



# Ukraine: Current Issues and U.S. Policy

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## Summary

Since Viktor Yanukovich defeated Prime Minister Yuliya Tymoshenko to win Ukraine's presidency in 2010, many observers have expressed concern about Ukraine's democratic development, including the government's use of the courts to neutralize opposition leaders, including Tymoshenko, who was sentenced to a seven-year prison term in 2011. International observers criticized Ukraine's October 2012 parliamentary elections as falling short of international standards.

The global economic crisis hit Ukraine hard. Ukraine's real Gross Domestic Product (GDP) fell by an estimated 15% in 2009. The economy began to recover in 2010, but has hit another slowdown since 2012, due to the Eurozone crisis, which has reduced demand for Ukraine's exports. Ukraine has long-standing problems in attracting foreign investment, in part due to rampant corruption and other shortcomings in the rule of law. Living standards for many Ukrainians remain low, leading to a sharp drop in Yanukovich's popularity when compared to the start of his term. However, Ukraine's next presidential elections are not due until 2015.

President Yanukovich has pursued closer ties with Russia, especially in the economic sphere. A major focus of his policy has been to seek reduced prices for natural gas supplies from Moscow, or failing that, to diversify Ukraine's sources of supply. Ukraine has so far fended off Russian pressure to sell it control of its gas pipeline system and join Russia-led political and economic integration structures.

Yanukovich has said that EU integration is a key priority for Ukraine, but EU criticism of what it views as the politically motivated conviction and imprisonment of Tymoshenko and others has delayed the signature of a long-awaited association agreement with the EU, which includes a free trade agreement. Yanukovich has made clear that his country is not seeking NATO membership, but is continuing to cooperate with NATO, including the holding of joint military exercises.

The Obama Administration has worked to "reset" relations with Russia, but has warned that it will not accept any country's assertion of a sphere of influence, a reminder of U.S. support for Ukraine's sovereignty. The Administration has focused on helping Ukraine rid itself of its supplies of highly enriched uranium, assisting Ukraine with the clean-up of the Chernobyl nuclear site, and diversifying Ukraine's sources of energy, including advice on developing Ukraine's shale gas reserves. Administration officials have expressed serious concerns about regression in Ukraine's democratic development since Yanukovich took power, including in such areas as media freedoms and selective prosecution of the government's political opponents.

Legislation was introduced in the 112<sup>th</sup> Congress and 113<sup>th</sup> Congress calling for Tymoshenko and other victims of politically motivated prosecutions to be released from prison. One of them, a modified version of S.Res. 466, was passed by the Senate on September 21, 2012. Among other provisions, it called for sanctions against Ukrainian leaders responsible for selective prosecutions.

The Obama Administration requested \$95.271 million in U.S. aid for Ukraine for FY2014. Among other purposes, U.S. aid is used to bolster the safety of the Chernobyl nuclear facility; improve governance and increase the accountability and effectiveness of the justice system; help Ukraine fight its HIV/AIDS crisis (which is the most severe in the region); improve interoperability with U.S. and NATO forces; and help Ukraine deal with serious problems with trafficking in persons and cybercrime.



## **Contents**

Background.....	1
Current Political Situation .....	3
Current Economic Situation.....	5
Ukraine’s Foreign Policy .....	6
NATO .....	6
European Union.....	7
Russia .....	8
Energy Issues.....	8
U.S. Policy .....	10
Congressional Response.....	11
U.S. Aid to Ukraine.....	11
Other Legislation.....	12

## **Contacts**

Author Contact Information.....	13
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## Background

Ukraine, comparable in size and population to France, is a large, important, European state. The fact that it occupies the sensitive position between Russia and NATO member states Poland, Slovakia, Hungary, and Romania adds to its geostrategic significance. Many Russian politicians, as well as ordinary citizens, have never been fully reconciled to Ukraine's independence from the Soviet Union in 1991, and feel that the country belongs in Russia's political and economic orbit. The U.S. and European view (particularly in Central and Eastern Europe) is that a strong, independent Ukraine is an important part of building a Europe whole, free, and at peace.

From the mid-1990s until 2004, Ukraine's political scene was dominated by President Leonid Kuchma and the oligarchic "clans" (groups of powerful politicians and businessmen, mainly based in eastern and southern Ukraine) that supported him. Kuchma was elected president in 1994, and re-elected in 1999. He could not run for a third term under the Ukrainian constitution. His rule was characterized by fitful economic reform (albeit with solid economic growth in later years), widespread corruption, and a deteriorating human rights record.

Ukraine's 2004 presidential elections were marred by electoral fraud, which triggered massive street protests. The oligarchs chose Prime Minister Viktor Yanukovich as their candidate to succeed Kuchma as president. The chief opposition candidate, former Prime Minister Viktor Yushchenko, was a pro-reform, pro-Western figure. After the November 21 runoff vote, Ukraine's Central Election Commission proclaimed Yanukovich the winner. Yushchenko's supporters charged that massive fraud had been committed. Hundreds of thousands of Ukrainians took to the streets, in what came to be known as the "Orange Revolution," after Yushchenko's chosen campaign color. They blockaded government offices in Kyiv and appealed to the Ukrainian Supreme Court to invalidate the vote. The court did so and set a repeat runoff vote. Yushchenko won the December 26 re-vote, with 51.99% of the vote to Yanukovich's 44.19%.

The "Orange Revolution" sparked a good deal of interest in Congress and elsewhere. Some hoped that Ukraine could finally embark on a path of comprehensive reforms and Euro-Atlantic integration after years of half-measures and false starts. However, subsequent events led to disillusionment among Orange Revolution supporters, both in Ukraine and abroad. President Yushchenko soon fell into squabbling with Yuliya Tymoshenko, his main backer during the Orange Revolution and his first prime minister, over policy and over mutual allegations of corruption, slowing progress on reforms.

Ukraine's government lurched from one political crisis to another during Yushchenko's presidency. Tensions between Tymoshenko and Yushchenko (and between each of them and Yanukovich, who also served briefly as Prime Minister during this period) were exacerbated in the run-up to presidential elections in 2010, in which all were to be candidates. As Ukrainian leaders engaged in this three-sided political battle, an overwhelming majority of Ukrainians grew disgusted with the Ukrainian political class, according to opinion polls. Observers say that this is in part due to the fact that Ukrainian leaders continued to squabble despite the global economic crisis, which inflicted severe blows on Ukraine's economy.

Ukraine held presidential elections in January 2010. As expected, Viktor Yanukovich came in first, winning 35.32% of the vote. Yuliya Tymoshenko won 25.05%. Incumbent President Yushchenko did very poorly, winning a mere 5.45%. Other candidates split the rest of the vote. The results set up a second round runoff vote between Yanukovich and Tymoshenko on February

7. Yanukovich won 48.98% of the vote, beating Tymoshenko, who won 45.47%. As in past elections, the results showed a sharp regional split, with Yanukovich winning in Russian-speaking eastern and southern Ukraine, while Tymoshenko prevailed in central and western Ukraine, where Ukrainian nationalism is stronger. However, Yanukovich's overwhelming margins in the east (particularly in his home base, the Donetsk and Luhansk regions) more than offset Tymoshenko's more modest victories in some western areas.

International monitors led by the Organization for Security and Cooperation in Europe praised the conduct of the election. Exit polls by independent groups did not show a significant departure from the announced results. Nevertheless, Tymoshenko charged that Yanukovich's supporters had engaged in massive fraud. However, she said she would not call her supporters out into the streets to challenge the result. Analysts suggested that this was because a disillusioned public would not turn out for mass demonstrations as they had in 2004.

In March 2010, the Ukrainian parliament approved Yanukovich's choice for the post of prime minister, Mykola Azarov. Azarov has been a loyal associate of Yanukovich for many years. He served as first deputy prime minister and finance minister during Yanukovich's two terms as prime minister. The government was supported by the Party of Regions, the Communist Party, and another party, but fell short of a majority. As has happened after previous presidential elections, the new leader was able to gain additional support from opposition 'turncoats.'

Opposition leaders charged that those who switched did so because they were bribed or threatened with government retaliation against their businesses if they did not comply. The opposition also said that the defections from a party faction were unconstitutional. However, the Ukrainian Constitutional Court later ruled that the method of the government's formation was legal. President Yanukovich's formal powers were further boosted in October 2010, when the Constitutional Court invalidated constitutional amendments adopted during the Orange Revolution that had ceded some of the president's power over the government to the parliament.

President Yanukovich and his supporters have portrayed themselves as a team of professionals engaged in the practical work of governing, as opposed to the unproductive squabbling of the Yushchenko period. The opposition charges that the government has not achieved significant results while in office, except for engaging in massive corruption and favoring the business interests of its oligarchic backers. They have noted that the Yanukovich family is rapidly acquiring assets, forming an oligarchic group of its own. After a brief "honeymoon" period after the presidential election, the Yanukovich administration dropped sharply in public opinion polls (as its predecessors did).

## Current Political Situation

Ukraine's government has been strongly criticized over its human rights record in many areas, including media freedoms. However, U.S. and EU officials have expressed perhaps the strongest concern over the government's targeting of opposition leaders for selective prosecution.

In the most prominent case, in October 2011 Tymoshenko was convicted of abuse of power arising out of her role in signing a natural gas supply agreement with Russia and sentenced to seven years in prison. Due to serious back pain she was suffering, Tymoshenko was transferred first to a prison hospital, and then, after she complained of mistreatment and inadequate care, to another hospital outside the prison. However, far from responding to U.S. and EU pressure on the case, in January 2013 Ukrainian prosecutors charged Tymoshenko with the 1996 murder of a member of the Ukrainian parliament, as well as embezzlement, fraud, and tax evasion while she headed an energy company in the 1990s.

In another apparent case of selective prosecution, in February 2012 former Interior Minister Yuri Lutsenko was convicted on charges of abuse of office, fraud, and embezzlement, and sentenced to four years in prison. In all, U.S. Ambassador to the OSCE Ian Kelly said after Lutsenko's conviction, 13 former senior officials from the Tymoshenko-led government, including 4 cabinet ministers, 5 deputy ministers, 2 agency heads, 1 governor, and the head of the state gas monopoly, had been charged with alleged crimes arising from their time in office. In April 2013, the authorities pardoned and released Lutsenko.

Given Ukraine's human rights record, the United States and the European Union were concerned that October 2012 parliamentary elections might not meet international standards. As expected, the results were a victory for President Yanukovich's Party of Regions. According to Ukraine's electoral law, half of the seats in the 450-seat parliament are determined by proportional representation by a country-wide party list, with a minimum of 5% of the vote needed to receive seats. The other half is decided by races in individual districts. According to Ukraine's Central Election Commission, the Party of Regions won 30% of the vote for the party list seats. The

### Key Parties in Ukraine's Parliament

**Party of Regions:** The party of the ruling regime and by far the largest faction in the Ukrainian parliament. It draws its support from eastern Ukraine, where suspicion of Ukrainian nationalism is high and support for close ties with Russia is strong. It defends the economic interests of powerful oligarchic business groups.

**Fatherland:** The largest opposition party, founded by imprisoned opposition leader Yuliya Tymoshenko. In order to boost the opposition's chances, Fatherland's party list for the parliamentary election included figures from other opposition groups, such as former parliament speaker Arseniy Yatsenyuk. This united opposition slate ran on a populist, anti-corruption platform. It drew its support from western and central Ukraine, where Ukrainian nationalism is strongest.

**Ukrainian Democratic Alliance for Reform (UDAR):** Founded by heavyweight boxing champion Vitali Klitchko (the acronym "UDAR" means "punch" in Ukrainian), UDAR relies chiefly on the personal popularity of Klitchko. Its platform, while expressing opposition to regime corruption, was criticized for lacking in specifics. Its party list was heterogeneous, including former supporters of Yushchenko and Tymoshenko, as well as opportunistic figures who have switched sides in the past when it suited their personal interests.

**Freedom:** A party espousing extreme Ukrainian nationalism and economic populism, Freedom received most of its votes from western Ukraine, where it made a surprisingly strong showing. Some observers have attributed its success to disillusionment with the Fatherland and other opposition groups rather than a surge in support for extreme Ukrainian nationalism.

**Communist Party:** The Communist Party has been overtaken by the Party of Regions in its eastern Ukraine strongholds and has a largely elderly electorate. It opposes market economics and favors strong ties to Russia. In the 2012 election, the Communists attracted significant support from voters in eastern Ukraine who are disenchanted with the Party of Regions.

Fatherland party, which was founded by the jailed Tymoshenko, won 25.5%. The Ukrainian Democratic Alliance for Reform (UDAR), a new political force led by heavyweight boxing champion Vitali Klitchko, won just under 14%. The Communist Party of Ukraine won 13.2%, while the extreme Ukrainian nationalist party Freedom won 10.4%. However, the Party of Regions made up for its relatively modest showing in the party list vote by taking the lion's share of seats in individual districts.

International observers were critical of the conduct of the elections. A preliminary statement by an election observation team from the Organization for Security and Cooperation in Europe (OSCE), the OSCE Parliamentary Assembly, the Council of Europe, the NATO Parliamentary Assembly, and the European Parliament said the election was characterized by "the lack of a level playing field, caused primarily by the abuse of administrative resources, lack of transparency of campaign and party financing, and lack of balanced media coverage." The statement said the election campaign "constituted a step backwards compared with recent national elections." The observers assessed the voting on election day and the initial counting of ballots "mostly positively." However, the report added that tabulation of vote totals was assessed negatively due to a lack of transparency.

Opposition leaders denounced the election as fraudulent. However, the results of the proportional vote appeared to be roughly in line with a parallel vote count conducted by OPORA, an independent Ukrainian election monitoring group. On the other hand, OPORA, other NGOs, and opposition candidates noted serious problems with the vote count in some individual districts.

After the vote, the Party of Regions was able to form a parliamentary faction of 207 members. While itself short of the 226 needed for a majority, the Party of Regions has a working majority with the support of the Communist Party (32 members), or some independent deputies (32 members), or both. However, that majority will likely be less predictable than in the past, as in Ukrainian politics some members may change position with shifts in the political winds, particularly in the run-up to the next presidential election in 2015. The opposition is represented by "Fatherland" (95 seats), UDAR (42 seats), and "Freedom" (36 seats).

The new government formed after the election was similar to its predecessor, with Prime Minister Azarov remaining at his post. However, some Ukrainian commentators noted that several new figures in the government lack a high political profile of their own, but form part of the personal entourage of the President and his son, Oleksandr (colloquially known as "the Family.") These analysts claim that these moves mark the "Family's" further consolidation of political power, which will in turn assist the group's ongoing efforts to seize control of yet more of Ukraine's economic assets.

As has often occurred in Ukraine's recent history, the parliament's work has been disrupted several times this year by opposition efforts to block proceedings (often resulting in fistfights). The disputes were triggered by alleged undemocratic conduct by the majority on such issues as the majority's use of proxy voting by a few members for an often large number of absent members; the expulsion of Tymoshenko's attorney from his seat in parliament in what appeared to many observers as thinly veiled political revenge; and the majority's refusal to set a date for electing the mayor of Kyiv, where the opposition is popular. On the other hand, the opposition has reportedly faced pressure from Western countries to refrain from blocking legislation needed for Ukraine to meet some of the conditions for an Association Agreement with the European Union later this year. The parliament has since passed new legislation, including against corruption.



## Current Economic Situation

Until the global economic crisis, Ukraine experienced substantial economic growth, with GDP increasing by an average of 7.5% between 2000 and 2007. The growth was fueled mainly by consumption, including an import boom fed by heavy domestic and foreign borrowing. This was reflected in a widening trade deficit and current account deficit. Ukraine's growth was also due to strong demand for products of the country's large steel and chemicals industries. Despite this growth, Ukraine remains much poorer than other European countries. In 2011, its GDP per capita in purchasing power parity terms was only 21% of that of the EU and only 43% of Russia's. In 2010 its foreign direct investment (FDI) per capita was \$979, less than half of that in Russia and about a quarter of Poland's FDI per capita. Foreign companies often cite such issues as rampant corruption and serious shortcomings in the rule of law (including a weak judiciary) as key stumbling blocks to foreign investment.

There have been serious concerns about the transparency of the privatization process under the Yanukovich administration. Foreign investors in the agriculture sector expressed anger at Ukraine's limitation of grain export licenses, which were granted preferentially to companies with close ties to government officials. Observers believe that the natural gas sector privatization has led to control of regional gas supply infrastructure by powerful oligarchs.

Due to the unsustainable basis of its growth and the lack of confidence caused by its squabbling political leadership, Ukraine was hit very hard by the global economic crisis. Ukraine's real Gross Domestic Product fell by 15.1% in 2009. The economy soon rebounded, growing by 4.2% in 2010 and by 5.2% in 2011. However, growth slowed to an estimated 0.6% in 2012, due to a downturn in the EU. Real GDP dropped by 1.3% in the first quarter of 2013.

Ukraine's currency, the *hryvnya*, was also hit hard by the crisis, dropping from just over 5 to the US dollar at the end of 2007 to just over 8 *hryvnya* to the dollar in late 2012. This development was devastating for many Ukrainians, as many deposits and loans were denominated in foreign currencies before the financial crisis. Nevertheless, in November 2012 IMF experts estimated that the *hryvnya* is still overvalued by more than 10%. Some analysts believe the efforts of the Ukrainian central bank to defend the current exchange rate are harming economic growth. The overvalued currency and a drop in demand for Ukraine's exports (especially steel) were reflected in a current account deficit of a whopping 9% of GDP in 2012.

In 2010, the International Monetary Fund approved a \$15.15 billion standby loan for Ukraine to support its reform efforts. Two tranches of the loan were disbursed, but the IMF declined to release additional ones, due to Ukraine's refusal to increase energy prices for domestic consumers, which would be highly unpopular in Ukraine. Ukraine received loans from Russia and China to try to make up for the suspension of the IMF loan. Ukraine has also raised large additional loans on the Eurobond market.<sup>1</sup> Ukraine seems content for the time being to finance its debts in private markets rather than make concessions to the IMF on such issues as budget cuts, energy prices and *hryvnya* devaluation, even if this option may be unsustainable in the future.

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<sup>1</sup> Economist Intelligence Unit Country Report: Ukraine, May 2013.

## **Ukraine's Foreign Policy**

Since achieving independence in 1991, conflict between Ukraine's political forces has led its foreign policy to appear incoherent, as the contending forces pulled it in pro-Western or pro-Russia directions or simply neglected foreign policy as less important than domestic political combat and the division of the spoils of victory. Ukrainian leaders gave lip service to joining NATO and the European Union, but did little to meet the standards set by these organizations. Ukrainian leaders also promised closer ties with Russia in exchange for Russian energy at subsidized prices, but balked at implementing agreements with Russia that would seriously compromise Ukraine's sovereignty, such as ceding control over Ukraine's energy infrastructure to Moscow.

President Yushchenko tried to break with this pattern, and accelerate Ukraine's integration into the global economy and Euro-Atlantic institutions, with mixed success. President Yanukovich's foreign policy appears to resemble a return to that of the pre-Yushchenko period, but with a somewhat stronger tilt toward Russia. For example, Yanukovich has broken with previous Ukrainian presidents by clearly rejecting NATO membership for Ukraine. He continues to express support for EU integration for Ukraine, but the genuineness of his commitment to the reforms needed to reach this goal is open to question. He has improved ties with Russia, but has so far tactfully evaded Russia's most ambitious demands for economic and military integration.

### **NATO**

NATO declined to offer Ukraine a Membership Action Plan (MAP), a key steppingstone to eventual NATO membership, at the April 2008 NATO summit in Bucharest, despite strong support from the United States and almost all Central European NATO members. Germany and France played the leading role in blocking the effort, likely fearing a sharp deterioration in ties with Moscow. Nevertheless, the summit communiqué contained an unqualified statement that Ukraine (and Georgia) "will become members of NATO," without specifying when that might happen. In what appeared to be an attempt to skirt the sensitive membership candidacy issue, in December 2008 NATO foreign ministers agreed to work with Ukraine on "annual national programs" within the framework of the existing NATO-Ukraine Commission, which assists Ukraine's defense reform efforts.

In 2010, President Yanukovich dropped the MAP aspirations of his predecessor, a move that pleased Russia. Ukraine continues to cooperate with NATO, but without seeking membership in the alliance. NATO officers provide advice on defense reform within Ukraine's defense ministry. Ukraine has continued to participate in joint exercises with the United States and other NATO countries. Russia has been irked by continuing political consultations between NATO and Ukraine, including on issues affecting Russia, such as the Black Sea Fleet. Ukraine has not contributed substantial numbers of troops to Afghanistan, at least in part due to bad public memories of the Soviet occupation of Afghanistan in the 1980s. According to the website of the NATO-led ISAF peacekeeping force, Ukraine had 24 soldiers in Afghanistan in January 2013. As of January 2013, Ukraine deployed 164 troops to KFOR, the NATO-led peacekeeping force in Kosovo. Ukraine plans to contribute a frigate to NATO-led anti-piracy operations off Somalia in late 2013.

## **European Union**

Ukraine seeks eventual EU membership. However, most EU countries have opposed to raising the issue of Ukraine's possible membership, perhaps because of the huge burden a large, poor country like Ukraine could place on already-strained EU coffers. Ukraine currently has a Partnership and Cooperation Agreement (PCA) with the EU, as well as a Ukraine-EU Action Plan within the context of the EU's European Neighborhood policy. The agreements are aimed at providing aid and advice to assist Ukraine's political and economic transition and to promote closer ties with the EU. In 2009, the EU launched the Eastern Partnership program, a regional approach to cooperation that also includes Belarus, Moldova, Georgia, Armenia, and Azerbaijan.

The EU budgeted €470 million (\$682 million) in aid for reforms in Ukraine for 2011-2013.<sup>2</sup> The assistance covers such areas as energy cooperation, strengthening border controls, bolstering the judiciary and the rule of law, and addressing environmental concerns. Funding for 2014- 2020 is expected to be determined later this year.

The EU and Ukraine have initialed an Association Agreement. The agreement, which does not contain a perspective of future membership, includes a free trade accord and will allow for deeper cooperation between the EU and Ukraine in a wide variety of fields. The two sides are also working towards visa-free travel to the EU for Ukraine's citizens, but that may be difficult to achieve in the near future.

In December 2012, the EU Council (the EU's main policymaking body) said the October 2012 Ukrainian parliamentary election "marked a deterioration" when compared to previous elections. The Council called on Ukraine to "address the cases of politically motivated convictions" of opposition leaders "without delay," and to carry out reforms of its election laws and legal system, as well as other areas such as improving its climate for foreign investment. The Council said the EU would sign the Association Agreement only after Ukraine makes "tangible progress" toward meeting these conditions, which it suggested could happen at the Eastern Partnership summit in Vilnius in November 2013.

Some observers believe the biggest sticking point in the conditions above may be the possible implication that the agreement will not be signed as long as Tymoshenko remains in prison. Some analysts say the Ukrainian authorities appear to fear Tymoshenko as their most formidable opponent in the 2015 presidential elections and may be willing to pay any foreign policy price to keep her in prison.

Some central European countries such as Lithuania and Poland are arguing for signing the accord anyway, saying that isolating Ukraine could make the situation there worse and drive the country into deeper dependence on Russia. These countries may also be partly motivated by their economic links with Ukraine. On the other hand, some western European countries within the EU remain more skeptical about signing the agreement, given the deteriorating human rights situation in Ukraine.

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<sup>2</sup> "See March 2011 EU press release at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/250&format=HTML&aged=0&language=EN&guiLanguage=en>.

## **Russia**

Ukraine's closest, yet most difficult and complex, relationship is with Russia. Ethnic Russians make up 17.3% of Ukraine's population, according to the 2001 Ukrainian census. They are concentrated in the southern and eastern parts of the country. They form a majority in the Crimea (a peninsula in the Black Sea in southern Ukraine), where they make up 58.3% of the population. In the Crimean city of Sevastopol, the home base of the Russian Black Sea Fleet, 71.6% of the population is Russian. In addition, ethnic Ukrainians in the east and south also tend to be Russian-speaking, are suspicious of Ukrainian nationalism, and support close ties with Russia. Russian officials have often tried to play on these ethnic and regional ties, not always successfully.

President Putin strongly backed Yanukovich's fraudulent "victory" during the 2004 presidential election campaign and reacted angrily to the success of the Orange Revolution. Russian observers with close ties to the Kremlin charged that the Orange Revolution was in fact a plot engineered by the United States and other Western countries. Relations during the Yushchenko presidency were rocky. Russia was irked by Yushchenko's efforts to support greater democratization in the region; impose tighter border controls on Transnistria, a pro-Moscow, separatist enclave within neighboring Moldova; and forge closer links with Georgia.

One of President Yanukovich's top foreign policy priorities has been to improve relations with Russia. In April 2010, Russia and Ukraine agreed to extend the stay of the Russian Black Sea Fleet in Crimea until 2042, from the original withdrawal date of 2017. In exchange, Russia agreed to provide Ukraine with discounted prices for natural gas supplies for 10 years, a benefit that the two sides estimated as worth \$40 billion. Russian companies, with Russian government support, have also stepped up efforts to buy key industrial assets in Ukraine since Yanukovich has come to power. While they have achieved some successes, they have also faced opposition from Ukrainian oligarchs who desire to maintain control of major companies.

However, some of Russia's boldest proposals for improving ties with Ukraine appear to have gone further than Kyiv can support. Yanukovich continues to stress Ukraine's neutral, "non-bloc" status. He has said Ukraine will not join Moscow's counterpart to NATO, the Collective Security Treaty Organization. Russia is pressing Ukraine to join its Customs Union with Belarus and Kazakhstan. Ukraine has rejected these overtures, saying the Customs Union is not compatible with the agreements Ukraine signed with other countries before it joined the World Trade Organization. The EU has also warned that it would not be compatible with the EU-Ukraine free trade agreement that is part of the Association Agreement. However, Ukraine is seeking "observer status" in the Customs Union, and is hoping to join only selected parts of it. So far, Russia has rejected this proposal, saying Kyiv must become a full member or not at all.

## **Energy Issues**

The most severe crises in Russian-Ukrainian relations have occurred over energy. Ukraine is heavily dependent on Russia for its energy supplies. In the recent past, about 80% of its oil and natural gas consumption came from Russia. However, Ukraine's vulnerability to Russian pressure has been mitigated by the fact that the main oil and natural gas pipelines to Central and Western Europe transit its territory. In 2012, according to EU Energy Commission Gunter Oettinger, about 60% of Russian natural gas destined for Europe transited Ukraine. Ukraine rivals Germany as Gazprom's largest gas consumer. Until the Yushchenko presidency, Russian firms supplied energy to Ukraine at prices far below market rates. Energy sales have been conducted by non-transparent intermediary companies, offering the elites of both countries opportunities to profit. Russia's

efforts to greatly increase gas prices for Ukraine provoked a crisis in 2006 that resulted in cutoff of Russian gas to Western Europe for several days in January 2006. A second gas crisis occurred in January 2009, resulting in a gas cutoff of nearly three weeks.

Russia has sought control of Ukraine's natural gas pipelines and storage facilities. Its efforts have been unsuccessful so far, due to Kyiv's refusal to cede control of one of its key economic assets. This fact, as well as the 2006 and 2009 gas cutoffs, has led Russia and some European countries to plan and build pipelines to bypass Ukraine. Gazprom is developing gas pipelines under the Baltic Sea (called Nord Stream) and through the Balkans (called South Stream) to Western Europe. Nord Stream made its first gas deliveries in 2011. South Stream has just started construction, with first deliveries projected for 2015. Gazprom is also planning to increase supplies to Western Europe through the Belarusian pipeline system, over which it gained full control in 2011.

Ukraine's reduced share of gas transport to Europe could give Russia more leverage to demand that Ukraine sell it control of its gas pipeline system at a lower price that it otherwise could. Russia could also feel it would have a freer hand to put greater pressure on Ukraine on other issues, including political ones. Key Western European countries could feel they have less of a stake in Ukraine's future, if they, like Russia, were no longer dependent on Ukrainian gas transport infrastructure.

Yanukovich, who is supported by oligarchs who control gas imports and own energy-hungry steel and chemicals industries, has stressed the need to secure lower natural gas prices from Russia. He has sharply criticized the gas agreement between Russia and Ukraine signed by Tymoshenko in 2009, saying that the gas is far too expensive for Ukraine. The April 2010 Black Sea Fleet agreement was one step Yanukovich has taken to try to secure cheaper gas supplies. However, the impact of the deal on gas prices has been less than anticipated, as oil prices (on which Ukraine's gas price is calculated) soared due to unrest in the Middle East.

Russia continues to pressure Ukraine to make further concessions if it wants further gas price cuts. Russian banks have provided loans to Ukraine to pay for gas at current prices, perhaps providing Russia with additional leverage with Kyiv. Moscow has tried to persuade Ukraine to join a customs union with Russia, Belarus, and Kazakhstan by offering it cheaper gas if it does so, so far without success. Russia and Ukraine are discussing a possible Russo-Ukrainian consortium that could give Russia de facto control over Ukraine's gas pipeline system in exchange for lower gas prices, but no agreement has been reached so far. Another option, raised by Ukraine but not favored by Moscow, would be a trilateral Russia-Ukraine-EU consortium.

Given Russia's unwillingness so far to renegotiate the terms of the current gas supply agreement, Ukraine has sharply reduced its import of gas from Russia. Under the terms of Ukraine's "take-or-pay" contract with Gazprom, Ukraine is obliged to pay for all of the contracted gas, whether it takes it or not. In January 2013, Gazprom presented a bill to Ukraine for \$7 billion for the gas that it didn't take in 2012. Ukraine has refused to pay.

Ukraine has intensified efforts to find alternative sources of supply of energy, including greater use of coal, boosting domestic gas production, reversing the flow of some gas pipelines to receive gas from western Europe, and securing supplies of liquefied natural gas from other countries. In January 2013, Ukraine signed a production sharing agreement with Shell to extract shale gas in Ukraine.

## **U.S. Policy**

In a call to Viktor Yanukovich in February 2010, to congratulate him on his victory in the Ukrainian presidential election, President Obama touched on the main themes of U.S. policy toward Ukraine. He noted the “strategic partnership between the United States and Ukraine is based on shared interests and values. These include expanding democracy and prosperity, protecting security and territorial integrity, strengthening the rule of law, promoting non-proliferation, and supporting reform in Ukraine’s economic and energy sectors.”<sup>3</sup>

Yanukovich’s rejection of NATO membership and his move toward closer ties with Russia (as shown, for example, in the 2010 agreement to extend the stay of the Russian Black Sea Fleet in Crimea) did not provoke public criticism from the Obama Administration. The Administration has instead focused on improving cooperation in such fields as nuclear non-proliferation and energy. However, U.S. officials have expressed increasing concern about backsliding in Ukraine’s democratic development.

After a meeting on the eve of the Nuclear Security Summit in Washington in April 2010, President Obama and President Yanukovich agreed that Ukraine would rid itself of the entire stock of highly enriched uranium (HEU) from its soil by the time of the next Nuclear Security Summit in March 2012. The United States agreed to help Ukraine to develop its nuclear research capabilities and diversify its sources of fuel supply for its nuclear reactors. The United States also pledged to continue to cooperate with Ukraine on nuclear safety issues, including the cleanup of the Chernobyl nuclear reactor site. In total, the United States contributed almost \$240 million to Chernobyl cleanup efforts. At an international pledging conference for Chernobyl in April 2011, the United States pledged another \$123 million.<sup>4</sup>

The two countries are cooperating on energy issues as well. U.S. officials have repeatedly stressed that Ukraine’s security depends on diversifying its energy supplies and increasing energy efficiency. Yanukovich has placed more emphasis recently on “energy independence” for Ukraine after repeatedly failing to secure a natural gas price break from Russia. In February 2011, the United States and Ukraine signed a memorandum of understanding on a U.S. Geological Survey effort to help Ukraine explore and develop its reserves of unconventional natural gas. Other U.S. aid programs are aimed at helping Ukraine improve its energy efficiency. In August 2012, the U.S. Trade and Development Agency agreed to fund a feasibility study on restarting production at long-idled, low-yield hydrocarbon deposits in Ukraine. Chevron hopes to sign a production sharing deal on developing unconventional gas reserves in Ukraine, but has so far been stymied by objections from local officials in western Ukraine, who have voiced environmental concerns.

In October 2011, the White House press secretary issued a statement saying the United States was “deeply disappointed” with Tymoshenko’s conviction and sentencing in a “politically motivated prosecution.” The statement said that the trial and other incidents raised “serious concerns” about the government’s commitment to democracy and the rule of law. The statement called on Ukraine

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<sup>3</sup> Press release from the White House website at <http://www.whitehouse.gov/the-press-office/readout-presidents-call-with-president-elect-yanukovich-ukraine>.

<sup>4</sup> U.S. Participation in the Kyiv Summit and the Chornobyl Pledging Conference: Fact Sheet, April 19, 2011, from the State Department website at <http://www.state.gov/r/pa/prs/ps/2011/04/161228.htm>.

to release Tymoshenko and other opposition figures so that they can take part in the October 2012 parliamentary election. In a brief meeting with President Yanukovich at the March 2012 Nuclear Security Summit, President Obama praised Ukraine for removing all of the highly enriched uranium from its territory. President Obama stressed that Ukraine should hold free, fair, and transparent parliamentary elections in October, and expressed concerns about selective prosecutions of the political opposition.

After the October 2012 parliamentary election, the State Department issued a statement saying that the Ukrainian election was a “step backward” from the progress made during previous elections. The statement noted the concerns of the international observers about “the use of government resources to favor ruling party candidates, interference with media access, and harassment of opposition candidates.” It said the United States was “troubled by allegations of fraud and falsification in the voting process and tabulation, by the disparity between preliminary results from the Central Election Commission and parallel vote tabulations, and by the Central Election Commission’s decision not to release precinct results.”

In November 2012, Vice President Biden called President Yanukovich, thanking him for his message congratulating President Obama on his re-election. Biden “voiced concerns” over Ukraine’s parliamentary elections. He asked Yanukovich to “ensure the process is completed in a fair and transparent manner. He also urged Ukraine to live up to its democratic commitments and end selective prosecutions.”

In December 2012, Secretary of State Clinton appeared to depart from the Obama Administration’s reluctance to publicly criticize Russian attempts to assert control over Ukraine and other former Soviet countries. In a meeting with civil society activists from the region, Clinton decried increasing repression and human rights violations in the region. She warned that “there is a move to re-Sovietize the region. It's not going to be called that. It's going to be called customs union, it will be called Eurasian Union...But let's make no mistake about it. We know what the goal is and we are trying to figure out effective ways to slow down or prevent it.”<sup>5</sup>

## **Congressional Response**

### **U.S. Aid to Ukraine**

A key focus of Congressional action on Ukraine has been foreign assistance. According to the USAID “Greenbook” website, the United States obligated over \$3.6 billion in aid to Ukraine from FY1990 through FY2011. According to the FY2014 Congressional Budget Presentation for Foreign Operations, Ukraine received \$103.593 million in U.S. aid in FY2012.

The Administration requested \$104.407 million in aid for Ukraine for FY2013. Of this amount, \$53.957 million was allocated to the Economic Support Fund (ESF) account, \$27.2 million from the State Department Global Health Programs account, \$7.9 million from the AID Global Health Program account, \$7 million in Foreign Military Financing (FMF), \$1.9 million in the IMET military training and education account, \$4.1 million in the International Narcotics Control and Law Enforcement (INCLE) account, and \$2.35 million in the Nonproliferation, Antiterrorism, Demining and Related Programs (NADR) account. The State Department has not released an

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<sup>5</sup> Associated Press wire service dispatch, December 6, 2012.

estimate of how much is actually expected to be obligated for Ukraine in FY2013, taking into account the possible impact of sequestration.

For FY2014, the Administration has requested \$95.271 million in aid for Ukraine. Of this amount, \$53.957 million is in the ESF account; \$4.2 million is in FMF aid, \$28.704 million in AID and State Department Global Health Programs; \$1.9 million is in IMET funding; \$4.1 million is in INCLE aid; and \$2.41 million is in the NADR account.

A significant portion of U.S. aid to Ukraine in the ESF account is dedicated to improving the safety of the Chernobyl nuclear facility, including finishing the construction of the containment structure over the damaged reactor and securing and storing spent nuclear fuel. Other ESF programs are aimed at improving governance and increasing the accountability and effectiveness of the justice system. Global Health funding will help Ukraine fight its HIV/AIDS crisis, which is the most severe in the region, as well as Ukraine's serious tuberculosis problem.

Security assistance for Ukraine is aimed at helping Ukraine's defense reform efforts, improving interoperability with U.S. and NATO forces, and boosting the capabilities of Ukraine's armed forces. Law enforcement aid will help Ukraine implement its new Criminal Code and other legal reforms. U.S. aid also helps Ukraine deal with its serious problems with trafficking in persons and cybercrime. U.S. assistance has helped Ukraine destroy its stock of SCUD short-range missiles and make progress toward the elimination of its stock of propellant for SS-24 ICBMs. It is also helping Ukraine strengthen its export controls and dispose of excess conventional weapons.

## **Other Legislation**

Legislation on Ukraine was introduced in the 112<sup>th</sup> Congress. On January 26, 2011, Representative Kaptur introduced H.Res. 66, which supports the establishment of a staff exchange program between the House of Representatives and the Verkhovna Rada, Ukraine's parliament. On April 14, 2011, Senator Lugar and Senator Kerry introduced S.Res. 153, which recognizes the 25<sup>th</sup> anniversary of the Chornobyl nuclear accident. The resolution was adopted by unanimous consent on May 9, 2011.

On September 15, 2011, Representative Sander Levin introduced H.Res. 401, which expresses support for Ukraine on the 20<sup>th</sup> anniversary of its independence. The resolution also notes concerns about the Tymoshenko case and other problems with Ukraine's democratic development. On October 13, 2011, Representative Kaptur introduced H.Res. 435, which condemns the persecution of Tymoshenko, former Interior Minister Yuri Lutsenko, and other political prisoners.

On March 22, 2012, Representative Turner introduced H.R. 4243, the NATO Enhancement Act of 2012. The bill includes reauthorization of programs to facilitate the transition to NATO membership for eligible countries. However, it makes clear that the fact that Ukraine is no longer seeking membership "shall not inhibit security cooperation in terms of interoperability, training, reform, joint exercises, and bilateral exchanges with nations previously designated as eligible to receive security assistance under this Act." A Senate companion bill, S. 2177, introduced by Senator Lugar, contains the same provisions.

In May 2012, Senator Inhofe introduced S.Res. 466. The resolution condemns the imprisonment of Tymoshenko as politically motivated and calls for her release. Until she is released, S.Res. 466 calls on the Organization for Security and Cooperation in Europe to not allow Ukraine to assume



the chairmanship of the organization in 2013; urges the State Department to withdraw the U.S. Ambassador to Ukraine and suspend embassy operations and initiate a visa ban against President Yanukovich and others responsible for Ms. Tymoshenko's imprisonment; and calls on NATO to suspend all cooperation agreements with Ukraine.

In July 2012, Representative Christopher Smith introduced H.Res. 730, which calls on Ukrainian authorities to release Tymoshenko and other victims of selective justice, and to hold free and fair parliamentary elections in October 2012. The resolution calls for the United States to deny visas to Ukrainian officials “involved in serious human rights abuses, anti-democratic actions, or corruption that undermines or injures democratic institutions in Ukraine, including officials responsible for and participating in the selective prosecution and persecution of political opponents.”

An amended version of S.Res. 466 was passed by the Senate on September 21, 2012. It called for the State Department to institute a visa ban against Ukrainian officials responsible for the imprisonment and mistreatment of Tymoshenko, but did not contain provisions calling for the withdrawal of the U.S. Ambassador to Ukraine and other punitive steps set out in the original version of the resolution.

The Administration has not publicly supported a public visa ban, as called for S.Res. 466. However, in October 2012, the United States revoked the five-year multiple-entry visa of Ukrainian Deputy Prosecutor General Renat Kuzmin. The Administration did not publicize the move; it only came to light when Kuzmin published an open letter to President Obama on the Prosecutor General's website criticizing the decision. Kuzmin has been involved in prosecuting Tymoshenko. Kuzmin's visa was reportedly revoked because of a visit to the US in July 2012, during which he conducted an investigation against Tymoshenko for the murder of a Ukrainian member of parliament in 1996, without informing US officials of his actions. U.S. officials denied the decision was related to the passage of S.Res. 466.

In the 113<sup>th</sup> Congress, Rep. Kaptur introduced two resolutions on January 14, 2013. H.Res. 27 supports the establishment of a staff exchange program between the House of Representatives and the Parliament of Ukraine. H.Res. 28 condemns the persecution of Tymoshenko and other political prisoners in Ukraine.

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