

# UKRAINE: DEVELOPMENTS IN THE AFTERMATH OF THE ORANGE REVOLUTION

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## HEARING BEFORE THE SUBCOMMITTEE ON EUROPE AND EMERGING THREATS OF THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

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# CONTENTS

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	Page
WITNESSES	
The Honorable Daniel Fried, Assistant Secretary, Bureau of European and Eurasian Affairs, United States Department of State .....	5
The Honorable Nelson C. Ledsky, Senior Associate and Regional Director, Eurasia, National Democratic Institute .....	21
Mr. Stephen B. Nix, Regional Program Director, Eurasia, International Republican Institute .....	25
Taras Kuzio, Ph.D., Visiting Professor, Institute for European Russian and Euroasian Studies, George Washington University .....	31
LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING	
The Honorable Elton Gallegly, a Representative in Congress from the State of California, and Chairman, Subcommittee on Europe and Emerging Threats: Prepared statement .....	2
The Honorable Robert Wexler, a Representative in Congress from the State of Florida: Prepared statement .....	4
The Honorable Daniel Fried: Prepared statement .....	7
The Honorable Nelson C. Ledsky: Prepared statement .....	22
Mr. Stephen B. Nix: Prepared statement .....	26
Taras Kuzio, Ph.D.: Prepared statement .....	32
APPENDIX	
The Honorable Dan Burton, a Representative in Congress from the State of Indiana: Prepared statement .....	41



## **UKRAINE: DEVELOPMENTS IN THE AFTERMATH OF THE ORANGE REVOLUTION**

**WEDNESDAY, JULY 27, 2005**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON EUROPE AND EMERGING THREATS,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 1 o'clock p.m. in room 2255, Rayburn House Office Building, Hon. Elton Gallegly, (Chairman of the Subcommittee) presiding.

Mr. GALLEGLY. Good afternoon. Today, the Subcommittee on Europe and Emerging Threats is holding a hearing on the developments in the Ukraine in the aftermath of the Orange Revolution.

Ukraine has reached a pivotal crossroads in its development as an independent nation. With the fall of the Soviet Union, Ukraine embarked slowly on the path of democracy with many of the same leaders that had led the country during the Soviet times. As the Presidential elections in 2004 approached, Ukraine appeared likely to continue to be governed by the same elites who were viewed by many Ukrainians as corrupt and out of touch.

All of that changed with the rise of the Orange Revolution and the leadership of Victor Yushchenko. With his victory, the 2004 Presidential elections, Yushchenko breathed new life into the country's democracy. President Yushchenko visited the United States from April 4-7, 2005, to meet with President Bush and Secretary of State Rice. Following those meetings, the Administration pledged to work with Ukraine to complete bilateral negotiations for Ukraine's accession to the WTO (World Trade Organization) and to support Ukraine's efforts to join NATO by providing assistance with reforms.

But now the honeymoon is over, and the hard work of implementing political and economic reforms is just beginning. By most accounts, the first few months of the new regime were rocky as the new government found its footing and spent a considerable amount of time negotiating with the Ukraine's multiple political parties. Since May, the government has tried to focus on its core goals of political and economic reform.

There are a couple of main issues we would like to focus on today. The first is economic reform in Ukraine. Economic reform in the Ukraine has two main components. The first is removing many of the Soviet-era laws governing the economy and reprivatizing a number of the companies that were the result of corrupt privatizations by the former Kuchma regime.

This issue ties closely in with the second issue, the potential accession of Ukraine into the WTO. In its most recent session, the Ukrainian Parliament passed a number of laws required by the international community to join the WTO, including a strong intellectual property statute, but much remains to be done.

Third, the application of the Jackson-Vanik amendment and the hurdles to granting permanent Normal Trade Relations status remains an issue on which there has been very little movement. The Administration has publicly stated its support for such a move, but the decision is in the hands of the Congress.

Finally, I hope the Administration and other witnesses will discuss the likelihood and timetable for Ukraine joining NATO, an exceptionally sensitive issue in light of Ukraine's relation with Russia and the presence of the Russian fleet in Ukrainian ports on the Black Sea.

At this point I would yield to my good friend from Florida, the Ranking Member, Mr. Wexler.

[The prepared statement of Mr. Gallegly follows:]

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON EUROPE AND EMERGING THREATS

Today, the Subcommittee on Europe and Emerging Threats is holding a hearing on the developments in the Ukraine in the aftermath of the Orange Revolution.

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Finally, I hope the Administration and our other witnesses will discuss the likelihood and timetable for Ukraine joining NATO, an exceptionally sensitive issue in light of Ukraine's relation with Russia and the presence of the Russian fleet in Ukrainian ports on the Black Sea.

I will now turn to Mr. Wexler for any opening statement he may wish to make.

Mr. WEXLER. Thank you very much. I first want to thank Chairman Gallegly for holding today's hearing. I especially want to welcome Assistant Secretary of State, Mr. Fried, who I had the privilege of first meeting when he was the Ambassador to Poland and very ably represented our Nation in that capacity.

It has been 6 months since President Yushchenko was inaugurated and Ukrainians overwhelmingly opted for sweeping political, economic, and judicial reform at home and chose a clear path of integration with the Euro-Atlantic community and further membership in their future aspirations in the context of the EU, NATO and WTO.

Although the Yushchenko Government has passed important legislation, including several WTO related bills—my understanding is possibly five—and a far-reaching intellectual property law on July 6, enactment of key reforms has not gone as smoothly as many in Ukraine and the international community had hoped.

While it would be unfair to solely blame the current impasse on the Yushchenko Government, which has had key aspects of its reform agenda blocked by factions in the Rada, it is essential that President Yushchenko play a more significant role in ending the political paralysis that has enveloped Kiev.

The Yushchenko Administration and Rada must pass further reforms to the economy, trade laws, and judicial system, as well as set a clear economic course with benchmarks in order to stem Ukraine's economic slide and loss of direct foreign investment. Additionally, the outstanding WTO bills must be passed by the Parliament when it reconvenes in September in order to ensure a December date for Ukraine's membership in the WTO.

The United States and Europe must continue to assist the Yushchenko Government as it pursues these difficult reforms. During his joint statement with President Yushchenko in April, President Bush stated, "As Ukraine undertakes far-reaching reform at home, it can count on the United States for support." That support is needed now more than ever, and I urge the Administration to follow through on the ambitious agenda for a strategic partnership set forth in the statement. I join President Bush and the Chairman, as he stated earlier, in supporting Ukraine's NATO aspirations, ending application of the Jackson-Vanik to Ukraine, and desire to work with President Yushchenko to achieve Ukraine's accession to the WTO.

Despite the serious constitutional challenges facing the EU, Brussels must move beyond the EU-Ukrainian Action Plan within the framework of the European Neighborhood Policy and open the possibility to Ukraine's EU membership. Ukrainians overwhelmingly supported further European integration in last year's Presidential election and EU membership remains the key catalyst for Kiev to pass needed reforms. Like all Americans, I was captivated last year by the peaceful scenes of protest in Kiev's Independence Square where hundreds of thousands of Ukrainians declared overwhelmingly their desire for democratic change. It is now incumbent on the Yushchenko Government, as well as the United States and EU, to work together to fulfill this vision of hope and change ensuring that Ukraine succeeds as a stable, democratic, prosperous nation firmly rooted in the West.

Mr. Chairman, I understand that Secretary Fried has just been to Ukraine, and he is going to offer us a very updated analysis. I am curious if, in the context of his discussion, we will hear about what the often mentioned WTO goals are, and whether, while on paper and in an academic setting, we might all agree with them. As it relates to Mr. Yushchenko on the ground in Kiev, are those WTO goals in fact good advice to a strong ally at this point? I would be curious if Ambassador Fried would address that if possible.

Thank you.

[The prepared statement of Mr. Wexler follows:]

PREPARED STATEMENT OF THE HONORABLE ROBERT WEXLER, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF FLORIDA

I want to thank Chairman Gallegly for holding today's hearing on Ukraine and developments in the aftermath of the Orange Revolution. I want to thank Assistant Secretary of State Dan Fried, Dr. Kuzio, Ambassador Ledsky and Mr. Nix for testifying today.

It has been six months since President Yushenko was inaugurated and Ukrainians overwhelmingly opted for sweeping political, economic and judicial reform at home and chose a clear path of integration with the Euro-Atlantic community and future membership in the EU, NATO and WTO.

In the aftermath of the first democratic transfer of power in Ukraine's history, the Yushenko Administration has had the difficult task of fulfilling the mandate and expectations of the Orange Revolution.

Although the Yushenko government has passed important legislation including several WTO related bills and a far-reaching intellectual property law on July 6, enactment of key reforms has not gone as smoothly as many in Ukraine and the international community had hoped.

While it would be unfair to solely blame the current impasse on the Yushenko government, which has had key aspects of its reform agenda blocked by factions in the Rada, it is essential that President Yushenko take a greater role in ending the political paralysis that has enveloped Kiev.

The Yushenko Administration and Rada must pass further reforms to the economy, trade laws and judicial system as well as set a clear economic course with benchmarks in order to stem Ukraine's economic slide and loss of direct foreign investment. Additionally, outstanding WTO bills must be passed by the parliament when it reconvenes in early September in order to ensure a December date for Ukraine's membership in this organization.

Mr. Chairman, the United States and Europe must assist the Yushenko government as it implements difficult reforms. During his joint statement with President Yushenko in April, President Bush stated "as Ukraine undertakes far-reaching reform at home, it can count on the United States for support." That support is needed now more than ever, and I urge the Administration to follow through on the ambitious agenda for a strategic partnership set forth in the statement. I join President Bush in supporting Ukraine's NATO's aspirations, ending application of Jackson-Vanik to Ukraine and desire to work with President Yushenko to achieve Ukraine's accession to the WTO.

Despite the seriousness constitutional challenges facing the EU, I urge Brussels to move beyond its EU-Ukrainian Action Plan within the framework of the European Neighborhood Policy and open the possibility to Ukraine's EU membership. Ukrainians overwhelmingly supported further European integration in last year's presidential election and EU membership remains the key catalyst for Kiev to pass needed reforms.

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Mr. GALLEGLY. Thank you very much, Rob.

We have some good news and we have some bad news this afternoon. First of all, the good news is that we are fortunate to have



some very, very qualified witnesses today before us, and I am overwhelmed at the response of people that are interested in the hearing. That is very positive. Unfortunately, someone just whispered in my ear that we are going to be scheduled for a series of votes in just about an hour, and those votes will probably take the better part of an hour, so we are going to have a condensed hearing obviously. I appreciate everyone's understanding of that. I have no control over the bells.

At this time it is my privilege and honor to introduce Daniel Fried, Assistant Secretary of the Bureau of European and Eurasian Affairs at the U.S. State Department. While Mr. Fried has only been in his current position for a few months, he is among the foremost experts on European and Eurasian affairs, having previously served as Senior Director of Europe and Eurasian Affairs at the National Security Council and as the U.S. Ambassador to Poland.

Welcome, Mr. Ambassador. We are anxious to hear your testimony.

**STATEMENT OF THE HONORABLE DANIEL FRIED, ASSISTANT SECRETARY, BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, UNITED STATES DEPARTMENT OF STATE**

Mr. FRIED. Thank you, Mr. Chairman and Congressmen, and thank you for the opportunity to be able to report and discuss the developments in Ukraine and, in particular, how the United States can help the Ukrainian people realize their aspirations to live in freedom.

Last winter, as you both said, the Ukrainian people chose freedom and democracy over corruption and intimidation. Their courage and conviction captured the imagination of the world and the support of the United States. The result of this brave stand was a new, legitimately-elected President, a new government and the promise of a new beginning for Ukraine.

Well, after the poetry of the Orange Revolution comes the hard prose of transforming Ukraine's aspirations into programs. President Yushchenko has set out a broad and ambitious agenda to turn the Ukraine into a modern European state, but this new government contends with many challenges; high expectations, resistance from entrenched interests and regional elites, a diverse and sometimes fractious coalition, upcoming parliamentary elections, and a complicated relationship with its very large neighbor to the east.

Despite these challenges, President Yushchenko and his team have achieved significant successes to date. Respect for the rights of citizens has improved. The media operates more freely. Courts appear to be more independent. The authorities have moved to combat corruption.

President Yushchenko has also dramatically transformed Ukraine's international image. He has committed Ukraine to supporting democracy and human rights in the region and further abroad. He has put relations with the United States and Europe on a new and solid tract. On the economic front, the Rada recently passed significant legislation related to WTO accession, which I can describe a bit later.

While we are encouraged by the new government's successes, we are all concerned that some essential free market reforms have

stalled. In addition, we have noticed interventionist and inflationary economic policies, as well as uncertainty with respect to privatization; all of which could threaten economic growth. These uncertainties could also damage key priorities, such as membership in the WTO, attracting foreign investment and obtaining market economy status.

That said, I should report to you that I came away from my trip to Kiev convinced that Ukraine's leaders recognize that they have had a rough initial period on economic policies and are convinced that they, themselves, are committed to getting reforms on track. There has been progress such as the Rada's recent passage of the WTO related laws.

With respect to United States-Ukrainian relations, we have a historical opportunity and, frankly, we have a lot at stake. It is in our interest that Ukraine succeed with its reforms and advance its integration into Europe and Euro-Atlantic structures. We are working to put to good effect the \$60 million in supplemental funds approved by Congress, as well as the \$79 million in our regular Ukraine budget.

Our objective is to help the government pursue its highest priorities in a reform direction. We are directing the bulk of the supplemental funding, I should report, toward programs and activities designed to promote the rule of law, ensure free and fair elections, assist the government with economic reforms and support efforts to combat HIV/AIDS and tuberculosis.

In April, Presidents Bush and Yushchenko agreed on a joint statement outlining the bilateral agenda for our strategic partnership with Ukraine. The document focuses on concrete areas for cooperation such as promoting democracy and freedom, fighting terrorism, assisting Ukraine with its reforms, supporting Ukraine's NATO aspirations, combating weapons proliferation, crime, trafficking in persons, and the spread of HIV/AIDS and tuberculosis.

This is a bold and ambitious agenda, Mr. Chairman, but we are in close touch with the Ukrainian Government to discuss these and many other issues. We have started a United States-Ukraine bilateral coordination group to advance these objectives, which I Co-Chair, and I am happy to report our current state of progress.

On NATO, the United States led the Alliance to offer Ukraine intensified dialogue on NATO membership aspirations. The pace, intensity, and instate of Ukraine's relationship with NATO now depends on Ukraine's own wishes and its ability to forge a domestic consensus for NATO membership, as well as on its willingness to meet NATO's performance-based standards.

On Iraq and the global war on terrorism, let me underscore the deep appreciation that I expressed when I was in Kiev with respect to Ukraine's substantial contribution in Iraq. Ukraine has consulted with us and coalition partners as it has conducted a phased withdrawal of its contingent and is committed to continue to help Iraq and the Iraqi people in training and reconstruction projects. We are grateful also for Ukraine's support in Afghanistan and significant contributions to peacekeeping around the world.

On nonproliferation, we have made good progress since the Orange Revolution. We applaud Kiev's decision to expand our dialogue.

On WTO progress, it has been slow, Mr. Chairman, but, as I have noted, earlier this month the Rada passed a number of key WTO-related bills that will strengthen intellectual property rights (IPR), reduce discriminatory trade measures and lower agricultural tariffs and other import duties. Yes, the government must push more legislation through the Rada in the fall and, yes, Ukraine must implement the legislation it has passed. But following President Yushchenko's July 26 approval of the Rada's amendments to Ukraine's optical disk legislation, which will strengthen IPR protection, the Administration is now examining whether to terminate trade sanctions imposed earlier because of Ukraine's weak legal framework and record on combating media piracy. A decision on this could be taken within the next few weeks. The Administration will also conduct a special 301 out-of-cycle review of Ukraine's status as a priority foreign country and consider whether to restore Ukraine's GSP benefits.

On Jackson-Vanik, I agree that Ukraine has complied with the provisions of the Jackson-Vanik Amendment for over a decade. The Administration strongly supports Ukraine's immediate graduation from Jackson-Vanik.

In my meetings in Kiev, I conveyed a simple message to my Ukrainian interlocutors. The first is that Ukraine has a window of opportunity to consolidate its reforms to ensure a democratic prosperous future for Ukraine within a Europe whole, free and at peace. My second message is that it is up to Ukraine's leaders and the Ukrainian people to make the necessary decision and take the necessary steps to realize this vision. We will help, but the heavy lifting is theirs. Ukraine's transformation will not happen overnight. It is difficult.

The obstacles are real, but they have one great advantage. They do know now that post-Communist transformation is possible. It has succeeded in other parts of Europe. If it has succeeded in Poland and is succeeding in Romania, then it can succeed also in Ukraine. With this vision, with leadership from President Yushchenko and his government, they can succeed. The United States stands ready to help.

Thank you again, Mr. Chairman, for this opportunity, and I would be happy to answer any questions you might have.

[The prepared statement of Mr. Fried follows:]

PREPARED STATEMENT OF THE HONORABLE DANIEL FRIED, ASSISTANT SECRETARY,  
BUREAU OF EUROPEAN AND EURASIAN AFFAIRS, UNITED STATES DEPARTMENT OF  
STATE

Mr. Chairman, Members of the Committee, I am pleased to be here today to discuss with you current developments in Ukraine.

As requested, I shall provide our assessment of the situation in Ukraine seven months after the historic Orange Revolution. I will also discuss our bilateral agenda with Ukraine, as laid out in the Joint Statement of Presidents Bush and Yushchenko in April of this year, and our views on the way ahead in U.S.-Ukrainian relations. I would also like to share some impressions from my recent visit to Kiev, my first to Ukraine as Assistant Secretary for European and Eurasian Affairs.

*The Orange Revolution and U.S. Policy*

At a pivotal moment in their nation's history, the Ukrainian people rejected a stolen election and chose freedom, democracy, and the rule of law over corruption and intimidation. In the weeks following the fraudulent November 21 second-round presidential vote, hundreds of thousands of ordinary Ukrainians braved snow, frigid temperatures, and a real threat of violence in order to peacefully take back control

of their country's destiny and freely choose their leadership. Their courage and conviction captured the imagination of the world. We were, I submit, witnesses to a Ukrainian national identity taking shape through and thanks to a democratic transformation.

The consolidation of such a democratic transformation in Ukraine would have a profound and beneficial impact on its region. A democratic, free, and prosperous Ukraine would encourage reformers in neighboring countries, and in nations to its east. Our stake in this effort is high. The United States does not seek any sort of geopolitical advantage in Ukraine. Nor do we need to. As we learned beginning in 1989, the advance of American interests in what used to be known as the Soviet Union and Soviet Bloc is inextricably linked to the success of common values.

I am therefore proud of the role the U.S. and our European allies played in support of the Ukrainian people at this historic moment. Well before the election, we made clear to then-President Kuchma that we took him at his word when he said he would not run for a third term. The U.S. government never favored a specific candidate, and pledged to work with whoever won a free and fair election. Our objective was to seek to bring about conditions so that Ukrainians had an opportunity to choose their next leader without coercion or manipulation. To that end, we helped train and field domestic and international observers; educated judges on Ukraine's new election law; funded exit polls, media monitors, and parallel vote counts; and stressed that we viewed the conduct of the election as a test of Ukraine's commitment to democracy. U.S. assistance was fully transparent and focused on improving the integrity of the election process so that Ukrainians could better determine their own future. I am proud of our efforts.

We also warned that, should the election be judged less than free and fair by international standards, there would be consequences for our relationship, for Ukraine's hopes for Euro-Atlantic integration, and for the individuals responsible for perpetrating violations. In fact, even before election day, several individuals clearly implicated in corrupt electoral manipulation did face consequences, for example, being told they would be unable to obtain a visa to travel to or conduct business in the United States. Such actions stained the reputations of key actors and served as a deterrent for others.

After credible reports of widespread violations and fraud, we made it known that we did not recognize the legitimacy of the November 21 results. We stressed that we expected the will of the Ukrainian people to be upheld, and that the use of force against peaceful demonstrators was unacceptable. In this effort, we worked closely with Europe, especially the European Union. I believe that our efforts, combined with those of European leaders—and particularly those of Presidents Kwasniewski and Adamkus, EU High Representative Solana and OSCE Secretary General Kubis—contributed to the peaceful and just outcome to the crisis. But we must remember who the true heroes were: ordinary Ukrainians, who did extraordinary things.

#### *A Difficult Environment*

The Ukrainian people's heroic choice of freedom was a giant leap forward in Ukraine's journey toward democracy and prosperity. It has ushered in the prospect of a profound change in Ukraine comparable to 1989 in Central Europe. But now the poetry of the Orange Revolution needs to be translated into the prose of programs to transform the Ukrainian polity, economy and society and prepare Ukraine to become a full-fledged member of the Euro-Atlantic community.

President Yushchenko and his government have set out a broad and ambitious agenda for transforming Ukraine into a modern European state. It is, I believe, the right direction. But Ukraine's new leaders are undertaking reforms in a complex and difficult political environment:

- First, the Orange Revolution lifted expectations extraordinarily high, both at home and among Ukraine's friends abroad. Meeting these expectations will require focus, hard work, consensus-building, and sustained implementation of reforms.
- Second, opposition to reforms remains strong. President Yushchenko's anti-corruption campaign threatens powerful interests, and the presidential election exacerbated regional tensions and, as a result of desperate campaign tactics, spurred concerns about separatism. Some of these concerns seem to have receded, however, as polls show substantially greater confidence in President Yushchenko and his government emerging in eastern and southern Ukraine. The mainstream opposition leaders also deserve credit for putting the separatist card back in the deck.

- Third, the new government is operating against the backdrop of the upcoming parliamentary elections in March 2006. The President and government recognize the importance of obtaining a working majority in the parliament (Rada) to implement their vision for Ukraine. Nevertheless, the government must be careful as it considers measures that may in the short term gain favor with voters but in the longer term threaten Ukrainian leaders' ability to reform and liberalize the economy and secure key priorities such as joining the WTO, attracting foreign investment, and achieving Market Economy Status.
- Fourth, the government is a coalition with ministers and others drawn from different parties with different philosophies and interests. There are also competing personal agendas. Democracy is messy, and unity is not the highest political value. But the new team must function as it faces hard decisions. Discord between coalition members has sometimes spilled out into the open, complicating decision-making.
- Finally, Russia still looms large in Ukrainian calculations. Ukraine's leaders know they must work hard to forge good relations with their eastern neighbor, while seeking closer integration with the West. At the same time, Russia needs to work hard to maintain a positive relationship with Kiev. Good, strong Ukrainian-Russian relations, and a successful, democratic and fully sovereign Ukraine able to make its own choices about its future, are in everyone's interest.

#### *Impressive Successes*

Despite this complex environment, President Yushchenko and his team have achieved significant successes in their first six months in office. On the domestic front, they have transformed the political scene. Respect for the rights of citizens has improved dramatically. The opposition has freedom of assembly, as witnessed by frequent and peaceful marches and demonstrations. The media operates more freely in contrast to the previous regime, when intimidation, pro-government ownership, favoritism in granting broadcast rights and frequencies, and government press guidance—the notorious “temnyky”—were the order of the day. However, self-censorship and concentrated ownership of the media are still a concern. The courts appear to be more independent, following the example of the Supreme Court's December 3 ruling that the second-round vote was flawed and that the run-off should be repeated. And, while far from perfect, the government does appear to be more transparent and open about its business. The press regularly reports on vigorous intra-governmental policy debates. In short, President Yushchenko and his government are forging a genuine democracy.

President Yushchenko and his team have also moved to combat endemic corruption by removing and sometimes prosecuting officials who abused their positions to enrich themselves, and by closing loopholes in legislation that allowed for graft. The anti-corruption campaign has already resulted in increased revenues from the Customs and Tax Services. Nevertheless, it is important that President Yushchenko ensures the honesty of his own government, and that its members not succumb to the temptations of corruption. Prosecutions are vital in deterring officials from engaging in corruption, but the authorities must avoid perceptions of political retribution and not be overzealous nor pursue unjustified cases against those associated with the previous government. The government should also continue to investigate such cases as the 2000 murder of the journalist Heorhiy Gongadze. The government has shown a new commitment to fighting trafficking in persons. It created a new department in the Ministry of Interior dedicated to fighting this scourge and has scored some victories on this front.

Delivering on its promise to increase the force of the market in the Ukrainian economy, the Yushchenko government has ended years of tax privileges for the powerful business oligarchies. After fierce debate, the Rada passed significant legislation related to WTO accession, lowering agricultural tariffs, reducing discriminatory trade measures, and strengthening protection of intellectual property rights.

Some of the new administration's most impressive successes have been in the foreign policy realm. President Yushchenko has dramatically transformed Ukraine's international image and put relations with the U.S. and Europe on a new track. In his foreign visits, he has exercised Ukraine's sovereignty, orienting itself toward Europe, putting its own interests first and foremost. He has committed Ukraine to supporting democracy and human rights both in the region and further abroad, as witnessed by Ukraine's votes for the UNCHR resolutions on Cuba and Belarus. These votes were not easy—Belarus is a neighbor, and Cuba has provided humanitarian assistance to child victims of the Chernobyl tragedy—and the Ukrainian government deserves credit for doing the right thing and adhering to its democratic principles. We are proud to have a new partner in the advance of freedom in this region.

President Yushchenko's energetic engagement of European leaders has already borne fruit, helping to produce an offer of Intensified Dialogue on Ukraine's NATO Membership Aspirations in April. In February, President Yushchenko also signed a three-year cooperation plan with the EU. This agreement aims to build capacities for a wide range of reforms needed to bring Ukraine closer to European standards.

Ukraine has also demonstrated real leadership in the region. President Yushchenko has energized the GUAM (Georgia, Ukraine, Azerbaijan, and Moldova) group, focusing it on promoting democracy, economic development, and security in the region, while developing its links to countries in Central and Eastern Europe that offer successful track records of reform. He has injected new energy into confronting thorny regional problems, and has initiated a proposal to find a solution to the frozen conflict in Transnistria.

As I mentioned previously, Russia represents a particular challenge for the new Ukrainian government, but also opportunities. The Kremlin openly supported President Yushchenko's electoral rival, and has questions about the implications of Ukraine's new Euro-Atlantic orientation. I believe that President Yushchenko has done a good job of rebuilding ties and moving forward. The new Ukrainian administration understands that Ukraine and Russia are united by historical, cultural, language and economic bonds, and that good relations are essential. Of course, establishing strong relations is a two-way street. President Yushchenko has declared Ukraine and Russia to be "eternal strategic partners," and traveled to Moscow on his first foreign trip immediately after his inauguration. President Putin, in turn, visited Kiev in March, and the two presidents pledged to build stronger ties and maintain an open dialogue.

#### *Some Concerns*

We are greatly encouraged by the successes of the new government. But we are also concerned that, in the economic sphere, some essential free-market reforms have stalled. The new leadership may not have used the political capital it earned from the Orange Revolution as decisively as it could have to move Ukraine unequivocally toward a prosperous market economy integrated into the global economy. Specially, we are concerned by interventionist and inflationary policies that the Ukrainian government is pursuing, as well as by continued uncertainty over privatization. For example:

- Price controls on gasoline earlier in the year briefly produced shortages. President Yushchenko rescinded the measures, but the issue raised questions about the government's commitment to market principles. Continued protection of the agriculture sector, while not unique to Ukraine, also runs contrary to the steps Ukraine needs to undertake in order to join the WTO.
- The Yushchenko government has expanded on the commitments the previous government had made to increase pensions and public sector pay. Elimination of tax privileges and the government's anti-corruption campaign have dramatically increased state income, but the higher social spending, while understandable, has fueled inflationary pressures. Most observers predict a 2005 budget deficit of over three percent of GDP.
- We understand the arguments for re-privatization: under the previous regime, insiders used non-transparent means to grab major state enterprises at bargain-basement prices. But mixed signals about the extent of re-privatization have dampened both domestic and foreign investment. We welcome current Ukrainian efforts to establish clarity on the way ahead on this issue.
- While the tax and tariff privileges in the Special Economic Zones were largely used fraudulently, their abrupt elimination has caused problems for some foreign investors. We encourage predictability in economic policies affecting businesses, and are pleased to hear that President Yushchenko endorses this principle and is considering restoring some privileges to law-abiding businesses. Improving the climate for legitimate domestic and foreign investors is critical to Ukraine's economic future.
- Ukraine aims to diversify its energy supplies, reduce its energy dependence and bolster competition in the Eurasian energy sector. However, a vertically integrated, state-owned system of oil production, distribution, and sales—as some in the Ukrainian government advocate—will not improve the functioning of the market or address Ukraine's energy problems. We believe that Ukraine should instead focus on creating strong incentives and a stable environment for the private sector. What Ukraine needs are competition, transparency, and private investment in its energy sector.

Some of these interventionist policies may seem attractive to the Ukrainian government as it seeks to strengthen its popular support in advance of the 2006 parliamentary elections. But we are urging the Ukrainian government to consider the consequences of adopting measures that may be popular in the short term but that, if continued and unaccompanied by strong pro-growth policies, would fuel inflation, reduce macroeconomic stability, and undermine sustainable growth. Such a set of policies would jeopardize key Ukrainian objectives, such as joining the WTO, attracting foreign investment, and obtaining Market Economy Status. In the long term, the tested free market reforms, including the proper regulatory functions of a modern state in a free market that we have witnessed elsewhere, are what will boost the Ukrainian people's prosperity, not short-term populist policies.

I detect from my recent visit to Kiev that senior Ukrainian officials recognize that they have had a rough initial period on economic policy, and are committed to getting reforms on track. In fact, in many of the areas I have cited, we have seen questionable decisions followed by a course correction. As the Ukrainian government gains its footing, we hope it will move forward decisively to implement the economic reforms so vital to achieving their vision of Ukraine.

In fact, the approach of key markers, such as WTO Hong Kong Ministerial in December does seem to be focusing minds. The Ukrainian government had been slow in making progress to pass important WTO-related legislation. The absence of amendments strengthening the law against media piracy, as well as continued high tariffs and arbitrary sanitary regulations on poultry and agriculture products had been an impediment in our own bilateral accession negotiations.

I am therefore pleased to report that the parliament's recent passage of the Optical Disk amendments, as well as other WTO-related laws, constitutes a major step forward. It encourages us to hope that the parliament will adopt and the government will implement the remaining WTO legislation, including revised sanitary and phytosanitary (SPS) rules, technical standards, bank branching authority, and revisions to the foreign economic activity law. It is important that all WTO-related bills be submitted for review by the WTO members considering Ukraine's accession, to ensure consistency with WTO standards. We look forward to Ukraine doing so in the case of most of the recent laws.

#### *U.S.-Ukraine Relations: A New Century Agenda*

Since 1991, successive U.S. administrations have pursued steady objectives in relations with Ukraine: we seek to help Ukraine develop as a secure, independent, democratic, prosperous country with an economy based on free-market principles, one that respects and promotes human rights and abides by the rule of law, and draws closer to European and Euro-Atlantic institutions. During the latter half of the 1990s and the first years of the new century, however, U.S.-Ukrainian relations were in a holding pattern. The United States never forgot the strategic importance of Ukraine or lost faith in the Ukrainian people. But the scandals and corruption that came to characterize the previous regime presented serious obstacles to developing the kind of relationship we desired.

I am happy to say that the Orange Revolution has put us on a new trajectory, one characterized by open dialogue and closer cooperation. The interaction among senior U.S. and Ukrainian officials in 2005 has already intensified dramatically compared to 2003 and 2004.

We now have an historic opportunity to help Ukraine succeed with its reforms and advance its integration into Europe and Euro-Atlantic structures. Last November, President Bush said that we stood by the Ukrainian people in their hour of need. We did then, and we do today. Congress adopted the full \$60 million in supplemental assistance for Ukraine that the Administration requested. This amount is in addition to the \$79 million in assistance that we have already budgeted for Ukraine for fiscal year 2005 from FREEDOM Support Act funds.

We are working to ensure that the supplemental funds approved by Congress will help the new government pursue its highest and most immediate priorities. One focus will be on assistance to eastern and southern regions in Ukraine, where suspension of reforms is strongest. We are directing the bulk of the funding toward programs and activities designed to:

- Combat corruption and promote judicial independence and the rule of law;
- Strengthen election administration and NGO capacities, and train independent observers in order to ensure free and fair parliamentary and local elections in March 2006;
- Support media openness through partnership programs and grants;
- Increase exchange programs and intensify outreach to eastern and southern Ukraine;

- Assist the Ukrainian government with WTO accession and with fiscal management issues, as well as with municipal government and agricultural sector reforms;
- Help Ukraine reduce its energy dependence, including through completion of the multi-year Nuclear Fuel Qualification Project;
- Support Ukraine's efforts to confront serious health issues such as the spread of HIV/AIDS and tuberculosis;
- Support coal mine safety in eastern Ukraine to generate small business development; and
- Facilitate the donation of millions of dollars of goods and supplies to needy Ukrainians.

President Yushchenko's visit to the U.S. in April represented a dramatic and positive shift in the relationship, and exemplified the new opportunities created by the Orange Revolution. In Washington, Yushchenko met with President Bush, Secretary Rice, Secretary Rumsfeld and other Cabinet officials, as well as with members of Congress and the Ukrainian-American community. I will not soon forget President Yushchenko's powerful and effective speech, and your warm welcome, at the historic joint session of Congress.

Presidents Bush and Yushchenko also agreed on a joint statement in Washington outlining the New Century Agenda for the American-Ukrainian Strategic Partnership. The document, which I encourage you to read as a significant blueprint for our new relationship, focuses on concrete areas for our cooperation. Let me mention a few.

- The United States and Ukraine pledge to work together to strengthen democratic institutions in Ukraine and to advance freedom in Europe, its neighborhood and beyond. We will work to defeat terrorism wherever it occurs and to advance economic development, democratic reforms and peaceful settlement of regional disputes. We will also work together to back reform, democracy, tolerance and respect for all communities, and peaceful resolution of conflicts in Georgia and Moldova, and to support the advance of freedom in countries such as Belarus and Cuba.
- In the area of economic policy, the United States and Ukraine will continue close cooperation on the issues that are vital to Ukraine's growth and prosperity. The Ukrainian government will seek U.S. recognition as a market economy. We are committed to working together to achieve Ukraine's accession to the World Trade Organization (WTO) and to moving as rapidly as possible to lift the provisions of the Jackson-Vanik amendment. We have initiated an energy dialogue to advance Ukraine's plans to restructure and reform its energy sector to encourage investment, diversify and deepen its energy supplies, bolster commercial competition, and promote nuclear safety.
- In terms of international relations, the United States pledges to support Ukraine's NATO aspirations and to help Ukraine achieve its goals by providing assistance with challenging reforms. Our support, however, cannot substitute for the important work that the Ukrainian government itself must undertake.
- The fight against the proliferation of weapons of mass destruction and their means of delivery is one of the most important issues facing the international community today. The United States and Ukraine will deepen our cooperation on nonproliferation, export controls, border security and law enforcement. We hope to deter, detect, interdict, investigate and prosecute illicit trafficking of these weapons and related materials. We also hope to enhance the security of nuclear and radiological sources and responsibly dispose of spent nuclear fuel.
- The security and stability of nations increasingly depends on the health, well-being and prosperity of their citizens. The United States and Ukraine therefore have committed to cooperate on a broad agenda of social and humanitarian issues, including halting the spread of HIV/AIDS and TB; fighting the scourge of organized crime, trafficking in persons and child pornography; and completing the Chernobyl Shelter Implementation Plan. We also support a bold expansion of contact between our societies. To this end, the United States and Ukraine will work to lower the barriers that separate our societies and to enhance citizen exchanges, educational training opportunities and cooperation between business communities of both countries.



*A New Century Agenda: Progress To Date*

This is a bold and ambitious agenda for the United States and Ukraine. Some of the tasks it lays out are longer-term; others can be completed fairly quickly. We are in close touch with the Ukrainian government to discuss these and many other issues. Ambassador Herbst meets with high-level Ukrainian officials almost daily. Secretary Rice and other high-level officials from the State Department and other U.S. agencies consult with their Ukrainian counterparts frequently. Members of Congress travel to Ukraine on a regular basis. At any particular time we are in the process of making preparations for two or three delegations.

Among the most significant mechanisms for maintaining close contact is a new U.S.-Ukraine Bilateral Coordination Group. This group, which I co-chair, is composed of senior U.S. and Ukrainian officials from a number of different agencies and complements the work being done through our embassies and high-level visits. The group is responsible for overseeing progress on implementation of the New Century Agenda.

Our first session was just a few weeks ago in Kiev, and I am happy to report on progress to date on some of the priorities identified by Presidents Bush and Yushchenko. Our operational principle is simple: as Ukraine moves ahead in its reforms so will our relations and our response. This process is now underway:

- NATO: The U.S. supports Ukraine's desire to draw closer to NATO. The pace, intensity, and end state of Ukraine's relationship with NATO will depend on Ukraine's own wishes, and on its willingness and ability to meet NATO performance-based standards through progress on reforms. For our part, we are committed to ensure that NATO's door remains open. We proudly led Allies to offer Ukraine an Intensified Dialogue on NATO Membership Aspirations at the April meeting of NATO foreign ministers in Vilnius, Lithuania. Intensified Dialogue provides a platform for Ukraine to work closely with NATO to prepare for the Membership Action Plan (MAP) program, the formal path to NATO membership. There is still much work to be done. The key is now for the Ukrainian government to complete the political, economic, defense, and security reforms required for membership consideration, and to build domestic support in Ukraine. A free and fair parliamentary election conforming to international standards in March 2006 will be an important marker. We look forward to working with Ukraine and our Allies as we take the NATO-Ukraine relationship to a new and more collaborative level.
- NATO PFP Trust Fund: Also at NATO, the U.S. announced that it would lead the first stage of a Partnership for Peace Trust Fund project to destroy obsolete and excess munitions, weapons, and MANPADS in Ukraine. Ukraine has enormous weapons stockpiles and ammunition dumps on its territory that present public safety, environmental and proliferation risks. There have already been explosions and fires at a number of these facilities as the result of accidents and unstable munitions. Given the size of the problem, the NATO PFP destruction program is fittingly the largest project of its kind ever undertaken anywhere. It will take about a dozen years to complete. As lead nation in the program, the U.S. is responsible for soliciting donations to the trust fund from other Allies. To date, the U.S. leads all donors with an initial contribution of \$2.14 million. Destruction activities should begin in the next few weeks.
- Iraq and the Global War on Terrorism: The U.S. deeply appreciates Ukraine's substantial military contribution toward building a peaceful, secure, and democratic Iraq. In keeping with his campaign promise to the Ukrainian people, President Yushchenko is conducting a phased withdrawal of the Ukrainian contingent in MNF-I throughout 2005, which will see the remaining troops return to Ukraine by the end of the year. Ukraine has consulted closely with us and with other coalition partners at every step. Ukraine, however, has made it clear that it will remain committed to helping Iraq. Ukraine will retain trainers and some staff officers in Iraq after the primary contingent departs, and has indicated its willingness to participate in reconstruction projects in a number of different economic sectors. Ukraine has also expressed interest in contributing to NATO's Training Mission in Iraq, and we are encouraging their participation in that effort.
- We also are very grateful for Ukraine's support for Operation Enduring Freedom in Afghanistan. Ukraine has provided thousands of over-flight clearances, as well as military supplies to the Afghan National Army. Ukraine also has continued to play an active and constructive role in peace-

keeping operations around the world, such as its 320-person contingent in Kosovo. Ukraine has also contributed troops and considerable resources to peacekeeping operations in Lebanon, Sierra Leone, Liberia, the Golan Heights, and Burundi. In short, Ukraine has been a key partner and contributor to common security and the global fight against terrorism. In recognition of this cooperation, we are including Ukraine in the Coalition Solidarity Fund and will continue to provide monies to assist with peace-keeping operations and other activities, such as for military inter-operability with NATO and for equipment and training.

- Non-Proliferation: We have made good progress with Ukraine on our non-proliferation agenda since the Orange Revolution building on a new political will from the Ukrainian leadership. We applaud Kiev's decision to expand our dialogue on these issues, and we are pleased to note a new openness in our discussions. Since March, Ukraine has signed the Second Line of Defense agreement to install radiological portal monitors at border locations; signed an Implementing Agreement to improve the security of radiological sources at the RADON sites in Ukraine; added certain chemical precursors to its control lists and consequently was admitted into the Australia Group; and agreed to destroy its last five strategic bombers and associated missiles under an existing DOD CTR project. We are working closely with the Ukrainians on these issues as well as on concluding a Biological Threat Reduction Implementation Agreement (BTRIA) and on the disposal of highly enriched uranium from sites in Ukraine. Ukraine is becoming a key partner in preventing illegal arms exports.
- WTO: The Ukrainian government has identified accession to the WTO this year as a major priority, and we strongly support Ukraine's bid. We have provided technical advice to the government and are consulting regularly in the informal working party meetings in Geneva. The Ukrainian government has struggled to push needed WTO-compatible legislation through parliament, but as I mentioned earlier—after a concerted effort by President Yushchenko, Prime Minister Tymoshenko, and Rada Speaker Lytvyn—on July 6–7 the Rada passed a number of important WTO-related bills. These included a set of amendments to Ukraine's Optical Disk legislation, which will strengthen Ukraine's protection of intellectual property rights, and bills on agricultural tariffs, insurance branching, auditing, automobiles, and oil-seed export duties. But much remains to be done. If the government hopes to achieve its objective of joining the WTO this year, it must launch an all out effort to consolidate support and pass more legislation in the Rada this fall, and bring to closure the outstanding bilateral negotiations. But Ukraine's WTO prospects do appear to be brighter today than a month ago.
- With regard to the U.S.-Ukrainian agenda, passage of the Optical Disk amendments was particularly significant. The Administration expects to see quick and effective implementation of these amendments and strengthening of the enforcement of all IPR laws. Now that President Yushchenko has signed the amendments, without changes, into law, the Administration is examining whether to terminate \$75 million worth of trade sanctions currently imposed on Ukraine. This decision could be made within the next few weeks. In addition, the Administration will conduct a Special 301 out-of-cycle review of Ukraine, which is currently identified as a Priority Foreign Country because of a record of media piracy and weak enforcement of IPR legislation. We will also consider whether Ukraine's Generalized System of Preferences (GSP) benefits should be restored. We will continue to work with Ukraine on IPR issues in the context of the out-of-cycle review and our bilateral negotiations regarding Ukraine's WTO accession. With regard to the latter, Ukraine must address additional tariff, non-tariff, and services issues in its bilateral negotiations with us.
- Market Economy Status: In April, the Department of Commerce initiated a review of the Ukrainian government's petition for designation of Market Economy Status (MES). The review is a quasi-judicial process and must be completed by mid-January 2006. Department of Commerce officials have met several times with Ukrainian officials to discuss Ukraine's petition, and Commerce teams visited Kiev in March and again this month to go over the review process. For example, we have urged the government of Ukraine to reach out to foreign investors and address some of the concerns of the business community. We need to see the Ukrainian government taking decisions this fall which demonstrate its increasing commitment to free-market principles.

- Jackson-Vanik: Ukraine has complied with the provisions of the Jackson-Vanik Amendment to the Trade Act of 1974 for over a decade. This Administration strongly supports Ukraine's immediate "graduation" from Jackson-Vanik and the extension of Permanent Normal Trade Relations to Ukraine. Some have resisted acting on Jackson-Vanik until Ukraine better addresses commercial issues, such as IPR. We view our WTO bilateral negotiations as the appropriate forum in which to press Ukraine on our commercial and trade concerns rather than using Jackson-Vanik. Nonetheless Ukraine's recent approval of Optical Disk amendments and other WTO-related legislation should merit reconsideration of the delay on graduation. As the Ukrainian people look for tangible signs of our new relationship, they are perplexed that Ukraine remains tainted by the legacy of Jackson-Vanik. We urge Congressional action on this matter.
- Energy: During his May visit to Kiev, Secretary Bodman initiated a consultative mechanism to help advance Ukraine's plans to restructure and reform its energy sector, diversify its energy supplies, and encourage investment. We have urged the Ukrainians to address the commercial viability of any energy strategy. U.S. firms are eager to invest in Ukraine, and it is vital that the government of Ukraine work with the private sector and create a transparent and supportive framework for investment.
- Chernobyl: The Chernobyl Shelter Implementation Plan (SIP) is a key element of the successful G7 effort that led to the permanent closure of the last operating nuclear reactor at Chernobyl in 2000. Together, the international donor community and Ukraine have pledged over \$1 billion to complete the SIP. The U.S. is the largest single donor. Our May 2005 pledge of \$45 million brings our cumulative total to \$203 million.
- Visas: We warmly welcome President Yushchenko's July 1 decree eliminating visa requirements for U.S. citizens traveling to Ukraine for business and personal trips of 90 days or less within a six-month period. President Yushchenko's far-sighted move, which complements an earlier similar decision to eliminate short-term visa requirements for citizens of EU countries and Switzerland, should boost tourism and investment, and facilitate people-to-people contacts. In response, we have eliminated non-immigrant visa issuance fees for Ukrainians, leaving only the (\$100) non-waivable application fee that is charged worldwide to all applicants for short-term U.S. visas.
- Health: HIV/AIDS is spreading in Ukraine at an alarming pace. As I mentioned previously, we intend to use some of the supplemental funding granted to us by Congress to expand the reach of ongoing anti-HIV/AIDS projects. We intend to help the Ukrainian authorities strengthen national institutions dealing with HIV/AIDS and its victims, expand care and support service for HIV-affected children from two to five of the eight most affected regions in Ukraine, and support legislation and policies for a national anti-retroviral treatment program and national prevention programs among key risk groups. Ukraine's current system for TB control is costly and ineffective. We plan to use some of the supplemental funding for prevention and care for HIV/TB co-infection, and to replicate a successful pilot project that dramatically decreases the cost and improves the effectiveness of TB treatment.

#### *Conclusion*

Earlier this month I led an inter-agency team to Kiev to meet with President Yushchenko, Prime Minister Tymoshenko, State Secretary Zinchenko, National Security and Defense Council director Poroshenko, Speaker Lytvyn, Foreign Ministry representatives, and others. I conveyed a simple message to all of my Ukrainian interlocutors. Ukraine has an historic window of opportunity—created by the heroism and determination of the hundreds of thousands of ordinary citizens who came together in the Maidan in Kiev and in the central squares of cities throughout Ukraine—to consolidate and make permanent reforms that will ensure a democratic, prosperous future within a Europe whole, free and at peace. The U.S. supports Ukraine's reform efforts and European and Euro-Atlantic aspirations and will respond meaningfully to key initiatives. But, like other reforming nations such as Poland before it, Ukraine and its leaders must make the necessary decisions and take the necessary steps. Ukraine's future is in its hands.

As I said at the outset, there are enormous expectations of the new government, and, given the complex and difficult environment and the enormity of the task at hand, Ukraine's transformation will not happen overnight. But it is vital that Ukraine's new leaders persevere and succeed. The stakes are clear for Ukraine, and the success of the Orange Revolution will have impacts beyond Ukraine's borders.

It inspires hope in the hearts of the oppressed and signals that democratic freedom is on the ascendance.

To succeed, Ukraine's leaders must invest their substantial political capital in further reforms, particularly in the economic sphere where progress has been slow. There is never an easy time for difficult, but necessary reform: there is always an election on the horizon, a bureaucracy that resists, a constituency that opposes. But if the will is there, reform can be achieved. The Central European states have come a long way since 1989, and I personally witnessed the success of Poland's reforms in the 1990s. From my meetings in Kiev, I am confident that President Yushchenko and his team have the vision and commitment necessary to do what needs to be done, and to lead Ukraine into the new century. The U.S. will pitch in to help.

Thank you very much for allowing me to appear before your Committee today. I would be happy to answer any questions you may have.

Mr. GALLEGLY. Thank you very much, Ambassador. What can we do in the United States to encourage Russia to deal fairly and even-handedly with Ukraine's new government?

Mr. FRIED. We can, and we are, in close contact with the Russians. We have explained to them repeatedly what our intentions are with respect to Ukraine. We have explained that to them, and I am speaking not only for myself, but others including at the highest levels. We have expressed the view that it is certainly, it seems to us, a good thing for everyone, including Russia, if Ukraine is a secure, prospering democracy.

We have told the Russians that we do not see Ukraine's future in zero sum terms. Ukraine, which is integrating with Europe, is not a Ukraine which is going to have bad relations with Russia. Any successful Ukraine will want to have close relations with Russia, but these relations should be based on respect for Ukraine's sovereignty, on market economic principles and hopefully based on a Russia which is itself moving into closer integration with the world.

We have made very clear our intention to consult with Russia as we proceed, but we have also made clear that our relations with Ukraine are not a function of our relations with Russia. We have our own relations with Ukraine and will continue to.

Mr. GALLEGLY. What is the official United States policy position regarding Ukraine's potential membership in NATO?

Mr. FRIED. I have been a champion of NATO membership for 15 years, Mr. Chairman. NATO's doors remain open in general. They remain open to Ukraine in particular. It is up to Ukraine first to decide as a nation whether it wants to join the Alliance, and at the moment it is not clear to me that there is a national consensus yet. Secondly, it is up to Ukraine to meet NATO's standards. The NATO enlargement has been a success, and we look forward to working with Ukraine as it deepens its relationship with NATO.

Mr. GALLEGLY. What does Ukraine have to do to improve its chances other than make the ultimate decision of having a consensus?

Mr. FRIED. Well, what we look for, quite honestly, is first whether they really want this as a nation; whether there is a consensus throughout society. Apart from that, we look for Ukrainian democracy to be consolidated and Ukraine's market economic reforms to deepen. We look for Ukraine to continue as it is doing to NATO's purposes and be able to work with NATO. We look to Ukraine's military reforms. You noticed I mentioned military reforms last because we look to NATO as more than an alliance of militaries. It

is ultimately an alliance of values. It is a performance-based alliance. We are looking for Ukraine to deepen its reforms, and as it does, its chances of membership in NATO will grow.

Mr. GALLEGLY. I have to just say what a historic day that would be to see that come to pass.

I had the opportunity when President Yushchenko was here to visit with him personally. I was excited and encouraged and look forward to the future. That is just my own personal observation.

Rob?

Mr. WEXLER. Thanks. With respect to Jackson-Vanik, I think you said it in the most unequivocal of terms that the Administration supports the lifting of Jackson-Vanik as it applies to Ukraine.

Mr. FRIED. Yes, sir.

Mr. WEXLER. I do not want to mischaracterize anybody's words, but I believe Chairman Gallegly said he supported lifting Jackson-Vanik. I believe Chairman Hyde supports lifting Jackson-Vanik.

Mr. GALLEGLY. No equivocating on my part.

Mr. WEXLER. No. I applaud that. What do you think is impeding, if you have any view, of why we actually have not done it?

Mr. FRIED. The Administration also has not equivocated.

Mr. WEXLER. I am not suggesting that they did.

Mr. FRIED. I know.

Mr. WEXLER. Right.

Mr. FRIED. Let me see. You are asking me to comment on the Legislative process and the Committee process.

Mr. WEXLER. You are an expert on everything.

Mr. FRIED. You are giving me, Congressman, multiple opportunities to make very serious mistakes.

We think that the time has come to move on this. We believe, especially now that Ukraine has shown the willingness to address IPR issues, that this is a good moment to proceed. I think it would be a very good signal to show to the Ukrainian people, if we were to show them, that as they move forward we are moving forward in our bilateral relations. So I certainly share your views that the time has come, and I stand ready to work with Congress and any of its Committees to advance this objective.

Mr. WEXLER. Is there any concern, if I may, about the timing of passing such a thing as it relates to Ukraine, relative to passing or not passing the lifting of Jackson-Vanik with respect to Russia?

Mr. FRIED. The Administration supports graduating Russia from Jackson-Vanik. That has been our position since November 2001. The two are not linked. We will support movement of Ukraine on its own.

Mr. WEXLER. If I may just change subjects a bit regarding the WTO; and I am not familiar with all of the, I think it is, 15 possibly or more than a dozen requirements or stated objectives that Ukraine is supposed to satisfy. I sometimes wonder whether, in the process of laying out a process for an ally, we lay out a process that if in fact the ally fulfilled everything we have asked them to do, they would be jeopardizing their own political position and in effect the implementation of the WTO or that American suggestions would ultimately be counterproductive.

I am curious if there is any aspect of that with respect to what we and the WTO are hoping and expecting that Ukraine adopt in the next coming months.

Mr. FRIED. I am not aware of any of the provisions in the WTO which we expect Ukraine to meet which would have this impact, but your question is an important one because it goes to the heart of economic transformation. Almost no post-Communist Government which launched economic reforms since 1989 has been re-elected. The governments that started the reforms are thanked for it much later, posthumously in a political sense.

I can forgive Ukraine's current government for not wanting to lose the next elections in March, but we also note that there is not any alternative ultimately to free market reforms. There is no third way. Governments that have tried that in our 15 years or 16 years of post-Communist history have never seen it work out. There is really no way but free market reforms.

Now, that said, there is a way to advance free market reforms better or worse with more sensitivity to social concerns or less sensitivity. The Ukrainian Government is trying to find its way. They admit that they may have made some missteps in the early stages, but I have some sympathy for the predicament they are in.

With respect to the WTO, I am not aware of any provisions that would put them in this kind of jeopardy, nor would the Ukrainians come to me and suggest that there are. When I discussed intellectual property rights protection with my Ukrainian interlocutors, and I did, I said that they should want to be a nation which produces intellectual property instead of a nation that steals intellectual property, and that those who were betting against IPR protection were betting against their own nation. They were not serving their nation's long-term interests.

Mr. GALLEGLY. Thanks, Rob.

Before we go on to the next panel I would like to follow up just a little bit on the IP issue.

Mr. FRIED. Yes, sir.

Mr. GALLEGLY. It has been an issue that I have worked on in the Congress here for 19 years. When I was a tall guy with dark hair I started on that issue.

Could you give me your evaluation of the Administration's view on the recent legislation passed by the Parliament specifically as it relates to IP or intellectual property?

Mr. FRIED. We thought that legislation was good. My understanding is, and I should not speak for them, but my understanding is that view was shared by some of the interested United States private groups.

We need to see it implemented, but we were very encouraged by President Yushchenko's signing of that legislation without changes. This was a good win for the government and the Parliament. It is good for our bilateral relations, and it is good for Ukraine's WTO process. That is a positive assessment.

Mr. GALLEGLY. Did you have a followup before we go to the next panel?

Mr. WEXLER. Just quickly. The point you raised is really a fascinating one, that no post-Communist Government that implemented economic reform was re-elected.

Mr. FRIED. That started.

Mr. WEXLER. That started.

Mr. FRIED. That started it.

Mr. WEXLER. That started it.

Mr. FRIED. Yes.

Mr. WEXLER. Following my unfairness of the first question to you, if you were a political advisor to the Ukrainian Government, in terms of advice, how would one in Ukraine implement economic reform and at the same time advance relatively positively the political aspect of it? Is it mutually exclusive in Ukraine?

Mr. FRIED. In the biggest sense, reform is always difficult, but there are certain kinds of measures which can help the politics.

A good business climate to encourage foreign investors and domestic investors is a good thing. What I think the government should try to do is immediately launch programs to turn those demonstrators in the Maidan and other Ukrainian cities, where there are hundreds of thousands of young, intelligent people. Give them the opportunity to become entrepreneurs. Let them link up with foreign investors. The people they hire and their families will start voting for the parties and the politicians who create those opportunities. They should grow their electorate, the progressive, modern entrepreneurial electorate.

Now, that is easy to say, and it is hard to do. Foreign investment and good business conditions for domestic investment are ultimately good politics.

Mr. WEXLER. Thanks.

Mr. GALLEGLY. We are joined by the distinguished lady from Nevada, Ms. Berkeley.

As I had mentioned earlier, because the votes are going to start at 2 o'clock, to my understanding, and will go for about an hour, we are going to have a very short session. I understand you would like to ask the witness a quick question before we go to the next panel.

Ms. BERKELEY. If you do not mind.

Mr. GALLEGLY. Okay. If you would make it as brief as possible so we do not usurp the next panel?

Ms. BERKELEY. All right. Thank you for being here, and I apologize for being late. I had some things in my office that required my attention.

I hope this has not been asked before, but I did want to talk to you about some issues that have come up in the Jewish community. Representatives of the American Jewish community have expressed concerns about what they consider to be an extraordinarily slow pace at which Jewish community property seized or Jewish property seized during the Holocaust in the Soviet period are being returned to their rightful owners.

In June, this group met with the new Ukrainian President, and he assured them that this issue would be a priority for him and that it would move more rapidly. Can you give me an update on what is happening?

Mr. FRIED. We support the return of religious community property to the religious organizations, including Jewish community property. This is important for reasons of justice. I am happy to say

that property has been returned. Some property has been returned, including some historic synagogues, but more needs to be done.

The problem the Ukrainian Government faces is that establishing title can be complicated because title was wiped out between Communism, Nazism, the Holocaust and war destruction, and often buildings are occupied by current tenants so moving them out is difficult. That said, we encourage the Ukrainian Government to move as rapidly as it can on community property restitution, and we work closely with the Jewish community.

I have to say as I was leaving the office of the Ukrainian Prime Minister, a group from the American Jewish Committee was coming in. I have worked with many of these people for years. They are old friends who continue to work together.

Ms. BERKELEY. Is there anything more that we can be doing in Congress to help these efforts or speed them along?

Mr. FRIED. I think letting the Ukrainian Government know of your concern and also letting them know, as you are letting them know, that you are friends to Ukraine and supportive of their aspirations to join Europe. These things go together.

Ms. BERKELEY. Thank you very much.

Mr. FRIED. Thank you, Madam.

Mr. GALLEGLY. Thank you very much, Ambassador Fried. I apologize for having to cut our testimony short. You are a great resource for us, and I am very grateful you were able to make it today. I hope that we will be able to continue to work together. This is an incredible issue and a very exciting time for all of us.

Mr. FRIED. Thank you for the opportunity, Mr. Chairman, and I stand ready to help any way I can.

Mr. GALLEGLY. Thanks, Mr. Ambassador.

We can call our second panel up. For our second panel this afternoon we are pleased to have three distinguished and knowledgeable witnesses that we expect to provide us with insight into the current state of affairs in Ukraine.

Our first witness is Taras Kuzio. Dr. Kuzio is a Professor at the Elliott School of International Affairs at George Washington University. Dr. Kuzio has been published in a wide range of media and economic journals on post-Soviet and Ukrainian politics, international relations, and nationalism. In addition, Dr. Kuzio served as Head of the NATO Information Office in Kiev and was a long-term Observer for the OSCE (Organization for Security and Co-operation in Europe) during the 1998 to 2002 parliamentary elections in Ukraine.

We are also pleased to have with us Stephen Nix, Regional Program Director for Eurasia at the International Republican Institute (IRI). Mr. Nix joined IRI in October 2000, after serving 2 years as Senior Democracy Specialist at the United States Agency for International Development. Mr. Nix is a specialist in political party development and judicial and legal reform in the former Soviet Union. Previously, he served for 3 years as the outside legal counsel for the Committee on Legal Reform in the Ukrainian Parliament.

Finally, we have the Honorable Nelson C. Ledsky, Senior Associate and Regional Director for Eurasia at the National Democratic Institute. Ambassador Ledsky has managed NDI's democratic de-



velopment programs in the former Soviet Union since 1992. Ambassador Ledsky retired from the U.S. Foreign Service in 1992, having served as United States Negotiator in Germany and United States Special Coordinator for Cyprus from 1989 to 1992, both with a rank of Ambassador. Ambassador Ledsky also served in the White House from 1987 to 1989 as a Special Assistant to the President for National Security Affairs and Senior Director of European and Soviet Affairs.

I welcome you all here today, and we will start with Ambassador Ledsky.

Mr. LEDSKY. Thank you.

Mr. GALLEGLY. Pardon me. I know that you gentlemen are aware of the time situation we have, and one of the most embarrassing tasks of being the Chair is to try to make sure we maximize our time, so if you could all condense your opening statements, and without objection your entire statement will be made a part of the record of the hearing.

Ambassador Ledsky?

**STATEMENT OF THE HONORABLE NELSON C. LEDSKY, SENIOR ASSOCIATE AND REGIONAL DIRECTOR, EURASIA, NATIONAL DEMOCRATIC INSTITUTE**

Mr. LEDSKY. Thank you very much, Mr. Chairman. I am delighted to be here to add my voice to that of Dan Fried, who is an old colleague, an old friend. We worked together in European Affairs for about 10 years in the 1980s and 1990s.

I would like to add to his remarks by pointing out two or three things that I am particularly aware of that are going on in Ukraine and that do not necessarily come to the immediate attention of the State Department.

First of all, the National Democratic Institute, along with our colleagues at the International Republican Institute, has been working in Ukraine for the past 13 years. We have had an office in Kiev since 1992, and we have been working with political parties since that time. Especially for NDI, we have also focused on the civic world of Ukraine, and we have helped create a series of organizations that worked during the 1990s and around the 2004 election, monitoring the vote, getting out the vote, and stimulating civil society throughout the country.

I am pleased to say that one of the most important conclusions that I have come to is that civil society in Ukraine is alive and well, that it is active, that it has continued to follow the developments of 2004 and now into 2005, that it is organized all over the country in support of the Yushchenko Administration. What has to happen now is that such support needs to be encouraged and focused along the lines that Mr. Fried outlined. In other words, to support democratic change, civil society must be encouraged and supported and effectively developed. In my testimony I go into some detail about who these groups are, what they are doing and what they can do if they are actively supported.

Let me say too that developments in 2005 are leading to a very important parliamentary election in 2006. There is every sign that these elections will be better than elections previously held in Ukraine. There is every indication that the Government of Presi-

dent Yushchenko understands the need for free and fair election, that he has so structured a Central Election Commission, that it will carry out free and fair elections. He has authorized for the first time domestic monitoring groups to be present in the polling stations, to instruct workers about how they should carry out their duties. We are very confident that what follows in March will be an important milestone.

Let me say that the National Democratic Institute is also working across the former Soviet Union. We have an important program in Georgia. We have just left Kyrgyzstan where we had an important, I think, triumph in a democratic direction. Everybody is looking to Ukraine and to the policies of Ukraine for encouragement and support. What happens in Ukraine in the rest of 2005, 2006, and 2007 will be a guide for what happens in Moldova, Belarus, Azerbaijan, Armenia, and in Central Asia. It is in that sense that what you do and what we do and what the Ukrainians do is terribly important for the long-term development of democracy across the two continents of Europe and Asia.

In that sense, the aid that we have tendered and the aid which you have tendered to other democracy-building organizations is very important. I would like to applaud you and the Committee for the support you have provided to Ukraine both in the past and what looks like will be increased support for 2006 and 2007. It is terribly important.

I would like also to highlight the support which Congress is giving to the Democracy Assistance Commission. We have just been privileged to assist the Commission in going out to Georgia and looking at that Parliament with a view to what assistance you can provide in 2006. I would ask you to put Ukraine on that same list, to extend support from Congress directly to the Ukrainian Parliament in the year ahead.

I would like to close here by simply saying that we are working extremely hard. It would be very easy to draw negative conclusions from events over the last 2 or 3 months. We do not do so. We think the events of the last 2 or 3 months need to be encouraged, supported, and underwritten.

[The prepared statement of Mr. Ledsky follows:]

PREPARED STATEMENT OF THE HONORABLE NELSON C. LEDSKY, SENIOR ASSOCIATE  
AND REGIONAL DIRECTOR, EURASIA, NATIONAL DEMOCRATIC INSTITUTE

Mr. Chairman and members of the Committee, on behalf of the National Democratic Institute (NDI), I am pleased to have the opportunity to speak about recent developments in Ukraine. American non-governmental organizations, including NDI, the International Republican Institute and the National Endowment for Democracy, have been involved in Ukraine since the early 1990s. Together and with support from Congress, these groups have worked cooperatively and productively to support democratic development in Ukraine. Since 1992, NDI has conducted programs in Ukraine aimed at strengthening democratic political parties, parliamentary groups, and civic organizations. I appreciate the chance to highlight these achievements and the opportunities facing Ukraine today.

I. INTRODUCTION

The events surrounding the 2004 presidential election have fundamentally changed Ukraine's political and social landscape. Following the Orange Revolution and its momentous consequences, Ukraine now faces the daunting task of establishing stability and normalcy across the country, developing a new perspective on governance, and instituting political and economic reforms.

Viktor Yushchenko was sworn into office in January 2005 after democratic party leaders chose to forsake their individual political ambitions and coalesce together behind a common candidate and a united call for free and fair elections. Many of these leaders are now members of the government. Today, almost eight months later, there have been important successes. The Yushchenko administration has made tackling corruption a main feature of its reform agenda and to meet this goal has taken promising steps, such as dismissal of the notoriously corrupt traffic police and imposing new restrictions on customs and VAT duties. Ukraine has taken a leading role in the regional coalition GUAM (formed of Georgia, Ukraine, Azerbaijan, and Moldova) and is speaking out for a peaceful resolution of the Transdnistria conflict and for freedom in Belarus. The government has ultimately made a decision on the intended re-privatization of ill-gotten businesses.

Parliamentary elections scheduled for March 2006 will be an important test of this government's ability to sustain the support of the Ukrainian people. NDI expects to see elections that are well organized and conducted by an impartial Central Election Commission under conditions of transparency. NDI is encouraged to see that the government has decided to recognize and amend electoral legislation to allow domestic nonpartisan election observers, as prescribed by Ukraine's decision to sign the 1993 Copenhagen agreement of the OSCE. There remain challenges to the election process, including a first-ever fully proportional election for the parliament and the task of replacing corrupt central, territorial, and precinct election offices with new officials.

The success of the Ukraine experiment depends, in the final analysis, on the ability of the Yushchenko government to actively engage and inform citizens at every stage of the reform process. Citizens of Ukraine currently have high expectations. They will need to understand that the sacrifices they will be asked to make will ultimately result in more political and economic opportunities and a more democratic society. The Yushchenko government will need to engage in a dialogue with citizens so that the needed reform process has a constituency amongst the citizens of Ukraine. The success of the 2006 parliamentary elections will determine the government's ability to mold support for reforms, implement these reforms, and continue on the path of creating a democratic Ukraine.

## II. CIVIL SOCIETY MUST BE ENGAGED

One of the most positive developments in Ukraine's democratic transformation has been the growth of civil society. From the Soviet-era human rights activists who gained new momentum in the early 1990s through the young people who called for President Kuchma's ouster last year, civil society has been a consistent bright spot on the Ukrainian political landscape.

Most civic groups that engaged in political activism in the Kuchma era were harassed. This mainly took the form of selective government enforcement of tax and other policies and attempts to intimidate individual leaders. Following the events of 2004, NDI has found that Ukrainian civil society has emerged intact and newly energized by opportunities for reform. The following hallmarks of the civil sector offer particular promise for continued progress:

### *Participation of Young People*

*Pora* (Enough) the civic group that last year brought thousands out into the streets is a youth-based movement. But, youth activism has a longer history in Ukraine. Since 1994, NDI helped a network of mainly young people all over the country form the Committee of Voters of Ukraine (CVU) the country's largest nonpartisan politically active NGO. With more than 100 branches throughout the country, CVU has attracted tens of thousands of young people into Ukrainian political life through the experience of monitoring elections, promoting linkages between citizens and government bodies, and citizen education programs. Between elections, the young activists leading CVU's grassroots chapters have created sophisticated, regional and national programs to monitor government responsiveness to citizens and involve Ukrainians in political life in their communities.

CVU, *Pora*, and others groups like them are adjusting to new roles as government "watchdogs" in Ukraine's political environment. Particularly at the local level, they are finding that changes come slowly. Government officials often maintain long-standing attitudes of the Soviet era. The current government has yet to attempt extensive administrative reforms and citizen "watchdog" groups are, of course, appropriate even in the most developed democracies.

### *Focus on Stemming Corruption*

Anger at official corruption and abuse of government authority has found outlets in hundreds of small community movements. These NGOs are driven by farmers

outraged by corruption in the land privatization process, by small business people fed up at selective tax and other government inspections, by motorists weary of being shaken down by police. NDI has provided assistance to dozens of such groups throughout Ukraine. In many cases they have successfully lobbied for changes to laws and regulations have called for the removal of corrupt officials. These NGOs are generally isolated from the international community, and poorly funded but intensely determined, fired by a group of individuals who believe they are searching for justice. The success of these groups testifies to the breadth and depth of indigenous civic activism in Ukraine.

Ukraine now boasts a full range of civic groups that represent many constituencies, including women, children, the elderly, the disabled, environmentalists, and others. While some of these groups are still in the process of defining their agendas, the very range of their activity is positive. It speaks to the ability of the Ukrainian political system to provide a vehicle for involvement for political activists of every stripe and citizens with every form of grievance.

### III. CHANGES MUST BE MADE AT ALL LEVELS OF GOVERNMENT

Since January, President Yushchenko sent a new group of leaders to the top of Ukraine's power structure, but left intact a sprawling government bureaucracy.

Today, despite appointing new ministers, the Yushchenko administration has had to rely on existing mid-level and local level bureaucrats. This is the case especially in the regions. In further instances, the Yushchenko has faced additional problems with newly appointed Oblast governors not adopting or implementing reforms.

The bureaucracy has been characterized by a Soviet-era governing philosophy, nepotism, and entrance barriers for talented young people. The development of a professional civil service is also hindered by holdover policies from the Kuchma administration. Until there are visible changes in the government or reforms at the lowest levels, it will be difficult to convince citizens that the Yushchenko government represents a change from the previous regime.

To this end, NDI is launching an internship and new staff development program geared toward bringing young professionals into government institutions and developing the skills of new hires. Participants will take part in an exchange program in Poland, Latvia, Estonia and other eastern European countries where they will work alongside civil servants to gain practical skills and develop deeper insights into the principles and practical execution of democratic governance. The participants will then return to Ukraine to begin or resume work in government ministries. This program will identify and train promising Ukrainian youth, including those recruited by the government, in an effort to create a talent pool of qualified professionals capable of carrying out the countless reforms proposed by the new regime.

### IV. CONCLUSION

Ukraine and its democratic future are important to the region and to the world. Democrats in Eastern Europe and elsewhere in the former Soviet Union are looking to Kyiv for inspiration. If Ukraine can successfully move toward Western Europe and the Atlantic community, so too can Moldova and Belarus, Azerbaijan and Armenia, and even the states of Central Asia. Russia, too, will be influenced by what happens in Ukraine—in a positive direction if things go well, in a negative direction if things go poorly. The developments in Ukraine, Georgia, and now Kyrgyzstan are all examples for the rest of the world. The success of these developing democracies will make more untenable the remaining authoritarian regimes across Eurasia.

The international community has learned that dramatic democratic transitions do not guarantee a democratic state. Developing a democratic Ukraine will require sustained international assistance to the government of Ukraine to complete its necessary political and economic reforms.

Ukraine has a long and difficult road ahead. The hopeful beginnings of 2005 need to be encouraged, supported, and strengthened. Congress has in its power to assist by focusing on professional exchanges, supporting the international community working in Ukraine, partnering with Ukraine on anti-corruption measures, and assisting the government with restructuring and improving the rule of law. In addition, congressional support for assistance to the parliament of Ukraine in 2006 under the Democracy Assistance Commission would be useful and deeply appreciated.

Ukraine is on the right trajectory, but the future is not assured. We must seize the opportunity to help create a democratic, socially responsible society. The US must invest sufficient resources into Ukraine to ensure its success.

Mr. GALLEGLY. Thank you very much, Mr. Ambassador, for your testimony and for making a real effort to abbreviate your extended testimony, that we will all want to read and review.

Mr. Nix?

**STATEMENT OF MR. STEPHEN B. NIX, REGIONAL PROGRAM DIRECTOR, EURASIA, INTERNATIONAL REPUBLICAN INSTITUTE**

Mr. NIX. Yes. Thank you, Mr. Chairman. In the interest of time, I have a very lengthy and detailed statement to make, but will submit it for the record.

Mr. GALLEGLY. Without objection. As I stated before, all of your testimonies will be put into the record in their entirety.

Mr. NIX. Thank you, Mr. Chairman.

Just briefly, I would like to outline a couple of points Ambassador Fried covered very eloquently on the issues of NATO enlargement, WTO membership, Jackson-Vanik, and EU membership. Very well done. We agree with the points that were made. I would like to focus on two political points and then sum up for you.

First I would like to acknowledge the successes that the Yushchenko Government has had in the first 6 months in terms of religious pluralism, freedom of the press, and a number of important economic reforms. I would like to get to the two political questions. The first is the specter of constitutional reform in Ukraine. There is a possibility that if Ukraine does not adopt a law on local self-government by September 1 that by January 2006, powers that are currently vested in the President of Ukraine will devolve to Parliament and the Prime Minister. It is expected that Mr. Yushchenko will challenge these provisions in the Constitutional Court of Ukraine, but this separation of powers issue needs to be clarified, and our hope is it will be clarified soon by the Ukrainians. That will dictate whether or not there will be a strong President who will have the power to undertake and implement reforms as President Yushchenko has tried to do.

Secondly, as Mr. Nelson Ledsky has mentioned, the parliamentary elections are of extreme importance to this government. Mr. Yushchenko has formed a new political party around his administration. Unfortunately, only 3 of the 10 parties that were part of his "Our Ukraine" bloc have joined this party, so it remains to be seen what will happen. It is vital that this government elect the required number of deputies in its faction to implement reforms this administration deems important. So those elections will be extremely important. We expect, as Nelson mentioned, that the elections will be much better administered. They will be more free. They will be more fair. Again, the outcome is in question.

Thirdly, I would just like to say again that the support that this Committee has provided to our efforts in Ukraine to work with political parties and civil society, and to promote democracy and freedom, are greatly appreciated. I think it is important to note that Ukraine is still early in the game and additional support is necessary. There is one specific area where I think that financial support is vital and that is to assist Ukraine in reforming its Courts of General Jurisdiction.

There has been a lot of discussion about the lack of foreign investment, which quite frankly centers on big ticket items like WTO, Jackson-Vanik and others. The fact remains that businesses are reluctant to invest in Ukraine because they are not sure that the courts will enforce contracts. Until that doubt is removed by a dramatic reform of the court system, investors will continue to be shy in some areas from investing in Ukraine.

I close by saying that we are very optimistic in terms of the future. We think that the Yushchenko Government has handled itself well in the first 6 months, and we think that the administration will perform very, very well and hopefully continue in the reform process

Thank you, Mr. Chairman.

[The prepared statement of Mr. Nix follows:]

PREPARED STATEMENT OF MR. STEPHEN B. NIX, REGIONAL PROGRAM DIRECTOR,  
EURASIA, INTERNATIONAL REPUBLICAN INSTITUTE

Mr. Chairman, I wish to thank you for the opportunity to testify before this Subcommittee today. I would like to request that my statement be submitted to the record. This hearing in itself is testimony to the strategic importance of Ukraine's democratic and economic development as it relates to the interests of the United States.

Mr. Chairman, the world watched with admiration as the citizens of Ukraine took to the streets last winter to demand that their right to vote be respected. The Orange Revolution not only brought about a peaceful and legitimate transfer of power, it also ushered in a new era of hope for the people of Ukraine and their desire for integration into the Euro-Atlantic Alliance.

In the wake of the Orange Revolution, Viktor Yushchenko and his team face an equally daunting challenge: to achieve full political and economic transformation and integration into Euro-Atlantic structures. In order to achieve those goals, President Yushchenko and his government must implement numerous reforms and face many challenges. It should be the policy of the United States to continue to assist in the democratic and economic development and integration of Ukraine, because of its vitally important geopolitical location, and for its commitment to freedom and democracy as evidenced by the Orange Revolution.

The Yushchenko government has made significant achievements in its first six months. First, it has improved the state of civil liberties in Ukraine. Religious pluralism is flourishing in Ukraine, unlike in Russia. Second, press freedoms have significantly improved since the Orange Revolution. Prior to it, the Ukrainian government, and specifically the presidential administration, routinely practiced censorship through sending "temniki"—or theme lists—to the press, indicating what topics should be covered and how these topics should be covered. Following the change of power in Ukraine, print and electronic media are finally reporting events without censorship; journalists are able to practice their profession freely; and the media are independent.

Third, commitment to democracy has been evident not only in the internal policies of the Yushchenko government but has also become a new focus of Ukrainian foreign policy, as has been declared by Ukraine's Foreign Minister Borys Tarasiuk. President Yushchenko made a commitment to supporting democracy worldwide during his working visit to the United States in early April. In a statement issued jointly with President Bush, Yushchenko pledged that Ukraine will work together with the United States "to back reform, democracy, tolerance and respect for all communities, and peaceful resolution of conflicts in Georgia and Moldova, and to support the advance of freedom in countries such as Belarus and Cuba." Later in April, Ukraine's representative to the United Nations supported the U.N. Resolution on Human Rights in Cuba.

The Ukrainian government has intensified its involvement in the Transdnistria region of Moldova, assisting the Moldovan government in negotiations with the parties concerned towards reaching a political resolution. The conflict in Transdnistria is an all-European, rather than regional issue, since this militarized zone serves as a smuggling corridor to Europe for arms, drugs and trafficking of women. Therefore, Ukraine's contribution towards the resolution of this conflict should be noted and commended.

After the Orange Revolution, Ukraine took on a leadership role in reviving the Georgia-Ukraine-Azerbaijan-Moldova organization (GUAM) with the goal of it becoming a full-value regional organization for democracy and economic development. All these countries occupy favorable geographic positions as potential transporters of Caspian oil and participate in this organization with the goal of achieving European Union (EU) and North Atlantic Treaty Organization (NATO) membership. GUAM has allowed Ukraine to become a regional leader in the sphere of promoting democracy and human rights. The Ukrainian government hopes that future cooperation within GUAM will include a free trade area among its members.

Despite early and significant progress in these important areas, the Yushchenko government faces major constitutional, political, legal, and economic issues. And part of my message here today is to affirm to you that the International Republican Institute remains committed to supporting the growth of reforms and democratic initiatives in Ukraine, just as we have since 1994.

In the midst of the Orange Revolution, the Ukrainian parliament adopted a package of legislation, consisting of an amendment to the existing election law to prevent fraud in the repeat run-off of the vote and a bill on constitutional reform. The constitutional reform reduces some of the powers that are currently enjoyed by the president of Ukraine and awards them to the parliament and the prime minister. The most important of these powers is the right to appoint and to discharge the prime minister as well as several key ministers, such as defense and foreign ministers. The prime minister is awarded the right to create reform and eliminate ministries.

The constitutional reform was scheduled to take effect on September 1, 2005, provided that the parliament would adopt a law on the improvement of local self-governance. Since this law has not yet been passed and it is unlikely that it will be by the September 1st deadline, the constitutional reform will come into effect on January 1, 2006. Therefore, starting next year, the authority of the president of Ukraine will be decreased, and the parliament and the prime minister will enjoy expanded powers.

Critics of the constitutional reform argue that these changes are not timely because a strong office of the president would ensure that the much-needed radical reforms are implemented, and awarding key powers to the parliament through weakening the executive decreases the potential for change. Several members of the Yushchenko team, such as the Secretary of the National Security Council Petro Poroshenko and Head of Presidential Administration Oleksandr Zinchenko, as well as Prime Minister Yulia Tymoshenko and Deputy Prime Minister Anatoli Kinakh, publicly criticized the reform and have promised to challenge it by putting it up for national referendum. The law is also subject to challenge in the Constitutional Court, since procedural violations allegedly took place in the voting process, specifically adopting a change to the Constitution together with another piece of legislation. In short, President Yushchenko must either challenge the constitutional amendments in court, or must be willing to surrender certain powers to the parliament and the prime minister. In any event, this separation of power issue must ultimately be clarified.

Parliamentary elections in Ukraine are scheduled for March 2006. They also pose a significant test to the Yushchenko team. This will be the first election since the Orange Revolution and, therefore, will present a test to the new Ukrainian leadership to demonstrate the consolidation of democracy in Ukraine by conducting a free and fair election. The United States should therefore monitor the election process closely by delegating election observers to Ukraine.

This will also be an opportunity for the Ukrainian citizens to send a signal to their new leadership evaluating its progress. IRI recently conducted focus group research, which revealed that the Ukrainian people are becoming increasingly frustrated with the fact that while many reforms have been happening at the highest levels of government, their everyday lives have not changed. While reforms take time to be implemented, much more could be done in terms of economic, political, and bureaucratic reforms. If not, the people in the IRI focus groups have indicated that they, while they are patient, are willing to consider voting for other forces in the parliamentary election. IRI will continue to conduct polling during the campaign to help candidates focus on relevant issues and potential reforms just as we did in the run-up to the 2004 presidential election. IRI will also offer training to all parties which will compete in the election.

Currently, Viktor Yushchenko's party still enjoys the highest rating amongst political parties in Ukraine. President Yushchenko established his "People's Union Our Ukraine" political party in March 2005. It represents an ongoing attempt to consolidate center-right political forces and unite them in a single party. However, individual party leaders that supported Yushchenko in the past were reluctant to

dissolve their individual parties and to merge into a new one. Only 3 of the 10 parties that formed Yushchenko's Our Ukraine bloc in 2002 agreed to join the new party. Currently, People's Union Our Ukraine is proposing to consolidate its efforts with the Bloc of Yulia Tymoshenko, Ukraine's Prime Minister as well as People's Party of Ukraine, represented by Volodymyr Lytvyn, the Speaker of Ukrainian parliament, and uniting into a coalition for the parliamentary ballot. In addition, for the first time, all of Ukraine's 450 parliamentary seats will be elected via proportional—or party list—system. This should prove to be a vast improvement for Ukraine, as a number of businessmen currently hold single-mandate seats, which provide them with immunity from criminal prosecution.

Judicial reform is also a critical challenge to the Ukrainian government. Ukraine's Supreme Court should be congratulated for its contribution toward the triumph of democracy in Ukraine. On December 3, 2004, based upon evidence of massive fraud and violations of the election law, it nullified the official results and ordered the Central Election Commission to conduct a repeat of the second round of the election. In this ruling, the Supreme Court signaled judicial concern for election fraud, and underlined the Court's constitutional role as an independent, co-equal branch of government.

It is now necessary to build upon the solid foundation laid by the Supreme Court and further strengthen democracy through reforming the judicial system of Ukraine. For this purpose, Secretary of the National Security Council Petro Poroshenko is heading a working group to advise President Yushchenko on judicial reform. The United States should provide support for this effort and should encourage the working group to be open and transparent in its undertakings.

Currently, Ukrainian courts lack administrative and financial independence from the executive branch, proper organization and adequate mechanisms to enforce their decisions. This is compounded by a non-existent bar association to internally regulate lawyers and judges. These structural problems combine to make the rule of law difficult to understand, apply and enforce. Beyond the structural reforms necessary to create a functioning legal framework for Ukraine, procedural reforms are necessary to enhance transparency, independence and confidence in the rule of law. Clear guidelines must be established to standardize issues of jurisdiction and venue in electoral disputes, make court decisions promptly available to the public, and to end *ex parte* communications in an effort to avoid appearance of impropriety. The Civil and Commercial Codes also need to be harmonized. These reforms are a critical piece of democratization, since it would be difficult for Ukraine to cement recent democratic gains without these structural and procedural changes. The United States should aid Ukraine's judicial reform by providing expert assistance and consultation on these necessary structural and procedural changes. IRI is prepared to assist the Yushchenko government in the area of legal and judicial reform and we encourage the United States Agency for International Development to fund such efforts.

The Yushchenko government has declared membership in NATO as an important strategic priority. Ukraine has been cooperating with NATO since 2002 in the framework of the action plan. Under the government of Leonid Kuchma, who was alleged to have approved the sale of radar systems to Saddam Hussein's government, as well as numerous violations of democratic principles domestically, the best NATO could offer was the NATO-Ukraine Action Plan and annual target plans. Despite this, Ukraine has an excellent record of cooperation with NATO. Ukraine participates in the Partnership for Peace Planning and Review Process (PARP), which supports implementation of Ukraine's State Plan for Reform of the Armed Forces. Ukraine contributed peacekeeping forces in the Balkans and other international peacekeeping efforts under the PARP.

In April of 2005, at the NATO summit in Vilnius, Lithuania, Ukraine and NATO started an Intensified Dialogue (ID), a step toward the Membership Action Plan (MAP). Ukraine and NATO expect to move to a MAP following a free and fair parliamentary election in March 2006, which would demonstrate the progress of democracy in the country. The Ukrainian government will need to implement the reforms outlined by the MAP in order to achieve NATO membership.

Unlike NATO, the European Union (EU) has not opened its door to Ukraine's membership, even though the events of the Orange Revolution clearly demonstrate that Ukraine is a truly European nation. The Yushchenko government has repeatedly declared EU membership as the top priority of its government. Though Ukraine should be considered for membership solely on the basis of merit and the success of its government's implementation of the necessary reforms, the EU should declare its commitment to accepting Ukrainian membership if Ukraine meets the qualifications. The United States should use its influence with its European allies to press



for such a commitment—this is the most effective way to encourage democratic, structural, and legislative progress within Ukraine.

The Yushchenko government also declared Ukraine's accession to the World Trade Organization among its top priorities. Indeed, joining the WTO would lead to an additional annual growth of GDP, additional exports, and the opening up of new markets to Ukrainian goods. It is also a key component of Ukraine's Euro-Atlantic integration plan. The United States should actively support Ukraine's membership. Ukraine has made important steps towards reforming its trade laws and legal system by recently adopting six out of 14 legislative acts needed for WTO membership. Passage of these laws should allow Ukraine to be considered for membership at the WTO biannual conference in December of this year.

On July 6, the Ukrainian parliament also passed bill #7032 "On Incorporating Amendments into Some Laws of Ukraine Concerning the Harmonization of National Legislation with Requirements of Multilateral WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)." This bill is commonly known as the law on laser disks and is significant, since Ukraine has long been a major player in the worldwide market of pirated CDs. Adoption of this law was not required for WTO membership, but was seen as critical by the United States.

Considering Ukraine's cooperation on the adoption of laws protecting intellectual property rights, it is crucial that the U.S. remove outdated trade barriers with Ukraine. The Congress should lift the Jackson-Vanik amendment. It has been in force since 1974 to punish the Soviet Union for limiting the immigration of its religious minorities. This no longer pertains to Ukraine. Consequently, this provision that bans normal trade relations between Ukraine and the United States should be lifted, which will allow Ukraine to gain most favored nation status and will stimulate its economy by increasing trade with the United States. This would bring economic benefits to the people of Ukraine and give them more confidence in the current government.

With its focus on Euro-Atlantic integration and gaining access to world markets, the new Ukrainian government has at the same time repeatedly stated that a fully-developed, close and friendly relationship with Russia is its top foreign policy priority. Ukraine has traditionally had very close ties to Russia, a nation with which it shares much history and culture. In the 2004 presidential race, President Putin openly backed Viktor Yushchenko's opponent—then-Prime Minister Viktor Yanukovich—and traveled to Ukraine several times in the course of the election campaign to rally support for the government's candidate. Despite this, Yushchenko made a commitment to the development of Ukraine-Russia relations and traveled to Moscow on his first foreign trip as president of Ukraine, just a few days after his inauguration.

However, mending the relationship with Russia has been challenging for Ukrainian authorities. Russia has become a safe haven for former government officials currently under investigation in Ukraine. The former head of the management of the presidential administration of Ukraine Igor Bakai is wanted in Ukraine on charges of abuse of office and causing material loss to the state. Those offenses are punishable by a prison term of seven to ten years in Ukraine. To avoid prosecution, Mr. Bakai, sought internationally, fled to Russia, where he was arrested, but then released for unknown reasons. Former Interior Minister Mykola Bilokon is also wanted for questioning in Ukraine on suspicion of abuse of office. He fled to Moscow, where he has frequent contacts with Mr. Bakai. Ruslan Bodelan, who was ousted as Odessa mayor in April 2005, is also wanted in Ukraine on charges of abuse of power. Bodelan underwent a heart operation at the Russian Defense Ministry's Vishnevskiy hospital outside Moscow, where he is residing now with no plans to return to Ukraine. Russian authorities have provided no assistance in detaining and extraditing these individuals.

In September 2004, during the presidential election campaign period in Ukraine, Russian authorities filed criminal charges against Yulia Tymoshenko, then an opposition leader and a member of the Ukrainian parliament, accusing her of bribing military officials while she headed a gas trading company in the mid-1990s. These charges are denied by Ms. Tymoshenko. Russian authorities refused to close the case after Tymoshenko's appointment to the post of prime minister.

Ukraine hosts the Russian Federation's Black Sea Fleet on its territory. Russia leases hundreds of acres of land in Crimea under the terms of an agreement that is set to expire in 2017. At that time, in line with the Ukrainian Constitution, no foreign troops are allowed on its territory. Russia is interested in extending this agreement, but the Ukrainian side is not expected to comply in light of its goals of NATO membership and considering that the Russian fleet has violated the lease agreement numerous times by using the land and premises it occupies for commer-

cial purposes, and establishing military prosecution offices on the territory of Ukraine.

Another outstanding issue with Russia is border demarcation between Ukraine and the Russian Federation in the Black and Azov Seas, specifically the jurisdiction over the Kerch Strait, a key shipping gateway between the two seas, and the island of Tuzla. Ukraine is intent on keeping the borders that were marked during the soviet times as administrative boundaries between the Russian and Ukrainian Soviet Republics. Russia, on the other hand, is arguing that there were no marine boundaries among the republics. If this issue is not resolved between the two parties, it may have to be decided by the international court.

Overall, despite the efforts of the Ukrainian government to mend the relationship with Russia after the Orange Revolution, it remains strained. Russian leadership is threatened by the democratic developments in Ukraine and its western orientation following the change of power. It is also displeased by the Ukrainian government's attempt to diversify its sources for energy following a sharp rise in oil prices on the Ukrainian market by the Russian traders.

The Russian pro-Putin party Yedinaya Rossiya recently openly endorsed the Party of Regions of the former Prime Minister Yanukovich, Viktor Yushchenko's opponent in the contested presidential race, and wished the party victory in the coming parliamentary vote. The Russian leadership is clearly hoping a more favorable leader will come to power in Ukraine soon.

Despite strained relations between the two countries, Viktor Yushchenko has reached out to the Russian business community to attract investment. In fact, the new leadership has been working hard to demonstrate the investment attractiveness of Ukraine to foreign entrepreneurs. President Yushchenko and Prime Minister Tymoshenko have been meeting with the business community leaders from Europe and the United States, and in mid-June Ukraine hosted a mini-Davos, an offshoot of the famous Davos World Economic Forum, which attracted nearly 250 prominent guests and decision-makers.

However, investors have been slow to move into Ukraine due to an uncertain business environment. Viktor Yushchenko made a promise during his campaign to take back large enterprises that have been sold by the previous leadership for considerably less than its market value and to auction them off under fairer circumstances. The most prominent reprivatization case is that of the largest steel maker in Ukraine, Kryvorizhstal, which courts have now declared was illegally sold for 3.59 billion hryvni (approximately \$720 million) under the Kuchma government to a company controlled by his son-in-law and Renat Akhmetov, an oligarch from the eastern region of Donetsk and Ukraine's richest man. Recently a court ordered the shares of Kryvorizhstal to be returned. The government expects that its re-sale would bring up to 10 to 12 billion hryvni (\$2-2.4 billion). However, lack of clarity with respect to re-privatization and what other enterprise sales will be re-visited has had the most negative impact on foreign investors. The United States should assist Ukraine in its efforts to stabilize the business environment and attracting investment by establishing a dialogue between U.S. and Ukrainian business, economic and finance leaders. Helping Ukraine prosper would serve to ensure its population that the path of freedom, democracy, and market economy that they chose is the right one.

The United States should further assist Ukraine's development by including Ukraine as an eligible country to compete for the Millennium Challenge Account (MCA) assistance. The MCA was established in 2002 as a vehicle for providing developmental assistance to nations that "govern justly, invest in their citizens, and encourage economic reform." After the Orange Revolution, Ukraine is a precise example of a country that is qualified under these provisions. Ukraine also qualifies as a candidate based on the country's per capita income level. With the assistance of the MCA funds, Ukraine could implement programs for fighting corruption, reforming its bureaucracy and developing its economy.

In conclusion, Ukraine has had a long and brutal history. Having suffered under decades of communism, which oppressed Ukrainian national identity and basic human freedoms and murdered millions of Ukraine's population by starvation in a synthetic famine, Ukraine was not able to fulfill the promise of independence after the fall of the Iron Curtain. Ukraine's first decade of independence was marked by government corruption and infringements on human rights and media freedoms. It was not until the Ukrainian people stood up in the unprecedented mass peaceful protests against the government's attempt to steal the 2004 presidential election that Ukraine became truly free. Ukraine's path to democracy has been a long and challenging one and it will take time for its new leadership to implement the changes necessary to reform Ukraine's economic and political systems. Mr. Chair-

man, IRI stands ready to continue its role in assisting Ukraine in developing and implementing those critical reforms.

The United States should take steps to fulfill President Bush's promise, made during his second inauguration speech, to support "the expansion of freedom in all the world" and "the growth of democratic movements and institutions in every nation and culture," and assist the Yushchenko administration in overcoming the significant challenges it faces. With such assistance, I am hopeful that President Yushchenko will succeed in implementing the reforms long awaited by the Ukrainian people that will lead this strategically important country toward a democratic and prosperous future.

Mr. GALLEGLY. Thank you very much, Mr. Nix.  
Dr. Kuzio?

**STATEMENT OF TARAS KUZIO, PH.D., VISITING PROFESSOR,  
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Mr. KUZIO. Thank you very much for inviting me today. I see that as the last speaker I am under intense pressure to try to be brief and especially to try to prove that not all academics like the sound of their own voice and speak too long.

First, I would like to say that what we need to take into account—I have prepared a longer testimony that mentions this—is that we have, in effect, two transitions taking place. We have one which I would call a revolutionary transition at the moment, until next year's parliamentary elections, and then a completely different situation from next year's elections onward.

The revolutionary coalition that has come to power in Ukraine inherited a Parliament in the Kuchma era. That Parliament has caused, and will probably continue to cause, problems for the Yushchenko Administration. From next year onwards, the current predictions and opinion polls, all the way from January until the present, suggest that the Yushchenko coalition will obtain a parliamentary majority of 50 to 60 percent. So, with control of the government and the executive, that should mean a very powerful triadic relationship in favor of reform and a push for Euro-Atlantic integration.

I would also like to state that Ukraine enters this transition period in a far greater starting position than other democratic revolutions that have taken place recently; for example, in Serbia, Georgia, and Kyrgyzstan. Compared to those countries, Ukraine's starting position is far greater because its economy is growing, its state is functioning, and we have a very demoralized opposition. We should also be more optimistic in comparison to the 1990s, when reform was tried to varying degrees in Ukraine and elsewhere in the CIS (Commonwealth of Independent States). Today the Communist Party is in terminal decline in Ukraine, which was one of the main blockages on reform in the 1990s. In next year's Parliament, the Communist Party is predicted to have no more than 35 or 30 seats, down from 120 in the 1998 Parliament.

Shock therapy is over. That was undertaken in the 1990s. Economic growth is now taking place since the year 2000, so we have a far more favorable climate. Plus, very important, compared to the 1990s the EU and NATO have moved up to Ukraine's western borders. Geography does matter in these situations.

The good progress has been in the battling of corruption, rule of law, democratization, media, and judicial review. The more weaker

areas have been in Yushchenko's leadership style, sometimes a bit like an absent-minded professor, unfortunately. He needs to take more control of the situation.

The economic situation we have already heard about, but we should not focus too much on the bad side of the economic reform. There have been some very positive developments in economics. There is a far more positive relationship toward small and medium business in Ukraine compared to the Kuchma era. In post-Communist transitions in Central Europe, small and medium businesses were very important in propelling the transition.

Also, I think a weak area has been in the resolution, finding and laying criminal charges against the organizers of the murder of opposition journalist Heorhiy Gongadze. Sadly, we have not seen that much progress in that field. We have to actually appreciate that if there had been no Kuchma-gate crisis in November 2000 there would have been no Orange Revolution, so the two events are very much closely interconnected.

Another positive area, although of course we all understand the opposition is important for democracies, is that we have an extremely demoralized opposition in Ukraine. In effect, the opposition was highly involved in election fraud, corruption, abuse of office, and of course the murder of Gongadze and the poisoning of Viktor Yushchenko. So potentially we do not really, at the moment, have a very serious opposition to Viktor Yushchenko. That will certainly be the case even more after next year's parliamentary elections, where the opposition is not expected to have more than a quarter of the seats.

Just on foreign policy quickly, I think that timelines, which was asked about earlier, are very important. I believe that it would be very important for the United States to support the lifting of the Jackson-Vanik Amendment, WTO membership, and market economic status by next year's parliamentary election.

I believe that these three areas would be something that would be very important for Yushchenko to have under his belt. After the 2006 election, it would be important for the United States to support Ukraine's membership action plan as a step toward NATO membership.

Thank you.

[The prepared statement of Mr. Kuzio follows:]

PREPARED STATEMENT OF TARAS KUZIO, PH.D., VISITING PROFESSOR, INSTITUTE FOR EUROPEAN RUSSIAN AND EUROASIAN STUDIES, GEORGE WASHINGTON UNIVERSITY

Viktor Yushchenko's election as Ukraine's third president was made possible by the Orange Revolution, the third democratic revolution that followed Serbia in 2000 and Georgia in 2003. Ukraine's democratic revolution has influenced successful revolutions in Kyrgyzstan and Lebanon. The Orange Revolution is continuing to give sustenance to democratic reformers in Armenia, Azerbaijan, Kazakhstan, Belarus and, most importantly, to Russia.

In comparison to the Serbian and Georgian democratic revolutions, Ukraine has a stronger starting position to succeed in its reforms. Unlike Serbia and Georgia, Ukraine is not a failed state. Ukraine's economy, unlike Serbia's and Georgia's, was also growing at a record 12% in 2004, the highest growth rate in Europe. Ukraine also differs from Serbia in that the old guard, who are now in opposition, are demoralized and cannot mobilize voters using extreme nationalism.

Ukraine differs from Serbia and Georgia in that no portion of its territory is beyond central control. Kosovo remains beyond Serbian government control and Belgrade continues to have conflicts with Montenegro over the continued usefulness of

any Union. Georgian President Mikhail Saakashvili inherited a country with three regions beyond central control: South Ossetia, Abkhazia, Ajaria, of which only the latter has been returned to Georgian sovereignty.

Ukraine's stronger starting base for reforms gives greater grounds for optimism in the success of the reform drive under Viktor Yushchenko. Yushchenko's clean personal record as National Bank Chairman and Prime Minister, his relative youth and the limited Soviet influence upon his career path, gives little doubt that Yushchenko is personally committed to Ukraine's democratic path.

At the same time, we should not under-estimate the difficulties that lie ahead. Ukraine's regional divisions gave Yushchenko only 52% of the vote *after* the Orange Revolution, far less than the 96% received by Saakashvili.

These realities forced Yushchenko into undertaking three compromises. The first with the Socialists to include them in the Yushchenko alliance, the second with Parliamentary Speaker Volodymyr Lytvyn to keep parliament open and the third with President Leonid Kuchma in round-table negotiations to permit a re-run of round two of the election on December 26, 2004. Yushchenko also inherited a Kuchma-era parliament with which he has to deal until the March 2006 election. These compromises and inheritances impacted upon the policies and strategies undertaken by President Yushchenko his first year in office.

Ukraine's Orange Revolution inevitably led to over-inflated expectations, some of which will not be met. Through 2005 many of these expectations continue to be fulfilled by the Yushchenko administration, Yushchenko and Tymoshenko continue to have high popularity rates ranging between 55–65%.

The Orange Revolution took place because many Ukrainians changed their view of Ukrainian politics from one of "A plague on all of your houses" where *all* politicians were viewed as corrupt. Yushchenko changed this widespread view by convincing a majority of Ukrainians that he and his political allies *were* different.

The continued salience of this view that Yushchenko is different from politicians in the Kuchma camp is central to the success of the Orange Revolution. This continued salience will determine whether voters continue to believe Yushchenko is different. Or, they instead, become disillusioned and begin to see Yushchenko as little different to these politicians he replaced.

After severe domestic and Western criticism of government economic policies during Yushchenko's first 100 days important corrections were introduced in May-June 2005. In contrast, the Yushchenko administration's policies in democratization, media freedom, reducing the power of oligarchs and battling corruption have been positively received by the USA.

Changes in economic policies, coupled with continued successes in democratization and battling corruption, will move Ukraine in a positive direction during the remainder of the transitional revolutionary administration until the 2006 parliamentary election. This overall positive trend, coupled with the victory of reformist forces in the 2006 election, will be important in preparing Ukraine for 4 years of reforms that will not be interrupted by elections.<sup>1</sup>

Ukraine's reform path under Yushchenko will gather speed after the March 2006 parliamentary election. With control over the executive, government and parliament, Ukraine will, for the first time, have a leader committed to reform that is also in control of Ukraine's three key institutions.

There is little debate that democratic progress will take place under Yushchenko. But, democratic progress will be at a medium pace. Ukraine's democratic progress will be slower than that experienced in central Europe because of the negative legacy of Soviet totalitarian-imperial rule, and 12 years of misrule under post-Soviet leaders. Other factors include weak administrative capacity (i.e. the ability of the leadership to implement policies on the ground) and Yushchenko's leadership style.

The success—or failure—of Ukraine's Euro-Atlantic drive and if Yushchenko is re-elected for a second term in October 2009 will be *not* decided by the revolutionary transition of 2005–2006. Yushchenko's and Ukraine's successful democratic consolidation will take place in the period between elections in 2006–2009/11. The USA can, and should, play a strategically important role in ensuring the success of Ukraine's democratic consolidation during this period.

#### ELECTION COALITIONS

Ukraine's politics are influenced by the broad coalition that came to power under Yushchenko and the need to build new coalitions to win a parliamentary majority in the 2006 parliamentary election. Our Ukraine is being transformed into a new

<sup>1</sup>After 2006, elections are not due until October 2009 (presidential) and March 2011 (parliamentary).

ruling party, the People's Union-Our Ukraine. Opinion polls suggest that the new party will obtain one-third of the vote in the 2006 elections, up 10% on Our Ukraine's vote in 2002.

The inability of People's Union-“Our Ukraine” to obtain more than 50% popularity single handedly, forces Yushchenko to compromise to ensure the creation of a pro-presidential parliamentary majority. A three party coalition is being prepared for the 2006 election that will consist of People's Union-Our Ukraine, the Tymoshenko bloc and parliamentary Speaker Volodymyr Lytvyn's People's Party. The latter unites moderates from the Kuchma camp who did not readily support Viktor Yanukovich's candidacy in the 2004 presidential elections.

Other likely members of this election coalition include First Deputy Prime Minister Anatoliy Kinakh's Party Industrialists and Entrepreneurs, Yuri Kostenko's Ukrainian People's Party, Finance Minister Viktor Pynzenyk's Reforms and Order party and Foreign Minister Borys Tarasiuk's Rukh party. This pro-Yushchenko alliance is slated to win 50–60% of the vote, giving it a sufficient number of deputies to form a parliamentary majority.

#### WEAK OPPOSITION

Divisions within the governing coalition will not be capitalized upon by the former pro-Leonid Kuchma camp. As former ruling parties, centrist parties are finding it difficult to adjust to acting as a united and coherent opposition. Ukraine will only have a real political opposition after the 2006 election.

The decline of the Kuchma camp can be seen in changes in parliamentary factions since the Orange Revolution. The former pro-Kuchma camp has shrunk in size from 240 to 110 deputies. Key pro-Kuchma parliamentary factions have lost over half of their parliamentary deputies, some of whom have defected to Yushchenko and Tymoshenko.

Centrist, former pro-Kuchma ‘opposition’ parties—Viktor Yanukovich's Regions of Ukraine and Medvedchuk's Social Democratic United Party—are devoid of any ideology that could form the basis of an ideological opposition to the Yushchenko coalition. During the Kuchma era his centrist allies were ideologically amorphous.

Defeated candidate Yanukovich Regions of Ukraine Party is the most ideologically amorphous of Ukraine's centrists. Its ratings, together with those of Yanukovich's in the 2004 election, were high because Communist voters defected to them. This was seen in the low vote for Communist leader Petro Symonenko in round one of the 2004 election (4.5%) and in the continued low popular ratings for the Communist Party of 5–6% (compared to a 20% vote in the 2002 election).

Yanukovich will be unable to mobilize the 44% of voters who backed him in the December 2004 election. The hard-line anti-Yushchenko opposition commands a maximum of 25% of the vote. Many of the remaining 20% who voted for Yanukovich will vote for Yushchenko's 2006 election alliance.

Ukraine's centrists were created as ruling parties and therefore are finding it difficult to adjust to being in ‘opposition’. As ruling parties they survived only as political roofs for oligarch, regional, business and criminal interests. For example, in Trans-Carpathia the Social Democratic United Party extorted funds from businesses for a charity which it controlled. 90% of the charity's funds then went to finance the local branch of the Social Democratic United Party.

Regions of Ukraine and the Social Democratic United Party are both led by discredited leaders. Regions of Ukraine leader Viktor Yanukovich, Social Democratic United Party leader Viktor Medvedchuk and Communist Party leader Petro Symonenko all have -50% ratings.

Many senior Regions of Ukraine leaders do not favor the Regions of Ukraine's ‘opposition’ stance because it is bad for business. Many business supporters of former pro-Kuchma parties do not want confrontational relations with the authorities.

Since the Orange Revolution the former Kuchma camp has divided into two groups:

##### *Moderates in the Ascendancy Willing to Work With Yushchenko*

- Kinakh's Party of Industrialists and Entrepreneurs (defected in second round of the 2004 election);
- Lytvyn's People's Party (sat on the fence in the 2004 election);
- Democratic Ukraine parliamentary faction;
- United Ukraine parliamentary faction;
- Remnants of the People's Democratic Party;
- Labor Ukraine party (formerly the political representation of the Dnipropetrovsk clan);

*Hard-Line Opposition Hostile to Yushchenko*

- Social Democratic United Party;
- Regions of Ukraine.

These many factors that debilitate the ‘opposition’ camp are also hampered by their inability to mobilize the population. This is a consequence of how civil society is weaker in eastern-southern Ukraine than in areas that voted for Yushchenko in 2004.

The spontaneity of citizens joining the Orange Revolution from western-central Ukraine is very different from the ‘managed democracy’ model of civil society found in oligarch-controlled eastern-southern Ukraine. The difference can be found in the attitudes of Yushchenko voters, who tend to be younger and better educated, while Yanukovych voters tend to be over 55 and less educated.

62% of Yushchenko voters believe that NGO’s are necessary while only 35% of Yanukovych voters do so. 30% of Yushchenko voters would take action to protect their rights compared to only 10% of Yanukovych voters<sup>2</sup>.

Yanukovych rallies during the 2004 election were organized by forcing or paying people to attend them. People were paid to travel to Kyiv to support Yanukovych in the Orange Revolution. The same is true of rallies against Yushchenko since he was elected. As ideologically amorphous parties, centrists do not have real members (as opposed to fictitious members on paper) who would defend their candidate or party in rallies, meetings, and protests.

The Communist Party remains adamantly hostile to the Yushchenko presidency. Nevertheless, Ukraine (and Russia) has changed since the 1990s when Communists could command large followings and block reform. The Communist Party is in terminal decline from its 20% support in the 2002 parliamentary election to only 4.5% for the Communist Party leader in the 2004 presidential election. Its current ratings give the Communists only 5–6% support meaning that their presence in next year’s parliament will be reduced from its current 55 deputies to only 36. At its height, the Communists had 120 deputies in the 1998 parliament.

The new opposition has been unable to convince Ukrainians or international organizations (EU, Council of Europe, OSCE) that law enforcement activities against them are tantamount to ‘political repression’. Only 30% of Ukrainians believe that the actions of the authorities amount to ‘political repression’.

## POLICY UNITY AND DIVISIONS

President Viktor Yushchenko’s election victory in 2004 came about as a consequence of a broad political alliance that includes left and right-wing populists—the Socialist Party and Yulia Tymoshenko Bloc—alongside free-market liberals and centre-right national democrats—the Party of Industrialists and Entrepreneurs and Yushchenko’s Our Ukraine.

There are few divisions in this alliance over political and institutional aims. Populists, liberals and national democrats all broadly agree on the need to:

- democratize political life;
- build respect for the rule of law;
- media freedom;
- reform the judiciary and court system;
- fight corruption and organized crime;
- remove the power of the oligarchs;
- bring to trial members of the former regime implicated in corruption and election fraud.

*Constitutional Reform*

The only policy in the policy domain that could seriously strain the coalition in the political/institutional field relates to the constitutional reforms agreed in December 2004 as part of a compromise package to break the deadlock and hold repeat elections. However, only the Socialist Party support constitutional reforms; the Tymoshenko bloc and the Party Industrialists and Entrepreneurs are opposed, while Our Ukraine is evenly divided, fearing both to weaken the presidency’s ability to push through reforms and advantage the Left. The reforms could be challenged in the Constitutional Court, over procedural irregularities in their initial passage.

<sup>2</sup> Karen Buerkle, Lisa Kammerud and Rakesh Sharma, *Public Opinion in Ukraine After the Orange Revolution* (Washington DC: International Foundation Electoral Systems, April 2005).

### *Personal Rivalries*

Other divisions in the coalition are personal—the product of competition for top jobs after the 2004 election. For example, the broad remit given to Petro Poroshenko, who had hoped to become prime minister, as head of the National Security Council creates the potential for ‘turf wars’ with Tymoshenko, and friction between the two is likely to persist.

Tymoshenko will remain as prime minister at least until parliamentary elections in March 2006. Leaving the coalition at this stage would threaten her political future, and she is protected from votes of no confidence by a period of 18-months’ grace after becoming Prime Minister, which extends to the elections in 2006. Her more populist impulses will continue to jar with Yushchenko’s more reformist approach, but Yushchenko has reined her in over misguided economic policies.

### *Corruption*

The Yushchenko administration inherited high levels of, and deeply entrenched, corruption. Some important steps have been undertaken to combat corruption, but much more needs to be undertaken. Criminal charges have only reached as far as the middle level of former Kuchma officials.

Many former Kuchma officials have fled to Moscow where they have been asylum. Interior Minister Yuriy Lutsenko describes this group of former Kuchma officials as a ‘government-in-exile’. Russia has not only given asylum to criminals on the run; it has also lobbied in the Parliamentary Assembly of the OSCE for this organization to denounce alleged ‘political repression’ in Ukraine. Russia’s ruling Unified Russia party has signed an agreement of cooperation with defeated candidate Yanukovych’s Regions of Ukraine, continuing Russia’s official support for Yanukovych in the 2004 election.

### *Gongadze Murder*

Little progress has been made in resolving the murder of opposition journalist Heorhiy Gongadze in fall 2000. 3 of the 4 policemen who murdered Gongadze have been arrested. But, the head of the murder group, General Oleksiy Pukach, has fled abroad, reportedly to Israel. Former Interior Minister Yuriy Krawchenko committed suicide or was murdered.

The key suspects in the Gongadze case, former President Kuchma and Parliamentary Speaker Volodymyr Lytvyn<sup>3</sup>, have not been charged. There is strong suspicion that Kuchma was given immunity during round-table negotiations in December 2004, after lobbying by EU Xavier Solana and Polish President Aleksandr Kwasniewski.

Progress in the Gongadze case is also hampered by the exiled presidential guard Mykola Melnychenko. Melnychenko’s tapes made illicitly in Kuchma’s office recorded a voice resembling Kuchma’s ordering Interior Minister Krawchenko ‘to deal’ with Gongadze. Melnychenko has been unwilling to cooperate with the Ukrainian Prosecutor’s office or hand over the original tapes.

### *Economic Reform*

On economic policies, the coalition is divided between state interventionists (Socialists and Tymoshenko bloc) and free-market liberals (Party Industrialists and Entrepreneurs, Our Ukraine), who have clashed over key issues:

*Regulating food and fuel prices.* The government’s decision to impose price caps after an oil price hike in April 2005, alongside Tymoshenko’s decision to confront directly the Russian oil companies that supply most of Ukraine’s oil, arguably only succeeded in creating a petrol shortage. Yushchenko and certain figures in the cabinet, notably First Deputy Prime Minister Anatoliy Kinakh, criticized the government’s handling of the crisis, in particular the departure from allowing market forces to determine pricing. Yushchenko suggested in a meeting with Russian oil executives that Tymoshenko should resign, although he later stepped back from this step.

*Re-privatization.* Tymoshenko has voiced support for investigating 3,000 privatizations undertaken since 1992, while Yushchenko and Kinakh supported a list of 29 companies. After the min-Davos World Economic Forum summit in Kyiv in June, it was decided to not draw up any lists of companies slated for re-privatization.

Tymoshenko’s statist views are supported by the new head of the State Property Fund, Valentyna Semeniuk (Socialist Party). Left and right-wing populists support maintaining state control over large ‘strategic’ enterprises if they are re-privatized; Yushchenko supports their submission to new, transparent tenders or asking the

<sup>3</sup>Lytvyn was head of the Presidential Administration in 2000 when Gongadze was murdered.



current owners to pay the market price. Yushchenko's more pro-market views will dominate government policy.

One area of economic policy that the coalition has not disagreed on is a socially oriented budget. Pensions and state salaries were increased ahead of the 2004 elections by then Prime Minister and presidential candidate Viktor Yanukovich. The new government had to continue these commitments, but has added new spending of its own.

Higher pensions and state salaries risk higher inflation and slower growth. Nevertheless, they are supported by both strands in the coalition, partly to reduce the need for corruption by making state salaries sufficient to permit a reasonable standard of living for state officials, but also to increase support for the coalition in the 2006 parliamentary election, especially in eastern and southern Ukraine.

#### CONCLUSION

Ukraine's progress towards reform under Yushchenko will progressively move forward and become faster after the 2006 parliamentary election. Yushchenko's election coalition will win a parliamentary majority, giving it control over the government.

The speed of reforms will be at a medium pace, compared to their rapid progress in central Europe and the Baltic states. The reasons for this are inherited legacies from Soviet rule and mismanagement and corruption since 1992. A faster reform pace is also constrained by two other factors. First, regional divisions, with support for reform lower in eastern Ukraine. Second, the need to build up administrative capacity to permit Yushchenko's policies to be implemented at the local level.

Yushchenko's reform program is being undertaken in a more benign environment than that of the 1990s. First, the opposition is in decline (Communist Party) or lacks legitimacy (former pro-Kuchma centrists). Second, the worst aspects of reform,—shock therapy—have already taken place. Third, since 2000 the economy is growing.

Mr. GALLEGLY. Thank you very much, Dr. Kuzio.

I am going to try to condense my questions in an abbreviated form so Ms. Berkeley will have an opportunity before the bells go off.

For you, Dr. Kuzio: What is your assessment of Russia's policy toward Ukraine, and do you think that Russia may be trying to undermine the new pro-Western government?

Mr. KUZIO. There is little question that Russia does not even legitimately accept the election of Viktor Yushchenko. Vladimir Putin's political party, Unified Russia, only last month signed an agreement of cooperation with Viktor Yanukovich's party of regions, which therefore continues Putin's intervention in Ukraine's internal affairs.

Could you imagine, for example, the United States Republican party signing an agreement with Victor Yushchenko's People's Union-Our Ukraine party? This would rightly be seen as direct intervention in Ukraine's domestic affairs. Russia is continuing to do this. Worse still, Russia has become, in effect, a center for government officials in exile of Kuchma, who have fled to Moscow due to having been charged on various issues such as election fraud and corruption.

A third way in which Russia is playing a very negative role is in attempting, as we saw in Uzbekistan, to block the spread of democracy in the former USSR. Vladimir Putin is in favor of actually launching counterrevolutions against democratic progress. So we already have a very direct competition there between Ukraine, which supports the Bush Administration's promotion of democracy in the region, and Russia's attempt to oppose the spread of democracy.

Mr. GALLEGLY. Following up on that, Mr. Nix, do you believe that the current United States assistance to Ukraine is sufficient? If not, what do we need to do?

Mr. NIX. The short answer is yes. Currently our assistance is sufficient, but I think we have to keep in mind that just like it takes time to build parties and build transitions of power, it takes time to build structures. My admonition is that the United States Agency for International Development and the State Department have to continue to provide assistance in a broad array to Ukraine in a number of areas.

Number one is to continue to work in the area of political parties as they develop. Number two is development of civil society. Number three is rule of law. Again the reform of the Courts of General Jurisdiction is very important for a number of reasons to make Ukraine's courts really separate and equal from the executive and legislative branches.

My point to the Committee is that we have to stay at this for years to come. This is not something that we can say we had tremendous success during the Orange Revolution and then walk away from it. It is an investment of time and resources, and we have to make a commitment to it.

Mr. GALLEGLY. Thank you, Mr. Nix.

One final question for you, Ambassador Ledsky. From a more global view, how can the events in Ukraine help to spread democracy in former Soviet countries such as Belarus and elsewhere in the world?

Mr. LEDSKY. Well, first through inspiration. I think what is going on in Ukraine is known in Belarus. It is known in Moldova. It is known in the Caucasus. It has come to inspire the political leadership of the opposition in all those countries. The Ukrainians have also taken a number of steps to promote democracy in Belarus, in Moldova, in Georgia, and Armenia. Finally, the Ukrainians have begun a process of trying to solve the Trans-Dniester problem together with the Moldovans in a way that is absolutely new and, I think, quite refreshing.

Perhaps, finally, I should mention the Ukrainians have taken a lead in trying to put together this Guam relationship—a relationship which includes, if I am not mistaken, Moldova, Georgia, Azerbaijan, and Ukraine—in an effort to stimulate economic development among the four or five democracy-building societies and to assist in the political development of each of those states. The Ukrainians have done, I think, a remarkable job of reaching out to their neighbors over the course of the last 6 months, and I think it should be encouraged and developed further.

Mr. GALLEGLY. Thank you very much, Ambassador.

Ms. Berkeley?

Ms. BERKELEY. Mr. Chairman, I do not have any additional questions. I appreciate the questions that you asked. They would have been the ones that I would have.

I want to thank all of you for being here and helping to educate me so that I could do a better job in my position. I appreciate how optimistic you are with reservations, obviously, about the future of Ukraine and the surrounding area. I share your enthusiasm and look forward to working with the Ukrainians and providing them

with the resources they need to continue doing what they are doing.

Thank you all very much for being here.

Mr. GALLEGLY. I would just like to quickly summarize by giving a very big thank you to the three of you and Ambassador Fried. It is remarkable we were able to cover such a lot of ground, and we did it with 34 seconds to spare. Obviously there are many, many more questions that I know my fellow Committee Members would like to ask and continue to use all of you as a resource.

In my 19 years here in this great body, there have been few things that have given me anywhere near the level of pleasure as what I am seeing happening in this region of the world. It is extremely encouraging, yet it is still fragile. I see us going in a direction that many of us never thought we would see 10, 12, or 14 years ago.

Mr. LEDSKY. Mr. Nix predicted it.

Mr. GALLEGLY. Yes. Well, let us hope that he has other great things to predict in the future because if it is like this I want to applaud you belatedly.

Again, thank you all for being here, and again I apologize for the abbreviated hearing. With that, the Subcommittee stands adjourned.

[Whereupon, at 2 o'clock p.m. the Subcommittee was adjourned.]



## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE DAN BURTON, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, thank you for convening this important hearing to shed light on the progress of democracy in Ukraine after the Ukrainian's people courageous struggle for political freedom and economic prosperity. Only a few short months ago, the Ukrainian people voted to cast off the burden of corruption, oligarchy and tyranny by electing opposition leader Viktor Yushchenko as President in what has been called the Orange Revolution. In the true spirit of freedom and equality, the brave and determined people of Ukraine achieved their victory through a truly bloodless revolution.

Since the fall of the Iron Curtain much of Eastern Europe has struggled to loose the chains of corruption and oppression that linger as relics of Soviet socialism and communism. It is for this reason that the Orange Revolution came as a refreshing glimmer of hope to the United States and the international community as a whole. We cannot commend enough the courage and bravery of the Ukrainian people. Their vote was one for progress and one against a corrupt relationship between business and politics. Furthermore, such political progress epitomizes the America's determined foreign policy goal of spreading democracy and freedom throughout the globe.

The Orange Revolution occurred as a result of electoral fraud on the part of government officials; it was this fraud which ultimately incensed the Ukrainian people and catalyzed opposition leader Viktor Yushchenko's victory. Mr. Yushchenko not only boasts international approval, but most importantly maintains a 60% approval rating in Ukraine as well. He maintains a policy of governmental transparency and economic progress. Such policies have combined, this year, to increase public spending, increase the average national wage, and increase Ukraine's GDP by 12.1%. Thanks to Mr. Yushchenko's government, we are seeing internal economic progress in a country once overwhelmed with corruption.

In addition to the current economic progress we are witnessing in Ukraine, Mr. Yushchenko has gone to great lengths to dispel past animosities and has wholeheartedly sought favor with the international community. In his own words, his ultimate goal is to "place Ukraine among the prosperous democracies" of Western Europe. In order to do this, Mr. Yushchenko is adamantly lobbying for his country's entrance into the European Union, North Atlantic Treaty Organization (NATO), and the World Trade Organization (WTO). Entrance into these organizations is an essential step toward cementing current reforms and providing an audience for further progress. I encourage all of my colleagues to endorse Ukraine's entrance into the international community and in doing so I encourage us to offer our hand, not as former foe, but as welcoming friends. Such a gesture, I believe, will go a long way toward completely stabilizing and solidifying democracy and freedom in Ukraine.

Mr. Chairman, despite my optimism and hope that the Orange Revolution and Mr. Yushchenko's government have provided in their region, history has demonstrated that revolutions are a means, not an ends. They are the dynamic foundation of freedom and equality, both of which transcend people and time through constant progress and revival. Although it is regrettable that the phoenix must occasionally rise from ashes to resume its place of admiration, we must nevertheless view revolution as rebirth. For this reason, while I commend President Yushchenko and Prime Minister Yulia Tymoshenko and the Ukrainian people for the steps they have taken toward the ideal of democracy and free markets, I am compelled to state my concerns with the hope that this hearing will illuminate the country's situation

so as to give praise where praise is due and raise concerns where further reforms are needed.

Although Ukraine has already made much progress since the Orange Revolution, I am concerned that government actions are not matching the words of the Orange Revolution speeches. The Yushchenko government promised open government and free markets—both of which are emerging in Ukraine but fall short of Western standards. Long delays in opening Ukraine's financial records of government officials cast a shadow of doubt on the pledge of government transparency. And in addition to this, I am concerned about recent government-supported price ceilings imposed on the oil and meat markets in Ukraine. Such actions are not only hypocritical of free market rhetoric but cause alarm in this post-Soviet region.

Make no mistake about it, these concerns cannot take away from the fact that Ukraine is on the right track. The Ukrainian people have spoken and they adamantly demand freedom and democracy. I believe that Mr. Yushchenko and his government are the answer to the Ukrainian cries. The United States' participation in the international theater will provide ample audience for Ukraine's continued reform.

Once again Mr. Chairman, I thank you for holding this important and timely hearing. I look forward to hearing from the witnesses and hope—by the days end—that we will have a better understanding of how best to support our friends in Ukraine and their quest for freedom and democracy.

