Since 2014, Ukraine's donors have developed informal approaches to coordinating reform conditions carried out by diplomats and technocrats in G7 ministries and IFI missions. When this has worked well, donors have awaited the completion of impactful reforms before proceeding to the next step in the lending process (e.g., announcing a loan, finalizing the details, disbursing payment). When Ukraine backtracks after receiving funds, the next donor reinforces conditions that put reform back on track.

The G7 Multi-agency Donor Coordination Platform should assume responsibility for this effort and maintain a list of priority next steps for anti-corruption reforms. Donors, in preparing to provide major reconstruction funding, can consult this list and see which reforms they should ask Ukraine to complete prior to disbursement. To facilitate this coordination, the platform should convene regular meetings of donor staff responsible for tracking Ukraine's anti-corruption reforms. The platform should administer a process of breaking any gridlock at the working level by elevating the discussion to G7 ambassadors to Ukraine.

17

Ensure That Donors Use Cutting-Edge Transparency Tools

The Ukrainian digitalization reformers who pioneered the collaboration between government and civil society to build the world's most transparent public procurement system, ProZorro, are doing the same for reconstruction management. This initiative was launched at the Ukraine Recovery Conference in Lugano, Switzerland, in July 2022. Since then, the RISE Ukraine Coalition, a collaboration among leading transparency NGOs such as the Open Contracting Partnership, Transparency International Ukraine, and the Better Regulation Delivery Office Ukraine, has closely collaborated with key Ukrainian government institutions, including the Ministry of Infrastructure, the Ministry of Economy, and the National Agency for Corruption Prevention. Ukraine's cabinet has adopted resolutions instructing ministries to support the development of a digital reconstruction management system as a key milestone for 2023.

RISE Ukraine and the Ministry for Restoration have already built a prototype of the end-to-end digital management system for reconstruction projects that will publicly display the full trail of money and documentation from initial drafting of municipality-level rebuilding plans to final contract implementation. The system, known as Digital Restoration Ecosystem for Accountable Management (DREAM), is running in pilot mode, with some 170 users from 24 regional agencies and 42 municipalities volunteering to upload about 5,000 reconstruction project proposals. The Ukrainian government plans to adopt a law obliging all Ukrainian entities to use DREAM for reconstruction projects.

Importantly, though, Ukraine's international donors have not yet agreed that they, too, will make participation in DREAM obligatory for Ukrainian reconstruction projects that they fund. Such a step would greatly simplify the process of coordinating reconstruction efforts between Kyiv and donors. Several IFIs have agreed to integrate DREAM to varying degrees into their own data systems, but this will take time. A requirement that all donor projects use DREAM—mirroring the steps the Ukrainian government is taking on its end—would give stakeholders confidence to start building implementation capacity.

The Multi-agency Donor Coordination Platform should advise all donor agencies to include in all funding agreements a requirement that the receiving party or implementing partner use DREAM. This places the burden of data input and integration on downstream recipients rather than on the donor agency itself. Over time, integrating DREAM into systems such as the World Bank's Systematic Tracking of Exchanges in Procurement and the EBRD's Client E-Procurement Portal would simplify data collection and approval processes.

18

Form a Ukrainian Civil Society Advisory Board

The initial Ukraine reconstruction conferences in 2022 did not elevate civil society. The London gathering will focus on the private sector, with a business compact that may provide an informational platform. Ukraine has one of the world's most vibrant civil societies, which played an important role in democratization and anti-corruption since before 2014. Failing to give them a central role means losing out on important legitimacy and expertise, while also signaling to governments, including Kyiv, they need not seriously commit to their participation.

The Multi-agency Donor Coordination Platform also has not yet given civil society a seat at the table. Nor does it have sufficient internal capacity to develop options for policies that would address tricky substantive issues. The platform brings together government officials, and they look to the World Bank or other IFIs when they need analysis beyond their own capacity.

Creating a board of leading civil society experts to advise the platform would fill the gap. The platform's steering committee or its secretariat could ask this board to write papers proposing options or solutions for current challenges. The board could address questions such as "Does Ukraine need its own development bank?" or "Which financial disclosure rules exempted under martial law should be reinstated?"

Board members could come from think tanks, watchdogs, universities, and community advocacy organizations, and include members of the RISE Ukraine Coalition. Civil society representatives are not democratically elected, but broad coalitions, such as RISE and Reanimation Package of Reforms, embody legitimate movements of Ukrainians building a civic nation.

Ukrainians should comprise most of the board, but a few international issue area or technical experts could join them. The board should be able to partner with additional external experts, any private-sector advisory platform coming out of the business compact, and the fusion cell of Inspectors General (IGs) discussed below.

An unavoidable challenge of including civil society in high-level structures is that any pluralistic democracy, such as Ukraine's, gathers different perspectives. There will be competition over who best represents civil society. Board member selection requires transparency and inclusion. To manage this process, facilitate interaction with the steering committee, and administer other engagements with civil society, the platform's secretariat could designate one of its own officials knowledgeable about Ukrainian civil society as a civil society liaison.

19 Preserve Decentralization and Empower Local Governments

One of Ukraine's most successful governance reforms since 2014 is "decentralization".[15] Power and resources shifted away from regional governmental organs that were opaque, clientelist fiefdoms left over from the Soviet era. In their place, communities voluntarily merged small local municipalities into more responsive territorial units capable of transparent and accountable delivery of public services, including education, health, and policing.

Reconstruction must rely on and further endow Ukraine's successfully decentralized governance units but still allow the central government to guide and support national rebuilding priorities. Ministries in Kyiv can devise national plans, help build local capacity, and provide tools such as standard contracts, but local governments know their communities best and have strong bonds of legitimacy with and accountability to their citizens. Accountable local leaders can best identify the rebuilding projects that their populations demand.

Donors should insist that decentralized governance units plan and largely control reconstruction aid, and they should engage in symbolic diplomacy to bolster that approach. No high-level delegation of Western government officials should meet central government officials in Kyiv without also being seen meeting local officials.

The donor coordination process should also prioritize decentralization. The European Committee of Regions has justifiably recommended that the Multi-agency Donor Coordination Platform integrate the partnership principle and involve the European Alliance of Cities and Regions for the Reconstruction of Ukraine "as a full-fledged partner at all stages of its planning and implementation phases".

One of the first issues that the civil society board should consider is how to empower local governments in the recovery and reconstruction process. The Association of Ukrainian Cities would be a valuable partner, as would the European Committee of Regions and international experts on decentralization. The board should grapple with thorny Ukrainian policy issues, ranging from how to amend the Draft Law 5655 on urban planning reform (a bill driven by construction companies to shift power from local governments to a ministry in Kyiv) to how local and national policies can mitigate the challenges of decentralization (e.g., additional complexity, opportunities for corruption, inconsistent governing capacities, and more diffuse oversight).

15 United States Agency for International Development, Dekleptification Guide, September 2022, p. 69. https://www.usaid.gov/anti-corruption/dekleptification

20

Create a Kyiv-Based Fusion Cell of Auditors

Current oversight of aid to Ukraine is solid. Every major donor agency has an IG or similar office of control, compliance, or investigation. Countries or regions with multiple donor agencies have sound coordination mechanisms (such as an interagency working group in the United States) or shared corruption investigators (such as the European Anti-Fraud Office). These offices tend to have information-sharing relationships with each other, sometimes formalized by Memoranda of Understanding (MoUs), and are staffed by professionals who exercise vigilance over aid to Ukraine and who have not yet found any significant cases of it leaking into corruption.

As it builds more regular channels for sharing information, the Multi-agency Donor Coordination Platform should replace the scattered patchwork of interagency MoUs with a fusion cell of representatives from donors' IG, auditor, and investigator offices. Representatives of IGs stationed in the fusion cell would continue reporting to their home agencies and facilitate information sharing and collaboration with the other agencies represented in the fusion cell. The G7 should name a lead IG official responsible for strengthening coordination among IGs, a trusted figure who would reassure Western taxpayers that their investments are safeguarded. The fusion cell should be based in Kyiv, potentially on site with NABU, facilitating collaboration with Ukrainian investigators whose deep local knowledge would be key to mapping webs of politicians, contractors, and other local actors involved in corruption schemes.

IGs from donor agencies do not yet have permanent personnel in Kyiv, but collaboration with each other and with Ukraine's specialized anti-corruption agencies and other audit and law enforcement bodies is essential. The fusion cell should also collaborate with Ukrainian civil society, creating a dedicated liaison and capacity-building programming to help watchdogs channel local knowledge about corruption into more actionable leads than tips from IG hotlines. Investigative journalism will also be an important contributor of information.[16]

Although most donors have yet to set up funds and facilities through which reconstruction money will flow, the ability of their representatives to be together in Kyiv at this early stage would be invaluable. This is a lesson IGs have learned from overseeing reconstruction assistance within a country. It would be even more important for an international fusion cell of IGs who must cultivate trust over time before sharing with each other sensitive and confidential information about potential corruption in their respective programs (matters that donor agencies prefer to hold close and address quietly on their own).

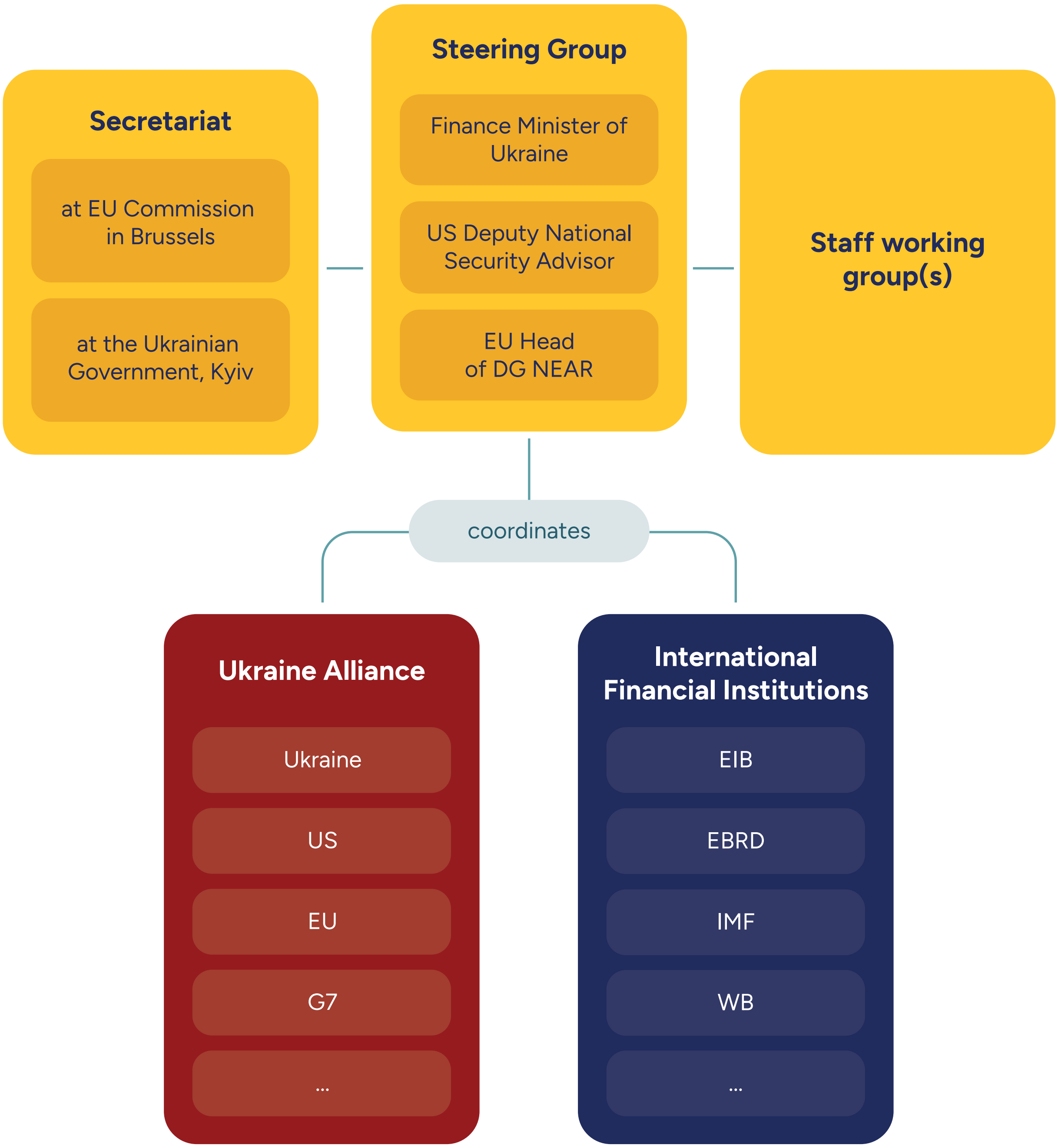
16 Miranda Patrucic, Alexandra Gillies, Norman Eisen, and Lilly Blumenthal, Investigative journalism is essential for Ukraine reconstruction and anti-corruption, October 6, 2022. https://www.brookings.edu/blog/up-front/2022/10/06/investigative-journalism-is-essential-for-ukraine-reconstruction-and-anti-corruption/

V

Organizing Donors to Do Big Things

FIGURE 5

Multi-agency Donor Coordination Platform for Ukraine



The first meeting of the G7-Multi-agency Donor Coordination Platform on January 26, 2023 ended the anarchic phase of Western aid for Ukraine's recovery and reconstruction. This step represented significant progress. It also triggered the reorganization of the relevant administrative bodies within the European Commission and the Ukrainian government. Responsibilities are now defined.

In the meantime, it has become evident that the G7 platform must evolve further to meet the growing challenge of aligning donors' support for Ukraine.

Absent international coordination, nation states, communities and regions, development banks, and private actors will chart their own course, follow their own priorities, rely on their own assumptions, establish their own standards, and apply their own conditions. Limited efficacy would result. The goal of coordination is to prioritize and set an agenda, catalyze international commitments, concentrate resources, harmonize standards, insist on transparency and accountability, integrate multiple actors, and improve the flow of information.

The central trade-off in the design of the Multi-agency Donor Coordination Platform is inclusivity versus agility. Including more participants and staffers risks bogging down urgent decision-making with too many cooks in the kitchen. But inclusivity also brings the resources, ideas, and legitimacy needed to set the agenda with ambitious and expansive approaches to building a modern Ukraine. Earlier this year, the G7 wisely veered toward inclusivity by adopting a big-tent global approach to unite the largest countries and major development banks. Over time, as Ukraine's needs evolve from the most acute survival urgencies to more substantial rebuilding plans, the platform should become even more inclusive by inviting countries beyond the G7 to join and by addressing a broader set of policy priorities on which it coordinates. The growing inclusivity should come with a growing leadership role for Ukraine.

The platform's initial agility and pragmatic remit was key to its beginning operations and meeting urgent wartime needs, including the survival of the Ukrainian economy. This aligns with the Ukrainian government's proposal to establish a "financial Ramstein" (similar to the military aid coordination mechanism) to ensure the solvency and liquidity of the nation and to prevent wartime hyperinflation. Thanks to its international donors, Ukraine could announce at the platform's April meeting that the country's 2023 budgetary deficit was eliminated. Yet, commitments for early reconstruction and recovery in 2023 remain inadequate at the time of this writing.

The platform, therefore, establishes an aid continuum from macro-financial assistance and 2023 recovery priorities to investment in heavy reconstruction and modernization linked to EU and OECD accession requirements. This is a flexible and adequate arrangement that ensures that all financial needs of Ukraine are discussed and coordinated in the same body.

The donor platform's weakness is the inability of its internal architecture to support accomplishing big things. It lacks a center of gravity with strong leadership and ample administrative resources. This deficit is a result of political compromise, which is perhaps unavoidable but is also impractical. The G7 presidency was justifiably deemed unfit to take on the task. It is a club of governments with a light administrative footprint comprising only sherpa groups and a rotating presidency. It could not agree on a model of strong personal and political leadership for the platform, a "Mr. or Ms. Marshall".

Instead, negotiators chose a triumvirate of senior EU, Ukrainian, and US officials who, apart from forming the steering committee of the platform, have jobs in their respective governments. One is a cabinet member. They are supported by a secretariat, based in (but not part of) European Commission offices and in Kyiv. Following American preference, this body is small by design, so as to be agile and to prevent the establishment of a new, larger structure in Brussels. The secretariat will consist of only 12 seconded officials (up from eight initially), which means not all major donors and institutions will have eyes and ears within the platform.

Some structural reengineering will be necessary to preserve the platform's efficacy as it grows, and more stakeholders work on more issues.

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Empower the Coordination Platform

Over time, the Multi-agency Donor Coordination Platform for Ukraine will have to move beyond convening and information-sharing. It will need to gain some administrative capacity, be able to commission analytical work, and develop a center of intellectual gravity, agenda setting, and decision-making.

This process can (and probably must) be gradual, as more countries get involved or the center of gravity shifts to Kyiv, where G7 ambassadors can help improve coordination. This group has proved since 2014 to be an effective coordination mechanism for Western aid as well as the reform and conditionality process that accompanies the assistance.

The director of the platform's secretariat will need a planning cell to establish priorities in close cooperation with counterparts in Kyiv, and to commission relevant analytical work to make informed decisions about the agenda and sequencing of donor decisions. The cell need not be a large group, as it can cooperate with the World Bank and other international financial institutions. It can also draw on the work and expertise of donor-state and European Commission specialists. Introducing a planning cell will also be a way to end the currently dispersed and occasionally disjointed nature of policy development.

To further enhance the platform's effectiveness, the G7 should rethink the platform's leadership and oversight.

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Toward a Marshall Plan for Ukraine

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