

UKRAINE AT THE CROSSROADS:  
TEN YEARS AFTER INDEPENDENCE

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HEARING  
BEFORE THE  
COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE  
ONE HUNDRED SEVENTH CONGRESS  
FIRST SESSION

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**UKRAINE AT THE CROSSROADS:  
TEN YEARS AFTER INDEPENDENCE**

WEDNESDAY, MAY 2, 2001

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# UKRAINE AT THE CROSSROADS: TEN YEARS AFTER INDEPENDENCE

WEDNESDAY, MAY 2, 2001

COMMISSION ON SECURITY AND COOPERATION IN EUROPE  
WASHINGTON, DC

The Commission met in Room 334, Cannon House Office Building, Washington, DC, at 9:30 a.m., Senator Ben Nighthorse Campbell, Chairman, presiding.

Commissioners present: Hon. Ben Nighthorse Campbell, Chairman of the Commission; Hon. Christopher H. Smith, Co-Chairman; Hon. Steny H. Hoyer, Ranking Member; Hon. Zach Wamp; Hon. Benjamin L. Cardin; and Hon. Alcee L. Hastings.

## OPENING STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, CHAIRMAN

Sen. CAMPBELL. The Commission will be in session. I am pleased to welcome you to this hearing to examine the status of human rights and democracy in Ukraine.

This is an especially timely hearing, given the ongoing political turmoil in Ukraine, sparked by the release last November of the secretly recorded tapes seemingly implicating high-ranking Ukrainian officials in the case of a murdered investigative journalist and other malfeasance.

This hearing also comes just a few days after the fifteenth anniversary of the Chernobyl nuclear disaster, whose devastating legacy haunts Ukraine and neighboring countries to this day.

There are various dimensions to the current political crisis, including last week's successful effort by an alliance of Communists and oligarchs to unseat the reformist, pro-Western prime minister; implications of the crisis on democratic development in Ukraine; and whether Ukraine is moving away from its democratic orientation and toward Russia.

Given the importance of our relationship with Ukraine—and let there be no doubt that it is a very important relationship—the Commission has become increasingly concerned about the direction in which Ukraine appears headed.

Pervasive, high-level corruption, the controversial conduct of authorities in the Gongadze investigation and ongoing human rights problems are raising legitimate questions about Ukraine's commitment to democracy, human rights and the rule of law.

The level of corruption in Ukraine especially troubles me. That corruption has had a debilitating impact on the people of Ukraine, and it discourages valuable foreign investment, something that Ukraine badly needs to assist in its economic recovery. Left to fester, corruption will undermine Ukraine's fledgling democracy and independence.

I note for the witnesses here that Mrs. Gongadze is present with her daughters and I would like to recognize her if she would stand for a moment. I offer the Commission's condolences on the loss of your husband. Thank you for being here.

Ukraine enjoys considerable goodwill in the U.S. Congress, and there exists a genuine desire that Ukraine succeed as an independent, democratic, stable and economically successful state. It is against this backdrop that concerns about Ukraine's direction are being raised.

It is against this backdrop that we need to examine how the U.S. can best help Ukraine in the development of democracy, rule of law, respect for human rights, and a market economy. President Bush last week stated that the United States stands ready to work with Ukraine as it undertakes necessary political and economic reforms.

I am especially pleased that Secretary Marchuk could come from Ukraine to testify, and I very much look forward to testimony from all of our distinguished witnesses.

Our first panelist is Jon Purnell, Deputy to the Acting Special Advisor to the Secretary of State for the New Independent States. A Foreign Service Officer, Mr. Purnell has served in Kazakhstan, St. Petersburg, Vienna and Moscow.

Our second panelist is Secretary Marchuk of the National Security and Defense Council of Ukraine. He has held several prominent positions in the Ukrainian Government. From March 1995 to May 1996, Mr. Marchuk served as Prime Minister of Ukraine.

Adrian Karatnycky is the President of Freedom House and the author of scores of articles on East European and post-Soviet issues for various journals and newspapers, including an article on Ukraine in the current issue of *Foreign Affairs*. Last year, Mr. Karatnycky served as co-director of the World Forum on Democracy held in Warsaw.

Dr. Ariel Cohen is a research fellow in Russian and Eurasian Studies at the Davis International Institute at the Heritage Foundation. He has served as a consultant to private companies and the U.S. Government and is the author of numerous analyses that have been published in leading journals and newspapers.

We welcome you here today, and I am pleased to recognize the Commission's Co-Chairman, Mr. Smith.

**OPENING STATEMENT OF  
HON. CHRISTOPHER H. SMITH, CO-CHAIRMAN**

Mr. SMITH. Thank you very much, Mr. Chairman. I want to thank you for your leadership in scheduling this very important hearing on Ukraine at the Crossroads. There has certainly been an important confluence of events and incidents in Ukraine which demand our attention.

Last week Ukrainians marked the fifteenth anniversary of the Chernobyl nuclear explosion, the world's worst nuclear accident. While the Chernobyl power plant was shut down last December, the consequences of this nuclear disaster still leave their mark on thousands of people who now live with the misery and the devastation of cancer.

It also has left a terrible mark on the Ukrainian nation as well as Ukraine's neighbors, especially Belarus. For the people of Ukraine, Chernobyl was only the last of a series of devastating events of the last century, having been preceded by two World Wars which inflicted exceedingly heavy casualties on Ukraine, and Stalin's man-made famine which claimed anywhere between 7-10 million victims.

In 1991, Ukraine achieved her long-awaited independence, with its promise for a better future. Over the last decade, the people of Ukraine have struggled to lift the burden left by the last century, but the efforts of their leaders have been mixed. The average Ukrainian now enjoys more freedoms than ever.

Contrary to some predictions, Ukraine didn't crumble along regional and ethnic cleavages. Ukraine is a good neighbor and a constructive partner with the West, and the official policies are aimed at integration into Europe.

At the same time, Ukraine's promise for a better future has not yet been met. We know this all too well from the terrible tape scandal, alleging the involvement of top officials. We know this from the Ukrainian authorities' sometimes heavy-handed responses to the independent media as well as to the opposition.

More recently, this promise for a better future was thwarted by forces reluctant to engage in the kinds of reforms that will truly break the ties with a gloomy, Communist past.

These forces voted—ironically on the fifteenth anniversary of the Chernobyl disaster—to dismiss popular reform-minded Prime Minister Yushchenko. An even greater irony, of course, is that since he was appointed prime minister in December 1999, Ukraine's economy was showing its first post-Soviet growth.

He pushed long-overdue reforms in the agricultural and energy sectors and, in trying to bring the economy out of the shadows, threatened the powerful business oligarchs and the Communists who have long been resistant to reforms.

Despite these setbacks, and despite the forces hostile to reform, the United States must clearly not abandon Ukraine. Whether through political support or through concrete assistance to strengthen democracy, it is incumbent upon us to work with the Ukrainian people so that the promise for a better future for which so many sacrifices were made will, at long last, become a reality.

We also need to explore how we can work—and perhaps, Mr. Secretary, you can shed some light on this—more constructively with Ukrainian authorities on the devastating issue of trafficking.

Last year we passed P.L. 106-386, the victims of trafficking legislation that literally throws the book at traffickers and provides protection for women caught in that terrible agony of being forced into prostitution.

You perhaps can shed light on this. Nevertheless, I've heard anywhere between 100,000 and 300,000 Ukrainian women are missing, mostly young girls who have been stolen from their families and now find themselves in the brothels in America and in other Western countries in Europe and elsewhere. They have been forced into prostitution.

That legislation, as you know, calls for a number of actions to be taken against the traffickers. By June 1, the Department of State is required to list countries which are egregious violators and identify what action we will take against those who have not met the minimum standards delineated in that bill. I hope perhaps you can shed some light on that as well.

Thank you, Mr. Chairman.

Sen. CAMPBELL. Thank you.

I would ask for any opening statements from other Commissioners.  
Congressman Hoyer.

Mr. HOYER. Thank you. Mr. Chairman, I have an opening statement. I would ask that it be included in the record. Unfortunately, I'm going to have to leave in just about 12 minutes but I would like to hear as much of Mr. Purnell's statement as possible. Thank you.

Sen. CAMPBELL. Congressman Cardin.

Mr. CARDIN. No opening statement. Thank you.

Sen. CAMPBELL. Congressman Wamp?

Mr. WAMP. I have nothing at this time, Mr. Chairman.

Sen. CAMPBELL. Okay. We'll go ahead and proceed then with Jon Purnell. Please feel free to abbreviate your written testimony. You are welcome to digress from that.

**TESTIMONY OF JON PURNELL,  
DEPUTY TO THE ACTING SPECIAL ADVISOR TO THE  
SECRETARY OF STATE FOR THE NEW INDEPENDENT STATES**

Mr. PURNELL. Thank you very much. I do have a written testimony which I have submitted but I will just simply start with a few—

Sen. CAMPBELL. That will be included in the record.

Mr. PURNELL. —comments to try to put it in context and then we can open it up for questions.

Let me just say that the United States shares—the United States policy toward Ukraine—

Sen. CAMPBELL. Mr. Purnell, will you pull that microphone over a little bit closer?

Mr. PURNELL. Sure. The United States policy toward Ukraine has been based, and continues to be based, on strong support for Ukrainian independence, sovereignty, and territorial integrity, and for its economic prosperity. When I say economic prosperity, I mean a prosperity that is based on genuine market reform.

We have long considered Ukraine a priority country in the region. We believe that a stable prosperous Ukraine is key to the overall stability of the European region. We are engaged in a very broad, wide-ranging set of bilateral activities with Ukraine.

Occasionally these have garnered headlines since Ukrainian independence. We are all aware of the success and denuclearization in Ukraine and we are all aware of more recently the successful closure of the Chernobyl reactor.

However, what I would like to stress this morning is that behind those headlines we have a broad wide-ranging U.S.–Ukraine bilateral relationship which covers everything from ongoing cooperative threat reduction efforts to a very active program of military-to-military contacts and cooperation.

We have major efforts underway in economic reform. We have, in fact, a major Ukrainian delegation in Washington today that is meeting with executive branch officials over at the State Department discussing the full range of economic contacts.

We are actively involved in supporting Ukraine's accession to the World Trade Organization and activity involved in trying to develop small and medium business in Ukraine.

Another area of cooperation is development of civil society. We believe that the development of indigenous non-governmental organizations is key to successfully tapping into the full resources of Ukraine. We cooperate with Ukraine in the fight against infectious disease, tuberculosis, HIV/AIDS. We have many exchange programs with Ukraine.

We estimate that some 14,000 young Ukrainians have visited the United States concerning these programs since Ukrainian independence. We also have recently announced an initiative to support the development of media inside Ukraine.

We have multilateral relationships with Ukraine. Ukraine enjoys an active relationship with NATO. We also have a trilateral cooperation underway with Poland. This is a Polish/American/Ukraine cooperative effort.

I would just stress that behind the headlines we do have a very deep and very active bilateral relationship with Ukraine.

Now, I don't want to shy away from the fact that the recent developments inside Ukraine since last fall since the disappearance of Mr. Gongadze and since the discovery of the body have obviously become a major element of the ongoing U.S.–Ukraine bilateral dialogue.

From the very start the United States has stressed the importance of a thorough and transparent investigation into that disappearance to help restore a sense of confidence and calm inside Ukraine.

We have also stressed the importance of respect both for the rule of law and for human rights in the way that Ukrainian authorities respond to popular reaction to the Gongadze affair and the ensuing political controversy.

We have also urged Ukraine to try to stay focused as the series of political events has unfolded which has led to the recent vote of no confidence in the Yushchenko government.

We have urged Ukraine to try to keep focused on the importance of restoring some sense of political consensus so that presidency, parliament, and the prime ministership can work together to make the progress that is necessary for further economic democratic reform inside Ukraine.

Having given you that overall look at U.S.–Ukraine relations, I am happy to take whatever specific questions you might have and follow up on issues of interest.

Sen. CAMPBELL. Thank you. We have Commissioners who are going to be coming and going and our House members are only going to be able to stay a few minutes. I have some questions but I'm going to defer them at this point since they have a tighter schedule than I.

Congressman Hoyer.

Mr. HOYER. Thank you very much, Senator Campbell and Chairman Campbell. Thank you very much, Mr. Purnell, for your statement.

As you probably know—I know the Chairman is aware—this Commission for 2 decades has been engaged in efforts to allow Ukraine to become free of external controls imposed upon them from without. Through the extraordinary work of one member of our staff, a Ukrainian–American, we have, I think, been as engaged as any group in Congress.

We are now, I think, all very concerned about the internal conflicts that threaten the democracy and growing liberalization of the economy in Ukraine.

I regret that I cannot stay. I have two other hearings that I'm supposed to be at contemporaneously with this one. I want all of those in the audience to know that we view these issues with very great concern. Ukraine has been and will continue to be a very close friend of the United States of America.



It has been and will continue to be a critical country as we seek to make a more stable 21st century. I think it is necessary for the United States to engage as vigorously as possible in ensuring that Ukraine remains the emerging democracy that its people want it to be.

I also want to say, Mr. Chairman, in Copenhagen just two weeks ago, as you know, the Bureau voted to give one of two prizes that the Third Committee of the Parliamentary Assembly gives, to Georgiy Gongadze, the extraordinarily courageous journalist who opened a window and paid a horrific price.

I had the opportunity to meet his wife and two children as I walked into the building. We thank them for being here. As I said, you and I will be going to Paris to the Parliamentary Assembly and then we will be honoring the family as well as Mr. Gongadze for his contribution.

As you know, that carries a monetary sum as well—a small but significant testimony to our respect for his courage and his efforts. I thank you, Mr. Purnell, and I apologize to all of the other witnesses and to you, Mr. Chairman, for not being able to stay.

Sen. CAMPBELL. I understand.

Mr. HOYER. Thank you very much.

Sen. CAMPBELL. Commissioner Cardin, you have a tight schedule, too. You are welcome to go.

Mr. CARDIN. Thank you, Mr. Chairman. Unfortunately, I have a bill on the floor this morning so I will need to move on also. I just want to concur with Mr. Hoyer's comments.

I guess, Mr. Purnell, I have one question for you and that is obviously there is a problem of some corruption within the government itself. Normally NGOs can help us in this regard. Are we energizing the NGO community and working with them in regard to Ukraine?

Mr. PURNELL. Very much so. We work, I would say, in two basic ways. One is through American NGOs who work then in turn with indigenous Ukrainian NGOs on corruption issues. I think it is also important to highlight that.

One of the major elements of our agenda with Ukraine is commercial reform and focusing on transparency in commercial activities, corporate governance, and creating the kinds of business conditions that will not only encourage foreign direct investment, but which in the process will also get at some of the very issues of corruption that you're talking about. We find that it is often precisely in the "gray economy," if you will, where opportunities for corruption are very real.

Mr. CARDIN. Are there additional opportunities that we might be seeking regarding human rights or other areas that we could use the NGOs?

Mr. PURNELL. Oh, absolutely. We have, as I mentioned earlier, support for civil society inside Ukraine which is a major element of our bilateral dialogue and we work with—for example, we have two American NGOs through which we work to specifically highlight the problem that Co-Chairman Smith mentioned about trafficking in women. We very definitely try to use NGOs, both American and Ukrainian, to heighten consciousness about problems and in order to address them in very specific ways.

Mr. CARDIN. Thank you, Mr. Chairman.

Mr. WAMP. Thank you, Mr. Chairman. I, too, have two Appropriations subcommittees going at the same time at 10:00 so I'll quickly move into this. I hear, Mr. Purnell, that on the privatization issues there in Ukraine is where the corruption is seeping its way into the process, as government functions are moved over to the private sector.

I just wonder about the balance between Russian influence and Western influence, and how do we keep a stake in the ground there so that the Russian influence doesn't squeeze out the Western influence?

If you could just give us an overview of what the latest trends are. I hear you that our infusion of our capital investment and really any stakes that we can put in the ground there from the United States will be helpful at stemming the trend of increased Russian influence. How is this privatization problem hurting our ability to maintain a Western influence in Ukraine?

Mr. PURNELL. You have certainly highlighted an important area. There is no question that Russian investment in Ukraine is growing, particularly in the energy sector.

I would stress that by itself is not necessarily a bad thing. It is perfectly natural that Ukraine would want good relations with Russia.

It is of concern, of course, precisely, though, because, as you point out, what we need here is a kind of level playing field so that we have the kind of transparency, the kind of reliability that contract sanctity will be observed so that you will have more European and American companies feeling comfortable with investing greater sums in Ukraine.

I would say that the main way that we are focusing on this is precisely in our efforts to improve the investment climate in Ukraine. One positive note within the last couple of weeks six regional energy companies inside Ukraine were privatized and two of those six went to an American company. The other four went to a European firm.

It's a tough nut to crack, so to speak, but it is one that we work on with Ukraine. As I say, we have these talks ongoing right now. We had a lengthy discussion of these issues focusing specifically on corruption and other business-related issues just yesterday.

Mr. WAMP. But the energy dependence was one of the primary functions that Russia was playing in Ukraine and you are saying that in all six of these new contracts it has moved away from Russian into European and American participation.

Mr. PURNELL. Yes. In these particular six privatizations of regional energy producers, that's exactly right.

Mr. WAMP. So that's a very good trend even under a dark cloud. Thank you, Mr. Purnell.

Thank you, Mr. Chairman.

Sen. CAMPBELL. Congressman Hastings was just appointed to the Commission recently but he has been very active in international affairs. In fact, he traveled with us to St. Petersburg in 1999 for the Annual Session of the OSCE Parliamentary Assembly.

Did you have any questions?

Mr. HASTING. Thank you very much, Senator Campbell. I appreciate very much the opportunity to participate at this level now, Mr. Chairman.

I was in attendance as well at the meeting in Denmark that Mr. Hoyer spoke about. I had an opportunity to speak, even if briefly, with the former ambassador from Ukraine to the United States, Mr. Bilorus.

He indicated that there was a serious crisis ongoing and, among other things, suggested to us that if we were to do resolutions or anything as policy makers, that he would hope that it would be hurried for he feared that there was some imminence with reference to the threat to the government.

With that in mind and recognizing that there was not so much press here and I imagine he's living the experience and, therefore, knew exactly what was about to transpire. It was a bit unsettling for me as a policy maker to know that something was coming.

For example, Mr. Yushchenko's dismissal, and to not be able to react to it because of the glacial manner in which we move here in the United States House of Representatives. I can't speak, of course, for my colleagues and the other party.

Does that dismissal, Mr. Purnell, Mr. Yushchenko's dismissal, represent a setback for economic reform? Will it derail Ukraine's economic recovery? I guess another portion of my own question would be what at this point in your considered judgment are the greatest hurdles to Ukraine's democratic development? I thank you, Mr. Chairman.

Mr. PURNELL. I think it is early to fully assess the impact of the vote of no confidence in the Yushchenko government. The key litmus test will be the ability of the presidency and the parliament and whatever new government replaces the Yushchenko government to rebuild the political consensus that allowed progress in the year 2000.

So far, the indications we are hearing from our Ukrainian colleagues are that reform will remain on track. The members of the current government that we are meeting with, we have several ministers in town right now, have certainly underlined this message for us.

Obviously until the new government is in place and until we see precisely what their priorities are, it is difficult to say with any precision. I think simply the mere fact that we are in a transition period will inevitably slow things to a certain extent.

I am certainly hopeful that there will be enough support—real support in Ukraine for continued reform that we will not find the vote of no confidence to be an insurmountable obstacle.

Mr. HASTING. Thank you, Mr. Chairman.

Sen. CAMPBELL. Thank you.

Mr. Purnell, does Prime Minister Yushchenko's dismissal represent a setback for economic reform? Will it derail the recovery?

Mr. PURNELL. Again, I don't think that is necessarily the case. It is early yet to say. I take my Ukrainian colleagues seriously when they tell me that reform remains a priority on their agenda.

We will certainly move very quickly once a new government is named. Once we have a new prime minister we will certainly move very quickly to engage that government to repeat the kind of message that we have been sending to Ukraine all along.

Sen. CAMPBELL. Let's look at it over a longer period between, say, the last 6 or 7 years since perhaps 1994. Has there been an improvement in human rights and democracy or has it remained pretty much static in your view?

Mr. PURNELL. I'm sorry. You said since 1994?

Sen. CAMPBELL. Yes.

Mr. PURNELL. 1994, of course, was a key year because that was the year that President Kuchma was first elected and those elections were notable because we saw certainly for the first time in Ukraine, and probably for the first time in the region, we saw a peaceful transition of power from one civilian official to another.

I think that represented a real high point. We have certainly had ups and downs, if you will, in the human rights and democracy.

Sen. CAMPBELL. Further up or further down now after this year?

Mr. PURNELL. Well, I know. It's a good question. I guess I would say I would be hard pressed to say that it has been a downward trend. I would say it has perhaps been more of a level trend with ups and downs. There have certainly been irregularities in subsequent elections which are well documented.

Sen. CAMPBELL. Have there been any noticeable bright spots?

Mr. PURNELL. Noticeable bright spots on the democratic side?

Sen. CAMPBELL. Yes.

Mr. PURNELL. I think that the fact that we have had OSCE monitoring, OSCE analysis of different elections, and the fact that despite the irregularities that they have identified, I think the fact that they have concluded that the election process did, in fact, reflect the will of the people, I think, it is something we should take seriously.

Sen. CAMPBELL. Some media people seem to have noticed what may be an easing up in the pressure placed on the media of late. If that is true, I would consider that a bright spot but I don't know if that's true or not.

Say there is denial of using printing facilities, things of that nature, that is easing up too. What is your take on that? Have you noticed that or is it temporary because of the elections next year?

Mr. PURNELL. I can't really say that in our analysis we have noticed any particular easing up on the media. As you suggest, when you get into election periods, things tend to heat up a bit just because of the intensity of the political environment.

I wouldn't want to suggest that we have seen any particular change in recent months. We still have problems with the tax inspections. We still have problems with self-imposed censorship because journalists do understand that there are limitations beyond which they shouldn't go.

Sen. CAMPBELL. You mean by fear of reprisal or something?

Mr. PURNELL. Yes, so it's a kind of self-imposed censorship. That is still there.

Sen. CAMPBELL. Tell us what the status is of U.S. assistance in the Gongadze investigation. I understand that forensic experts from the FBI traveled to Ukraine last week.

Mr. PURNELL. That's right. Actually twice now an FBI team has been to Kyiv. As you mentioned, the latest visit was just last week. My understanding from our embassy is that the cooperation was quite good last week among the team members, the representatives of the Ukrainian Procuracy and the family members, the Gongadze family members whose cooperation obviously is key to this process.

While I obviously don't know the specific forensic details, the trip has gone well and I understand that the FBI team is back and their work will continue back here now.

Sen. CAMPBELL. I see. Let me ask you what we always ask: how can the United States best assist Ukraine in their reform efforts? We are already doing some things but do you have some suggestions what we need to do if there is any legislative initiative needed?

Mr. PURNELL. I think the most important thing we can do right now is to be ready to engage the new government and be ready to point out to the new government where the priorities lie, what we think they need to do to realize their stated goal of greater European integration, greater cooperation and multilateral fora. I think that is the single biggest challenge that we have in the coming weeks and months.

Sen. CAMPBELL. The administration granted asylum to President Kuchma's bodyguard, Mykola Melnichenko. And that has come under some considerable criticism from the Ukrainian officials. I understand that the Ukrainian authorities are going to ask the United States to extradite this man back to Ukraine. What is the State Department's position on that matter?

Mr. PURNELL. Actually, if there should be such a request, it would really be moot because we have no extradition treaty with Ukraine.

Sen. CAMPBELL. I see. So he's going to stay here.

Last Thursday marked the 15th anniversary of the Chernobyl nuclear disaster. The aftereffects we still hear about pretty regularly. With the closure of that facility last December, how is the United States assisting in the cleanup efforts?

Mr. PURNELL. I would be happy to get back to you with specifics but I can assure you that we have. My colleague has just handed me some specifics.

Sen. CAMPBELL. It's good to have colleagues.

Mr. PURNELL. That's right. I think the important point to stress here is that we have been involved in the cleanup effort since the very beginning.

Sen. CAMPBELL. Primarily through funding or do we have people over there?

Mr. PURNELL. Well, we have donated more than \$500 million in technical assistance. There have been project and structural loans, humanitarian assistance. We have also tried to provide work for some of the specialists who inevitably lose their jobs with the closure of the plant's operations. There has been a variety of focuses to the effort.

Sen. CAMPBELL. Where do we provide work for them?

Mr. PURNELL. In the area. In other words, trying to make sure that they are involved in the work of shutting down the reactor and cleaning up possibly. Finding them positions when they try to come up with alternative sources of energy.

Sen. CAMPBELL. Is it your understanding that we are also financing the completion of two new nuclear reactors to offset—

Mr. PURNELL. We are involved in that process, yes. That is a multi-lateral effort.

Sen. CAMPBELL. Ukraine has been spared the kind of major inter-ethnic disputes that some of the states in the Balkans have endured. What do you attribute that comity or that ease with which their ethnic groups are getting along?

Mr. PURNELL. I think we have to give full credit to the Ukrainian Government. I think they have shown a genuine sensitivity to the issue of minority ethnic groups. I mean, after all, we know that there is a large Russian ethnic minority in Ukraine.

There is a large Crimean Tatar minority. For example, many Crimean Tartars who had been exiled in the Stalin era have started to return to Crimea. They have been able to regain Ukrainian citizenship.

Sen. CAMPBELL. Where were they in exile?

Mr. PURNELL. I'm sorry?

Sen. CAMPBELL. Where were they in exile?

Mr. PURNELL. Many of them were sent off to Central Asia. It is one tragic episode of the Stalin era.

Sen. CAMPBELL. What is the Ukrainian Government's position on the NATO expansion?

Mr. PURNELL. Ukraine has actually been very understanding of the desire by many nations in the region to join NATO.

Sen. CAMPBELL. They don't fear that NATO expansion as Russia does then?

Mr. PURNELL. If so they certainly have not expressed that to me, no.

Sen. CAMPBELL. Did you have any further questions, Congressman Hastings?

Mr. HASTING. No.

Sen. CAMPBELL. Okay. Well, Mr. Purnell, I thank you for appearing and I certainly appreciate it and please stay if you have the time for the complete hearing.

Mr. PURNELL. Thank you very much.

Sen. CAMPBELL. With that, we will proceed to our next witness, Mr. Marchuk, the Chairman of the National Security and Defense Council and former Prime Minister of Ukraine. Thank you for appearing, Mr. Prime Minister.

The Secretary is joined by Ukraine's Ambassador to the United States.

Sen. CAMPBELL. Thank you. If you would like to proceed, Mr. Prime Minister, please. In this country they say once a senator or once an official, you keep that title forever so I'll bestow that lifelong title on you while you're here. Please proceed.

**TESTIMONY OF HIS EXCELLENCY YEVHEN MARCHUK,  
CHAIRMAN, NATIONAL SECURITY AND DEFENSE COUNCIL  
OF UKRAINE**

Mr. MARCHUK. Mr. Chairman, members of the Commission, ladies and gentlemen, thank you for the invitation to testify on behalf of Ukraine's Government at this hearing. I hope that it will significantly contribute to better understanding between Ukraine and the U.S.

Nine years passed since Ukraine gained independence. For this short period of time it has proven to the world community its ability to implement undertaken commitments and shown a consistency in realizing its non-bloc foreign policy course.

Here there are some examples. Ukraine not only voluntarily gave up the third-largest nuclear arsenal in the world, but also with the U.S. assistance is about to complete the elimination of strategic missiles.

We fully carry out the provisions of the main accords in the field of arms control and international non-proliferation regimes.

Last December, Ukraine closed the Chornobyl nuclear plant, thus fulfilling a considerable commitment to humanity. Ukraine has gained a firm hold of the choice of social and state development strategy.

In the foreign policy arena, it is European integration. The president of Ukraine restated the irreversibility of the foreign and internal policy directions when approving the resignation of the government.

Recently at NATO headquarters I presented the second state program of cooperation of Ukraine with NATO for the years 2001 to 2004. Ukraine actively participates in Bosnia and Kosovo settlement. It is a mediator in the negotiations on Transdnistria and Abkhazia.

We have demonstrated to the world that Ukraine is a predictable, consistent, and responsible partner. We speak the same language with Moscow, Brussels, and Washington. It is the language of our national interest.

The recent activation of Ukrainian and Russian high-level dialogue is caused by quite a necessity of the solution of complex problems of both past and present. Good neighbor and non-conflict relations of Ukraine with Russia are a considerable positive contribution to European stability.

The efforts of Ukraine in internal policy are aimed at strengthening the foundations of democratic society, human rights and freedoms, and market economy transition.

Ukraine has avoided bloodshed, has not had serious inter-ethnic, inter-confessional, and other conflicts. The institution of Ombudsman of the Verkhovna Rada for Human Rights has begun its activity.

The parliamentary democracy has gained significant dynamism. The so-called tape scandal, disappearance of the journalist Gongadze and recent resignation of the government complicated the political processes in Ukraine. It's quite natural that it attracted the interest of the U.S. Congress.

In my opinion, the existence of conflicts in the society is a natural component of a complex process of maturing of young Ukrainian democracy. Its main feature is that in the short period of independence the society and elite could not reach a desired level of political dialogue.

Ukraine's political space is being actively renewed by a new generation of politicians not burdened by a totalitarian past. They declare adherence to democracy and thus pursue European choice.

The relations in the triangle of society, mass media, and state have not been developed easily. The present economic hardships prevent the establishment of modern information infrastructure.

The well-known events at the end of the last year related to the disappearance of the journalist Georgiy Gongadze and the so-called tapes scandal were used to instigate the political crisis in Ukraine.

The president of Ukraine does his best for the stabilization of the political situation. Ukraine has used for the first time the democratic procedure of changing executive power in accordance with the norms in the legislation provided for parliament.

While speaking here today at the Congress, I cannot but repeat that the United States is one of our most important partners. Now our relations need a new dynamism. Ukraine hopes for a constructive approach of the U.S. Congress in supporting our nation in receiving permanent normal trade relations.

Abandoning Jackson-Vanik is long awaited. Ukraine has fulfilled all necessary preconditions for it. We hope as well for more active U.S. assistance related to the closure of the Chernobyl NPP. President Bush's address on the occasion of the anniversary of the Chernobyl is quite promising.

Ladies and gentlemen, Ukraine's Government believes that we will successfully remove all the impediments in our way to Europe while the United States will always find in Ukraine a real and reliable partner. Thank you for your attention.

Sen. CAMPBELL. Thank you for appearing.

I had asked Mr. Purnell about the change in human rights since 1994. As I understood him to say, there have been some improvements, some slippage, and a continuation of the status quo in other areas. Where is the greatest need for improvements in human rights in Ukraine now?

Mr. MARCHUK. To my mind, Mr. Purnell gave us a very objective picture of the real situation. In January of this year on the instruction of the president a special inter-agency group was established which has to work out and submit specific proposals on reforming the law enforcement system in Ukraine.

Another situation which now needs much more careful attention and, frankly speaking, it's painful for us, is the reform of the whole court system. I mean, not only the Supreme Court but the whole system

Those two tasks—reforming of law enforcement and the judicial system—are now very important for ensuring real progress of human rights.

Sen. CAMPBELL. I'm particularly interested in law enforcement training. I was a law enforcement officer a long time ago. The inter-agency law enforcement you mentioned, do you know the type of training they go through or the duration of their training?

Mr. MARCHUK. Unfortunately our legal and law enforcement system inherited much from the former Soviet systems. We don't yet have a common vision in the Ukrainian society on what the future reforms of the law enforcement system should look like.

The special group that I mentioned before has already discussed some ideas and there are indications that they could complete their job sometime in July. They could submit those proposals to the parliament at its next session that begins in September.

Sen. CAMPBELL. Well, okay. I'm going to ask Congressman Hastings, since he has to go in 10 minutes, if he would like to ask any additional questions. I just asked that question about law enforcement because it's been the Commission's experience that if law enforcement officials are trained to enforce the rule of law, that's good but if they become an extension of any political faction, it can be very bad and I've always been interested in the relationship between the law enforcement people and government officials.

Congressman Hastings.

Mr. HASTINGS. Thank you very much. Thank you, Secretary Marchuk.

Mr. Secretary, how do you explain Mr. Yushchenko's ouster considering at least from some of us as mere observers that he was an extremely popular political figure in Ukraine and he obviously did some things to assist in the turnaround of the economy.

Some observers feel that maybe President Kuchma's support was not as strong for him as maybe it could have been. Why wasn't there more support for Mr. Yushchenko or is that something that we should be placing emphasis on?

Mr. MARCHUK. First, I would like to underline that the dismissal or ousting of Yushchenko's government is a bad event in Ukraine. The president didn't support that decision of the parliament and he indicated that several times.

Maybe it is for the first time in our modern political history that everybody could see that the president cannot do everything that people sometimes suppose he can do. Parliament is parliament.

Certainly the dismissal of Yushchenko's government gave a signal for politicians, especially outside our country. We understand that. Nevertheless, frankly speaking, we don't consider that it is a tragedy. The Yushchenko fate showed to our high-ranking politicians that it's necessary to cooperate with our parliament.



I think that Mr. Yushchenko made a mistake as a politician. He is a young man with very good ambitions and I think maybe he was too sure of himself and believed that his own efforts would be enough just to push ahead reforms. I cannot say that he ignored the parliament but he didn't pay enough attention to cooperation with the majority—the majority that supported a new program of Yushchenko's government last year.

I believe that the key ministers from Yushchenko's government, in particular—economy, finance—they are likely to stay. The general political and economic course of Ukraine will remain the same as the president declared it. Any change of the government cannot radically change that course. It depends on experience of the good will and strength. We understand that. Mr. Purnell underlined that it is early just to judge what would happen. I suppose that maybe in 10 days a new government will be adopted.

Mr. HASTINGS. Right. I heard Mr. Purnell to say that it would be important for us to be engaged. In your testimony, which I listened to with rapt attention, you called for us, I think correctly, meaning the United States, to have a constructive approach.

Let me see if I can get away from the canned approach to this thing and talk to you man to man about how some of us feel. In the last decade, you would not have any way of knowing necessarily that I, as a policy maker in the U.S. Government representing a relatively poor district, found myself very supportive of this government's efforts to try to assist in stabilizing Ukraine.

A large measure of that was not motivated by any economic concern. Admittedly for me, the Chernobyl incident had a mind-numbing effect for that kind of devastation and suffering for anyone.

So to the extent that any efforts that I could make in the way of a vote that would assist in remedying that problem, I felt very strongly that I should and have continued to vote consistently for the funding levels that the United States has afforded in assisting the stability in Ukraine.

Considerable progress has been made. I don't see a disassociation with any segment of that area including Russia with Ukraine. I don't see that as a threat and think there is a way to integrate all of that.

Nevertheless, I would be remiss if I did not say, Mr. Secretary, that as it pertains to the notion that there is corruption, certain things cannot happen in countries but for certain officials knowing about them and failing to do anything about it or knowing about it and participating or knowing about it and not caring.

Let me not wag any finger at anybody. This country has its own levels of corruption at various levels but none of the things that I have mentioned suggest that everybody here is looking off, don't care, or not trying to do something about it.

You say that Ukraine has met certain standards for normal trade relations. I say to you that if I had a million dollars to invest today, and I don't, I'm not so sure I would invest it in Ukraine any more than I know doggone well I wouldn't invest it in the Congo, and I wouldn't invest it in Indonesia.

I'm saying that when there is instability, it becomes more difficult to get some Western investors to be interested. How do you respond to that? What do you do to make the person with \$50 million feel comfortable coming to Ukraine to invest?

Mr. Chairman, I apologize for going in a circuitous route but I thought maybe that might better manifest it than just a cold hard question.

Sen. CAMPBELL. Thank you. That was a long-winded question.

Mr. MARCHUK. That is the key problem—our economical situation. A good investment climate is our main priority today. We understand that quite well.

Since its independence Ukraine has received approximately \$3 billion of investment. Only approximately \$300 million is from Russia. That's why I underline that, just to prove that we don't see any threat of Russian investments.

Privatization is another thing. I mean, Russia's participation in the privatization process. Nowadays it is a little bit better. Mr. Purnell mentioned that United States companies just want the privatization competition.

The shadow economy is the key. This year many concrete measures aimed at reducing the shadow economy were undertaken.

According to official estimations, shadow economy in Ukraine constitutes about 50 percent. It is too much, and damaging for our investment climate. At the same time it creates a basis for corruption.

That's why this year this problem was investigated and discussed at the special session of National Security Council and Defense Council of Ukraine. A plan of combined measures to combat shadow economy was recently approved by Presidential Decree, which includes more than 50 specific measures to be undertaken.

Approximately half a year ago the president invited representatives of most big companies now working in Ukraine to discuss the investment climate in our country. I took part in that meeting. It was very open conversation. The president himself said that he would be a personal guarantor for their investments with the involvement of our law enforcement bodies.

Frankly speaking, I can say that the tape scandal and Georgiy Gongadze case slowed that process. You understand why. The president intends to act as a guarantor for companies which are investing in our country and which are working in our country.

Coca-Cola, John Deere, and others are working in our country. They have some problems but they are working. If you personally would have \$50 million and would decide to invest in Ukraine, your money would be also guaranteed.

Mr. HASTINGS. Thank you, Mr. Chairman. Maybe after the big game today in Maryland and Virginia I might be able to take him up on that.

Sen. CAMPBELL. Mr. Secretary, let me ask you about the reported harassment of the media in 1999. How would you assess media freedoms in Ukraine since then?

Mr. MARCHUK. As I said in my testimony, the relations in the triangle of society, media and state are tense. They were tense during the elections. But elections are political competition and after that people just return to living a normal life. That's why after the presidential elections various measures to improve the situation—although I cannot say they are quite enough—were undertaken.

Not very long ago the president signed a decree that prohibits intrusion of the tax administration into the economic activity of mass media. That decree provides for only one tax inspection—in what we call European manner—per year just with a prior notice. It's not a simple thing for our country.

Another important step was that in our new criminal code which was adopted a few weeks ago, Article 125 was decriminalized, which is very important for journalists.

Sen. CAMPBELL. Decriminalized?

Mr. MARCHUK. Yes, decriminalized. That means that there will no longer be any criminal responsibility for lies and slander. Now journalists can face only civil and administrative responsibility for that.

A new body has been recently organized in the presidential administration which is responsible for providing support for mass media. There is the special presidential decree aimed to help mass media in different fields, in particular regulating relations between the tax administration and law enforcement and media.

Certainly it's not enough and the most important thing is the financial base of our mass media which is now a problem.

Sen. CAMPBELL. That means under your new code that decriminalizes the actions of the media, they can say pretty much whatever they want about your elected officials without reprisals?

Mr. MARCHUK. Mass media representatives have to be responsible for what they are saying. Good impulse was given to the society and to mass media environment that governmental bodies are ready to make a balance between the state power and mass media, balance relations, balance responsibility for both sides.

Not long ago there were very different relations. For one thing, there was real pressure from law enforcement bodies and, for another thing, some newspapers and some TV programs were insulting people. I suppose that is a right time for balancing relations between mass media and state power.

Sen. CAMPBELL. In our country we hope that the media complies with a code of ethics but, in fact, they insult us all the time, and yet we still support their right to be able to do that. We might not agree with them but we support their right under what we call the freedom of the press. We might not like what we read about ourselves but we accept that anyway as part of our democracy.

Ukraine's National Broadcasting Council recently awarded, as I understand it, the frequency of an independent and popular radio station, Continent, to another station. That prompted some criticism from different people including the BBC, Voice of America, and so on. President Kuchma called on the Broadcasting Council to reconsider that decision. Then apparently he reversed himself. Could you clarify his position on this matter?

Mr. MARCHUK. You know, that was a matter of very wide discussion in our country. But it's not a serious problem. There were some problems with the Radio Continent, the credit \$300,000 from governmental structures has not been returned.

The president said that this case has to be investigated more carefully, but it doesn't mean that the president can order them to do things one way or another.

The final decision after representatives of Radio Continent made an appeal to the court and could be taken only by the court. In this case, as in others, the rule of law must be a priority.

Sen. CAMPBELL. I see. Let me change the direction of some of my questions to the current political turmoil. What is the position of the Russian Government? What position have they taken in dealing with the current turmoil in your country?

Mr. MARCHUK. Frankly speaking, they didn't give officially or publicly or in any other way any special reaction on the dismissal of Yushchenko's government. Certainly there are different political groups in Russia which are not governmental but some of them are close to the government. They reacted in a different manner.

Some of them supported such a decision and some people in Russia supported Yushchenko. But on the governmental side, we don't feel any pressure and any political reaction which may be considered an official reaction.

Sen. CAMPBELL. So on the government level, Moscow has not tried to increase its influence in Ukraine or has not tried to take advantage of the turmoil?

Mr. MARCHUK. Nowadays it's not so easy to impose influence on Ukraine and on the Ukrainian Government, or the Ukrainian president. I know about a lot of publications in the American media and TV stations. Really we understand that such a concern is growing. But the developments in Ukraine during the last 10 years created an absolutely new situations.

Each year approximately 1.5 million new people came into society. It means that during the independence period more than 10 million new active people with new mentality became involved in public life, the economy, and business.

They certainly produced a specific atmosphere and new businessmen and even oligarchs—although not all of them—who are now in parliament and some in government wouldn't accept Russian dominance in our parliament or in our country in general.

Certainly we are not naive and we don't simplify the situation. We understand that there is no one Russia, but we know different Russias—governmental Russia, Duma's Russia, and some political parties which are of an anti-Ukrainian orientation.

We know about their influence in Crimea. We are now much more experienced in how to resist any influence and especially Russian influence on our internal political situation.

Sen. CAMPBELL. A number of outside voices have stated that the only way out of the political crisis in Ukraine is dialogue among all sides. Is there a dialogue now between the presidential administration and the opposition?

Mr. MARCHUK. Well, first, it's necessary to understand here in the United States and in the Western countries what people mean by saying "opposition and power," "opposition and president."

It's necessary to understand what is today's Ukrainian opposition. We have traditional opposition Communist Party and Socialist and so on. It has approximately 25 or 30 percent of support among the population.

We have a new opposition which started its activity approximately half a year ago. This new opposition is unfortunately or fortunately—time will show—divided. We don't have any united opposition. There are some opposition groups that are going through a very painful period of self-identification.

The representatives from the presidential administration and I personally took part in negotiations with the opposition in the beginning. We had some preliminary talks about the future possibilities of negotiations, their techniques, and so on. These negotiations between the presidential administration and new opposition groups are now on the way.

It's not simple because different groups inside the opposition behave very differently. For example, some of them like the Batkivshchina Party are saying that no negotiations are possible at all, and they use only the language of ultimatum and preliminary demands.

With others it is possible to speak and to negotiate and here we see that we have understanding that is the only way of negotiation between the governmental structure, the presidential structure, and the opposition.

I can say that we are now going through a very painful, not simple period.

Sen. CAMPBELL. Thank you, Secretary Marchuk. I appreciate you being here today. Some Commissioners who are not here today may have some further questions they may send to you in writing. We certainly appreciate you being here and the candor with which you answered the questions.

Mr. MARCHUK. Thank you, Mr. Chairman.

Sen. CAMPBELL. Thank you, Mr. Secretary.

We will now go to the next panel. Actually, it will be made up of two people, Mr. Adrian Karatnycky, the President of Freedom House, and Mr. Cohen, research fellow from Russian immigration studies from The Heritage Foundation.

As with the other witnesses, if you would like to submit your full written testimony and abbreviate, that would be fine. Please proceed.

**TESTIMONY OF ADRIAN KARATNYCKY,  
PRESIDENT, FREEDOM HOUSE**

Mr. KARATNYCKY. Mr. Chairman, thank you for this opportunity to testify. I ask that my complete statement be made part of the record. I will deal with dimensions of it and attempt to speak a little bit, I would say, more directly and, I dare say, more forthrightly than the first two presentations.

I think that even the most neutral and objective observers would have to say that in its first decade of independence the state of freedom in Ukraine and Ukraine's record of progress toward a competitive market economy and an open democratic society has been disappointing.

As we have discussed today, Ukraine's parliament last Thursday overwhelmingly passed a no confidence vote in an effective pro-reformist prime minister.

I think that the toppling of this prime minister is setting in motion a period of intense political jockeying and high uncertainty that may result in the consolidation of power by several political factions controlled by the country's economic oligarchs, many of whom have attained their wealth through corrupt and, I would say by most standards, illegal activities.

The removal, as the Commission members have noted, occurred despite Mr. Yushchenko's extremely strong and effective record and high degree of public support.

He was supported by a margin of 52 to 23 percent of the public including the majority of most of the factions that voted against him with the exception of the Communist Party where there was a majority of the Communist Party electorate that favored his removal.

Why then would an effective and popular prime minister be removed from office? It's because Mr. Yushchenko had reasserted control over Ukraine's corruption-riddled energy sector thus angering a small group

of economic magnates whose political parties represent over a quarter of the seats in the country's parliament and the loss of more than 1 billion and perhaps as much as 2 billion annually in ill-gotten energy receipts led these economic magnates to act.

Now, it is extremely important to note that the oligarchs who turned against Mr. Yushchenko broke away from their fragile alliance with reform parties and joined with the Communist Party to bring down the government. Their action, I think, is a consequence of the growing political weakness of President Kuchma, who is embroiled in a widening crisis related to the ongoing and continuing revelations that will emanate from the tape scandal.

I think we have to take an objective and, I would say, determined look at the evidence and not necessarily accept that all the evidence in the tapes is true.

However, the sheer volume of the evidence, the fact that much of it has been corroborated by other people who are recorded in these conversations, suggest that it is necessary for Ukrainian authorities to transparently and openly examine all the dimensions of this blueprint of alleged illegal actions, to go on to investigate every instance of arson, intimidation, harassment, and of violence that potentially led to the murder of a journalist.

That, I think, is an important requirement and necessary for Ukrainian authorities and that is something that I believe that diplomacy and external pressures should demand. I believe that U.S. policy should be focused on assisting civic groups that will compel Ukraine's institutions to look forthrightly and thoroughly at all these matters.

Mr. Chairman, I'm honored that I am here today with Myroslava Gongadze, the widow of a very courageous journalist whose disappearance was really the beginning of this mounting crisis.

I think the case has become an international human rights *cause celebre* because it embodies all the elements of misrule that plague Ukraine today: corruption at the upper echelons of power, which was the subject of Georgiy Gongadze's investigative journalism; harassment, intimidation, and surveillance of the media and democratic groups in opposition to President Kuchma.

In the tapes that have thus far been revealed there are discussions by President Kuchma of private conversations between Ukrainian journalists and American citizens. I can corroborate them by personal knowledge. These are cases of wiretapping of conversations of prominent Ukrainian journalists, who to the best of my knowledge are not engaged in any criminal activity and who are having, I would say, neutral discussions about what is going on in Ukrainian politics.

In these tapes President Kuchma is heard looking over the various excerpts of the wiretaps discussing them and so on. There are further tapes related to private discussions by members of various oligarchic factions and so on.

The tapes again show the vast scale of this problem of surveillance and whether they are authentic or not, certainly every instance should be investigated. Indeed, I believe, in any rule of law country any such wiretapping, if done outside the law, would constitute an impeachable offense by authorities and should be investigated.

Let me say something—because I know the time is brief and my written remarks cover this—about some contradictions in Ukraine. For example, I know, Mr. Chairman, you raised a point of concern about law enforcement officials who still hold office while they are directly involved in political activity.

Now, our office in Kyiv has had what I would call much contact with the Ukrainian tax authorities. In one case it is said to be concerning an unspecified criminal investigation. The head of that tax authority, Mr. Azarov, the head of the Ukrainian version of the IRS, is also the head of a political party. He has access to confidential materials.

There is under Ukrainian law no conflict of interest legislation, there is nothing in Ukrainian legislation that prohibits the high degree of politicizing of this kind of investigative office. That is not something that requires a lot of remedy. All it requires is leadership by Ukraine's president, leadership by the parliament and that kind of a matter of conflict of interest can easily be put to rest.

If President Kuchma is innocent of serious abuses of power, he has been extremely ill-served by his closest advisors, whose behavior suggests that they are intent on covering up the allegations of serious crimes and abuse of power. Their actions create the impression of a wide-ranging coverup.

Moreover, the content of the tapes, as I said, reinforces what many Ukrainian reformers and foreign governments have long believed: that Mr. Kuchma sits at the top of a corrupt, and perhaps criminal, structure of power.

Whether he directs this system or is trapped by the structure of corrupt power that emerged in Ukraine as a result of the process of transition from communism to democracy, and through partial democracy and through partial market economics, is a matter of conjecture.

What is clear is that there is a failure by President Kuchma and his security officials and the justice system of Ukraine to cope with this corruption. They are either tolerating this or have failed to put in place safeguards to prevent the wide-scale looting of Ukraine's treasury through tax evasion, the extra-legal syphoning of assets and the like. The scale of this is just enormous.

You know that the U.S. Attorney in northern California has brought a case against a former first deputy prime minister who served throughout Mr. Marchuk's service as prime minister. In that period during which Mr. Marchuk was prime minister, under his nose and under President Kuchma's nose, this now-indicted gentleman, Mr. Pavlo Lazarenko, accumulated a vast fortune, of which \$114 million alone ended up in U.S. banks and moving through U.S. banks, not to speak of the record of numerous off-shore accounts.

This suggest the scale of corruption that has befallen the Ukrainian system. It also suggests that there has been very little done to correct it. It is usually oligarchs who fall into opposition with President Kuchma or with the established power are then subject to persecution.

Or, there is the case of Deputy Prime Minister Yuliya Tymoshenko, a former oligarch who probably engaged in corrupt practices. Yet only when she began to function legitimately and sought to undermine the formerly corrupt system did she become the target of attacks and prosecution, while the people who were still functioning illegitimately are not subjected to this kind of scrutiny and investigation.

In fact, the tapes—which, again I hasten to say, do not offer final corroboration and deserve further examination—include a conversation between the head of the tax inspection service and President Kuchma about how to save the neck of an oligarch who has not reported \$100 million in income of unspecified currency.

It's either \$100 million in Ukrainian currency in which case it's \$20 million or so or \$100 million U.S. dollars, depending on the currency they are discussing. The tax inspector in this conversation is suggesting how he is helping this oligarch to cover his trail. This is one of the oligarchs whose parties are now jockeying for ultimate power.

Anyway, what is the way out of this regrettable state of affairs? I think that we have to understand that what plagues Ukraine are systemic problems. They are the outgrowth not of personal deficiencies of individual leaders or of the country. These deficiencies are more the matter not of the legacy of communism but of the early stages of privatization.

This web of corruption is something that needs to be tackled. It seems to me that one way it needs to be tackled is that some way has to be found to get all the people who were in business in the first years of privatization who operated under the gray or black market economy to come under some form of partial tax amnesty or some a process where these segments of the economy could become legitimate and restore some of their wealth back to the public where it belongs.

But, at the same time, we should consider a process that makes them immune from criminal prosecution.

One major source of progress in Ukraine today is that people are making money legitimately. Nevertheless, many people who are also making money legitimately, including these oligarchs, are still tied to the web of past corruption and are still subject to pressures from their formerly corrupt and illegal activities.

The real question is to find a way through to help them come out into the open in a way that restores some money to the Ukrainian treasury but offers them some incentives and potentially protections to get Ukraine out of this deadlock.

The final thing I want to say is that there are a couple of major issues that we have to keep in mind as we think about how to help Ukraine and how we work with Ukraine to get out of the morass that the country is embroiled in.

The first is that Mr. Kuchma—despite all of the allegations and all of the issues for which he deserves criticism—is not a tyrant. He appointed a reformer, Mr. Yushchenko, as Prime Minister. There is some space for civic activity. There is an opposition that can function within the parliament. There is some degree of press pluralism and of political competition.

I think that has to be kept in mind because we are also speaking about the potential for society to reform itself from within.

Secondly, I think it is very important that we understand that one major problem affecting Ukraine apart from corruption, the second major problem, is the excessive concentration of power in the presidency.

My written testimony details how much formal authority is in the hands of the president. It is the president, not the parliament, and not the prime minister, who appoints every minister. In a sense, the complaints that the oligarchs leveled against Mr. Yushchenko's appoint-



ment were really hidden criticisms of the fact that the president did not act to appoint their interest groups and their lobbies to key positions in the government.

I would also want to make a couple of points about oligarchs. One, despite problems of rampant corruption, as I have said, not all Ukraine's economic magnates are dependent on corruption. Many are now in a position to thrive in markets and could again be reconfigured in a pro-reform coalition.

Even some economic oligarchs may be willing to back significant reforms provided there is a long-term political solution that does not threaten them with prosecution and imprisonment.

Finally, many oligarchs, as well as a clear majority of Ukrainian citizens, do not wish to fall under Russian economic and political domination. It is not their will and it is also not in their economic interest.

I think you will find that most of these oligarchic parties don't want to lurch to Russia. They are worried about Russian capital exerting too much influence and then becoming a threat to their own economic interest in the country.

Finally, in the end I believe that it is clear that the billions of U.S. and West European aid and loans to Ukraine have not all been in vain. Ukraine has developed a large pro-reform and pro-Western constituency.

Substantial structural changes have occurred to change the nature of the economy. There is a pro-democratic force resident within society and there are many citizens motivated by pro-democratic values, who are appalled by corruption. This is shown by polling which indicates widespread support for people like Prime Minister Yushchenko, who has identified with a more forward looking approach.

These forces have particular appeal among the young and these forces have a real chance in the coming months and years to lead this strategically vital country back onto the path of political and economic freedom. Thank you.

Sen. CAMPBELL. Thank you.

Mr. Cohen, why don't you proceed before I ask some questions.

**TESTIMONY OF ARIEL COHEN,  
RESEARCH FELLOW, DAVIS INTERNATIONAL INSTITUTE,  
THE HERITAGE FOUNDATION**

Dr. COHEN. Thank you, Mr. Chairman.

Sen. CAMPBELL. Dr. Cohen. Excuse me.

Dr. COHEN. It doesn't matter. Mr. Chairman, thank you very much for bringing me here today. I want to commend you, the Commission, and the staff to put the highlight on Ukraine. I think it is extremely important.

The tenor of my remarks will be probably as dramatic as Adrian Karatnycky but not as complacent as the previous speakers.

The sources of the unprecedented scandal, allegedly involving President Leonid Kuchma and the top layer of the Ukrainian political ruling group, is shrouded in mystery. We do not understand these sources today, and we hear much speculation about who was behind the extensive taping which took place in Mr. Kuchma's office.

We are not clear as to who executed the gruesome murder of the brave journalist Gongadze. The only clear element is the outcome of this combined scandal itself.

The Ukrainian presidency, the executive branch as a whole, and by extension Ukrainian statehood, suffered a serious blow to their legitimacy. The murder and the scandals weakened Ukraine as a nation.

The West, in an understandable reaction, distanced itself from Ukraine. As a result, the country seems to be drifting into Russia's orbit. The trend could eventually imperil Ukraine's political independence and economic performance that began to improve in 1999 and throughout 2000.

Last year Ukraine enjoyed the best macroeconomic results in 15 years, with GDP growth reaching 6.3 percent. It is imperative for Ukraine's survival that its current economic policy successes be preserved no matter the identity of the next prime minister.

Increasing transparency, sustaining GDP growth, promoting sound macroeconomic policies—the main achievements of the recent 2 years—have to be enhanced and built upon by the next cabinet.

Importantly, these goals cannot be achieved without attracting Western investors. Thus, the future prime minister has to be a symbol of further reforms, not an ally or protege of one business "clan" or another.

Ukraine's next premier must be acceptable to the investor community, including Western investors. The new executive should be a leader who symbolizes Ukraine's movement into the future—an independent, Euro-Atlantic future, that of democracy, free market based on the rule of law, and individual rights. Whoever takes the helm should not steer the country back into the past.

Unfortunately, Ukraine's crisis is being aggravated by lack of trust in the government, political conflict, dissatisfaction with the country's standard of living, which remains low, and pervasive corruption among the ruling class.

The situation is made worse by a foreign debt crisis. This explosive combination of issues is driving the popular discontent with Mr. Kuchma and his government that may force Ukraine back into Russia's bear hug.

Under the pressure from Moscow, President Kuchma fired Ukraine's Western-oriented Foreign Minister, Borys Tarasiuk, in the fall of 2000. Since then, Ukraine has considerably slowed down its cooperation with the members of a new strategic group of countries nicknamed GUUAM (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova).

The first truly voluntary organization of states within the territory of the former USSR is now in dire straits. These developments could threaten U.S. security interests in Eastern Europe and increase the level of tension in U.S.-Russian relations.

Ukraine's geopolitical situation is key to Eastern Europe and thus is of great interest to the anti-U.S. Russian empire-builders in the military and national security community who openly state the necessity to establish hegemony in Ukraine in the context of the zero-sum nature of Russian-American confrontation.

Ukraine prevents Russia, which is becoming more nationalist and authoritarian under Mr. Putin, from direct access to the borders of East-Central Europe, including NATO members Hungary and Poland, Southeastern Europe, and the Balkans. Ukraine today also controls the strategic northern coast of the Black Sea, which is adjacent to NATO ally Turkey.

The possible re-absorption of Ukraine into Russia's fold would bring about a new quasi-imperial and undemocratic Great Russia. Such a development could destroy the post-Cold War status quo in Europe, revive a threat to NATO allies in Europe and worsen U.S.-Russian relations.

Moscow is taking advantage of Kuchma's vulnerability to increase its influence in Ukraine. For example, in 2001 Moscow and Kyiv reportedly signed an expanded classified military agreement giving Russia control over Ukrainian military planning. Plans to establish a joint Black Sea naval force are underway.

These agreements may place Ukraine's cooperation with NATO in the Partnership for Peace framework in doubt and jeopardize the joint naval exercises which Ukraine and NATO have held for the last 3 years.

The Ukrainian Embassy in Washington did deny the fact that these agreements were signed. However, I have repeated confirmation from the top level of Ukrainian politicians and from Western analysts that this indeed took place.

In addition, President Kuchma and President Putin had a summit in February of this year in Kuchma's original stomping ground, the city of Dnipropetrovsk. That is a city where, during the Cold War, Soviet Union manufactured its ten warheads—inner-continental ballistic missiles, ICBMs, the famous SS-18s, NATO designation Satan.

Is this a symbol of Russia's response to the U.S.'s more robust missile defense program outlined yesterday by President Bush? Whether Ukraine will reintegrate into the Russian military-industrial complex as some Russian analyst had suggested remains to be seen.

Now, let me dwell for a short while on the international implications of the Melnichenko tapes. As you know, Major Melnichenko became a refugee in this country and reportedly brought about 1,000 hours of conversations taped in Mr. Kuchma's office.

The question arises whether these tapes may contain important information that goes beyond the Gongadze affair. Perhaps they contain evidence that may implicate prominent members of Ukraine's political and business world in corrupt practices, money laundering, or other criminal activities.

For example, the tapes might show that some senior officials in Ukraine have been engaged in armaments and technology sales to Iran and Iraq, apparently in part for their private accounts.

The tapes might show that a couple of organized crime kingpins were involved in conversations on the highest levels of the Ukrainian Government, and threatening and ordering around the figures they were involved in conversations with.

The tapes might show that the undermining and bringing down of Prime Minister Victor Yushchenko were plotted and planned from the beginning of his tenure by senior officials in the presidential administration. The tapes might show discussions referring to Mr. Yushchenko's American-born wife as a CIA agent when these officials knew full well that this was a lie.

The tapes might expose connections to the violations of the U.S. law, such as Foreign Corrupt Practices Act. This evidence has to be examined very carefully.

To conclude, what the United States can do—I think we have to recognize the strategic importance of Ukraine, its pivotal role in Eastern Europe, and the importance of its continuing pro-Western orientation.

The administration should utilize economic and political tools, including the traditional democracy assistance, as well search for the new tools to uphold U.S. interest in this strategic region.

We have to conduct an urgent intelligence assessment of what is known and what needs to be known about Russia's intentions and capabilities in Ukraine. Attempts to answer the questions who was behind the Gongadze case and what was the purpose of it and who cooperated with Mr. Melnichenko to produce damning tapes in Kuchma's office. We have to reassess or reallocate resources of our assistance in view of the new and continuing crisis.

We have to promote measures leading to energy independence and economic growth in Ukraine. Only a competitive Ukrainian economy will make Ukraine truly independent from Russia.

We have to encourage the government of Ukraine to develop business models, legislation and regulation, encourage transparency and provide a level playing field to encourage Western investment. I could continue on and on. These recommendations are in my written testimony and for those of the staff who are interested, they are there.

Thank you, Mr. Chairman, and thank you for the Commission giving me this opportunity.

Sen. CAMPBELL. Thank you for testifying and your complete written testimony will be gone over very carefully.

Mr. Karatnycky, did I understand you to say that in Ukraine the president appoints all the ministers and there is no confirmation process at all? He appoints them and that's it?

Mr. KARATNYCKY. That's right. They are not subject to parliamentary confirmation. Only the prime minister is subject to confirmation and about four or five additional officers; that is, the head of the tax inspection, the procurator general. But ministerial appointments are directly made by a presidential decree.

Sen. CAMPBELL. I see. Okay. I am not sure if either one of you can possibly answer this, but what portion of the Ukrainian economy would you say is in the black market sector?

Mr. KARATNYCKY. I think there are a variety of estimates and, of course, it is the black market which is to say it is hidden. Determining it is difficult but estimates of between 35 and 50 percent are common.

This issue is complicated because much money is leaving the country: hundreds of millions or even billions are being laundered out of the country. Such funds cease being a part of that economy, so there is a lot of wealth being created in the country and money coursing through the country. But a large portion of this money is leaving and without benefiting Ukraine's economic development.

Sen. CAMPBELL. But it's like the wealth is leaving the country.

Mr. KARATNYCKY. That's right. It's the real sucking sound that we had heard about with relation to NAFTA.

Sen. CAMPBELL. Earlier this year the opposition to President Kuchma prompted many vocal protests, including ones by students. Does that opposition represent any meaningful threat to his presidency any more or has it died down somewhat?

Mr. KARATNYCKY. Mr. Chairman, I think it's an interesting matter to discuss the nature of Ukrainian public opinion. I think that the lack of confidence in the president and in most major institutions and the high level of confidence that had been invested in Prime Minister Yushchenko suggest that public opinion is aware of what is going on.

I think polling shows that the Ukrainian public broadly feels that amid the variety and the pluralism that exist in all the media and despite a lot of misinformation and distortion conveyed through state and oligarchic-controlled media, citizens can come to some kind of independent judgment about what ails their country and what needs to be done.

The real question is the question of unity. I think when former Prime Minister Marchuk—when General Marchuk spoke, he made reference to the lack of cohesiveness and the opposition. Many people believe that Mr. Yushchenko has the capacity to unite a broad-based political opposition that could bring together a broad range of fractious parties.

Separate from the political activism of reformers, what is most needed is to strengthen and help to constructively channel public dismay and discontent that we have seen manifesting itself in the last years. There is a broad range of civic groups, of non-governmental organizations that are not interested in political power. They are interested in process.

Those civic groups, student groups, and activist groups are not intent on ousting a president or putting someone else in his place, but in making sure that crimes and corruption are thoroughly examined—

Sen. CAMPBELL. Have those protests—

Mr. KARATNYCKY.—support from the U.S. Government and from private donors and from the various array of pro-democracy groupings is much needed. I think this civic sector has a lot of potential.

Unity is an important part of achieving their aims. They can actually make Ukraine's major political players, oligarchic parties and others, more responsive to public needs and, therefore, to behave more in the public interest.

Sen. CAMPBELL. Have those protests prompted any positive reforms?

Mr. KARATNYCKY. The protests have been in response to the dismissal of the prime minister. I do believe there are two events that are worthy of attention in the coming months. I assume that once there is confirmation that the body is Georgiy Gongadze's, there will be a funeral, and that will be a very large public gathering.

Secondly, when the Pope visits in June, I believe that it will be a difficult moment for President Kuchma if he is at a large public event. I assume the public will behave with respect, but, nevertheless, I think there will be an opportunity for the public to register their view of their president and his performance.

Sen. CAMPBELL. How do the Ukrainian people view the tape scandal we've been discussing?

Dr. COHEN. I think that as I pointed out, and so did my colleague Dr. Karatnycky, the disclosure of political dynamite in these tapes is undermining the legitimacy and the trust in the current ruling group—not just in the president. The group includes officials and the business tycoons who are connected to the president.

The people believe that the political system is not working. It is not prosecuting. This notion applies to Ukraine as well as to Russia and other post-Soviet countries. A president who is a political figure and, at the same time, a guarantor of a constitution is a judicially untenable notion.

To me, as someone with legal training, it is almost absurd. If you don't have a legal system that is independent from the executive branch, you cannot provide the guarantees to the constitution. Unfortunately, both in Russia and in Ukraine the legal system is not independent, not

transparent, it's not professional, and it's not working. Therefore you have an understandably high level of popular discontent because the system is not working. That's what you have.

Mr. KARATNYCKY. Mr. Chairman, just one thing on polling. The data that I saw are a little bit dated. I haven't seen the most recent polls, but in February about 40 percent of the Ukrainian public had made up their minds about the truth about the tapes and by a two-to-one margin they believed in the veracity of the recordings and not the president's position that these were fabrications.

Sen. CAMPBELL. I see. Well, there's been some speculation that those tapes might not have been just the action of a single bodyguard but there may have been other people involved in it. What is your assessment of that?

Mr. KARATNYCKY. I had the opportunity to be a speaker at an event where Major Melnichenko also spoke. It was an off-the-record event at the Council on Foreign Relations in New York and Council rules of non-attribution means I cannot speak about the details of that session.

I can say that people—unlike me—who have spent some time with the Major believe that he conveys an impression that he was motivated by disgust or contempt for corrupt practices that he saw in his service of protecting the president and the presidential office.

At the same time, I don't know whether that kind of sentiment was or was not manipulated or used or involved his collaboration with others who had a political interest in bringing this matter forward.

My own view is that these tapes were not necessarily recorded by Major Melnichenko but may have been simply copied because it is believed that in the late 1990s, after '96, that the president had installed a digital recording system as an *aide memoir* for meetings.

This is sort of similar to the Nixon recording system and the CDs could have been copied from that. I have no specific knowledge to corroborate this theory but it seems to me that it is a more plausible idea than some kind of daily effort to hide a small digital recorder over several hundred days of taping.

Dr. COHEN. If I may add, Mr. Chairman, it is difficult for me to imagine that a bodyguard, even with the officer rank, could have engineered recording of 1,000 hours allegedly on tape, exfiltrate it out of the country to central Europe to successfully hide in central Europe for a long time, and then manage his transition to the United States where he was granted a status of a refugee.

In my judgement, Major Melnichenko had some support, but we can only speculate at this point who these people were inside Ukraine who supported him and for what political purposes. I would always say that if I was tasking the intelligence community, that would be my first priority as to establish who is behind this.

Sen. CAMPBELL. Yes, I understand. A network and conduit would almost be required for something of that magnitude.

There has also been some speculation about really how effective some international criticism is. Do you have any feeling about that? Do you think the criticism from the OSCE, from our country, from other neighboring countries and so on has had any affect at all?

Mr. KARATNYCKY. Yes, I do think outside pressure is effective. I do think that it conditions responses from Ukrainian authorities. I know some of the leaders of what are called euphemistically financial political groupings meaning the oligarchic parties and so on.

I don't believe it is just their external propaganda or public diplomacy when they say that they are truly interested in Western investment, in integration into the West, and in balanced relationships between Russia and the West.

I do think that is a very strong sentiment. The oligarchs are not monolithic. Some regional groups have a much closer orientation around Russia. Other oligarchic and financial groups have a more balanced view. I think that Ukraine's drift toward Russia would worry many of them.

We've seen that phenomenon in the Crimea. There was a very strong pro-Russian orientation on the part of the public but the business groups were very afraid of Russian capital moving in and were very happy to be a part of an independent country that in effect protected them from this potentially predatory and overwhelming source of capital.

Sen. CAMPBELL. One cornerstone for American investment has always been whether the government is stable or not, if Americans are going to invest. I would think that it would jeopardize investment and people would understand that.

Let me ask you about the Gongadze investigation. Do you think the international criticism has spurred a better investigation into that tragedy?

Mr. KARATNYCKY. My own view is that it has been both internal criticism and international criticism that has been influential. I think despite the constraints on Ukrainian media, there is a lot of reporting about the Gongadze case and about the tape allegations. Much of it, of course, is really re-reporting of things that appear in the Western press.

There is a high degree of credibility and attention given by a broad range of Ukrainian media given to Western statements, judgements, and positions. So I do believe that Ukraine is open to dialogue and to pressure from Western sources.

Sen. CAMPBELL. Let me ask you what you think we should continue to support and what should we be doing differently? We have been providing a great deal of assistance, something like a total of maybe a quarter of a billion dollars last year to Ukraine. I serve on the Appropriations Committee. It all goes to the Foreign Operations Subcommittee on which I also serve. What is your view on what we ought to be doing differently with respect to U.S. assistance?

Mr. KARATNYCKY. Mr. Chairman, I think that given the fact that we have had now 8 or so years of an aid and development relationship with Ukraine, I think we know who the forces, the voices, the legitimate forces for change in that country are.

I don't believe it is appropriate for the United States to back particular political factions, but at the level of civil society, at the level of independent media, I think there is a need not simply for technical assistance but for direct grants and aid to help these instruments that can help combat corruption, promote transparency, promote checks and balances which really are absent in the Ukrainian system.

One way that the Congress could help would be to work with the Ukrainian legislature to help strengthen its investigative capabilities.

I know that you are aware that the Ukrainian president had vetoed attempts by the parliament to establish a process of parliamentary committees and investigative committees. Indeed, President Kuchma has blocked all the special council-related legislation. Similarly, legislation setting up independent investigative entities was vetoed by president

Kuchma in December. Every time the bills have come up the president has blocked the ability of parliament to have the financial resources to do due diligence and very broad-based investigations of the allegations in the tapes around the Gongadze case and the like.

External aid in such legislative investigative work would be a way of helping. In the end, aid to the media and aid to civil society would be the most important new dimensions of the package. I do think that many points that Ariel Cohen has mentioned in his paper, and I hope you will add to them, also deserve serious consideration.

Dr. COHEN. Thank you. I would add the following. Adrian Karatnycky mentioned the development of procedures for checks and balances. One obvious area is development of legislation for impeachment of the president.

That legislation has not been developed and passed, so you are in a situation where, theoretically—I'm not talking about President Kuchma in particular, if you have a president that commits impeachable offenses (and our country had to go through that not too long ago, as you know), we don't have in Ukraine today a mechanism to do so.

The business climate needs a breath of fresh air and the procedures need clarification. There is progress in Ukraine in that direction. For example, in privatization of large enterprises, there is a step in the right direction because there is legislation, including the enabling legislation of how things have to be privatized.

However, more can be done: today, the Ukrainian Government can employ foreign banks and consulting companies in advisory capacity for privatization but not as independent privatization managers.

There is practice around the world where you hire companies to conduct your privatization if the investment community is not fully confident in the transparency of the government.

Moreover, more work needs to be done on legal reform, judicial reform, training of judges and functioning of the court system. Ukraine can do more work on developing its energy independence which is also strategically important for that country to have a competitive economy and to be independent from dominance of foreign powers that supply most of Ukraine's natural gas and other energy needs.

We have to continue and expand our work with those elements in the Ukrainian military that are independence-oriented. We do it through Partnership for Peace. We have to search for bigger and better frameworks to work with the Ukrainian military.

The problem, Mr. Chairman, the way I see it is that neither the EU, the European Union, nor NATO is offering frameworks that will enhance real integration of Ukraine into European structures.

The border, I don't want to call it the new Iron Curtain, but there is a separation line which is currently the eastern border of the EU and the NATO alliance. We have to be very creative and innovative. We have to think outside of the box to integrate Ukraine into Europe.

Sen. CAMPBELL. Speaking of these international groups such as NATO and the European Union and so on, tell me a little bit about the association of countries, Georgia, Ukraine, Uzbekistan, Azerbaijan, and Moldova. Do you know anything about this group?



Dr. COHEN. The abbreviation is GUUAM and it involves, I would say, an axis of countries going from the West to East, Moldova, that came under the Communist domination in the recent parliamentary elections and will have a Communist president; Ukraine, Georgia, Azerbaijan which is oil rich, and Uzbekistan.

I would say that these countries, for different reasons and under Russian pressure, are scaling down their participation in GUUAM.

For example, as I mentioned, Moldova has now a Communist government that advocates joining the Russia-Belarus Union, which is a unified structure, the executive secretary of which just spent 3 months in a U.S. jail in Brooklyn, New York,—courtesy of Uncle Sam—for alleged money laundering offenses in Switzerland.

If Moldova joins the Russia-Belarus Union, and if more Russian pressure is applied against Ukraine, GUUAM's future is in question. I should also mention, Mr. Chairman, there is a Russian pressure in the same mode, applied to Georgia, where President Shevardnadze is a great friend of the United States. There are different pressure points that I see are being engaged right now to dismantle or neutralize GUUAM.

The other pressure point which is applied in Uzbekistan and Central Asia is Russian support to President Karimov of Uzbekistan to fight Islamic resurgence, the insurgency of Islamic movements in that country, sometimes by not so democratic means. As Russian-Uzbek security ties progress, there will be less incentive for President Karimov to participate in an organization that is independent of Russia. Thus, Russia develops a mix of carrots and sticks and applies it vis-a-vis the members of this association.

Theoretically this should have been a volunteer association that would help build trade routes from east to west and west to east, move energy from the Caspian Sea area into Europe. Ukraine was along the way of building a pipeline from Odessa to Brody and Poland and coming from the Caspian Sea all the way up in Central Europe. This is being very slow, and Russia is not interested in that.

Sen. CAMPBELL. I see. Also, it's my understanding that in the early 1990s many American businesses that were trying to do business in Ukraine were complaining about the corruption of the bureaucracy that we've heard about. Some of them just pulled up their stakes and came home. What is the present record of dealing in terms of Western investors?

Dr. COHEN. I do not have figures. I will be happy to give you figures to get back to you on that. Generally the investment climate is less than stellar. There are American businessmen who are spending tremendous effort to stay afloat in Ukraine. Some of them are here in the audience.

Generally the opacity of that investment environment and corruption, and now recently the influx of Russian capital, makes that environment sometimes less than attractive. There is still a tremendous industrial capacity, educated work force that would make Ukraine an interesting place to invest.

However, as many pointed out, much this investment would go today to countries of Central Europe; Hungary, Poland, Czech Republic where the wages are higher.

But the political risk and political stability are better, political risk is lower, and the protection that the European legal frameworks are providing to such investment, and eventual membership in the EU, make investment in Central Europe more attractive.

Mr. KARATNYCKY. External aid in such legislative investigative work would be a way of helping. In the end, aid to the media and aid to civil society would be the most important new dimensions of the package. I do think that many points that Ariel Cohen has mentioned in his paper, and I hope you will add to them, also deserve serious consideration.

One of these parties has moved into direct opposition to the president. Others are recombining and thinking about what positions to take in the coming months. I think that it is a unique characteristic of Ukraine. Neither in Russia nor in any of the other former Soviet Republics do you have this kind of high degree of relationship between financial groups and representation inside parliament.

The fact that they have this kind of hold on parliament influences legislation and means that they intrude very substantially in the privatization processes and joint ventures and those types of activities.

So long as that remains a major feature of Ukrainian life and you don't have more value-based political parties that respond to the needs of constituencies, I think political progress will be limited.

Sen. CAMPBELL. You respond more to the oligarchs.

Let me ask you two final questions dealing with religion. I understand there is going to be a Papal visit to Ukraine in June and that the Ukrainian Orthodox Church of the Moscow Patriarch is supposed to visit. What is the attitude of the Ukrainian Orthodox Church toward the Pope's visit?

Mr. KARATNYCKY. I think there is support within the state and within a segment of the Ukrainian Orthodox Church. The Ukrainian Orthodox Church linked to the Moscow Patriarch, I think, is reflecting, in effect, Russian foreign policy in trying to block what I believe is perceived by Russians and by these close-to-Russia Ukrainian prelates as undesirable Western influence.

I would say that broadly speaking the Ukrainian public is extremely interested in his visit. I think that in the main, the political leadership in Ukraine and all these various parties have behaved in a responsible fashion and do support the papal visit. I think it will go forward and will probably have a constructive effect on ecumenism and on the Pope's goals.

Sen. CAMPBELL. How many people think that religious leaders have a moderating influence on government?

Mr. KARATNYCKY. I think it is very difficult to say. In Ukraine there has been, I would say, a fair distance kept by the larger churches from political processes in the last several years. In the early years of independence, many Orthodox Church leaders were very closely allied with the executive branch of power.

Now that has diminished somewhat. They are not currently a political factor. Spiritual values are a political factor in Ukraine's life because—

Sen. CAMPBELL. They play a role in society but not in government.

Mr. KARATNYCKY. I think they are more of an influence through society but they are not playing an independent role in influencing the state.

Sen. CAMPBELL. Well, okay. I certainly appreciate you both being here. I had several other questions, too, but I also have a commitment that I have to go to so, I think, with that I'll end my questions.

I do have some additional questions that I will probably get to you in writing or the Commission staff will on my behalf. If you could answer them as well as you could, I would certainly appreciate that.

Thank you to all the witnesses and the people in attendance today. We'll keep the hearing record open for two weeks if there are any additional comments that anyone would like to submit on this hearing.

With that, the hearing is adjourned.

(Whereupon, at 11:39 a.m. the hearing was adjourned.)

## APPENDICES

PREPARED STATEMENT OF  
HON. STENY H. HOYER, RANKING MEMBER

I commend Chairman Campbell for holding this important and timely hearing. Ukraine has been receiving considerable attention lately as a result of the ongoing political turmoil. The scandal, sparked by tape recordings produced by a former presidential bodyguard that suggest President Kuchma's involvement in the disappearance of investigative journalist Georgiy Gongadze, has called into question Ukraine's relatively positive track record with respect to human rights and democracy. Frankly, we are increasingly troubled by developments in Ukraine, including pervasive corruption, governmental interference in the news media, and the scandal surrounding the disappearance and murder of Gongadze, which has fueled growing opposition in Ukraine.

It is because of this Commission's long-standing interest and support for the Ukrainian people that we find these developments so distressing. I remember well during the late 1980's when I served as chairman, the Helsinki Commission championed human rights in Ukraine when it was still part of the Soviet Union—raising cases of Helsinki monitors, and speaking out against the repression of the Ukrainian churches and the suppression of human rights and freedoms.

High hopes were raised for Ukraine when it became independent. Some were realized, and Ukraine received high marks for dismantling its nuclear arsenal, its treatment of minorities, and its constructive relations with its neighbors. But I must say I am concerned about recent developments—by the direction in which Ukraine may be heading. My concerns were only amplified by last week's dismissal of Prime Minister Yushchenko, a reformer who was not only the most trusted politician in Ukraine, but under whose stewardship Ukraine was enjoying economic growth for the first time in over a decade.

Several weeks ago I attended a leadership meeting of the OSCE Parliamentary Assembly during which the representatives of the Ukrainian Rada expressed great concern about the ongoing political crisis in their country and asked the Parliamentary Assembly to assist in any way it can. Also during that meeting, Georgiy Gongadze was selected to receive the annual journalism prize along with Mr. Lopez De Lacalle, who was killed last year in northern Spain for his writings against the use of violence for political ends. Mr. Gongadze, who disappeared in September of last year, was a courageous investigative journalist who tried to further the values of the OSCE, especially media freedom for which he fought and, as such, he stands as a symbol of the ongoing struggle to achieve full-fledged democracy in Ukraine and the other countries of the former Soviet empire.

Mr. Chairman, I believe it is even more important today that, bilaterally and through the OSCE and other international fora, we continue to encourage Ukraine in its democratic development.

**PREPARED SUBMISSION OF JON PURNELL,  
DEPUTY TO THE ACTING SPECIAL ADVISOR FOR THE NIS,  
DEPARTMENT OF STATE**

Mr. Chairman, we recently commemorated the fifteenth anniversary of the explosion at the nuclear power plant at Chernobyl. The "fall-out" from that blast was not only physical in nature. It was also political. And it was followed within five and a half years by the collapse of the Soviet Union and the creation of new independent states from its embers. Ukraine was at the center of those events and it is reasonable that we take stock, 15 years after Chernobyl, ten years after independence, of where Ukraine is.

Ukraine, with the size and population of France, is a keystone of the region. How is it doing? I will do my best to provide an overview but I would refer you for a detailed view to the State Department Country Report on Human Rights. For now, I can say that the present situation is mixed, but that the potential is unlimited.

I will start with the headlines. For the last few months, they have not been positive, and some of the news has been downright ugly.

In September of last year, investigative journalist Heorhiy Gongadze, disappeared. In November, a body was found, beheaded, in an area known as Tarascha. The body was later identified with near certainty as Gongadze. This incident has spiraled into a full-blown political crisis. Recordings, allegedly made by one of President Kuchma's security officers, surfaced and implicated President Kuchma in the Gongadze affair. The recordings have triggered a debate across Ukraine about media freedom, the pace and transparency of the investigation, and allegations of involvement by Kuchma and other top officials. Other recordings that were released suggested that President Kuchma ordered his police and tax authorities to undertake a broad campaign of threats and intimidation to ensure his reelection in 1999.

Release of excerpts from the recordings led to demonstrations in Kiev calling for President Kuchma to resign. Twice in early March, police used force to demolish tent cities that demonstrators had built in downtown Kiev. Nevertheless, our Embassy in Kiev has reported that, in general, police have acted appropriately and with restraint in responding to most demonstrations.

Woven into the crisis has been the dismissal and subsequent arrest of reformist Deputy Prime Minister Yulia Tymoshenko. All these factors have contributed to a fracturing of the working majority in the Rada and jockeying among political groups. This culminated in a no-confidence vote April 26 that brought down the government of Prime Minister Yushchenko.

All of this is very disturbing, and the United States has urged Ukrainian authorities to deal effectively with these issues. From the first instance, we have counseled the need for a prompt, thorough and transparent investigation into Gongadze's disappearance and murder. Recently, the Government of Ukraine has accepted our offer of FBI assistance in the investigation, including DNA testing which should settle any doubts about the Tarascha body.

We have also stressed the importance of restoring a political consensus for reform, now very much in jeopardy. The political turmoil has threatened the momentum for serious economic reform unfortunately at a time when Ukraine had made its most significant progress since independence. Ukraine is making a difficult transition from central

planning to a market-based economy. In 2000, for the first time since independence, the country experienced economic growth of 5 per cent. GDP may go up as much as 7 per cent this year. We have seen some good steps forward in fiscal policy, budget reform, and the sale of six regional energy distribution companies -- including two to an American investor. The private sector has continued to grow and in 2000 represented 60 percent of GDP.

Nevertheless, this recovery remains fragile, and the economic growth lacks the structural underpinnings for sustainability. Reform is therefore still badly needed in many areas, including privatization, energy and the state budget. The political crisis of which I have spoken prevents the kind of broad political consensus necessary to move forward on these issues. Widespread corruption also stands in the way of reform, and has a debilitating impact upon society as a whole.

As for the general state of democracy and human rights in Ukraine, we have pulled no punches in describing problem areas in the Human Rights Report. The Gongadze case has highlighted problems that were already clearly present in such areas as media freedom or independence of the judiciary. These facts, however, should not blind us to some equally valid general observations such as that Ukraine has made a commitment to democracy and respect for human rights. For example, despite what some analysts feared as great potential for ethnic tension, Ukraine has been sensitive to its minority populations. Ukraine has held presidential and parliamentary elections and has experienced a peaceful transfer of power. These elections apparently reflected the will of the electorate, although there were numerous flaws and irregularities. Ukraine generally protects religious freedom, although there are some problems at the local level, boasts a thriving NGO community, and has a diverse press. The problems concerning media freedom mar this last statement; they do not negate it.

Mr. Chairman, the situation in Ukraine unquestionably offers major challenges. It remains primarily the task of Ukrainians to meet those challenges. As Ukraine takes the necessary steps, we and our European allies are prepared to assist in a substantial way. The gaze of mainstream politicians in Ukraine and most of the population remains firmly westward. As long as Ukraine looks to us and to Europe for its future, as long as Ukraine seeks integration with Western institutions, then we believe that its people will ultimately be able to work out the problems they face.

To that end, we strongly support the work of the OSCE Project Coordinator for Ukraine on human rights legislation, technical assistance for the national council against trafficking in human beings, judicial training and administrative assistance to the courts, and other projects underway. We also support the recommendations issued in the OSCE Media Freedom Representative's March 2000 report on the media situation in Ukraine. I began with Chernobyl and it is fitting to end there. The problems from that tragedy continue to haunt Ukraine which pays dearly every day in health care and valuable land lost to contamination. But progress is being made. Ukraine finally closed the nuclear plant where the blast occurred last December. That was good news for Ukraine and good news for its neighbors. It is a fitting symbol of the progress that can result from cooperation between Ukraine and the international community.

The U.S. remains committed to its partnership with Ukraine in the full range of our bilateral relationship. The ultimate success of this partnership is in large part dependent on effective implementation of reform, both political and economic over the coming months and years. We stand ready to do our part.

**PREPARED SUBMISSION OF YEVHEN MARCHUK,  
AMBASSADOR OF UKRAINE TO THE UNITED STATES**

Ukraine during the years since independence has gained a firm hold of the choice of social and state development strategy. In the foreign policy arena—it is a choice in favor of European integration and active cooperation with international organizations and partner-countries. In the internal arena—it is a choice in favor of the consolidation of our democratic society, ensuring human rights and freedoms and market transformations.

**1. PREDICTABILITY AND CONSISTENCY OF THE FOREIGN  
POLICY**

During the nine years of its independence, which is only a second in the XX century, Ukraine has proven to the world community its ability to implement undertaken commitments and shown a consistency in realizing its non-block foreign policy course. Let me mention some concrete facts, which are already proud parts of Ukraine's history.

Ukraine not only voluntarily gave up the third-largest nuclear arsenal in the world, but has also consistently, with the U.S. assistance, sought to eliminate its stockpile of strategic missiles. Ukraine fully implements the provisions of the main accords in the field of arms control and international non-proliferation regimes.

Ukraine has tried to play an active role in the international security system in the context of the ABM Treaty. We understand peculiarities of the U.S. approach to the problem of "soft adaptation" of the Treaty and Ukraine seeks an opportunity for determining its place in this negotiating process.

Last December, Ukraine closed up the Chornobyl nuclear plant, thus fulfilling a considerable commitment to the safety of humankind. Due to this fact the world now is safer. This step Ukraine made consciously in spite of the significant economic hardships and problems in the energy sector the closure entails.

Ukraine was the first among the former Soviet Union republics who in 1995 signed the Partnership for Peace Program with NATO. Ukraine has actively developed a distinctive partnership with the Alliance in accordance with the Madrid Charter. Recently Ukraine presented in NATO Headquarters the second State Program of Cooperation with the North Atlantic Treaty Organization for the years 2001-2004 which was activated by the President's order in the end of January 2001.

The cooperation with NATO opens for Ukraine additional opportunities to strengthen its national security and to prevent the emergence of new threats to stability and security in Europe. Ukraine hopes for the assistance of the Alliance's member-states in reforming our own Armed Forces, moving them towards European standards, and helping to remove the non-military threats to security.

In 1992, Ukraine became a member of the OSCE and since that it consistently pursues a policy of reinforcing the role and effectiveness of the Helsinki process with regard to strengthening regional security in political, military, humanitarian and other dimensions. The increasing international authority of our state was vividly revealed as well during its Presidency in the UN Security Council (March 2001) when discussing the settlement of various international conflicts.

Ukraine understands that the existence of the conflicts in the OSCE and UN zone of responsibility remains one of the most serious challenges to international security. Because of that it is an active participant in the settlement of conflicts in Bosnia and Kosovo, a mediator in the negotiations in Transdnistria and Abhasia, and has undertaken peacekeeping efforts under the UN auspicious in other regions of the world.

Ukraine has established strategic partnerships with the U.S., the Russian Federation, Poland and a number of other countries. It is a full-fledged member a number of influential international organizations, including: the Council of Europe, the Central European Initiative, the Organization of Black Sea Economic Cooperation.

Ukraine has signed treaties on friendship and cooperation with all its neighboring states. Special attention has been paid to the Treaty with Russia, to the implementation of the Black Sea Fleet arrangements, to determining the status of the city of Sevastopol, and to continuing the process of delimitation the Ukrainian-Russian border. A further step in this direction is the initiative of Ukraine on adopting measures with regard to strengthening confidence and security in the military naval field in the Black Sea basin.

Ukraine takes an active part in creating new European security architecture, which foresees, in particular, the broadening of cooperation in the framework of other European organizations and in bilateral relations. Ukraine links its significant contribution to the process of creating of the sole security space on the continent with the reinforcing of the OSCE role.

Ukraine has consistently adhered to the unchanged course toward European integration and is looking forward to putting this process on a qualitatively new level. The President of Ukraine restated this when approving the resignation of the Government last week. When Ukraine considers entering the EU it believes that this long-term objective will stimulate the development of the internal resources and internal potential, in particular in the direction of forming a strong civil society, democratic political system, and functioning market economy.

A very important aspect of Ukraine's European integration is the seeking of its own place in the European economy, especially under the conditions of the development of common functioning of energy systems. Ukraine has considerable transit capacity and powerful gas and oil pipelines systems, which enables it to become a full-fledged participant in any energy dialog between Brussels and Moscow.

Ukraine considers as a priority and consistently stands for the thorough realization of the OSCE summit's decisions in Istanbul, Turkey regarding the backing of integration in the world economy of the OSCE member-states in transition. The effectiveness of the joint actions on this direction influences the intensity of the integration process in the OSCE region as well as the efficiency of adherence the countries of the region to European values.

The balance of approaches and predictability of initiatives characterize the current state of Ukrainian-Russian relations. The main issues of today's dialogue with Russia have an economic dimension. Other issues have a more residual influence (the legal status of Russian Black Sea Fleet stationed in Crimea, non-settlement of the sea section of interstate border) or, on the contrary, become topical questions (humanitarian field or geopolitical choice).



We forecast those economic relations between Moscow and Kyiv in the medium-term perspective will be the determining factor in Ukrainian-Russian relations. In this regard, the main issue remains the effective solving of the debt problems for Russian energy resources, which continue to mount. The fact that the April (2001) heads of state meeting between Ukraine and Russia was dedicated in large part to discussing the issue of supplies of Ukrainian pipes confirms this conclusion.

Ukraine does not support the concept of institutionalizing multilateral-regional-interstate cooperation aimed at creating supranational structures of federal or confederate nature on the post-Soviet Union space. Ukraine does not participate in the activity within the Treaty on Collective Security of the CIS-member states and did not adhere to the Union State of Belarus-Russia.

At the same time we take into consideration that the Russian Federation continues systematically to develop a new foreign policy toward the post-Soviet Union and European region. This policy demands careful analysis and shaping a position on this matter on the part of both Ukraine and the United States of America.

## **2. PRIORITIES AND PERSPECTIVES OF THE UKRAINIAN-AMERICAN RELATIONS**

Ukraine's foreign policy course aimed at European integration will be efficient only if it is in harmony with a predictable policy of good relations with all Euro-Atlantic partners.

We consider our relations with the United States of America an important priority of Ukraine's international relations. It means that Ukrainian-American relations are based on solid foundations and are not dependent upon those in power in our respective countries. According to the Budapest agreements of 1994, the United States is the guarantor of security of Ukraine.

The path the two countries have covered to attain the present level of strategic partnership relations declared in October 1996 was far from being easy and unhindered. We had to overcome a complex series of problems in 1991-1992, when the U.S. was skeptical about very idea of an independent Ukraine, arguing that it would not fully correspond to the national security interests of the United States.

Luckily after a very brief period of mutual misunderstanding, the sides reached the realization that such an approach would only lead to a dead-end and would hinder "democratic partnership". Signing of the Charter of Partnership, Friendship and Cooperation between Ukraine and the United States in 1994 became a turning point for the U.S. policy towards Ukraine. Since then, our relations have embarked upon the road of strategic partnership.

At a new stage of our cooperation, with the arrival to power of the new Republican Administration, along with the 107th Congress, Ukraine looks with optimism at the future of the Ukrainian-American relations. We believe that the U.S. policy towards our nation will continue to be based upon the mutual understanding that strengthening democracy, economic reforms and independence of Ukraine is both of paramount importance for the national interest of the United States, as well as for the perspectives of European and transatlantic security and stability.

Our relations require new dynamism in light of the election of President George W. Bush. New perspectives, which are promising a fresh look at the strategic partnership, appear for the deepening of relations between Ukraine and the U.S.

We hope that the policy of the President Bush's Administration towards Ukraine will indeed be strategic and will not become a hostage of the secondary issues and unfriendly acts aimed at each other. The Ukrainian side shares a pragmatic approach in the field of foreign policy of the new Cabinet. The United States has also significantly supported and assisted Ukraine's course of European integration.

That is why we look forward to support from the new Administration. At the same time we realize, that any support from the United States will depend on our ability to settle present internal problems and advance along the road of democratic reforms. It's natural that present internal problems in our society continue to influence America's attitude towards Ukraine. However, one has to take into account one simple thing: scandals have to be taken into consideration according to their real scale and meaning not to undermine long term prospects of cooperation.

The U.S. as a prominent leader in the field of information society could significantly assist Ukraine in developing its mass media, establishing system of spreading around the world trustworthy information about Ukraine.

The existence of active and close relations with Ukraine corresponds to the interests of the United States. Ukraine is located at a strategic crossroad of Europe and Asia. Developments in Ukraine directly influence both neighboring nations, as well as overall European stability.

Ukraine and the United States have undertaken commitments on some fundamental issues. Both nations wish to see the European continent stable and peaceful. Ukrainian-Russian cooperation will undoubtedly make Europe more secure and our progressive development in this direction corresponds to goals of our partners in Europe and the U.S. Ukraine and the U.S. have to work together to make control over the weapons of mass distraction more secure.

The UN Security Council, which Ukraine recently successfully chaired, is the very international body where two countries closely cooperate. We share general positions on such problems as the fight against international terrorism. We are ready to promote to the fullest extend possible the ability of the Security Council to take adequate and timely actions with regard to conflicts around the world, fight drug trafficking, etc.

Strategic partnership welcomed by Ukraine and the United States requires a sound economic and trade base. Commitment to create such base was confirmed by Ukraine's leadership and previous U.S. Administrations. We have innumerable evidence that this confirmation was sincere and businesslike. We are fully aware that the democratic and market transformations in Ukraine are in the interest of the United States. This leaves little doubt about continuing the above mentioned policy line.

During the 9 years of its independence, Ukraine has received almost \$ 2 billion worth of American assistance. We are grateful for this vitally important assistance, which has contributed to our survival under dif-

difficult conditions since the establishment of independence. We understand that businesslike partnership must become a key element of our relations with the United States and the rest of the world.

We hope that Ukraine's future membership in the WTO will give us the possibility to join a world community that is being guided by civilized and generally recognized rules. We are grateful to the U.S. government's assistance to Ukraine in joining the WTO. We also count on continued U.S. experts' assistance in general, though specifically in the fields of products standardization and certification and intellectual property rights protection.

We are serious in making Ukraine attractive for foreign investors. We are indeed concerned with a number of things which make Western investors look with precaution at the possibility of investing in Ukraine. We understand that Ukraine ought to learn how to encourage foreign investors to compete for a place at our market.

The "Sea Launch" project has become a wonderful example of the potential of our high tech sector. By providing the most essential components—missiles, Ukraine together with the United States, Russia, Norway takes part in launching commercial satellites. "Sea Launch" is seen in Ukraine as an extraordinarily important business that confirms, in spite of all economic difficulties, that Ukraine was and remains capable of preserving and developing its scientific and technological potential.

Cooperation in the field of space exploration is one of the priorities of bilateral relations. Ukraine is interested in participation in the work of the international space station, joint space science projects, communications networks and in developing new carriers.

Regretfully our trade and economic relations are not without problems. First of all, Ukraine puts its hope on constructive role of the U.S. government in supporting our nation in receiving permanent normal trade relations status and recognizing Ukraine as a market economy state.

Abandoning Jackson-Vanik is long awaited. All necessary preconditions have been fulfilled by Ukraine. It's not only Ukraine who will gain from such decision of the U.S., but also American exporters.

U.S. markets remain closed for some Ukrainian products because of the import limitations and undue anti-dumping sanctions. There are some contradictions in this policy. How can one speak about advantages of open markets while at the same time pursue a policy that closes markets for Ukraine? It is in the interest of business relations between our nations that these problems must be solved. It will indeed help Ukraine, and will help American businessmen gain greater access to Ukraine's market.

Recently a group of American Congressmen visited Ukraine. This meeting left no doubts that Ukraine has genuine friends among American legislators and that potential for our cooperation is extraordinarily high. It gives grounds to hope that Ukraine and the United States will continue to make the right choice in the future—whenever Ukraine finds itself at a crossroads it will find here genuine friends.

We believe that the U.S. policy towards our nation will continue to be based on mutual understanding and that strengthening of democracy, economic reforms and independence of Ukraine is both of paramount importance for the national interest of the United States, as well as for the perspectives of European and transatlantic security and stability.

Ukraine's foreign policy activity is transparent and consistent. It makes us a predictable partner for the international community. We speak the same language with Moscow, Brussels, and Washington. That's the language of our national interests.

### 3. DOMESTIC POLITICAL SITUATION IN UKRAINE

Far-sightedness, consistency, and confidence in implementation of the international obligations assumed by Ukraine would be impossible without consecutive domestic policy, aimed at establishing the principles of democratic society, ensuring human rights and freedoms, and economic market reforms.

The international community has been carefully following political developments in Ukraine surrounding the disappearance of journalist Georgiy Gongadze, along with the so-called "tapes scandal" and the recent dismissal of the Government.

Before the latest events unfolding in the country Ukraine was regarded as an island of stability in the post-Soviet sphere. Ukraine has managed to avoid bloodshed, serious inter-ethnic, inter-faith and social conflicts. High-ranking American officials and respected analysts have repeatedly stated that the situation in Ukraine regarding ensuring human rights and civil liberties is considerably better compared to other post-Soviet republics.

So, what caused the aggravation of the current situation in Ukraine?

The current political situation is predicated on an all too common difficulty of establishing a modern, democratic state, and fighting between different corporate-economic groupings for the sphere of influence.

Different factors have contributed to this conflict's development, including an under-developed and non-structured civil society and the lack of updated regulations to harmonize the interests of various political and economic groups.

Absence of the democratic mechanism of functioning of the old (communist) and the so-called new opposition that emerged only half-a-year before has considerably added to the escalation of the political situation in Ukraine. Opposition forces united all the variety of the of representatives from different, sometimes even opposite contrary political views, including not only right- and left-wing groups, but also supporters of the revival of the USSR and those who call for Ukraine's entry to NATO.

The processes of grand privatization also contributed to the aggravation of the political situation. They were followed by the clash of not only private interests, but also state, interstate and even geopolitical interests.

Appearance of the destructive potential of the domestic and geostrategic factors finally determined the peculiarities of the current political crisis development.

Confrontation between the Government and the Parliament, an unprecedented interest of the world community to the conflict settlement process are the signs of this crisis. It is very difficult to reach consensus between the power and the new opposition. Such situation indicates difficult and contradictory processes of self-determination of the Ukrainian new opposition which still declares impossibility of dialog with power. At the same time, more new political groups are emerging in the Ukrainian political environment. A new generation of politicians has come into sight. They are not burdened with the totalitarian past, and declare their adherence to democracy and European choice.

It appears to be anachronistic when certain political forces make attempts to lay the blame for all the troubles in the country on the representatives of big business, often referred to as “oligarchs”. The citizens of Ukraine and the international community are pushed to believe in the “bloom of communism and oligarchism in Ukraine”, a myth based only on the situational coincidence of interests of a wide spectrum of political forces on the Government policy. But that myth revealed its false nature as soon as the inter-factional discussions over the formation of new government began in the Parliament.

I also want to remind Ukraine’s most severe critics of the fact that the Parliamentary majority formed last year came about due to their initiative and the most active participation of the Parliamentary factions. Only because of the ardent support offered by the same “oligarchs” V.Ushchenko was elected as Prime Minister and the Government Program was approved.

Due to that majority the work of the Parliament was organized in a constructive way and the Parliament passed many important legislative acts such as criminal and tax codes, and a new law on political parties. The above-mentioned factions provided strong and constant support to the legislative initiatives of the Government.

The problem that remains is determining a way out of the current political crisis. I believe it is counterproductive to assign blame. The critical step now is to understand in Ukraine and abroad the possible long-term consequences of the current crisis so that we can work for their prevention.

The instigators of the “tape scandal” have indeed demonstrated revolutionary methods of acting out. As a result of that, political forces were involved that are in a severe confrontation with the incumbent President of Ukraine.

Confrontational actions have been intensified by political extremists and quasi-fascist groups who joined the opposition. Thus, violent clashes on March 9, 2001 in Kyiv between protesters and law-enforcement officers unfortunately became the logical continuation of opposition policy. All the events occurred on a sacred day for Ukrainians - the anniversary of Taras Shevchenko’s birthday.

Such tendencies pose a serious threat to the further democratic development of Ukrainian society. The “revolutionary movement” against the President may transform into a “revolutionary movement” against Ukrainian statehood. That would imply the destruction of the Constitutional structure, the hampering the process of political consolidation, the erasure of effective power functioning in Ukraine, and further political elite marginalization.

Parliamentary hearings held in April 2001 devoted to the Statement on former Prime Minister Ushchenko’s Government activity, as envisaged by the Constitution of Ukraine, became yet another test to the democratic essence of Ukraine’s power structure. Political infighting sparked by that procedure by newly-elected opposition representatives led to the further polarization of political forces. They even created an anti-American and anti-Russian atmosphere in and outside of Parliament. A further exacerbation of the conflict, based upon the upcoming parliamentary election campaign in Ukraine may have dangerous consequences for both the internal and foreign policies of Ukraine.

The Ukrainian political system is by no means perfect. It is not authoritarian any longer, but it is not fully democratic. We have to acknowledge that we are behind in our reforms. It is one of the most urgent tasks of the current Administration. That is why on the instruction of the President a group of highly qualified specialists is elaborating a new conception of reforming political system.

Executive power focuses its work on searching for an effective mechanism for fighting abuses of power. A package of measures has already been worked out. It is aimed at fighting the shadow economy, corruption, other illegal actions in social and economic spheres, ensuring the proper expenditure of the state funds. The anti-corruption committee chaired by the President of Ukraine will provide organizational framework for implementation of these measures.

On condition of the further development of political conflict, Ukraine faces the necessity of protecting its strong democratic gains. Is it possible to implement the ideas of "sustained democracy" in Ukrainian society or is Ukraine doomed to oscillate between absolute non-freedom and complete chaos? There are no perfect answers to those questions. The essence of the present dialogue between the present Administration and political forces in Ukraine, including new opposition, lies in the search for those answers.

#### **4. FURTHER PROTECTION OF HUMAN RIGHTS AND FREEDOM OF SPEECH**

The current political situation in Ukraine has drawn increased attention to the protection of human rights and freedoms, in particular the freedom of speech and media.

Under such rather difficult conditions, the reformist forces in Ukraine have taken measures to ensure international standards in the field of human rights and freedoms in the country. In particular, a relevant legal basis has been developed. In 1996, the Constitution of Ukraine was adopted, which implemented the basic provisions of international legal instruments on human rights.

In 1997, Ukraine ratified the European Convention on Human Rights and the European Convention against Torture.

The Constitutional Court of Ukraine and the Supreme Council of Justice perform their functions intensely. An Ombudsman institution has been established at the Supreme Rada of Ukraine. In 1999, Ukraine adopted the Guidelines of the State Policy in the Sphere of Human Rights and Freedoms, which is a framework document on human rights protection.

In 2001, the Supreme Rada repealed the use of capital punishment. The penitentiary system is being reorganized and the penitentiary bodies have ceased to be subordinate to the Interior Ministry.

The 1996 Constitution of Ukraine envisages the development of a new judicial system to be in full compliance with European standards and Ukraine's international commitments and providing conditions for real protection of human rights. The Courts of Appeal have to become a new institution for Ukraine, playing a critical role in the national human rights protection system. Courts are playing a greater role in protection of human rights in criminal matters, as well.

Strong tolerance of ethnic minorities is Ukraine's undeniable asset. In 1997, Ukraine adopted the Law On Ratification of the Council of Europe Framework Convention on Protection of National Minorities.

The draft law On Rehabilitation of Persons Originating from National Minorities Who Were Subject to Repressions and Deported from the Ukrainian Territory and Ensuring their Rights has been developed. It aims, inter alia, at remedying the injustice done to the Crimean Tatar people under the Communist regime.

As of today, Ukraine is a party to 300 multilateral agreements (including conventions). However, because of internal political difficulties, Ukraine up to now ratified only 30 out of 173 European multilateral agreements. This was the main reason behind the strong criticism of Ukraine by the Council of Europe Parliamentary Assembly.

This criticism is not too pleasant for us. But it has only strengthened the determination of Ukraine's political elite to implement the European standards into Ukraine's legislation more actively. Moreover, today a number of NGOs are working to this end becoming more visible at Ukraine's political and social landscape.

Under Ukrainian law, public life in the country is based on the principles of political, economic and ideological diversity; censorship is forbidden; everyone has a guaranteed right to freedom of thought and speech, free expression of one's views and convictions, to freely choose, collect, retain, use and disseminate information through various means at one's discretion. These standards have been developed and specified in more than 110 regulative and legal documents, such as Laws, Orders of the President of Ukraine and Decrees of the Cabinet of Ministers.

One cannot but acknowledge the fundamental changes that took place during the years of Ukraine's independence in the functioning of the system of mass media towards their democratization and removal from ideological dictates. The number of periodicals, TV and radio broadcasting companies has increased dramatically. The Internet has also become more accessible.

However, relations in the triangle of "society-media-state" continue to develop, sometimes with difficulties and conflicts. The main problems in this area arise from the underdeveloped informational environment in the country, especially as the purchasing power of the population remains low. Here is a typical example of that—Ukraine has only one news agency office abroad—in Brussels, and only one Western newspaper, *The Financial Times*, has been fully accredited in Kyiv. The United States, as an acknowledged leader of the information society, could extend essential assistance to Ukraine concerning mass media development and establishing a system of dissemination of reliable information about Ukraine throughout the world.

Today, Ukraine critically requires developing conceptual principles and a strategy for a national information policy. The latter should envisage ways of addressing the issues concerning the strict observance of the adopted standards by subjects of informational relations, first of all, state-run public authorities of all levels. It is in this sphere that violations occur, giving rise to justified criticism of journalists and representatives of the public, as well as warnings on the part of international and European organizations.

The state sees its major function in the media-related policy in establishing equal conditions for economic activities that would encourage competition and protect the sector from monopolization, while taking into account national interests and the needs of the domestic market. To this end, a planned review of the taxation policy, customs and other

regulations is foreseen. We also seek to improve the investment climate in the field of information. The authorities have renounced the practice of selective and biased approach to mass media on the part of the fiscal and other controlling executive agencies. The recently established Council for informational policy at the President of Ukraine monitors these activities.

Ukrainian authorities are seriously concerned with the reported cases of death or disappearance of mass media representatives, most of such cases with motivation unclear. Therefore, any attempts on the lives of journalists have since been subject to highly scrutinized investigation to find out if there was any connection with performance of their professional duties.

The President of Ukraine has signed the Order On Additional Measures to Prevent Disappearance of People and Improve Interaction between Executive Law Enforcement Agencies in Searching for them. In pursuance of the Order special permanent investigative operational groups have been established at the Interior Ministry agencies to immediately respond to crimes and offenses, including those involving mass media activities and journalists.

There is understanding in Ukraine that informational openness of the government structures, public awareness of actions and intentions of the authorities is a sine qua non for successful democratic transformations. However, one should not conceal the negative factors that have been strikingly outlined under the present-day conditions.

First of all, this refers to the fact of serious distortions of the situation in certain media publications both in Ukraine and in the West, the attempts to dramatize the current political conflict and to introduce the element of cynicism and catastrophe into mass consciousness. As a result, both the Ukrainian and Western public have been frequently misinformed as to the reality of events in Ukraine.

The authorities are ready to do what they should in order to civilize the relationship with the mass media. Still, much depends on the media themselves, as well as on their founders and owners. Media should only act in compliance with standards defined by law and democratic principles of the ethics of journalism. The relations of mass media with both the authorities and readers, viewers and listeners, as well as the level of public trust to media will depend on that.

On the whole, under unbiased approach, one cannot but acknowledge cardinal changes towards democratization and freeing the media from the ideological dictates. Ukraine is steadily moving towards that end.

Ukraine still has a lot to do to advance towards democracy, ensure rights and freedoms of its citizens, and boost market transformations. The authorities realize this and will spare no efforts to make Ukraine a modern prosperous and democratic country in the 21st century.

The authorities are certain that in Ukraine we will successfully surmount all obstacles on our way to further European integration, while the United States will always have Ukraine as its real and reliable partner. I hope that the Congressmen will share this conviction of mine.



**PREPARED SUBMISSION OF ADRIAN KARATNYCKY,  
PRESIDENT, FREEDOM HOUSE**

Mr. Chairman, members of the Commission on Security and Cooperation that you for inviting me to address this hearing on Ukraine ten years after independence.

I am president of Freedom House, an organization that monitors political right and civil liberties around the world. With support from the US Agency for International Development and private foundations, Freedom House works in a number of societies in transition away from tyranny and toward democratic rule. We maintain offices in six Central and East European countries, including Ukraine, where we promote Polish-Ukrainian collaboration on reform issues and assist Ukraine's pro-reform public policy think tanks.

I believe this broad range of work gives us important firsthand insights into the processes of change in the strategically vital European country that is the subject of today's hearing.

I think that most neutral and objective observers would have to say that in its first decade of independence, the state of freedom in Ukraine and Ukraine's record of progress toward a competitive market economy and an open democratic society has been disappointing.

Disinformation emanating from state television in Ukraine and from some of the broadcast and print media has reached an appalling scale. In recent weeks, many of Ukraine's media have added to their already shameful record of distortion. Media controlled by oligarchic groups conducted a campaign of invective against Prime Minister Viktor Yushchenko and his American-born wife by disseminating stories that had originated in Russia. State television was no better. Ukraine's government-owned UT-1 channel reported on a "so-called Brzezinski Plan, which aims to give the U.S., the self-acclaimed bastion of democracy, the capacity to keep Ukraine on a short leash, as well as stifle cooperation with Russia." That preposterous story suggested that the plan, allegedly inspired by former U.S. National Security Adviser Zbigniew Brzezinski, had three stages: 1) weakening Mr. Kuchma and empowering Mr. Yushchenko; 2) neutralizing Mr. Yushchenko's presidential rivals; 3) provoking a conflict between Ukraine and Russia.

Such crude propaganda deserves careful monitoring, for it reflects a growing uncertainty and nervousness within segments of the ruling Ukrainian elite. In the coming months, as a power struggle unfolds among forces jockeying for influence at a time when President Kuchma is weakened by scandal and the erosion of support, the media are likely to be a principal tool of unscrupulous power-seeking political forces and journalists are likely to be placed under even more intense pressure and harassment than heretofore.

Last Thursday, ironically the 15th anniversary of the Chernobyl nuclear disaster, Ukraine's parliament overwhelmingly passed a "no-confidence" vote against Viktor Yushchenko, the country's highly effective prime minister. The toppling of a reformist prime minister has set in motion a period of intense political jockeying and high uncertainty that may result in the consolidation of political power by several political factions controlled by the country's economic oligarchs.

The removal of Prime Minister Yushchenko (who may stay on as a lame duck for the next two months) was not dictated by economic failure. A former head of the Central Bank, Mr. Yushchenko, was the first effective head of government in the 10-year history of Ukrainian inde-

pendence. He kept inflation in check and accelerated the privatization of agriculture, while steering the country to a rise in GDP of 6.3% over the last 12 months, eliminating longstanding wage and pension arrearages, and increasing pension payments. Ukraine's industrial production soared, powered by the growth of its food processing and consumer goods sectors.

These policies and accomplishments made Mr. Yushchenko Ukraine's only widely popular political leader. His dismissal was opposed by a 52 percent to 23 percent margin, according to public opinion polls conducted in March. But Mr. Yushchenko's reassertion of control over Ukraine's corruption-riddled energy sector had angered a small group of oligarchs whose political parties represent over 20% of the seats in the country's fractious parliament. The loss of more than \$1 billion annually in ill-gotten energy receipts led the economic magnates to act.

Parties controlled by oligarchs broke from their fragile alliance with reform parties and joined in a tactical bloc with the country's retrograde Communist party to bring down the government. Their action was facilitated by the growing political weakness of President Leonid Kuchma, who is embroiled in a widening crisis of his own. The president's troubles have been precipitated by a steady flow of revelations of alleged corruption and criminal activity from tapes of what appear to be private conversations he held with his political cronies.

Mr. Chairman, the current crisis in Ukraine is integrally associated with the disappearance and likely murder of the internet journalist Heorhiy Gongadze, whose decapitated and badly decomposed body was found near a town outside of Kiev in November last year.

The Gongadze case has emerged as an international human rights cause celebre because it embodies all the elements of misrule that ail Ukraine: corruption at the upper echelons of power; harassment, intimidation, and surveillance of the media and democratic groups in opposition to President Leonid Kuchma; and the blatant disregard for the rule of law and the politicization of the upper reaches of the procuratorial, police and security services, which have obstructed justice in this case.

In addition to embodying the many deficiencies in Ukraine's democracy, the Gongadze case is linked to the "Kuchmagate" tapes. Indeed, the catalyst for Ukraine's political crisis was the disappearance on September 16, 2000 of Mr. Gongadze, whose investigative journalism succeeded in angering the country's small coterie of corrupt oligarchs by reporting on their financial machinations.

On November 16, 2000, a headless and badly decomposed body was found in the town of Tarascha, near Kiev. Gongadze's friends were tipped off to the appearance of a body and obtained information from a preliminary autopsy by a local investigator (later subjected to intimidation by the country's Prosecutor-General) that suggested the body was the journalist's. Within hours of their arrival, the body was surreptitiously removed from the morgue and after several days, it resurfaced in Kiev.

In the days that followed, the Prosecutor General's Office declared the body had been dead far longer than two months. Later government investigators declared the body was too badly decomposed to determine identity. Ukrainian officials also announced there had been sightings of Gongadze in other countries and issued an Interpol alert for the missing journalist. But Gongadze's colleagues and family launched a public campaign and law suits to press authorities for a complete investigation of the body.

The Gongadze case became an issue of great domestic concern and international attention because it galvanized press and human rights groups that feared it was setting a dangerous precedent in a country where numerous journalists are subjected to threats and violence. It assumed politically seismic proportions on November 28th, when the leader of the Socialist Party and former Parliament Speaker opened the doors to Ukraine's greatest political crisis in ten years of post-Soviet independence. Moroz told a stunned parliament he had audiotapes of conversations between Ukraine's President Leonid Kuchma, his chief of staff, the head of State Security, and Interior Minister that suggested complicity in the disappearance of the journalist.

The conversations heard by parliament were laced with obscenities, crude humor and even a dose of anti-Semitism. They depicted a President obsessed with muzzling Gongadze and other media critics. At one point, President Kuchma speaks approvingly of deporting Gongadze to Georgia (the reporter had Georgian and Ukrainian roots) and approvingly suggests kidnapping and handing him over to the Chechens. "Grab him, strip him, leave him without his pants, let him sit there," the voice of the President appears to urge his Interior Minister.

In the tapes, a voice that resembles Kuchma's complains about numerous publications critical of his administration and listens to detailed reports from the security services about efforts to harass and intimidate media critics. At one point, Interior Minister Yuri Kravchenko (since dismissed) reports to Kuchma about an elite unit engaged in dirty tricks and harassment of the media and political opponents. "This unit, their methods, they're without morals, they don't have any principles," the Interior Minister boasts. "My group is beginning to stifle [Gongadze]. And with your permission I will also talk with [head of the Tax Service Mykola] Azarov," the Minister notes, apparently seeking sanction for harassment through tax inspections. Ukraine's top police official also brags to the President about an act of arson against a distributor of anti-presidential newspapers. Each of these conversations, apparently recorded in the summer of 2000, is corroborated by real events. The opposition newspapers discussed in the conversations had their print runs confiscated by authorities and editors, journalists, and distributors were harassed.

Initially, President Kuchma maintained a silence about the tapes, while his aides declared them fabrications. For six weeks, Ukraine's Prosecutor General claimed the President could not have been taped, as his security system was ironclad. More recently, authorities have acknowledged their authenticity, but this Sunday President Kuchma told CBS "60 Minutes" reporter Steve Kroft that the tapes had been altered to incriminate him, even as he declared that he has not listened to them.

In December and January, the authorities stonewalled on the identity of the headless body. But by February they relented as DNA tests in Russia showed a more than 99.9 percent match and the tape scandal broadened. The source of the tapes was revealed to be Mykola Melnychenko, a 34-year old officer assigned to the President's security detail. Major Melnychenko, a decorated and highly trusted official, claimed he had used a digital recorder to tape the President's conversations over a period of a year-and-a-half. The FBI has now been brought into the case and is attempting to make its own independent determinations of the forensic evidence in the Gongadze case.

Public opprobrium has mounted as the contents of the tapes—which Melnychenko now says consist of many hundreds of hours of conversations—began to filter into Ukraine through US-funded Radio Liberty and through Ukrainian re-reporting of stories by Western newspapers. Ukraine's media, mostly controlled by President Kuchma and a small clique of sympathetic oligarchs, could not ignore the steady flow of sensational revelations.

The tapes released so far—a small portion of the recordings—include alleged conversations in which a governor offers the President's family a 25 percent share in a factory soon to be privatized. There are discussions between the President and his security and law enforcement ministers about intimidating judges, shutting down the Ukrainian services of Radio Liberty and the BBC, and interfering in criminal investigations. There is a discussion in which the head of the State Tax Administration tells the President how he is covering up of a multimillion-dollar tax fraud by a friendly oligarch. Additional conversations contain explicit orders to ensure local officials deliver the vote Mr. Kuchma wants in the 1999 presidential election.

Because the tapes were digital recordings, their authenticity remains a matter for further inquiry. Western technical experts say it cannot be completely excluded that some portions of the tapes could have been altered at a professional level by a foreign or Ukrainian security service. But the sheer volume of the data suggests that the source is authentic. Moreover, President Kuchma—whose aides at first denied he was taped—now admits that the voice and the crude conversational style are his. He claims the tapes have been altered, however, to include incriminating details. But despite such denials, the behavior of the President's inner circle has only reinforced public sentiments that the conversations are authentic. Indeed, if the tapes are distortions and the subject of a political plot, President Kuchma should do everything in his power to openly and transparently prove this. Regrettably, he has not. Parliamentarians examining the tapes have been harassed and legislation that would empower parliament to have the resources to conduct significant investigations of alleged official crimes and misconduct has been blocked and vetoed by the President.

At the same time, corroboration of some taped conversations has come from parliamentary deputies and journalists whose meetings with the President were recorded.

Polling suggests President Kuchma is well on the way to losing the battle for the hearts and minds of Ukrainians. Today, less than one in eight Ukrainians today believes the President's claim that the tapes are falsifications, while 25 percent are already convinced the tapes are authentic.

At the same time there has been a further decline in Mr. Kuchma's already low approval ratings and an erosion of confidence in Mr. Kuchma to the point that by February 2001, only 11 percent of the public trusts him, while 53 has absolutely no trust in the president. A steep decline in public confidence in the security and law enforcement authorities is also reflected in new polling data. A February 2001 poll by the Socis Company shows that only 5 percent of the population is content with the current state of affairs in Ukraine, while 95 percent registers disapproval.

Frequent demonstration organized by a broad coalition of political parties have drawn up to 20,000 protestors and brought a new generation of student activists to protest politics. These numbers are expected to swell when—after long delay—the funeral of the murdered journalist Gongadze is held.

Tent cities that sprouted around Ukraine in the winter were attacked by unknown groups of thugs (one calling itself the Anarchist Syndicate) and dismantled by police. Several demonstrations have included significant violence, which protest organizers say were incited by plain clothes security operatives infiltrating the opposition ranks. Demonstrations in regional centers have been disrupted. Leaders of the nascent "Ukraine Without Kuchma," the broad-based "Forum for National Salvation," and other opposition groups have been openly followed by plainclothes operatives and surveillance has been reported of oppositionist by operatives using unmarked cars. Anti-Kuchma parliamentarians have been under surveillance by plain clothes operatives in unmarked cars, although the shadowing of legislators is prohibited by Ukrainian law.

Contributing to public anger and cynicism has been the behavior of the authorities—and the conduct and performance of the President—in addressing the crisis.

Indeed, despite declarations from President Kuchma that he wishes to have a thorough investigation of the case, the actions of Ukraine's ministries of internal affairs and national security, the Procurator-General's Office and the Tax Administration suggest they are impeding the search for the truth, refusing to cooperate with the parliament in its oversight functions, and intimidating those involved in independent investigations. And in December 2000, President Kuchma again vetoed a bill on committees that would have given the parliament broad investigative powers and the resources to pursue such inquiries. Instead of supporting parliament's investigative authority, Ukrainian authorities have harassed parliamentary deputies from a special investigative commission on the Gongadze case, and routinely shadowed and intimidated legislative staff involved in investigating the tape scandal. On March 7th, President Kuchma's National Security Council Secretary Yevhen Marchuk (a former KGB general) declared: "No-one else should interfere with the investigation into Gongadze's case..." apart from Ukraine's Prosecutor-General's Office. General Marchuk further charged that "when the parliament put the case on the agenda for public discussions, this inflicted quite serious damage on the investigation".

Despite compelling evidence of obstruction of justice by Prosecutor-General Mykola Potebenko, the President has rejected calls to remove him from office. And despite serious allegations of criminal behavior against the Minister of Interior—implicated on the tapes in the disappearance of Mr. Gongadze—there has been no arm's length investigative body established by President Kuchma, even as there is growing evidence of the Interior Ministry's efforts to impede the investigation of the Gongadze case. A forensic scientist examining the DNA evidence in the Gongadze case was intimidated by Ukrainian interior police. And a physician who was assisting in an independent DNA analysis of the Tarashcha corpse is now seeking asylum in the United Kingdom after threats against his life.

While both the interior minister and the head of the state security service have been replaced, there has been no explanation for their removal, no evidence of a transparent investigation, and there have even been suggestions that they may be rewarded with other positions in government.

Three days after it was reported that my organization, Freedom House was assisting the Vienna-based International Press Institute in taking a look at the digital tapes evidence, our Kiev office received a letter from Ukrainian tax authorities announcing an inquiry into Freedom House's office and pro-democracy activities in Ukraine in connection with an unspecified criminal case. Instead of welcoming this and other Western efforts to assist Ukraine's parliament in investigating the matter, President Kuchma has denounced such cooperation. I should note for the record that the head of Ukraine's tax service is simultaneously the head of a political party, the Region's of Ukraine, and a potential candidate for the post of prime minister. Despite his access to the complete financial records of all his potential political rivals and opponents, apparently neither the President nor the Ukrainian parliament appear to see in this any potential conflict of interest or the danger of politicization of the tax inspection services.

If President Kuchma is innocent of the serious abuses of power, he has been extremely ill served by his closest advisors, whose behavior suggests they are intent on covering up serious crimes and abuse of power. Their actions have created the impression of a wide-ranging cover-up.

Moreover, the content of the tapes reinforces what many Ukrainian reformers and foreign governments have long believed, the Mr. Kuchma sits at the top of a corrupt, perhaps, criminal structure of power. Whether he directs this system or is trapped by the structure of corrupt power is a matter of conjecture. What is clear is that President Kuchma and his security officials have tolerated or failed to put in place safeguards that would prevent the wide scale looting of Ukraine's treasury through tax evasion, illegal siphoning of state revenues, and corrupt insider privatization.

For years, the U.S. and other Western government for years had been pressing Mr. Kuchma unsuccessfully to sever his links with allegedly corrupt oligarchs. Indeed, when President Kuchma visited the US in November 1999, the US Embassy refused to issue visas to oligarch Oleksander Volkov, a close ally of the President. Now Mr. Kuchma's callous indifference to alleged corruption in his inner circle is coming home to roost and is reinforcing the belief that he is corrupt himself.

The cascade of sensational revelations is not likely to end. Parliamentary deputy Taras Chornovil (whose father was leader of the Rukh, the civic movement that pressed Ukraine toward independence and who died in an auto crash some believe was an assassination) was told by the President's Representative to Parliament that Mr. Kuchma routinely taped his meetings as a means of record keeping. It may turn out that Major Melnychenko—now somewhere in the United States from which he has received refugee status—may not have recorded Kuchma's conversations surreptitiously, but copied recordings from the Presidential archives. This would explain the dismissal of State Security chief Leonid Derkach—rumored to have been responsible for setting up the recording system.

In addition to the tapes, reliable sources report that parliamentarians possess documents relating to President Kuchma's own financial accounts and transactions, which they are readying for release at an appropriate moment. Proceedings in a San Francisco court related to the US attorneys indictment of Pavlo Lazarenko, President Kuchma's erstwhile Prime Minister, allege that Mr. Lazarenko transferred over \$ 114 million into US bank accounts alone over an 18-month period. Mr. Lazarenko's attorney says he is ready to provide additional revelations on the President Kuchma's financial dealings. Another source may be Mr. Lazarenko's former moneyman Petro Kirichenko, arrested last summer in Tiburon California where he had helped Mr. Lazarenko to purchase a \$ 7 million home belonging to the actor Eddie Murphy.

The mounting scandal is of crucial significance. Rather than feeding apathy and indifference, it has become a catalyst for pro-reform civic forces, now organized around a youth- and student-led movement called, "For Truth." These civic forces reflect the emergence in Ukraine of a new generation of activists, many of them emerging from the country's elite campuses. And while civic action and parliamentary opposition will not necessarily lead to the near-term removal of President Kuchma from office (it should be pointed out that he has still not been impeached and charges against him have not been brought in a formal judicial process), it is likely to lead to the emergence of a potentially crucial new factor in Ukraine's political life, a broad coalition committed to honest government.

The ongoing crisis also is contributing to parliamentary and public momentum in favor of diminishing the vast and unregulated power of the Ukrainian presidency. Thus, the crisis can also be the occasion for setting right Ukraine's many deeply flawed institutional arrangements, particularly the imbalance of power between Ukraine's executive, legislative, and judicial power. Central to this effort is a proposal for a new constitutional dispensation that would reconstitute Ukraine as a parliamentary republic. Significantly, draft amendments to the constitution that would redirect power to parliament have now been endorsed by a majority of deputies including leaders of the pro-reform Fatherland Party, the moderate nationalist Ukrainian People's Movement, the Socialists, and the Communists. Support for the amendments by two-thirds of deputies would then set in motion a nationwide referendum on ratification.

What is the way out of Ukraine's crisis and this regrettable state of affairs?

To answer this question, it is important to understand that the problems that plague Ukraine are systemic. They are not the outgrowth only of the personal deficiencies of individual leaders of the country. Moreover, the deficiencies in Ukraine's economic and political development are more than a matter of the legacy of communism or the consequence of the historic denial of Ukraine's statehood, first under the Russian Empire and Poland, and later under the Soviet Union.

The major challenges to Ukraine economic dynamism and full-fledged political freedom are the consequence of two factors: a corrupt, patrimonial economic system and the excessive concentration of unchecked power in executive branch.

The web of corruption that envelops the Ukrainian state and economy is such that it has trapped many of its leaders, possibly including President Leonid Kuchma himself.

Prime Minister Viktor Yushchenko, who challenged this system and refused to play by its rules, was subjected to intense attacks by the administration, and by large segments of the oligarchic economic interests.

Today, no less than a quarter of the parliament is a plaything for oligarchs. Parties dominated by oligarchic interests include the United Social Democratic Party, the Labor Ukraine, the Regions of Ukraine party, the Democratic Union, the Green Party, and the Yabloko (Apple) party. Other parties are significantly influenced by economic clans.

Most oligarchic parties, now euphemistically called “political-financial groupings” in Ukraine’s media, represent different regional groups and sometimes even represent generationally different networks of economic interest.

Such unprecedented and highly articulated differentiation is a unique characteristic of Ukrainian political life without parallel in other countries. Indeed, in no other post-Communist state is there such a high number of parties linked to narrow economic interest groups.

The reason for this high degree of active engagement by economic interests in Ukraine’s politics arises directly from the patrimonial economic system. First, given the corrupt, illegal, and quasi-legal nature of wealth accumulation in the first years of privatization in Ukraine, economic oligarchs establish their own parliamentary factions to protect themselves from prosecution and the status of a legislative deputy confers parliamentary immunity. Second, these economic magnates use these political factions in negotiating with the executive branch and government to extract favors, protect ill-gotten investments, and attain additional opportunities for favorable access to money-making opportunities on a non-competitive basis.

This system, in the end, is highly inefficient and corrosive of democratic politics and independent media.

So well entrenched is this system of corruption that those who have chosen to break with past corrupt practices and function openly, honestly, and transparently are subjected to the most intense attacks and repression by the state. Such was the case with the former energy magnate and former Deputy Prime Minister Yuliya Tymoshenko, who legitimately sought to reform the corrupt energy sector from which she had once benefited.

The second factor threatening Ukraine’s democratic development is the inordinate and virtually unchecked power of the executive.

Mr. Chairman, in my view the heart of the current crisis derives from the structure of the Ukrainian state. As in nearly all the former Soviet republics, Ukraine’s system is based on excessive presidential power. Interestingly, our annual democracy survey of the region, Nations in Transit finds that parliamentary systems predominate in the Baltic states and the post-socialist states of Central and Eastern Europe, most of which have had far more successful political and economic transitions.

Ukraine’s President appoints the Prime Minister (subject to parliamentary approval) but the parliament has no role in voting for individual ministers, who are direct presidential appointees. He appoints regional governors, giving a powerful influence on local affairs. These governors, in turn, determine the budgets of the judicial branch, giving them important control over the judicial branch. The president, moreover, directly names one-third of the judges in the higher courts, and



has extensive power to dissolve the parliament. In addition, the President can independently issue economically significant regulations. He also has the power of calling referenda and can only be removed from office only by vote of more than 4-5ths of parliament.

Such concentration of power means there are few checks and balances on executive authority. This has proved exceedingly dangerous and has created a tempting environment for forces interested in unbridled economic gain during the once-in-a-lifetime process of privatization of state-owned enterprises and resources, which has created unprecedented opportunities for personal enrichment through the instruments of the state.

In Ukraine, the problem of checks and balances is accentuated by the absence of a system of parliamentary review. As much as legislative authority, the system of parliamentary committees with investigative authority acts as an important check on corruption and the abuse of executive power. This system is almost entirely absent in Ukraine. Committees function, but they have no budgetary authority to pursue detailed investigations.

It is important that in our discussions of how to assist Ukraine we have an objective and balanced understanding of the political nature of the country and that we dispel myths and reject hyperbole. Let me focus on several salient facts.

First, while constitutionally President Kuchma *de jure* has excessive and unchecked power, the current crisis has *de facto* weakened him considerably. In turn, this was the major factor that precipitated the current power struggle over the shape of the government and parliament.

Second, while I can agree that Ukraine has deep and serious problems with press freedoms, lacks an effective and independent rule of law system, and suffers from substantial pressure by authorities against opposition groups, Ukraine's President is not a tyrant like Belarus's Alyaksandur Lukashenka. There is today in Ukraine political space—often an uncomfortable space, but a space nevertheless—for opposition parties, civic groups, for freedom of association and freedom of speech and protest. Moreover, despite the fact that many media are under the tight control of oligarchs or the executive branch, enough free media exist to enable most Ukrainian citizens have access to objective information and to make it impossible for the controlled media to avoid discussion of the major controversies around the unfolding political crisis. At the same time, as an emerging power struggle among oligarchic, national security, and opposition groupings unfolds, the media will be subject to intense state and oligarchic pressure.

Clearly, there is pressure placed on independent opposition newspapers, and many of the media are in the hands of oligarchs who exploit them and intrude into the objectivity and accuracy of news reporting. It is also true that large segments of the broadcast media are state owned and tightly controlled by the government. Nevertheless, Ukrainian citizens have ample access to accurate information about the ongoing "Kuchmagate" scandal and are independently drawing their own conclusions about their political leaders, offering hope for the prospects of positive change.

Third, despite problems of rampant corruption not all of Ukraine's economic magnates are wedded to or dependent on corruption; many are now in a position to thrive in markets

Fourth, even some economic oligarchs may be willing to back significant reforms, provided there is a political solution that does not threaten them with prosecution and imprisonment.

Finally, many oligarchs as well as the clear majority of Ukrainian citizens do not wish to fall under Russian economic and political domination and are eager to have good relations with the U.S. and the West.

In the end it is clear that the billions of dollars in U.S. and West European aid and loans to Ukraine have not all been in vain. Ukraine now has a large pro-reform and pro-Western constituency. And this pro-democratic force, which has particular appeal to Ukraine's young, has a real chance in the coming months and years to lead the strategically vital country back onto the path of political and economic freedom.

Clearly, Ukraine's democratic and economic reform processes have suffered serious setbacks in recent months. But a policy of U.S. and Western engagement, of vigorous diplomacy that condemns rights violations and demands due process under the rule of law, and of significant aid to civil society, can be a catalyst for long-needed internal reforms.

Thank you for the honor of testifying at this timely and important meeting, which I hope will be the first among many held by the U.S. Congress on Ukraine.

**PREPARED SUBMISSION OF DR. ARIEL COHEN,  
RESEARCH FELLOW, RUSSIAN AND EURASIAN STUDIES,  
THE HERITAGE FOUNDATION**

U.S. interests in Ukraine are at stake as that country's political crisis deepens. On Thursday, April 26, the Ukrainian Parliament (Rada) voted the popular reformer, Prime Minister Victor Yushchenko, out of office.<sup>2</sup> The country is suffering from increasing political turmoil.<sup>3</sup>

An unprecedented scandal, allegedly involving President Leonid Kuchma in the disappearance and gruesome decapitation of an opposition journalist, Georgyi (George) Gongadze, erupted, destabilizing Ukraine. Little is clear about this mysterious event, including who was behind the extensive taping which took place in Mr. Kuchma's office. The only clear element is outcome of the scandal itself. The Ukrainian presidency, the executive branch—and by extension, Ukrainian statehood—suffered a serious blow to their legitimacy.

The West has distanced itself from Mr. Kuchma. As a result, Ukraine seems to be drifting into Russia's orbit. This trend could eventually imperil Ukraine's political independence and economic performance, which began to improve in 1999. Last year, Ukraine enjoyed its best macroeconomic results in 15 years, with GDP growth reaching 6.3 percent. It is imperative for Ukraine's survival that its current economic policy successes be preserved regardless of the identity of its future Prime Minister.

Increasing transparency, sustaining GDP growth, and promoting sound macroeconomic policies—the main achievements of the recent two years—have to be enhanced and built upon by the next Cabinet. Importantly, these goals cannot be achieved without attracting Western investors. Thus, the future Prime Minister has to be a symbol of further reforms, not an ally or protégé of one business "clan" or another.

Ukraine's next Premier must be acceptable to the investor community, including Western investors. The new executive should be a leader who symbolizes Ukraine's movement into the future—an independent, Euro-Atlantic future, that of democracy, free market based on the rule of law, and individual rights. Whoever takes the helm should not steer the country back into the past.

Unfortunately, Ukraine's crisis is being aggravated by lack of trust in the government, political conflict, dissatisfaction with the country's standard of living, which remains low, and pervasive corruption among the ruling class. The situation is made worse by a foreign debt crisis. This explosive combination of issues is driving the popular discontent with Kuchma, and may force Ukraine into Russia's bear hug.

Under pressure from Moscow, President Kuchma fired Ukraine's Western-oriented Foreign Minister, Borys Tarasiuk, in the fall of 2000. Since then, Ukraine has considerably slowed down its cooperation with the members of a new strategic group of countries nicknamed GUUAM (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova). The first truly voluntary organization of states within the territory of the former USSR is now in dire straits. These developments could threaten U.S. security interests in Eastern Europe and increase the level of tension in U.S.-Russian relations.

Ukraine's geopolitical situation is key to Eastern Europe and thus is of great interest to the U.S. Russian empire-builders in the military and national security community openly state the necessity to establish hegemony in Ukraine in the context of the zero-sum nature of Rus-

sian-American confrontation.<sup>4</sup> Ukraine prevents Russia, which is becoming more nationalist and authoritarian, from direct access to the borders of East-Central Europe, including NATO members Hungary and Poland, South Eastern Europe and the Balkans. Ukraine today also controls the strategic northern coast of the Black Sea, which is adjacent to NATO ally Turkey.

In the eighteenth, nineteenth and twentieth centuries, Ukraine and the Crimea were the base from which Russia threatened the Turkish Straits. From Ukraine, Russia launched the four partitions of Poland in the eighteenth and the twentieth centuries. Today, the re-absorption of Ukraine, with its 50 million citizens and territory bigger than France's, into a Russian super-state would effectively quash all hopes for a Western-oriented, democratic Eastern Slavic state in Europe. It would then be only a matter of time before such a Russian super-state would revert to its historic pattern of behavior, throwing its weight around the region.

#### THE PLACE OF UKRAINE IN U.S.-RUSSIAN RELATIONS

The future of Ukraine as an independent and democratic state is important to American interests in Europe. The survival of an independent and democratic Ukraine is also crucial to Russia's future as a democracy. The re-absorption of Ukraine into Russia's fold would bring about a new, quasi-imperial and undemocratic Great Russia. Such a development could destroy the post-Cold War status quo in Europe, revive a threat to NATO allies in Europe and worsen U.S.-Russian relations.

Since President Vladimir Putin's rise to power, Ukraine has become a vulnerable target of Russia's revamped foreign policy. While officially the two countries maintain cordial diplomatic relations,<sup>5</sup> unofficially many among Russia's policy makers and elites have not come to terms with Ukrainian independence, and see Ukraine as a "younger brother," to be incorporated into the Russian state, or at least brought into Russia's orbit at an opportune time.<sup>6</sup>

Recently, Russia's state controlled Channel One TV (ORT), launched an unprecedented and crass attack against Prime Minister Yushchenko. Before an audience of millions in Russia and Ukraine, ORT's commentator insinuated that Ms. Yushchenko, a Ukrainian-American, was a sinister means of U.S. governmental control over the Prime Minister. This may indeed have been mirror-imaging taken too far, but more likely, it is what the Russians today call a "black PR" job—a character assassination ordered by the Government of Russia.

Moscow is taking advantage of Kuchma's vulnerability to subjugate Ukrainian security policy making. In January 2001, Moscow and Kyiv reportedly signed a 52-clause classified military agreement giving Russia control over Ukrainian military planning; and plans to establish a joint Black Sea naval force are underway. These agreements may place Ukraine's cooperation with NATO in the Partnership for Peace framework in doubt and jeopardize the joint naval exercises which Ukraine and NATO have held for the last three years. While the Ukrainian Embassy in Washington, D.C. denies that far-reaching changes have taken place, senior Ukrainian policy makers have confirmed to me that Ukraine has indeed signed some of the documents proposed by the Kremlin, and is under pressure to re-orient itself closer to Moscow.<sup>7</sup>

Another agreement restored joint Russian-Ukrainian aerospace and military-industrial cooperation, including joint research and the development of weapons systems, manufacturing and coordination of weapons sales.<sup>8</sup> Instead of competition, the two aerospace and military-industrial complexes will work together to capture foreign markets. Ukraine was the principal manufacturer of giant, ten-warhead intercontinental ballistic missile (ICBM) SS-18 (NATO designation Satan) during the Soviet times, and Mr. Kuchma was director of the Yuzhmash plant, which manufactured this missile. In case of Moscow's "asymmetric response" to U.S. plans to deploy a ballistic missile defense, it is possible that ICBMS armed with multiple individually targeted re-entry vehicles (MIRV) for Russia will again be manufactured in Ukraine.

#### **THE KUCHMA TAPES: A POLITICAL CHERNOBYL**

Is the ongoing "Kuchmagate" scandal an intricate ploy by Russia to subjugate Ukraine, or a coup engineered by Ukrainian oligarchs to emasculate the President and impose a successor they can control? Can it be both? Who could have ordered Major Mykola Mel'nichenko to install a sophisticated digital tape recorder in President Kuchma's office, when it is supposed to be regularly swept against eavesdropping? Who might have known that Mel'nichenko bugged the office, but failed to take action? Who failed to apprehend Mel'nichenko when he crossed the border with his family to seek asylum abroad? There are more questions than answers, and the hypotheses are indeed mind-boggling.

A scandal, involving alleged digital audio taped evidence that President Kuchma may have been involved in directing his secret services to murder an opposition journalist, Gongadze, recently became a catalyst for mass demonstrations and calls for Kuchma to step down.<sup>9</sup> Gongadze's decapitated body showed up in a wood near Kyiv (Kiev). The tapes, released by opposition members of parliament such as former Speaker Oleksandr Moroz and former Justice Minister Sergei Holovaty, triggered a wave of popular indignation and demonstrations in Kyiv's Independence Square (in front of the Presidential Palace) under the slogan "Ukraine Without Kuchma."

The Ukrainian President, the Parliament, and powerful business groups, or "clans," are engaged in a free-for-all battle for power. The most prominent victim in this power struggle is the reformist and pro-Western ex-Prime Minister Victor Yushchenko, who seems to have very little to do with the tapes. In addition, President Kuchma was forced to fire some of his closest political allies who obviously violated the law in the Gongadze affair, while other supporters have abandoned him, sensing his vulnerability.

#### **THE MEL'NICHENKO TAPES AND THE BANE OF CORRUPTION**

The digital tapes recorded by Major Mel'nichenko, who recently received political asylum in the U.S., reportedly contain close to 1,000 hours of conversations in Kuchma's office. The question arises whether these tapes may contain important information, which goes beyond the Honhadze affair. Perhaps they contain evidence that might implicate prominent members of the Ukrainian political and business world in corrupt practices, money laundering or other criminal activities that could effectively terminate their prominent careers if brought to light.

Do these tapes point to previously unknown external political and criminal connections of President Kuchma and his entourage? Are any

of the figures featured in these tapes conducting illicit business in the United States, or orchestrating illegal dealing with U.S. entities? Thus far, former Prime Minister Pavlo Lazarenko is in custody in this country for alleged money laundering. What can we learn from these tapes about the criminal activities of other Ukrainian politicians? Were vital U.S. interests involved, such as supplies of sensitive technologies and arms to countries on the U.S. Department of State terrorism list, such as Iran, Libya, Syria, or others?

### GEOPOLITICAL TECTONIC SHIFTS

The Gongadze scandal resulted in the weakening the Ukrainian body politic and generated a political vacuum. Russian influence in Kyiv has increased. It has been one of a series of factors allowing Moscow to force Ukraine to re-orient its policy from carefully measured, Western-oriented neutrality, to being openly Moscow dominated. If the Russian pressure continues unabated, Kyiv may eventually join the Russian-Belorussian Union, or another Moscow-dominated neo-imperial entity.<sup>10</sup>

The Gongadze scandal is not the only factor weakening Ukraine. The other causes contributing to Ukraine's descent into the Russian orbit, in particular, are its economic weakness and energy dependency on Russia. The Kremlin's relative strength and ambition also capitalize on the residual effects of Russia's 330 year occupation, such as the broad cadre of former Soviet bureaucrats and security officials, and the cultural and linguistic affinity of the population, especially in Eastern Ukraine.

### ENERGY DEPENDENCE AND UKRAINIAN FOREIGN POLICY

The connection of Ukraine's power grid to Russia's, agreed upon February 12th by Presidents Putin and Kuchma, symbolizes Ukraine's increasing dependency on Moscow.<sup>11</sup> Reconnection of the power grids will increase Kyiv's dependency on Moscow, which will then literally have a finger on Ukraine's light switch. It demonstrates how Russia is using energy as a blunt tool of foreign policy in the "near abroad"—the former Soviet Republics. This pattern of behavior is indicative of the newfound assertiveness of the Putin Administration, which is utilizing Russia's position as a major energy exporter and its advantageous geopolitical location to re-establish its predominance along its periphery.

The Ukrainian state happens to be the first to stand in the way of the Russian energy steamroller. Kyiv is also on the verge of assuming a debt, which may lead to the transfer of its strategic energy related assets to Russian companies. Moscow is pressuring Kyiv to repay half of the \$1.2 billion debt within 10 years, while the other half would be assumed as a state debt.<sup>12</sup> In a debt-equity swap, bonds issued as securities for that debt could be used by Russia to acquire Ukrainian enterprises, which Kyiv scheduled to privatize. Under this scenario Ukraine's oil and gas pipelines, electric grids,<sup>13</sup> power generation facilities, and other lucrative businesses, would be purchased by Russian bond-holders.<sup>14</sup> Russia's control over Ukraine's energy infrastructure would then further strengthen Russia's ability to influence Kyiv's policies.

Russia's willingness to bring Ukraine into the fold, and Ukraine's energy dependency on Russia, as well as its inability to repay over \$1.2 billion debt owed to Moscow for past natural gas supplies purchased from Russia are key factors in understanding the recent developments. Russia is leveraging its position as a major supplier of Ukrainian energy needs that controls all of Ukraine's incoming oil and gas pipelines.

Through this leverage, Moscow will be able to influence Ukrainian domestic and foreign policy to a much greater extent than before.

Itera, a controversial Russian-owned natural gas company headquartered in Florida imposed severe interruptions of natural gas and electricity supplies from Russia.<sup>15</sup> Managers of Gazprom, Russia's gigantic state-dominated gas monopoly, (controlled by the Kremlin), reportedly control Itera.<sup>16</sup> Russian companies interrupted Ukraine's electricity supplies less than a month after the two countries claimed that they had settled their outstanding natural gas debt issues.<sup>17</sup>

### THE PRICE OF INDEPENDENCE

According to senior Ukrainian Foreign Ministry officials I spoke with in November 2000, Russia used gas prices as a tool to exert political pressure. Moscow is forcing Ukraine to choose between world prices for natural gas or joining the Russia-Belarus Union or Russia-Belarus-Kazakhstan customs union. If Ukraine joins the Russia-Belarus Union, the price for 1,000 cubic meters of gas will be \$25; if it joins the Russia-Belarus-Kazakhstan customs union, the price will go up to \$40 per thousand cubic meters, whereas the world price is \$80-\$100 per 1,000 cubic meters.<sup>18</sup>

Today, Russia is supplying 30 billion cubic meters of gas to Ukraine, close to 40 percent of its annual consumption of 78 billion cubic meters.<sup>19</sup> All of this supply is to compensate Ukraine for the transit of natural gas through its territory to markets in Central and Western Europe, and represents a tariff payment. However, this revenue may also disappear in the future. Russia is understandably unhappy with Ukrainian companies' "unauthorized withdrawals" of natural gas,<sup>20</sup> and is threatening to build a new pipeline from the Yamal Peninsula in the Arctic, which will go through Belarus and Poland, circumventing Ukraine. Under the new Kuchma-Putin agreement signed December 22, 2000, Ukraine will stop this "borrowing" of gas. However, Ukraine's oil and gas transit system must improve to attract future exports of Russia's energy to Europe.

The second supplier of natural gas to Ukraine is Turkmenistan (also 40 percent of demand), but Russia controls the pipelines which cross its territory, thus providing Gazprom (and the Kremlin) with additional leverage against Ukraine. Thus, Ukraine depends on Russia for 80 percent of its natural gas needs, as it produces only 20 percent of its demand. Russia's pressure tactics may begin to work. Throughout the year 2000, President Kuchma realigned his policies and got closer to Moscow. He fired Foreign Minister Boris Tarasiuk, who had a reputation for being a NATO and EU integration supporter; and he attempted to undermine reformist Prime Minister Viktor Yushchenko, the respected former Chairman of the Ukrainian Central Bank. Kuchma also reversed progress on freedom of press, as the Gongadze affair demonstrated, and achieved little in the implementation of legal reforms and the rule of law.

### BUYING UP UKRAINE

Russian energy companies are on a buying spree, acquiring Ukrainian businesses in the energy, heavy industry and telecommunications sectors (see table). In such acquisitions, often conducted to the disadvantage of Ukrainian and Western companies, Russian businesses are using their "competitive advantage" to bribe officials and muscle their way to a winning bid.

**Russian Acquisitions of Ukrainian Companies, 2000–2001**

Company	Buyer (Russia)	Industry	\$ Amount (in millions)	Percent Sold
JSC Zaporizhia Aluminum	AvtoVAZ (Russia)	Metallurgy	101.5	68.01
Kyivinvest-bank	Alfa Bank (Alfa Group)	Banking	n/a	76
LiNOS	TNK (Alfa Group)	Oil & Gas	70	67
Mykolayiv Alumina	Ukrainian Alumina/ Siberian Aluminium	Metallurgy	100	30
Elmiz	TechMash Pribor	Space & Communic.	n/a	26
JV with Oriana	Lukoil Naftokhim	Chemicals	Investing over \$100M over 5yrs	n/a
Ukmafta	Alfa Nafta (unofficial)	Oil & Gas	n/a	n/a
Odesa Oil Refinery	Luk Sintez Oil (Lukoil)	Oil & Gas	n/a	n/a
Kherson Oil Refinery	Kazakhoil (Alliance Group)	Oil & Gas	n/a	63
Pobuzhya Ferronickel Plant	Nikommed	Metallurgy	n/a	n/a
Kyiv Dairy 3	Wimm-Bill-Dann	Food & Beverage	n/a	n/a
Kherson-oblenerho	Investment Pool	Energy	n/a	26
Kirovohrad-oblenerho	Investment Pool	Energy	n/a	42

Sources: *Financial Times*, February 6, 2001, p. 2, and The Heritage Foundation.



Future Tenders: Company	Buyer	Bidders	\$ Amount (in millions)	Percent Sold
Rovnoazot		n/a	n/a	50
Vinnitsky Oil Extraction Plant		n/a	n/a	54.57
Utel		Ukrtelecom (51%)	80	49
Kievo-blenerho		EDF	n/a	75
" "		AES Silk Road	n/a	" "
" "		Union Fenosa	n/a	" "
Sevastopolo-blenerho		UES	n/a	n/a
Zaporizhye Aluminium Smelter	*Kremenchug Automobile Factory	AvtoVAZ	70 m. + 200 m	68.01
Ukrtelecom		n/a	548 million (opening bid)	25

Sources: *Financial Times*, February 6, 2001, p. 2, and The Heritage Foundation

#### SLOW ECONOMIC REFORMS AS A CAUSE OF DEPENDENCY

The slow pace of economic reforms; lack of restructuring in the obsolete, energy-consuming smokestack industries; and widespread, high-level corruption and opaqueness of the Ukrainian industry since independence (1991), are among the main reasons for Ukraine's chronic energy-driven debt to Russia. Simply put, the Ukrainian economy does not generate a sufficient cash flow to pay for its prodigious energy habit. This is for three reasons: first, the Soviet era smokestack industrial base is obsolete and inefficient. Ukrainian enterprises produce too few goods that can compete in the global markets, wasting too much energy in process. Secondly, ownership in the Ukrainian energy sector is too murky and complex to attract Foreign Direct Investment (FDI). Finally, according to U.S. officials, some of President Kuchma's top business and political allies personally benefit from the current state of affairs. Widespread corruption in the energy sector has enriched top Ukrainian politicians and businessmen. Former Prime Minister Petro Lazarenko is in a California jail facing accusations of corruption and money laundering tens of millions of dollars. Lazarenko's associate, former Deputy Prime Minister Julia Timoshenko, until recently in control of the energy sector, was charged by Kuchma's Prosecutor General with three counts of corruption in January 2001, and arrested in February of this year.

### THE GEO-ECONOMICS OF ENERGY

It is of no surprise that Russia wants to pull Ukraine in to a closer orbit. Ukraine is both an important transit state and a market, as far as the energy supply of the region is concerned. In the future, Ukraine may serve as an important transit state for the Caspian Sea oil, which increasingly flows from Kazakhstan and Azerbaijan. The proven reserves of the Caspian region are larger than those of the Northern Sea, and are comparable to the oil wealth of the United States. With the newly discovered fields of West Kashagan in the Kazakhstani sector of the Caspian Sea, and additional discoveries likely in the future, the narrow Bosphorus Straits will be incapable of handling all shipments to the Mediterranean. A new pipeline, such as the Odessa-Brody (that will connect to the European network), as well as the Ukrainian domestic markets, will become necessary to absorb the output.<sup>21</sup>

### U.S. POLICY TOWARDS THE CURRENT CRISIS

The case of Ukraine raises questions about how to bolster the sovereignty of the New Independent States (NIS), which have come under pressure from Moscow due to deliberate manipulation, as well as their energy dependency and economic weakness. In the future this Russian policy may be applied to other importers of Russian energy in the Commonwealth of Independent States. If successful, the policy of pressure utilizing energy resources may be applied among other importers of energy from Russia, such as Western Europe and Turkey.

It is in U.S. interests to support Ukraine's independence, territorial integrity, democracy, economic reforms based on the rule of law, and sustainable pro-Western orientation. To achieve this, the new Bush Administration should:

- Recognize the strategic importance of Ukraine, its continuous pro-Western orientation, as well as the threats to its independence. The Administration should utilize economic and political tools to support Ukrainian sovereignty and prevent its falling into the Russian orbit. These tools include "traditional" democracy assistance through the National Endowment for Democracy, the International Republican Institute, the National Democratic Institute and International Foundation for Electoral Systems; international broadcasting such as Radio Liberty and Voice of America; technical assistance to speed up restructuring of the economy, and military-to-military training and contacts. However, this may not be enough. A search for new tools to uphold U.S. interests in strategic regions should begin.

In FY 1998–2001 requests for US AID assistance for Ukraine fluctuated between \$170 and \$225 million, with a tendency toward decline (see table).<sup>22</sup>

<b>FREEDOM Support Act (FSA) Funds (in Thousands of Dollars)</b>				
<b>Funding</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Requested:	225,000	223,500	219,000	171,300
Expended:	225,212	203,574	n/a	n/a

Government agencies implementing these assistance programs included the Environmental Protection Agency; the Nuclear Regulatory Commission; and the U.S. Departments of Energy, State, Justice, Commerce and Treasury.

- Conduct emergency intelligence assessment of what is known and what needs to be known about Russia's intentions and capabilities in Ukraine. Attempt to answer the question, who was behind the Gongadze case, and what was the purpose of it. Who encouraged Major Mel'nichenko to produce damning tapes in Kuchma's office, and with what purpose?
- Reassess and reallocate resources in view of the current crisis. Such an emergency review could be coordinated by the National Security Council, and conducted by the Department of State, with the participation of the U.S. Embassy in Kiev and inputs from the government departments, such as Treasury and Defense, and the intelligence community. In conducting its crisis management, the U.S. must act bilaterally, through the Department of State, the Pentagon; the Department of Commerce, and other agencies, and multi-laterally, in consultation with America's European allies with interest in Ukraine, primarily Britain, Germany and Poland.<sup>23</sup>
- Promote measures leading to energy independence and economic growth. A growing and efficient Ukrainian economy will generate a cash flow, which will allow to pay for energy, vastly reducing dependence on Russia. Such economic policies should be based on the protection of private property; transparency; the rule of law; deregulation; increased competitiveness; and the fight against organized crime and high level corruption.
- Encourage the Government of Ukraine to develop business models, legislation and regulations that encourage transparency and provide a level playing field to encourage Western investment. Such policy will allow Western companies to invest in energy and other heavy industry sectors of the Ukrainian economy, where Russian companies have a "cultural competitive advantage." Ensure that the privatization and restructuring of the Ukrainian energy sector is speedy, equitable and transparent. It is vital that the Government of Ukraine stamps out high level government corruption. This will allow American private sector firms to compete on a level playing field. Ukrainian politicians, experts and businessmen recognize that significant American and Western equity in the Ukrainian energy sector is crucial to that country's economic restructuring and future energy independence.
- Conduct open, transparent and impartial privatization of large enterprises, including utilization of impartial privatization managers, such as the leading accounting firms and major Western management-consulting firms.<sup>24</sup> Promote policies that eliminate subsidies to industrial enterprises through government-imposed cheap energy supplies, thus eliminating energy indebtedness to Russia. Only a globally competitive Ukrainian economy can boost the country's independence and curb economic hegemony from Russian energy and heavy industry conglomerates.

- Ensure participation of reformist, pro-democracy, pro-independence political forces in the government. Thus far, Ukrainian governing coalitions have included many Soviet-era communist party, security, and economic leaders. Larger numbers of honest reform-oriented politicians and experts could help speed the needed changes, making the Ukrainian economy more competitive, well as attractive to FDI. Support the development of civil society through support of NGO activities with the assistance of the National Endowment for Democracy.
- Identify and cooperate with those parts of the Ukrainian military who fully support an independent Ukraine to enhance and preserve Ukrainian sovereignty and its pro-Western orientation. Expand the contacts of the Ukrainian military, its training and cooperation with NATO through the Partnership for Peace (PfP); boost bilateral cooperation with the U.S. military; learn to implement much needed reforms such as the enhancement of civilian control over the military and enforcement of personnel cuts, while simultaneously upgrading preparedness and capabilities.

#### CONCLUSION

The geopolitical future of Ukraine has emerged as one of the vital questions of the post-Cold War era in Europe and the Black Sea area. The country's fate hinges upon the further development of a robust and competitive market economy; capital markets; expansion of the rule of law and eradication of corruption; energy independence; efficient debt management; economic efficiency, and private sector transparency. The question of Ukraine will decide the future of Russia as a democratic nation state, as opposed to a neo-imperial super-state. A non-democratic Greater Russia, which will include Ukraine, may become an increasingly anti-status quo power willing to overturn the geopolitical status quo which coalesced in post-Cold War Europe. Ukraine's fate will determine whether the Russian sphere of influence expands in the 21st century to create regional hegemony over its neighbors. In addition, at stake is the security of U.S. NATO allies, such as Poland and Turkey. The political and economic independence of Ukraine and its political orientation are likely to define the security environment in Eastern and South-Eastern Europe for decades to come. The Ukrainian question is quickly becoming an early—and complex—foreign policy challenge facing the new Bush Administration.

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#### ENDNOTES

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