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THE RULE OF LAW, DEMOCRACY AND PROSPERITY IN UKRAINE: A CANADIAN PARLIAMENTARY PERSPECTIVE

Report of the Standing Committee on Foreign Affairs and International Development

**Dean Allison, M.P.
Chair**

JUNE 2012

41st PARLIAMENT, 1st SESSION



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THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL DEVELOPMENT

has the honour to present its

FOURTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the current situation in Ukraine and has agreed to report the following:

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CHAIR'S FOREWORD

Ukraine has made important progress in the two decades since Canada became the first Western country to recognize its independence. However, as events over the past two years have shown, its journey to democracy and prosperity is not yet complete.

Over the past several months, the House of Commons Standing Committee on Foreign Affairs and International Development has held hearings on the situation in Ukraine. It did so in the wake of evidence of serious democratic backsliding in that country, and ongoing challenges in its respect for the rule of law. The objective of our study was to inform Canadians of both the multiple challenges facing Ukraine, and also of its tremendous potential, particularly in terms of government, business, cultural, and people-to-people relations with Canada.

In May 2012, a delegation from the Committee led by Bob Dechert MP, Parliamentary Secretary to the Minister of Foreign Affairs, visited Ukraine. It held public meetings with a range of parliamentarians, civil society representatives, experts and other interlocutors in Kyiv, Kharkiv and Lviv. This trip was essential in informing the Committee of the situation on the ground in Ukraine and in exposing members directly to the views of those in Ukraine who are working for progress on issues ranging from the enabling environment for civil society, to media freedoms and the climate for business and investment.

The report that follows outlines the Committee's thinking and its recommendations to the Government of Canada for Canadian policy in relation to Ukraine, particularly in light of critical parliamentary elections to be held there in October 2012. Given the imminence of those elections, and the bearing of their conduct on Ukraine's position within Europe and in its relations with the West, there is urgency to many of the Committee's recommendations.

I would like to thank Mr. Dechert for leading the delegation to Ukraine, and, on behalf of the Committee, wish to thank all those who helped it complete this important work. The Department of Foreign Affairs and International Trade and the Canadian International Development Agency both provided the Committee with excellent support throughout the process. In particular, Canada's Ambassador to Ukraine, Troy Lulashnyk, and his staff in Kyiv spared no effort to ensure the Committee's visit was productive, insightful and memorable. The Committee also wishes to thank its staff from the House of Commons and the Library of Parliament for their work throughout this study and on this report. Finally, the Committee wishes to acknowledge the interest shown in its work by groups representing the Ukrainian Canadian community. A number of these groups convened a major conference in Ottawa in March 2012 which helped the Committee to access important witnesses, and three — the Ukrainian Canadian Congress, the Canada Ukraine Foundation and the League of Ukrainian Canadians — sent representatives to attend all of its public hearings in Ukraine.

THE RULE OF LAW, DEMOCRACY AND PROSPERITY IN UKRAINE: A CANADIAN PARLIAMENTARY PERSPECTIVE

INTRODUCTION AND OVERVIEW

Canada was the first Western country to recognize the independence of Ukraine in December 1991, and successive Canadian governments have worked consistently to assist in the pursuit of democracy and prosperity in that country. Like others around the world, Canadians cheered as the 2004 Orange Revolution overturned a fraudulent election, and were disappointed when the democratic promises of that revolution were not fully achieved in the years that followed.

The past few years have seen troubling developments in Ukraine. Given the importance of that country both to its region and to Canada, the Standing Committee on Foreign Affairs and International Development (the Committee) held several hearings in Ottawa with officials, experts, members of the Ukrainian-Canadian community and a range of Ukrainians to discuss the situation there. In mid-May 2012 the Committee also visited Ukraine, holding public meetings in Kyiv, Kharkiv and Lviv with a range of parliamentarians, representatives of civil society, government officials and others.

Overall, the Committee's work has reinforced:

- The troubling nature of recent political developments in Ukraine;
- The fundamental importance of the upcoming parliamentary elections;
- The lack of judicial independence and rule of law;
- The prevalence of corruption at all levels of government and the economy; and
- The special relationship that will continue to allow Canada to play an important role in aiding the process of democratic and economic development in Ukraine.

Recent political developments in Ukraine have occurred against the backdrop of the centralization of power since 2010 by the administration of President Viktor Yanukovich at the expense of the Ukrainian Verkhovna Rada (the parliament). Even more disturbing has been a series of what appears to be politically motivated prosecutions of opposition and former government leaders. While former Prime Minister and presidential candidate Yulia Tymoshenko is the most high-profile of those charged and convicted, other prominent leaders such as former Interior Minister Yuri Lutsenko and former acting Defence Minister Valeriy Ivashchenko have also been arrested and convicted in criminal proceedings that do not appear to have respected Ukrainian or international legal

standards. All three reportedly have serious health problems that are not being adequately addressed while they are incarcerated. Issues related to democratic development and the rule of law are at the core of international concerns regarding Ukraine, and therefore form the bulk of this report.

While the 2010 presidential election that resulted in President Yanukovich's narrow victory over Yulia Tymoshenko was widely viewed as free and fair, local elections that followed were not, at least partly as a result of late changes to electoral laws. In a similar vein, many feel that recent changes to the parliamentary electoral law by the Ukrainian Constitutional Court, coupled with the declining popularity of the governing party, have significantly increased the risk of abuse in elections scheduled for October 2012.

The views expressed by many during the Committee's meetings in Ukraine convinced members that Canada can and must continue to play a role in helping that country to finally achieve democracy and prosperity. At a general level, concern was expressed regarding barriers to equal opportunity for engagement in decision-making and in the economy. At the same time, the key short-term needs of Ukraine relate to the rule of law and the conduct of the upcoming parliamentary elections. It is not for Canada to pick the winners of these elections. Overall, the Committee accepts the argument of many with whom it met that, in cooperation with others, Canada must take all reasonable steps to ensure that these elections are free, fair, transparent and legitimate in the eyes of the citizens of Ukraine.

The Committee therefore tables this report, which contains its recommendations for Canadian policy toward Ukraine. Despite some differences in emphasis, members agree on the importance of Ukraine, the key challenges facing it, and the need for Canada to continue to assist it through a policy of principled engagement.

Historical Perspective

Understanding the current situation in Ukraine requires some knowledge of the country's history. Ukraine literally means "borderland" and for centuries it existed as part of empires ranging from that of Poland, Austria Hungary and the Ottomans to Russia and the Soviet Union. Ukraine's history in the 20th century was marked by tragic and violent events, including the deliberate starvation by Joseph Stalin of millions of Ukrainians in the *Holodomor*, an event that Canada and others have recognized as genocide.

The Second World War saw the occupation of Ukraine by the Nazis, and later by the Red Army. In Lviv, members were told that the population there had dropped from some 300,000 in 1939 to perhaps 50,000 in 1945, with 100,000 Jews killed and 100,000 Poles deported. Among the tragedies and atrocities that occurred during this period was the execution by the Nazis of a large number of Jews at the town of Sambir. In addition to visiting the *Holodomor* monument while in Kyiv, Committee members commemorated this latter tragedy by visiting the site of the Sambir massacre and learning of the efforts of a Canadian, Mark Freiman, a past President of the Canadian Jewish Congress whose parents were among the very few survivors of that massacre, to ensure that what transpired there is not forgotten, and must never happen again. The project is

being supported financially by members of the Ukrainian-Canadian community. Committee members were all moved by the experience and by hearing this story.

Ukraine was deeply integrated into the economic and political structures of the Soviet Union, a fact that has had economic and other implications even after the country's independence. While eastern Ukraine still retains strong ties to Russia, western Ukraine — which was long a source of clandestine Ukrainian nationalism — retains closer links to Central Europe.

The collapse of the Soviet Union resulted from many factors, including the reform efforts of Mikhail Gorbachev. At the same time, Ukrainian independence played a crucial role. As former U.S. National Security Advisor Zbigniew Brzezinski later wrote: “Ukraine’s political self-determination stunned Moscow and set an example that the other Soviet republics, though initially more timidly, then followed.”¹

The decades that followed independence were difficult for Ukraine, as the country struggled with economic and political legacies while trying to establish a new path. In October 2011, senior Canadian Foreign Affairs official, Jillian Stirk, told the Committee that “More than 70 years of Soviet rule have proven to be an extremely difficult legacy to overcome. To this day, Ukraine does not have a truly effective civil society network. Governance structures remain weak and corruption persists at all levels of government and society.”² This view was confirmed by a number of witnesses with whom the Committee met in Ukraine. Perhaps more fundamentally, members were told by Father Borys Gudzyak of Ukrainian Catholic University in Lviv that after decades of violence and fear, the fabric of human society there was still being “stitched together.”

DEMOCRATIC DEVELOPMENT AND THE RULE OF LAW

INTRODUCTION

Since becoming an independent country in 1991, Ukraine’s path toward democracy has not been a straight and easy one. The country has had to confront many of the same issues that have been seen in several other post-Soviet states: oligarchic elites, corruption, and a centralized political environment in which other actors that are essential to the functioning of a democratic society — including parliamentarians, political parties, the media, civil society, and local governments — have all been relatively weak and under strain.

These challenges were evident in the years under President Leonid Kuchma, who governed the country in an increasingly autocratic style from 1994 until January 2005.

1 Zbigniew Brzezinski, *The Grand Chessboard: American Primacy and Its Geostrategic Imperatives*, New York, BasicBooks, 1997, p. 93.

2 House of Commons, Standing Committee on Foreign Affairs and International Development [FAAE], [Evidence](#), 1st Session, 41st Parliament, October 20, 2011.

A turning point came at the end of Kuchma's second term in 2004, which would shake up Ukraine's political culture. The officially proclaimed results of fraudulent presidential elections — involving Kuchma's intended successor, Prime Minister Viktor Yanukovich — were rejected by thousands of Ukrainians in a political movement that became known as the "Orange Revolution."

However, despite early positive steps by the new government that resulted from the Orange Revolution, and the rhetoric of political reform and desire for stronger linkages with western European institutions, the years that followed the Orange Revolution were disappointing to many. The opposition political leaders — including President Viktor Yushchenko and Prime Minister Yulia Tymoshenko³ — who had united to reject the announced electoral result proved less able to cooperate once in power. One expert who testified before the Committee, James Sherr of Chatham House, described the trajectory of Ukraine's democratic development over the last five years and its relations with the European Union in April 2012 by saying that, "... Ukraine was not on a steady path. It was on an oblique and irregular path, but one that allowed the relationship to be discussed in terms of hope and reasonable expectations of progress."⁴

Less than six years after the protests in Kyiv that had captured the democratic imaginations of Ukrainians and observers around world, the figure at the centre of the fraudulent 2004 elections, Viktor Yanukovich, was returned to power in the 2010 presidential elections, albeit following an electoral process that was conducted in a manner that was deemed to be free and fair. According to the report of the monitoring mission of the Organization for Security and Cooperation in Europe (OSCE), "The presidential election met most OSCE commitments and other international standards for democratic elections and consolidated progress achieved since 2004."⁵ Mr. Yanukovich received 48.95% of the vote in the run-off round, compared to Yulia Tymoshenko's 45.47%.

The first months of the Yanukovich government featured relative political stability and moderate recovery from the deep 2009 downturn in the national economy that had resulted from the global economic crisis. However, concerns about Ukraine's democratic trajectory soon began to build following serious irregularities in the 2010 local elections and the launch of a series of apparently politically motivated prosecutions of key political figures in 2011.

Overall, while the Orange Revolution was hoped by many to herald Ukraine's fuller democratization and integration with Europe and the broader West, political infighting and

3 Ms. Tymoshenko was Prime Minister of Ukraine from January 2005 to September 2005 and from December 2007 to March 2010.

4 Yuriy Onyshkiv, [James Sherr: 'Ukraine's Relationship with the EU is Destructive,'](#) *Kyiv Post*, April 26, 2012.

5 OSCE, Office for Democratic Institutions and Human Rights, [Ukraine: Presidential Election 17 January and 7 February 2010: OSCE/ODIHR Election Observation Mission Final Report](#), Warsaw, April 28, 2010.

a weak rule of law has complicated and delayed this transition. As just one indication of a worrying trend, the non-governmental organization Freedom House had upgraded Ukraine's overall rating from "partly free" to "free" in 2006. However, in 2011, this rating was reduced back down to "partly free."⁶ This point was highlighted by Steven Pifer, a Senior Fellow at the Brookings Institution and former U.S. Ambassador to the Ukraine, in his appearance before the U.S. Senate Foreign Relations Committee in February 2012. Mr. Pifer noted that Ukraine had been the "first post-Soviet state other than a Baltic nation" to have achieved the "free" ranking, and "the first post-Soviet state to lose the 'free' ranking."⁷ In terms of other comparative metrics, today, Ukraine ties Tajikistan for an unflattering 152nd place out of 182 countries on Transparency International's 2011 *Corruption Perceptions Index*. Moreover, Ukraine was 116th out of 179 countries on the 2011–2012 *Press Freedom Index* that is published by Reporters Without Borders.

Concern about the democratic trajectory of Ukraine was a key motivating factor in the Committee's decision to undertake a study of Ukraine, and a principal focus of its meetings in Ottawa and in Ukraine. Throughout its fact-finding process, the Committee was mindful of the need to solicit a balance of views from a range of stakeholders and members of Ukrainian society, in order to arrive at a reasoned and fair conclusion. Therefore, the sections that follow reflect the Committee's views following meetings with civil society organizations, think tanks, human rights defenders, Ukrainian opposition and government politicians, members of the Ukrainian media, and representatives of the Government of Ukraine.

During its meetings in Ukraine, the Committee sought to investigate answers to the following questions specifically related to the country's progress towards democratic development and the rule of law:

- Is Ukraine governed by the rule of law?
- Does an environment exist in Ukraine where civil society organizations, opposition groups and the media can operate freely and effectively?
- Are the conditions in place in Ukraine that will produce an election result in October 2012 that fairly, legitimately, and transparently reflects the will of the Ukrainian electorate?

Each of the sections that follow provides a piece of the Committee's overall answer to these three broad questions. These answers have in turn informed the Committee's recommendations for Canada's diplomatic, development and economic policies towards Ukraine, which will be dealt with in the final chapter of this report.

6 Freedom House, "[Country ratings and status, FIW 1973-2011](#)," *Freedom in the World Comparative and Historical Data*.

7 Steven Pifer, "[Developments in Ukraine and Implications for U.S. Policy](#)," Testimony before the U.S. Senate Foreign Relations Committee, The Brookings Institution, February 1, 2012.

Apparently Politically Motivated Prosecutions

A. Background

One issue that has raised particularly serious concerns is the apparently politically motivated prosecution and conviction of a number of opposition politicians and former government officials. In the most high-profile of these cases, in October 2011, former Prime Minister Yulia Tymoshenko was convicted of abuse of power in relation to a 2009 gas agreement with Russia. In addition to seven years in jail and a fine of US \$190 million, the conviction will prevent Ms. Tymoshenko from holding government posts for three years after her prison term.

At the end of 2011, Ms. Tymoshenko was transferred by the Ukrainian authorities from Kyiv to a prison in Kharkiv, a city in eastern Ukraine. A second trial against Ms. Tymoshenko, on corruption charges related to tax evasion and embezzlement that allegedly occurred in the years before her entry into politics, began in Kharkiv on April 19, 2012. On May 15, 2012, a High Specialized Court on Civil and Criminal Cases decided to delay a ruling on the appeal of her initial conviction, on the request of state prosecutors, until June 26, 2012. The state prosecutors argued for this delay on the basis of Ms. Tymoshenko's absence from the court room. The Committee was told in Kharkiv that Ms. Tymoshenko had submitted a statement indicating that she would allow the hearing to proceed without her. There appears to be inconsistent application of Ukrainian law in the latter case given that Ms. Tymoshenko was reportedly not present during previous hearings at lower court levels. An appeal with the European Court of Human Rights, which is part of the Council of Europe, cannot be launched until the domestic appeals process in a member country has been exhausted.

International criticism of Ms. Tymoshenko's conviction was swift and loud. Of particular importance was the response of the European Union (EU), which after four years of negotiation had been scheduled to sign an Association Agreement with Ukraine that would include a deep and comprehensive free trade agreement. In response to the sentencing of Ms. Tymoshenko, the EU postponed a meeting that had been scheduled with President Yanukovich in October 2011. Meetings were held between Ukraine and the EU in December 2011, but no agreements were signed at that time.

On March 30, 2012, five years after beginning negotiations, Ukraine and the EU completed the technical step of initialling the text of the Association Agreement. However, nothing will be implemented unless the EU signs and ratifies the agreement. Upon his return from a Freedom House assessment mission to Ukraine in late April 2012 to examine the state of democracy in Ukraine, Damon Wilson noted that "the European Union is unlikely to sign and ratify the agreement as long as Ms. Tymoshenko, Ukraine's

most prominent opposition leader, remains in prison or before parliamentary elections this fall, a critical test of this government's willingness to conduct a free, fair vote."⁸

While the Tymoshenko trial has been the symbolic focus of concerns over Ukraine's eroding respect for democratic principles and the rule of law, there are further examples of this trend. As was noted above, a number of other individuals who had served in government with Ms. Tymoshenko have faced criminal charges, including the former Minister of the Interior, Yuri Lutsenko, the former Acting Minister of Defence, Valeriy Ivashchenko, and the former first Deputy Minister of Justice, Yevhen Korniychuk.

In response to these actions, the Council of Europe Parliamentary Assembly's Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) stated that "the charges amount to the post facto criminalisation of normal political decision-making."⁹ The co-rapporteurs of the Monitoring Committee made a key observation on their rationale for reaching this conclusion, stating:

We would like from the outset to emphasise that the trials should not be seen from the perspective of opposition versus ruling majority but from that of the rule of law and the guarantee of a fair trial for all persons in Ukraine. We are not in a position to judge the merits of the case or the question of guilt or otherwise. No-one, including, or especially, leading politicians should be beyond the law for common crimes. However, the trials against these former government members raise important questions with regard to the criminalisation of normal political decision-making and, as a consequence, politically motivated charges. In addition, these cases have brought to the forefront a number of systemic shortcomings and deficiencies in Ukraine's legal system that undermine the right to a fair trial and the rule of law in Ukraine.¹⁰

The Parliamentary Assembly of the Council of Europe (the Assembly) adopted a resolution in January 2012 calling for the overly broad Articles of the Ukrainian *Criminal Code* that had led to the above convictions to be promptly removed from the legislation, and "for the charges against former government officials which are based on these provisions to be dropped."¹¹ The Assembly also emphasized:

That the assessment of political decisions and their effects is the prerogative of parliaments and, ultimately, of the electorate, and not of the courts. In this respect the Assembly asks the President of Ukraine to consider all legal means available to him to

8 Damon M. Wilson, "Imprisoned in Ukraine," *The Washington Post*, April 19, 2012.

9 Council of Europe Parliamentary Assembly, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), "[The functioning of democratic institutions in Ukraine](#)," January 9, 2012.

10 Ibid.

11 The [Draft resolution](#) was adopted unanimously by the Monitoring Committee on December 15, 2011. The Assembly adopted it as [Resolution 1862 \(2012\)](#) on January 26, 2012 by a large majority. It should be noted that the Assembly and its committees only vote on draft resolutions and recommendations, not on the report or "explanatory memorandum."

release these members of the former government and to allow them to stand for the upcoming parliamentary elections. It considers that strict international standards delimiting political and criminal responsibility need to be developed.¹²

The Danish Helsinki Committee for Human Rights, a non-profit organization based in Copenhagen, has also issued four preliminary reports on the three cases. Without summarizing in detail the findings of these four reports, it is worth highlighting one excerpt in order to illustrate again the connection between selective prosecutions and the rule of law in Ukraine. The third preliminary report found the following with respect to the role of the prosecutor general's office (PGO) in the prosecution of Ms. Tymoshenko:

Following a tradition which fortunately is unknown in most European countries, First Deputy Prosecutor General Kuzmin in a TV show on 28.10.2011 publicized a number of allegations and suspicions against Yulia Tymoshenko and others which had not led even to formal charges being raised, not to mention indictments. Such behaviour from a very senior prosecutor is in violation of the basic rule of law principle of presumption of innocence and leads to serious doubt as to the objectivity and apolitical nature of the PGO when it at some later time has to decide whether to prosecute. A prosecutor is supposed to assess the outcome of the investigation objectively and based on that decide whether there is sufficient proof for an indictment and for the case to be sent to court for trial. Compared to the almost non-existing rate of acquittals (99.8% of those indicted are found guilty by the Ukrainian courts) such premature statements compromise the entire Criminal Justice System and justifies doubt as to whether to expect a fair trial.¹³

The second preliminary report had documented issues with respect to the selection of the judges for the three cases, the short period of time that the defence counsel had to prepare for the cases, and the insufficient clarity of the issued indictments against the accused, among other problems.¹⁴

On February 27, 2012, Mr. Lutsenko was sentenced to four years in prison for abuse of office and embezzlement. In her appearance before the Committee in March 2012, Halyna Coynash, of the Kharkiv Human Rights Protection Group, stated that

Witnesses for the prosecution have actually stated in court that the alleged offences [Lutsenko] was charged with were actually standard practice, and are still standard practice, within the ministry, and yet he has been convicted and sentenced to four years in prison. There were terribly serious infringements. Witnesses were stating in court that

12 Parliamentary Assembly of the Council of Europe, [Resolution 1862 \(2012\)](#), "The functioning of democratic institutions in Ukraine, January 26, 2012.

13 The Danish Helsinki Committee for Human Rights, [Legal Monitoring in Ukraine III](#), Preliminary Report on the investigations against Yulia Tymoshenko in November 2011.

14 The Danish Helsinki Committee for Human Rights, [Legal Monitoring in Ukraine II](#), Second Preliminary Report based on the investigations and trials against former Prime Minister Yulia Tymoshenko, former acting Minister of Defence Valeriy Ivashchenko, former Minister of Interior Yuriy Lutsenko and former First Deputy Minister of Justice Yevhen Korniychuk.

they had been pressured by the investigator, that the investigator had actually dictated what they should say. All of this was stated in court, and yet it was ignored.¹⁵

Following 18 months of pre-trial detention, on April 12, 2012, Mr. Ivashchenko was sentenced to five years in prison for abuse of office. On April 17, 2012, the Council of Europe's European Court of Human Rights — an international court with the power to rule “on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights”¹⁶ — held a hearing in the case of *Lutsenko v. Ukraine*. The hearing was based on Mr. Lutsenko's complaint “that his arrest and the decision on his detention were arbitrary and unlawful, and that he was not informed about the reasons for his arrest.”¹⁷ The Court has not yet issued a decision in the case.

B. What the Committee Heard in Ukraine

While in Ukraine, the Committee met with Evgeniya Tymoshenko, the daughter of the former Prime Minister Yulia Tymoshenko; Serhiy Vlasenko, a Member of Parliament in Ukraine and the lawyer representing Ms. Tymoshenko; Iryna Lutsenko, the wife of the former Interior Minister Yuriy Lutsenko; Ihor Fomin, the lawyer representing Mr. Lutsenko; Valentina Ivashchenko, the wife of the former Acting Minister of Defence Valery Ivashchenko; Boris Nechiporenko, the lawyer representing Mr. Ivashchenko; and Hryhoriy Nemyria, a former deputy Prime Minister of Ukraine and currently a foreign policy adviser to Ms. Tymoshenko. These witnesses provided the Committee with a detailed account of the charges that were laid against Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko, the proceedings that followed, and the conditions that these three individuals have had to confront throughout this period.

The Committee was told of the political pressure that has been brought to bear against these three prisoners. The witnesses listed above all indicated that Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko were targeted for judicial action on the basis of their political affiliations and for the fact of their being political opponents of the current regime. There were also suggestions that there are some personal motivations for the current government targeting these individuals, including for the actions the three took while in office to combat corruption and impunity and to work to improve the integrity of the electoral processes in the country. Witnesses emphasized that there are few in Ukrainian society who believe the Ukrainian courts to be independent, and that they are in fact under the control of the state prosecutor's office. Some went so far as to argue that the state

15 FAAE, [Evidence](#), March 5, 2012.

16 See: European Court of Human Rights, “[The Court in brief.](#)”

17 European Court of Human Rights, “[Chamber hearing concerning pre-trial detention of political figure.](#)” Press release, ECHR 171 (2012), April 17, 2012. Mr. Lutsenko was charged by Ukraine's General Prosecutor's Office “for unlawfully arranging different work-related benefits for his driver.” Later that same year, “the prosecution brought another criminal case against Mr. Lutsenko for abuse of office, for allegedly arranging the allocation of a one-room apartment to his driver. The two criminal cases were joined.”

prosecutor's office receives instructions or is controlled by the top levels of the Yanukovich government, including possibly by the President himself.

The Committee heard that Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko have been mistreated in prison, including being subject to constant video surveillance and other monitoring. They have had their personal privacy violated, including through public disclosures of medical and other information. In certain instances, the access of visitors, including defence attorneys, has been limited. Ms. Tymoshenko has also reportedly suffered physical abuse. The Committee was also informed that Ms. Tymoshenko's December 2011 court hearing, on the second set of charges issued against her, was held in her cell for 12 hours because she was bed-ridden as a result of poor health.

Serious concerns have been raised about the health of all three prisoners. Ms. Tymoshenko has been suffering from significant back pain for months. Canada played a key role in negotiating access for three Canadian and two German doctors, who formed part of what was called an "International Medical Commission," to assess Ms. Tymoshenko's health in early February 2012 for a two-day period. Canada's Ambassador to Ukraine was one of the first foreign ambassadors permitted to visit Ms. Tymoshenko in prison. However, in late April 2012, in response to reported attempts by the prison authorities to forcibly move her against her will to a hospital facility overseen by local doctors, she began a hunger strike in prison. The Committee was told in Kharkiv that on the two days after the attempt to move her, Ms. Tymoshenko's defence counsel was not permitted to visit her. Photos of Ms. Tymoshenko's bruising reportedly incurred from this incident were taken and published by Ukraine's Ombudsperson, who has since left the position. The Committee heard from some while in Ukraine that the former Ombudsperson left the country under some threat to her personal security.

The health of Mr. Lutsenko and Mr. Ivashchenko is a major concern and has received less international attention. Mr. Lutsenko is reportedly suffering from diabetes and liver damage. Ms. Ivashchenko also indicated to the Committee that her husband had not had his right to receive qualified medical help respected; all requests for such assistance have been denied.

The Yanukovich government's reaction to the mounting and intensifying international pressure to address concerns over the deteriorating rule of law in Ukraine has been somewhat muted. For example, in early March 2012, the foreign ministers of Sweden, Britain, the Czech Republic, Poland and Germany submitted a joint letter to *The New York Times* articulating European concern over democratic regression in Ukraine. They wrote that,

Developments in Ukraine in the last two years have caused us to question Kiev's intentions with respect to the fundamental values that underpin both the [Association] agreement and our relations in a broader sense.¹⁸

The Foreign Minister of Ukraine, Kostyantyn Gryshchenko, published a response to this letter, in which he argued that Ukraine is committed to European values and has embraced an "ambitious reform agenda." He compared the trials of Ukrainian opposition leaders on corruption charges to those that have taken place in other countries, adding that "The principle is the same: Whatever the court's decision is, it is to be respected — domestically and internationally. The way to challenge it is to go to a higher court of law."¹⁹

This response echoes some of what the Committee was told by Ukrainian government officials during its meetings in Kyiv. There, the Committee met with: Natalia Kovtun, head of section/deputy head of department at the Prosecutor General's Office; Andriana Kultchytka, head of the international department of the Human Rights Ombudsperson of the Verkhovna Rada (the Parliament); Vlad Klysha, head of the international cooperation department of the State Penitentiary Service of Ukraine; Robert Sivers, acting director of the anti-corruption legislation and justice department at the Ministry of Justice; and, Svitlana Komyshko, director of the international legislation and cooperation department at the Ministry of Justice. This group of witnesses offered the Committee very little information on or explanation of the prosecutions, their basis in Ukrainian law, and the protections that exist in Ukraine to ensure fair trials and fair treatment under the law. Most of these witnesses simply indicated that they were at the meeting to document the Committee's concerns and to maintain dialogue. The witnesses also indicated that Ukraine's existing *Criminal Code* still closely resembles the Soviet-era laws, and despite some reforms, there are unresolved issues. A new *Criminal Code* was adopted by Ukraine's Parliament in April 2012 but has not yet been implemented.

Shortly before the Committee travelled to Ukraine, a summit of Central European leaders that was supposed to be held in Yalta, Ukraine on May 11-12, 2012 was cancelled following the decision of numerous leaders not to participate. European concerns about Ukraine's democratic record are also being brought to the fore as a result of the fact that Ukraine is co-hosting the European soccer championship, with Poland, from June 8 to July 1. Notably, on April 30, 2012, the President of the European Commission, Jose

18 Carl Bildt, William Hague, Karel Schwarzenberg, Radoslaw Sikorski and Guido Westerwelle, "Ukraine's Slide," *The New York Times*, March 4, 2012.

19 Kostyantyn Gryshchenko, "Ukraine Responds," *The New York Times*, March 20, 2012. Upon its return from Ukraine, the Committee received information from the Embassy of Ukraine in Canada indicating that Ukraine's Ministry of Justice "is retaining American law firm Skadden, Arps, Slate, Meagher & Flom, LLP to review the legal case, 'Tymoshenko vs. Ukraine' which is being presented before the European Court of Human Rights." According to this document, Ukraine's Minister of Justice, Alexander Lavrinovich, "commented that it was necessary to conduct an independent review of the prosecution of Yulia Tymoshenko for abuse of power, and to consider the merits of the prosecution's case in meeting internationally accepted legal standards." Moreover, "The conclusions of the independent investigation by Skadden will be used in preparing the position of the Government of Ukraine for presentation to the European Court of Human Rights." Document received by Committee Clerk, dated May 24, 2012.

Manuel Barroso, announced that he will not attend the championships unless the human rights situation in Ukraine improves swiftly and significantly.

It is not clear that these diplomatic moves have had any major effect on the actions and attitudes of the Ukrainian government. Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko remain in detention. One positive development is that Ms. Tymoshenko began receiving medical treatment in May under the supervision of a doctor from Germany.²⁰

In Kharkiv, the Committee met with the deputy mayor and a representative from the Kharkiv Oblasts' State Administration, as well as two members of the Kharkiv Oblast Council who are also members of President Yanukovich's Party of Regions. In addition to discussing regional and local issues, Committee members raised concerns about the apparently politically motivated prosecutions and stressed the need for Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko to receive adequate and immediate medical care. In response, Committee members were told by the Party of Regions members that the cases are still being investigated, and the appeals process is ongoing, but that there was a possibility that the three individuals could end up serving time under house arrest, a new provision in Ukraine, instead of in prison. The Party of Regions members also mentioned that former President Leonid Kuchma had been subpoenaed that very day in relation to the Gongadze murder case — Mr. Kuchma has been accused of ordering the abduction and murder of journalist Georgiy Gongadze in 2000 — which, they argued, is proof that

20 On [December 19, 2011](#), the European Court of Human Rights (the Court), a body of the Council of Europe, decided to “fast track” the 10 August 2011 application of Ms. Tymoshenko regarding her detention in Kyiv following her conviction in October 2011. The Court took this decision based on “the serious and sensitive nature of the allegations raised.” According to the Court, Ms. Tymoshenko alleged, “in particular: that her criminal prosecution and detention were politically motivated; that there has been no judicial review of the lawfulness of her detention in Kyiv SIZO no. 13; and, that her detention conditions are inadequate, with no medical care provided for her numerous health problems.” Notice of this application was forwarded to the Government of Ukraine. On 14 March 2012, Ms. Tymoshenko had applied to the European Court of Human Rights “for an interim measure, asking to be transferred to an appropriate medical institution in view of her health.” On [March 15, 2012](#), the Court indicated to the Government of Ukraine that it ensure that Ms. Tymoshenko “receive adequate medical treatment in an appropriate institution.” On [May 31, 2012](#), the Court decided “to lift the interim measure indicated to the Ukrainian Government, under Rule 39 of the Rules of Court, on March 15, 2012 to ensure that [Ms. Tymoshenko] receive adequate medical treatment in an appropriate institution. It found that the Government had complied with the measure. At the same time, the Court refused to grant a second Rule 39 request submitted by the applicant on 25 April 2012 in which she asked the Court to require the Government to permit the applicant to be treated in the Charité Hospital in Germany.” Following a chronological summary of the facts, including the incidents surrounding Ms. Tymoshenko's transfer to the medical facility in Kharkiv, the Court noted the following: “the applicant is currently receiving treatment in the Central Clinical Hospital, and that she is being supervised by an outside neurologist. In the circumstances, given the threshold applied in cases involving Rule 39 of the Rule of Court, the Court decided that the interim measure should be lifted. The Court also requested the respondent Government to submit further observations on the admissibility and merits of the case including the issues of the forced transfer to the hospital in the night of April 2012 and the permanent surveillance.” The Court also indicated that it “remains seized of the matter, and it will be open to the applicant to make a fresh request under rule 39 if the circumstances require. The Court will deal with the substantive issues raised by the case once it has received the parties' written observations.”

Ukraine's judicial system is working. In their view, Ukraine is moving along the path of democratization.

Overall, the Committee believes that the circumstances and timing of the prosecutions and the manner in which they have been carried out raise serious concerns about the rule of law in Ukraine. Moreover, their selective nature suggests political motivation. While the Committee heard repeatedly of the corruption that has pervaded high levels of the Ukrainian state and society, and of the fusion of political and economic interests in Ukraine, these prosecutions have focused on a very select group of individuals who were politically active in a specific period of time. The Committee also heard of a number of problems with respect to the judicial proceedings themselves, including with respect to the independence of the judges involved and the overall fairness of the trials. The three prisoners are a symbol to the world of the state of democracy in Ukraine today. In stating all of the above, the Committee emphasizes that its concern is not a personalized one; it is, rather, about the fundamental need for the rule of law to be fully respected in Ukraine.

For all of these reasons the Committee decided, while in Kharkiv, to make an important symbolic gesture by driving to the prison where Ms. Tymoshenko was formerly held, and to the gates of the hospital complex where Ms. Tymoshenko is receiving treatment to see first-hand the circumstances in which she is currently being held. Outside of the hospital, members shared their concerns and had a dialogue with Ukrainian citizens and journalists about the selective application of the rule of law in Ukraine, and called for the full protection of the human rights of those who have received jail sentences, including immediate and acceptable medical treatment. The Ukrainian citizens in the crowd were anxious to raise their concerns with Committee members. The leader of the Committee's delegation and Parliamentary Secretary to the Minister of Foreign Affairs, Bob Dechert, spoke fulsomely on these issues with the local media who were present at the hospital gates.

During his visit to Ukraine in March 2012, Mr. Dechert had requested official permission of the Ukrainian authorities to visit Ms. Tymoshenko and been denied. During its visit to Ukraine, the Committee made a formal request in writing through the Canadian Ambassador and Embassy to the Ukrainian penitentiary service to visit Ms. Tymoshenko. The Committee was eventually told via a telephone call to the Canadian Embassy — which is standard practice in Ukraine — that its request had been denied.

Judicial Independence

Another important area related to the rule of law is judicial independence. The Council of Europe's²¹ European Commission for Democracy Through Law (the Venice Commission) and its Parliamentary Assembly (PACE) have raised long-standing concerns about this issue in Ukraine. Judicial independence and the increasing direction of judges by the executive were also raised repeatedly as issues by witnesses during the Committee's meetings in Ukraine, particularly in the context of the prosecutions of Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko. At the time of its meetings in Ukraine, the Committee was told that a delegation of Canadian judges was visiting the country to work on issues pertaining to Ukraine's judiciary.²² The second preliminary report of the Danish Helsinki Committee, which was mentioned previously, highlighted general concerns about judicial independence and the impartiality of judicial proceedings in Ukraine as follows:

According to the European Convention on Human Rights Article 6.2, anyone who is charged with a violation of the law must be considered innocent until his guilt has been proven. However only 0.2% of the indicted persons are acquitted by the courts of Ukraine against around 10% in other countries. Courts in Ukraine granted 88% of the requests (2010) to remand in custody as a precautionary measure. Such figures are strong indicators of a judiciary much too willing to follow the claims of the prosecution and much too afraid to confront it. The success rate of the investigation is a worrying 90%, which is far above what you see and can expect in countries with a tradition of respect for the rights of the defendant. No wonder that anyone who is under investigation or has been indicted consider themselves as already sentenced in the legal system and fight for their freedom also through non-judicial means, and that public officials can be tempted to give public statements as if the defendant is already convicted. That was the tradition in which many have grown up in Soviet times.²³

In 2011, the Venice Commission was requested to provide an opinion on Ukraine's draft law amending the Law on the Judiciary and the Status of Judges, and on amendments that have been made to other legal acts. The Commission provided the following general remarks in its opinion:

The new draft Law submitted for opinion represents an improvement over previous proposals in this area and addresses many of the recommendations previously made by the Venice Commission. The recommendations which have not been addressed in the

21 The [Council of Europe](#) was founded in 1949. It has 47 member countries, including Ukraine. "The primary aim of the Council of Europe is to create a common democratic and legal area throughout the whole of the continent, ensuring respect for its fundamental values: human rights, democracy and the rule of law." Member states have obligations under the terms of the Council of Europe Statute and the European Convention on Human Rights.

22 The delegation of judges included two members of the National Judicial Institute and two members from the Office of the Commissioner for Federal Judicial Affairs. They were in Ukraine from May 2-25, 2012 as part of the Canadian International Development Agency's new project entitled, "Judicial Education for Economic Growth."

23 The Danish Helsinki Committee for Human Rights, [Legal Monitoring in Ukraine II](#), p. 11.

new text principally relate to provisions which appear in the Constitution and which therefore cannot be changed without an amendment to the Constitution. These include the role of the *Verkhovna Rada* (parliament) in the appointment and dismissal of judges which the Commission criticized as politicizing the judges, the judges' immunity from prosecution which the Commission has previously criticized and the role of the President in appointing and dismissing judges. The new draft appears to have at least partially reversed the earlier decision to effectively deprive the Supreme Court of much of its jurisdiction and would appear to restore it to its position as the highest judicial body in the system of courts.²⁴

Among various other issues affecting the integrity of Ukraine's judicial system, including for example, the advantages vested with the prosecution over the defence, a January 2012 PACE Monitoring Committee report also highlighted the appointment of judges. In Ukraine, judges are initially appointed for five years, which in essence creates two tiers of judges — those who are appointed on a temporary basis and those who are on the bench for life. The Monitoring Committee noted that this five-year period “opens up the possibility for undue influence on the decision-making of judges in their probation period,” and argued that “the appointment of these judges to preside over politically sensitive cases is questionable.” According to this report, the majority of judges in the case against Ms. Tymoshenko “are still in their five-year probationary period,” which “has given rise to questions about the independence of these courts and proceedings from the political interests of the ruling majority.”²⁵

In keeping with the findings of the Venice Commission about judicial independence, a resolution adopted by the PACE in January 2012, among many other provisions, invites the Ukrainian authorities to abolish, or at least considerably shorten, the five-year probationary period for judges and to remove the Ukrainian Parliament (the *Verkhovna Rada*) from the appointment process. Similarly, the resolution considers that judges in their probation period should not preside over politically sensitive or complex cases.²⁶

Committee members were made aware of other concerns regarding judicial independence in Ukraine during its meetings. For example, judges can be selectively appointed in favour of the executive to Ukraine's Constitutional Court, a body which is then in a position to change the country's electoral law. In addition, the Committee was told of one specific instance where a judge who was hearing a case was himself under investigation at the same time.

24 European Commission for Democracy Through Law (Venice Commission), [Joint Opinion on the Draft Law Amending the Law on the Judiciary and the Status of Judges and Other Legislative Acts of Ukraine](#), Opinion No. 639/2011, CDL-AD(2011)033, Strasbourg, October 18, 2011.

25 Council of Europe Parliamentary Assembly, Monitoring Committee (2012), [“The functioning of democratic institutions in Ukraine.”](#)

26 Council of Europe Parliamentary Assembly, [“The functioning of democratic institutions in Ukraine,”](#) Resolution 1862 (2012).

The Environment for Civil Society

A critical element for any democracy is the enabling environment for civil society. The Committee met with a range of civil society organizations while in Ukraine, and learned that the situation facing civil society is a mixed picture.

On the one hand, the Committee was encouraged and impressed by the tenacity and dedication of these organizations in performing important work despite limited resources and the pressure tactics that can sometimes be employed against them by the authorities. The Committee was also encouraged by what it heard regarding the involvement of Ukraine's youth in civil society. Nevertheless, the Committee was also told repeatedly that funding is an issue holding back many civil society groups, a challenge that is connected to the country's economic stratification. Without a strong middle class, the backbone of civic engagement, it is difficult to envision robust private donations from small businesses or individuals, or broader societal involvement. It is very important to the groups with whom the Committee met that they maintain their independence, which would inevitably be complicated if they were to receive funding from the central government or from the local oligarchs.

Groups also encounter operational challenges related to registration and restrictions on access to information — despite the existence of a Law of Public Information — and the ability to carry out their activities and assemble free of harassment. In general, there was little sense that the work and recommendations of these civil society organizations are being heeded by the government. They feel excluded from decision-making. In general, one of the barriers to improved civic and public engagement in Ukraine is the deep-seated historic distrust of government among the country's citizenry. Indeed, the Committee was told that a low level of trust in the country's institutions persists in Ukrainian society, with the church still enjoying the highest level of institutional trust, at around 30-40%. This situation has led to a general focus in society on personal relationships.

The mixed picture facing civil society was reflected in the testimony given to the Committee in March. On one hand, the Committee was told by Oleh Rybachuk that civil society is seeing "more and more pressure from secret services to control its activity." On the other hand, Alyona Hetmanchuk told the Committee that: "Civil society in Ukraine is still much stronger and more active than in neighbouring countries. Paradoxically, two years of President Yanukovich in power gave a second birth to civil society in Ukraine, I would say."²⁷ All who appeared agreed on the critically important role of civil society in Ukraine's democratic development, as these organizations perform functions that range from electoral monitoring and strengthening of the rule of law and human rights to exposing corruption and addressing issues related to gender and youth.

27 FAAE, [Evidence](#), March 5, 2012.

In Kharkiv and Lviv, the Committee met with a broad range of civil society actors, including: Yevhen Zakharov, head of the Kharkiv Human Rights Protection Group; Olga Miroshnyk with the Foundation for Local Democracy; Angelina Soldatenko, executive director of the Institute for Regional Press and Information; Ruslan Zabily, director of the Museum “Prison on Lonsky”; and Yaroslav Hrytsak and Borys Gudzyak, respectively a professor at and the rector of the Ukrainian Catholic University. In all, the Committee learned that there are two broad sets of challenges facing civil society in Ukraine today — one which flows from the creeping authoritarianism in society which affects their operating environment, and the other which relates to capacity and effectiveness.

On the first issue, creeping authoritarianism, the Committee was told that the current government uses various arms of the state in an attempt to intimidate and maintain control over society, including the SBU (Ukraine’s security service), the prosecutor’s office, the Ministry of Interior, and even tax collectors. One witness argued that the SBU is behaving more and more like a local law enforcement agency, and that the police are being used for political purposes. The Committee was also told by Father Gudzyak, Rector of the Ukrainian Catholic University, that even the Ministry of Education can be used to apply pressure by stripping the accreditation of educational institutions that speak out, causing the majority to stay silent. The intimidation of academic institutions in Ukraine is therefore clearly an issue, as is the need for full academic and religious freedom.

One particularly troubling case that was brought to the Committee’s attention occurred at the “Prison on Lonsky” Museum, which is a museum and research centre located at the site of a notorious prison where political prisoners had been held during the Soviet years. The director described the harassment he and his colleagues have suffered in detail. In one incident, Mr. Zabily was apprehended on the street and interrogated for hours. He was asked about the liberation movement, the documents he works with, his contacts abroad, etc. Materials were confiscated and it was recommended to him that he not pursue his studies. He told the Committee that, despite the pressure he was facing, if he had kept everything quiet and agreed to hand over his work, something similar would have just happened to one of his colleagues who is also studying the 20th century history of Ukraine. So, he made a choice and discussed in public what had happened to him. To Mr. Zabily, this is one of the key achievements of the young democracy in Ukraine — youth are less afraid than their elders to go to city squares and stand up for their rights.

On the second issue, capacity, the Committee was told that civil society organizations have struggled to cooperate and identify common goals and to form a more cohesive movement. They can be competitive with one another. Despite these challenges, the potential impact of civil society organizations in Ukraine should not be underestimated. As Borys Tarasyuk told the Committee in March,

It was the maturity of the civil society that brought the victory of democracy in Ukraine during the Orange Revolution. A lot of analysts had doubts about the maturity of civil

society in Ukraine before 2004, but 2004 proved that the civil society in Ukraine is very strong and is a very influential force for bringing democracy into Ukraine.²⁸

Most of the civil society organizations with whom the Committee met emphasized the need for training and capacity-building support to strengthen their organizations and the role their organizations can play in their communities. They want assistance with a range of activities and functions, including things like the analysis and tracking of legislation, tools to access information, and strategies for raising funds and managing budgets. Such assistance is required because civil society organizations need to strengthen their processes and understanding of how to organize themselves, access and approach government, and engage in community development. These tools are needed so that civil society can in turn strengthen public awareness of key issues and public dialogue. As witnesses told the Committee, the public's lack of confidence in government has bred passiveness, and, coupled with economic challenges, a narrow focus on making ends meet. As Ms. Soldatenko explained it to the Committee, this challenge is not a new one. More than half of Ukrainian society has historically experienced authoritarian management, and is therefore less experienced with the mechanisms of civil society and understanding their rights and how to obtain information. In her view, the key issue is teaching citizens the principles of democracy and the ways in which the instruments of a democracy can be used. Overall, the Committee was left with the impression that both civil society and governments, including at the local level, need to work to improve mutual engagement and public outreach.

An important element of this general conclusion relates to youth engagement, which is a critical aspect of civil society development. The Committee was told that young Ukrainians have benefitted over the years from travel abroad, exchanges with Western countries and other forms of training support programs. From these experiences, they are able to bring knowledge, skills, information and new perspectives back to their organizations, universities and society at large. Taras Kuzio, a senior visiting fellow at Johns Hopkins University, referred to this issue by comparing the political situations in Ukraine and nearby Georgia, both of which were formerly part of the Soviet Union. He told the Committee that,

The average age of a member of government in Georgia is 30, while the average age in Ukraine is 60. This means that the Brezhnev generation is in government in Ukraine. The generation in government in Georgia is a generation whose members were all trained and educated in the west. ... The consequences of that are profound. Georgia today has one of the lowest levels of corruption in the world, on a par with those of Canada, the U.S., and many western European countries... Bringing young Ukrainians to Canada, to America, and to western Europe is absolutely important, because hopefully one day they will be in power.²⁹

28 FAAE, [Evidence](#), March 7, 2012.

29 FAAE, [Evidence](#), October 20, 2011.

Because of the value of this exposure, many fear the possibility of Ukraine's growing isolation from Europe, which could curtail such opportunities in the future.

Media Freedom?

The role and freedom of the media in Ukraine also presents a mixed picture. In general terms, the Committee learned that television remains the dominant medium in Ukraine, and that many television stations are controlled by pro-government business interests. Most independent information is delivered through the Internet and some small TV stations. However, the latter have much more limited audiences and resources. Ukrainian citizens do not typically have access to western media because the majority of the populace cannot afford to pay for cable news services.

One witness, Alyona Hetmanchuk of the Institute of World Policy, noted in Ottawa that there have been certain positive trends where the media is concerned. There are still political talk shows that are broadcast live in Ukraine, which include representatives from both the government and the opposition. Social media and Internet news sites are also expanding and showing increased use by Ukrainians, and investigative journalists are allowed to operate. However, Ms. Hetmanchuk also noted that, as part of a long-standing negative trend, "The most popular media in Ukraine belongs to Ukrainian oligarchs, and the oligarchs want to be on good terms with the Ukrainian authorities. ... Threatening calls to TV channels' top management and editors-in-chief are the normal practice."³⁰ Indeed, the most popular channel — Inter TV — is owned by the former head of the SBU (Ukraine's security service). The Committee was told that state control of television — only an estimated 1.5% share of the market is officially owned by the state — is indirect. The rest is owned by private and largely pro-government interests.

Other witnesses noted that one of the main issues affecting media freedom in Ukraine is the weak budgetary situation facing most independent newspapers and TV stations. For these independent voices, economic self-sufficiency remains an ongoing challenge. None of the recent governments in Ukraine have moved to create a public broadcasting system and the existing channels compete in a very weak advertising market for income. It is with this reality in mind that Ihor Pochynok, editor-in-chief of the *Express* newspaper, recommended to the Committee in Lviv that a not-for-profit investment fund could be created by Canadian businesses that would provide loans to media organizations in Ukraine with standard interest rates so that they could gain access to badly needed capital. In his case, access to such inexpensive capital had enabled his newspaper to grow from a circulation of 19,000 to producing 18 regional newspapers.

The lives of independent media voices are difficult from an economic perspective, but also from a political one. Several witnesses told the Committee that journalists' freedom of speech and room for manoeuvre is narrowing. This is especially the case for

30 FAAE, [Evidence](#), March 5, 2012.

journalists working in provinces outside of Kyiv. On the general issue of the precarious status of the industry, as Mr. Pochynok explained, at any moment, someone could take the decision to shut down a newspaper. They are always under the watchful eye of state regulators.

A real example of such a case was described to the Committee in Kharkiv. Oleh Yukht's TV channel ATN was disconnected from the air despite the fact that they had all of the necessary documents and licences. While appealing to the court to restore their presence on the air, Mr. Yukht was forced to let go 60% of his personnel. In his view, the situation is reaching the point where mass media is totally controlled by the authorities. The opportunity to provide contrary opinions is only available to Internet journalists, who can survive, while independent sources in the traditional media gradually fade away. While individual freedom of expression exists through Internet sites and social media, opportunities to disseminate alternative views more widely through mass media are much more limited. Unfortunately, there is also a growing disconnect between what appears in the Internet media and the traditional mass media. As Serhiy Leschenko, the editor of *Ukrainska Pravda*, told the Committee in Kyiv, today, whatever appears in the Internet media tends to die there. There is little follow up on such stories in other media. To Mr. Leschenko, it is almost as if two parallel worlds of information are emerging. The problem, of course, is that one of those worlds — the non-critical one — is much more dominant and ubiquitous than the other.

The Committee was left with a general sense that while independent media exist, they are facing serious financial and other challenges and are under increasing pressure, including stern messages and even intimidation from government authorities when their stories do not correspond with the official narrative. The Committee underscores that media freedom is not an abstract human rights issue. The ability of citizens to obtain balanced and independent sources of information about what is happening in all regions and segments of their society, to hear a variety of points of views, and to understand their choices has a direct bearing on their political participation and, ultimately, on the outcome of elections.

The Political Environment

During its meetings in Ottawa and Ukraine, the Committee heard many views regarding current political conditions in Ukraine. The Committee heard from members of the BYuT Faction (the "Fatherland Party" of Yulia Tymoshenko), the Front Zmin ("Front of Change") party, the Udar ("Punch") party, the Svoboda ("Freedom") party, the Hromadianska Pozytsiya ("Civil Position") party, the Republic Christian Party, and Oblast-level representatives of the governing Party of Regions (the party of President Yanukovych).

In many ways, Committee members were struck by the range of opposition parties and the openness of the opposition politicians with whom they met, all of whom seemed able to voice their political views, which included strong rebukes of the Yanukovych government. On the other hand, the Committee also heard of the impediments and pressure facing opposition groups, including legislative and administrative ones, which

limit their room for manoeuvre and their ability to reach out effectively to the Ukrainian citizenry. Many of these issues stem from the pervasive corruption that seems to be becoming more entrenched in Ukrainian politics, and the creeping influence of business interests and oligarchic elites into the political sphere. This is a particular issue with President Yanukovich's Party of Regions, which has strong links to economic interests in eastern Ukraine, and has exhibited traits of cronyism and favouritism to its base in the Donetsk region. Some even label the party 'a good business opportunity'.

Looking towards Ukraine's October 2012 parliamentary elections, three issues stood out to the Committee which will affect the political landscape in Ukraine in the months ahead: implementation of the new election law; opposition unity/disunity; and public engagement in the political process.

A. The Election Law

The new election law in Ukraine will have an important impact on the conduct and integrity of the parliamentary elections. Indeed, Ukraine's electoral laws have repeatedly been changed over the years, often just before an election is to be held, making it difficult to fully implement new laws in time for an election. Such changes have also been seen as disadvantaging opposition parties, raising concerns about the implications of a fluid legal framework for the conduct of free and fair elections. The system for parliamentary elections has been changed at least four times since independence, alternating between single-constituency first-past-the-post systems, parallel or mixed systems and fully proportional ones. As Ukrainian opposition parliamentarian Borys Tarasyuk told the Committee in March:

Throughout our history of 20 years of independence, we used all possible systems of elections. We first used purely the majoritarian system, which was spoiled by so-called administrative resource, when the local authorities influence the results of the elections. Parliament then decided to create a mixed system first, that is 50% proportionate and 50% majoritarian. There was a lot of abuse of power in these elections, so then we switched to a purely proportional system. Now the current authorities have decided, for their benefit, it would be better to go back to the mixed system.³¹

Part of the reason for this fluidity is the lack of a unified electoral code in Ukraine that would apply to all elections.

The current electoral law on the Election of People's Deputies of Ukraine was adopted in late 2011. Among other changes, the key elements of this law include:

- A return to a parallel system under which half of the seats in the Rada (225) will be elected through first-past-the-post contests in single-member

31 FAAE, [Evidence](#), March 7, 2012.

constituencies, and half through closed list proportional representation in a single, national constituency;

- An increase in the electoral threshold for the proportional representation component of the system from 3% to 5% (which means that smaller parties that receive less than 5% of the total votes cast in the national constituency will not qualify to take any of the 225 proportional representation seats in 2012);
- Removal of the right of parties to form electoral blocs; and
- Removal of the option to vote “against all” available candidates.³²

Concerns had been raised about the new law and the process through which it was adopted by various actors, including the International Foundation for Electoral Systems (IFES) and the Venice Commission of the Council of Europe. In recent remarks, a representative of IFES, Gavin Weise, commented that, as was the case in the 2002 elections, single-member seats can favour the governing party because administrative resources can be utilized to help ensure victory in ridings where the governing party may not enjoy the plurality of support. Mr. Weise has also pointed out that the new law has done little to improve the transparency of election campaigns in terms of disclosure of the substantial financial and other resources that all major political parties in Ukraine receive from the country’s economic elite.³³ This issue was raised by Oleh Rybachuk, Chairman of the United Actions Center, when he described for the Committee the “vicious circle” in Ukrainian politics. He said: “If you go into politics, you need money. Money is concentrated in a dozen families.”³⁴

In Ukraine, the Committee was briefed on the upcoming elections by Andriy Mahera, the acting head of the Central Electoral Commission; Denys Kovryzhenko, an expert on elections working with the International Foundation for Electoral Systems; Olha Ajvazovska, the head of the board of the civil society organization Opora; and, Oleksandr Chernenko, the head of the Committee of Voters of Ukraine. The Committee heard that while the new law is not perfect, it is relatively sound and reflects a compromise, however difficult, with opposition parties. It will be the framework going forward. As the former deputy head of the Central Election Commission told the Committee in Kyiv, despite the law’s shortcomings, they will have to live with it.

32 David Ennis and Gavin Weise, *Review and Analysis of the Draft Law on the Election of People’s Deputies of Ukraine*, International Foundation for Electoral Systems (IFES), September 2011.

33 U.S. Helsinki Commission, Commission on Security and Cooperation in Europe, “[Ukraine’s Upcoming Elections: A Pivotal Moment](#),” hearing held in Washington, D.C., May 17, 2012.

34 FAAE, [Evidence](#), March 5, 2012.

This does not mean that there are no concerns about the electoral law's implementation. It lacks detail in certain areas because some language was removed in the final version. Confusion and even controversy about the law's application also flows from recent decisions by the Constitutional Court, which is influenced by the President, to strike down some of its sections. Important announcements related to constituencies (electoral districts) are being made by the Central Electoral Commission. The Committee was told that as an institution, the Commission is imbalanced in favour of pro-government forces and is vulnerable to government control. So far, there has been insufficient clarity on and/or problems with the criteria for forming electoral districts, the rules and procedures governing foreign polling stations, and the legal remedies available to challenge decisions related to electoral boundaries, among other issues. Opora is tracking issues that have emerged with the districts, including, for example, some districts where the boundaries that were announced are incorrect, some where the size configuration of the district has been changed so as to help or be detrimental to particular candidates, and a few that were formed with enclaves from other non-connected districts. As Mr. Chernenko pointed out, it is precisely these new districts where challenges and confusion could be encountered by candidates.

Some specific aspects of the law, such as voting day procedures, are also quite complicated. There are apparently some issues with loopholes in the voter registration provisions which could lead to the inclusion of some voters multiple times on the voters' list. There are also reportedly cases where incorrect names are being listed at residential addresses on the voters' list. If an individual wants to confirm who is listed on the voters' list at his or her residence, that individual must seek that information from the Central Electoral Commission. In order to identify these particular problems, young Ukrainians are being encouraged by organizations like the International Republican Institute to contact the Commission and check who is listed at their personal residences.

B. Opposition Unity and Cooperation

Another key factor in the lead-up to the elections in October will be the unity of the opposition parties. While in Ukraine, the Committee learned of the recent initiative by a number of the main opposition parties, including the two largest groups — the *Batkivshchyna* (BYuT) party and *Front for Change* — to come together in an attempt to consolidate and devise a common platform.³⁵ These parties have issued a declaration of unity and an action plan. They intend to agree on candidates for specific constituencies and on a joint party list. A professor at the Ukrainian Catholic University in Lviv, Yaroslav Hrytsak, explained to the Committee that the common perception of Ukraine as a divided country is a misleading one. More and more protests from different segments of society

35 While the *Udar* party did not join the unified opposition platform and action plan and will run candidates as a stand-alone party, the Committee was informed by its head of strategy, Rostyslav Pavlenko, that *Udar* plans to unite with the other opposition parties once in parliament.

are uniting over key issues, such as corruption, reflecting little division in terms of politics or language.

As Roman Ilyk of the BYuT party told the Committee in Lviv, while it is difficult for politicians to unite, it is equally important that they unite for something instead of against something. Mr. Ilyk therefore argued that the opposition will have to be based on the principles of honesty, transparency, justice and freedom. He and the deputy BYuT leader in Parliament both told the Committee that their party wants there to be a clear and easy choice — between the opposition and the president’s Party of Regions, which has shown traits of dictatorship — for the voter on the election ballot in October.

Similarly, Stepan Kubiv of the Front Zmin argued that the unification of the opposition is a move away from partisan interests and personal ambitions to higher goals. He suggested the quality of politics and politicians must change in Ukraine, a change which he believes must become a core responsibility for the united opposition. He contrasted this vision to the patronage-style approach of the Party of Regions. Andriy Pyshnyi, the deputy head of the Front for Change party, stated that the main challenge for the opposition going forward will be figuring out what they are *for* — to articulate a real alternative vision that can be presented to the Ukrainian people. Oleh Tyahnybok, the leader of the Svoboda party suggested that there are three issues for the opposition to determine: how to overcome the regime; what the opposition parties would do with victory (e.g. a list of bills to introduce in parliament); and what measures are needed to enshrine democratic governance, in an irreversible way, for the future.

By contrast, Iryna Fario of the Svoboda party argued that a healthy society must be built on a multi-party basis that allows society to grow through competition. In general, Bohdan Pankevych of the Republic Christian Party provided a more sober assessment of the political situation in Ukraine. He told the Committee that there has been a tendency in Ukrainian politics to shuffle the same players, who have the same outlook. He argued that several leaders of the opposition parties have experienced previous stints in government during which time little progress was made on issues like public accountability and decentralizing control of budgets to the local level.

It was still not entirely clear at the time of the Committee’s trip how the cooperation between the six opposition parties will work in practice, including specifically the process for determining which individual will run in each of the first-past-the-post ridings. Negotiations are underway. Indeed, as the Chairman of Ukraine’s Foreign Affairs Committee explained in Kyiv, opposition unity is a difficult endeavour. Looking ahead to October, observers will therefore be watching to see if the unity agreement holds.

C. Public Apathy and Mistrust

Substantial focus is placed on the process of democracy — primarily the conduct of elections — in Ukraine. But, another important systemic issue that has affected the health of the country’s democracy flows from its overall political culture, particularly as the role and quality of political parties are concerned. The Committee learned of the importance of

personality and allegiances in Ukrainian politics, as compared to ideology. It was told that in some ways Ukraine's political parties can be thought of more as factions than parties.

Several witnesses commented on this issue during the Committee's hearings in March 2012. For example, Oleh Rybachuk, Chairman of the United Actions Center, told the Committee that "The biggest challenge is that many Ukrainians do not actually believe that the opposition, even if it's united, is an alternative to the government." Another witness argued that the challenges facing the opposition have been increased by the recent trials of former politicians. Alyona Hetmanchuk, Director of the Institute of World Policy, told the Committee that, in terms of the opposition, "The energy of its leaders is focused primarily on getting political prisoners out of jail, which is not a usual task for the opposition in democratic contests." She went on to state that "the role of the opposition in Ukraine, to some extent, is played by civil society today."³⁶ These views were supported to a certain degree by some of the witnesses the Committee heard in Kyiv, Kharkiv and Lviv.

In Kyiv, Oleh Tyahnybok, the leader of the Svoboda party, expressed his concern that the Ukrainian citizenry doesn't believe that peaceful parliamentary methods can help to change the government. In his view, citizens don't believe that their voice counts. However they vote, the count will favour the powers that be. All of the opposition politicians with whom the Committee met expressed their commitment to changing this view and to building public accountability in Ukraine's political system.

The long-standing challenges with the quality of political parties in Ukraine and fatigue with the political infighting that has characterized politics in recent years are reflected in public opinion polling. As of April 11, 2012, the Razumkov Centre, an independent think tank based in Kyiv, found that only 13% of citizens believed that their participation in the parliamentary elections scheduled for October 2012 would influence the situation in the country; another 39% indicated their belief that their vote would have no effect at all.³⁷ In Kyiv, Olha Ajvazovska, head of the board of the civil society organization Opora, estimated that 10% of voters could be willing to sell their votes in the upcoming elections (in local elections held in 2010, it was estimated that up to 20% of people were willing to sell their votes). When asked why citizens would be willing to sell their vote, the typical response is — we don't believe anyone anymore. The Committee was told by one witness that most Ukrainians keep their distance from the state because they don't think the state is there to help them; they think the state is just a mechanism of pressure.

The performance of the Ukraine's Verkhovna Rada in the last few years has done little to improve the public's view of the country's political institutions. A 2011 report from Freedom House pointed to issues in the Rada's role in providing "an effective check or

36 FAAE, [Evidence](#), March 5, 2012.

37 Razumkov Centre, "[2012 Elections in Ukraine: public opinion](#)," April 11, 2012.

brake on the government's authority."³⁸ It should be noted that in October 2010, the country's Constitutional Court agreed to rescind constitutional reforms from 2006, returning some powers from the parliament to the presidency. Witnesses told the Committee that the parliament implements measures that it does not examine or assess properly.

The Freedom House report cited the example of the agreement that was reached in April 2010 between Russia and President Yanukovich's government to extend the Russian Black Sea Fleet's lease on its naval base in Crimea by 25 years until 2042. Many observers have questioned the balance of this agreement, which saw Ukraine gain a 30% reduction in gas prices from Russia in exchange for the continuing presence of a larger power in a geographically sensitive part of the country, the population of which has tended to have Russian sympathies over the years. The Freedom House report notes that "This controversial pact was signed on a Thursday and rammed through the Rada the following Tuesday. There was no national discussion, much less a substantive parliamentary debate, on an issue with major national security implications." In general, the report argues that "the Rada has delegated numerous powers to the cabinet of ministers and deteriorated into a rubber stamp for the government."³⁹

D. Concluding Remarks on the Political Environment

Overall, the view held by virtually all is that the parliamentary elections scheduled for October 28, 2012 in Ukraine will be a key litmus test for the country's democratic development. The elections also represent a potential turning point in the country's domestic political affairs and in its international relations. With this in mind, the Committee was briefed by the Canadian embassy in Ukraine and by various Ukrainian civil society organizations that international support for the parliamentary elections must focus on two broad areas: the longer term capacity-building of various institutions and actors in Ukraine involved in the elections to ensure that the electoral processes are carried out effectively; and, support for short- and long-term election observation.

Has Ukraine become an Authoritarian State?

There has been considerable debate in the Committee's meetings and in the wider policy community about the extent to which Ukraine's recent democratic backsliding represents a full descent into authoritarianism. The Committee heard a variety of opinions on this subject, but is aware that while it may be tempting to draw bold conclusions, this is not a black and white situation. Views ranged from those who describe the state as totalitarian, to those who felt that it was more of an ineffective governing system dominated by corrupt patronage networks and oligarchs. Most expressed concern about Ukraine's increasing international isolation. Indeed, shortly before the Committee departed for

38 David J. Kramer, Robert Nurick, Damon Wilson and Evan Alterman, *Sounding the Alarm: Protecting Democracy in Ukraine*, Freedom House, April 2011.

39 Ibid, p. 5.

Ukraine, German Chancellor Angela Merkel made the following statement to the German parliament: “Today, we in Germany and in the European Union are living in peace and freedom – but unfortunately not in all of Europe, because in Ukraine and in Belarus people are still suffering under dictatorship and repression.”⁴⁰ At this point in time, the latter assessment may go too far. There is clearly a growing authoritarian trend in Ukraine. However, unlike in Belarus, there is also an active political opposition in Ukraine and civil society working for change. While the democratic space in Ukraine has undoubtedly been shrinking, there is a sense, however precarious, that this trend can still be pushed back in the other direction.

The state of a country’s democracy is not easily categorized and is influenced by many factors, structures, people and forces. As all witnesses underlined, Ukraine is both a complicated and a complex country owing to its tragic history in the 20th century, its recent experience with independence following years of dominance by foreign empires, in particular the Soviet Union, its geographic position between Europe and Russia, and its internal regional differences. All of this being said, the balance of what the Committee heard suggests that there is serious cause for concern about Ukraine’s democratic development and respect for the rule of law. This view seems to be supported by the opinion of the Ukrainian people themselves. A poll from October 30 to November 11, 2011 found that some 71% of citizens thought that, in general, things in Ukraine are heading in the wrong direction.⁴¹

What Prospects for the 2012 Parliamentary Elections?

Witnesses raised many concerns about the prospects for free and fair parliamentary elections in Ukraine on October 28, 2012. Several also expressed hopes that the positive forces for change that exist in Ukraine, which includes many of the people who appeared as witnesses before the Committee, will be able to push for an acceptable outcome in October. It should not be forgotten that Ukraine has held elections that were deemed to be largely free and fair in the past, including as recently as the presidential election in early 2010; it is therefore possible in 2012. The Committee is encouraged by the commitment of civil society and the broad range of opposition political parties to use democratic and legal channels to push for change in their country, and hopes that this effort will continue.

However, the Committee is under no illusions. All of the issues described above, in particular concerns over the implementation of the electoral law and the narrowing space that exists for independent media and civil society actors to operate and disseminate information, could have an effect on the election campaign. In addition to concerns, based

40 “Merkel likens Ukraine’s government to Belarus’ dictatorship as Tymoshenko case drags,” *The Washington Post*, May 10, 2012.

41 International Republican Institute, Baltic Surveys Ltd., the Gallup Organization, and Rating Group Ukraine, “Public Opinion Survey Residents of Ukraine: October 30-November 11, 2011,” with funding from the United States Agency for International Development.

on recent experience, about the process of forming coalitions after elections in Ukraine, Alyona Hetmanchuk told the Committee in Ottawa that,

In my opinion, elections really have little chance of being fair and democratic, but we will hardly witness such gross falsification as we had in 2004 when the Orange Revolution took place. I would put it this way: if in 2004 we witnessed clumsy or stupid fraud, this year we might experience smart fraud. I'm sure the Ukrainian government will be more innovative and more creative in order to falsify election results. ...⁴²

Indeed, the Committee understands that the months leading up to the election are just as critical as the voting day. It is precisely for this reason that witnesses strongly emphasized the need for Canada and like-minded states to send both short and long-term election observers, and in significant numbers. Observers are needed at polling stations and at the headquarters of election commissions, including at the local levels.

It must be emphasized that the Committee is not concerned with the ultimate victors in the parliamentary election, which must be wholly determined by the Ukrainian people. It is the conduct of that election that matters. Ukraine's future as a democracy, governed by the rule of law, will turn on whether these elections are free and fair, and whether the results legitimately and convincingly reflect the will of Ukraine's voters, whatever that may be. The Ukrainian people's perception of the answers to these questions will be decisive.

One of the main concerns raised by witnesses was the potential for the Party of Regions to use administrative resources in the campaign period to affect candidates and influence voters. Some witnesses mentioned that President Yanukovich had been increasing the level of social services available to certain groups and areas in recent months, which they argued was akin to leveraging state economic resources to influence or even bribe voters.

Both in Ottawa and in Ukraine, witnesses connected the selective prosecutions of Ms. Tymoshenko, Mr. Lutsenko and Mr. Ivashchenko to the prospects for free and fair parliamentary elections. Hryhoriy Nemyria, a former deputy Prime Minister of Ukraine and currently a foreign policy advisor to Yulia Tymoshenko, argued that with some of the leaders of the opposition in jail, it will be next to impossible to consider the upcoming elections free and fair. The prosecutions have also contributed to an atmosphere of fear in the country. He told the Committee that the health issues of the prisoners must be addressed; they must be released, and their political rehabilitation must be ensured in time so that they may participate in the elections.

The potential for problems and manipulation in the parliamentary elections could be accentuated by the fact that the gaps between support for the various parties has been generally narrowing over the last two years, making it increasingly likely that the results of

42 FAAE, [Evidence](#), March 5, 2012

the elections will be close. Around April 2010, the governing Party of Regions polled at 39.5% support; by June 2012 that had dropped to 21.5%. Over the same period, support for the BYuT increased from 15.9% to 20.4%.⁴³ It can also be argued that the increasing fusion of political and economic interests in Ukraine is contributing to the perception of a zero-sum game. For the Party of Regions, which by many accounts has become very transactional in nature, the stakes of losing control of the parliament, and the levers of influence that come with it, must seem considerable.

THE ECONOMY AND INVESTMENT CLIMATE

INTRODUCTION

During its meetings in Kyiv, Lviv and Kharkiv the Committee was left with three general impressions about Ukraine's economy and investment environment:

- The country has tremendous potential for economic growth that can benefit its citizens through key sectors, including agriculture, energy, tourism, information technology (IT) and aerospace technology;
- Those opportunities will remain under-realized at the societal level and foreign direct investment will remain relatively low unless the country strengthens the rule of law in its economy and legal certainty for investors.
- There are currently insufficient and inequitable opportunities for small and medium-sized businesses — which could potentially be the backbone of a strengthened economy — to develop and to be in a position to benefit from investment in the country.

While perhaps not immediately obvious, challenges in Ukraine's political scene and in its economy are connected by one key underlying factor: weak rule of law. The latter holds back foreign investment and small business development, which limits the size of the country's middle class, in turn affecting the health of its political culture and civil society. Canadian International Development Agency (CIDA) Regional Director General Bob Johnston described this connection to the Committee,

Clearly, helping Ukrainian farmers, entrepreneurs and small businesspeople achieve greater economic stability is important not only for economic reasons. These are the people who will form Ukraine's nascent middle class, who will develop a stronger voice in insisting on a transparent and effective government that respects the rule of law.⁴⁴

43 Razumkov Centre, "[Party ratings in Ukraine](#)," Question: If Parliamentary elections were to be held next Sunday, what political party would you vote for? (Recurrent, 2010-2012). Accessed June 20, 2012.

44 Written briefing provided to the Committee on May 9, 2012 by Bob Johnston, Regional Director General, EMMAP, Canadian International Development Agency.

Similarly, corruption is not limited to either the political or economic sphere; corrupt actors and practices flow between both spheres and must be rooted out of both if the country is to reach its potential.

Overview of Ukraine's Economy

According to International Monetary Fund (IMF) estimates, Ukraine had a nominal gross domestic product (GDP) of US\$165.0 billion in 2011, with a per capita GDP based on current prices of US\$3,621.22; its per capita GDP based on purchasing-power-parity⁴⁵ was US\$7,233.15. Ukraine's economy experienced a significant downturn during the global financial and economic crisis: from 2008 to 2009, real GDP decreased by 14.8% before growing by 4.1% from 2009 to 2010 and by an estimated 5.2% between 2010 and 2011.⁴⁶ A representative of the European Bank of Reconstruction and Development told the Committee in Kyiv that during the financial crisis Ukraine's currency lost 40% of its value. The Economist Intelligence Unit forecasts slower growth in 2012 than in 2011 "owing to a significant deterioration in the world economy, with weaker performances in Russia and the euro zone."⁴⁷ Information provided to the Committee in Kyiv by the Institute for Economic Research and Policy Consulting predicts that real GDP growth will remain close to 2.9% in 2012, increasing to 4.2% in 2013.⁴⁸

The unemployment rate in Ukraine was 8.2% in 2011.⁴⁹ In that year, the services sector accounted for approximately 56.1% of Ukraine's GDP, while industry and agriculture accounted for 34.7% and 9.3% respectively.⁵⁰

Ukraine joined the World Trade Organization (WTO) in 2008. In 2011, the value of the country's exports totalled US\$68.4 billion, while imports were valued at US\$82.6 billion. The country's most important trade partner that year was Russia, accounting for 29.0% of the value of Ukraine's exports worldwide and 35.3% of the value of its global imports.⁵¹ Highly valued Ukrainian export categories in 2011 included metals (namely steel), minerals and electronics. The most highly valued import categories for Ukraine in that year were minerals (most importantly, natural gas and petroleum products),

45 Purchasing-power-parity (PPP) refers to the notion that an identical good in two different countries should have the same price when expressed in the same currency. Per capita gross domestic product at PPP makes comparisons between economies easier by taking into account the relative costs and inflation rates in different countries.

46 International Monetary Fund [IMF], [World Economic Outlook Database](#), April 2012.

47 Economist Intelligence Unit [EIU], *Country Report: Ukraine*, March 2012.

48 Institute for Economic Research and Policy Consulting, "Macroeconomic Forecast Ukraine — monthly issue," No. 4 (56), April 2012. Document provided to the Committee in Kyiv, Ukraine.

49 IMF, [World Economic Outlook Database](#), April 2012.

50 U.S. Central Intelligence Agency [CIA], "[Ukraine](#)," *The World Factbook*, April 11, 2012.

51 EIU, *Country Report: Ukraine*, March 2012.

electronics and chemicals.⁵² While the inflow of net foreign direct investment (FDI) was US\$9.7 billion in 2008, information provided to the Committee estimates that the level will decrease to US\$6.4 billion in 2012.⁵³

In 2010, Ukraine reached a Stand-By Arrangement (SBA)⁵⁴ for US\$15.2 billion in loans from the IMF. Disbursements from the IMF were frozen in 2011 due to an inability to implement adequately two of the IMF's lending conditions: a pension reform bill, which has since been enacted; and a decrease in domestic subsidies for gas, an issue that has political ramifications for the government. To date, the amount of US\$12 billion has yet to be disbursed.

During its visit to the country, the Committee was also able to learn of the regional dynamics in Ukraine's economy. In general, the impression was of a country where the western region, around the city of Lviv, is more oriented towards the economic dynamics in neighbouring European countries, while the eastern region of the country still has stronger ties to Russia. Currently, one of the impediments to regional development is inadequate infrastructure.

Lviv, a city of approximately 750,000 people, benefits from being a centre of higher learning with its 22 universities and substantial student population. In general, Lviv's economy "is dominated by services, especially retail and wholesale trade."⁵⁵ The biggest source of foreign investment in Lviv is Poland (36%), followed by Austria (17%) and Cyprus (14%).⁵⁶ The Committee met with officials from the Lviv Oblast Council and Oblast Administration who emphasized the region's potential as a tourist destination, the development of which is a top priority. A strategy for tourism promotion to be put in place after the European soccer championships being held in 2012, which are expected to bring 400,000 tourists to the Lviv area and have already seen the development of a large new airport in Lviv, is being considered. In the future, for example, they are hoping to open up more flights to cities in Western Europe and a flight between Lviv and Toronto.

The officials in Lviv also emphasized, however, the need for a more decentralized approach in Ukraine so that local governments can develop more levers to improve the lives of their citizens and to develop small- and medium-sized businesses in their area. The considerable centralization of Ukraine's economy leads to inefficiencies in managing

52 Ibid.

53 Institute for Economic Research and Policy Consulting, "Macroeconomic Forecast Ukraine — monthly issue," No. 4 (56), April 2012. Document provided to Committee in Kyiv, Ukraine.

54 [A Stand-By Arrangement](#) is a form of lending by the International Monetary Fund designed to help countries address short-term balance of payment problems. Disbursements are conditional upon the country meeting program targets designed to address those problems.

55 Building Capacity in Evidence-Based Economic Development Planning in Ukrainian Oblasts and Municipalities, *Lviv City Profile: Demographic, Economic, Fiscal*, 2012, p. 28. Document provided to the Committee in Lviv, Ukraine.

56 Ibid., p. 24.

resources. They would like to see more decentralization so that a greater proportion of taxes stay in the local area, thus creating a more powerful fiscal base for the city.

In the eastern city of Kharkiv, a city of approximately 1.5 million people which used to be the third largest industrial centre in the Soviet Union, the Committee had the opportunity to hear about the important aerospace industry from local and Oblast officials. There is an aerospace (Antonov) production plant in Kharkiv that also works on satellite technology.

Ukraine's Economic Potential

Ukraine, a geographically large and fairly populous country, has many important ingredients for a strong economy. For example, the Committee was given information indicating that "Ukraine has [one-third] of the world's black soil, with 46% arable land."⁵⁷ Serhiy Yevtushenko, director of the State Agency for Investment and National Projects of Ukraine, told the Committee that agriculture is a sector that could attract much more investment; only about 10% of the country's arable land is currently under agricultural production. However, while there is currently a government moratorium on the private sale of agricultural land, there are some fears that this ban could be lifted in the near future, leading to uncertainty regarding the future control of this vital resource.

A select number of sectors, including alternative energy, are subject to a ten-year income tax exemption. Other important aspects of the country's economic foundation include an educated population with an adult literacy rate of over 99%.⁵⁸ The economy is also made up of a fairly diverse range of sectors including a chemical and petrochemical industry, an engineering sector, and a financial services industry.

One of the key potential sectors of future growth is shale gas. While the Committee was in Ukraine, the successful bidders to develop two major shale gas fields in Ukraine were being considered. One is in the Donetsk and Kharkiv regions of eastern Ukraine; the other field is in the Lviv region, in western Ukraine. On May 16, 2012, a government minister announced that Royal Dutch Shell and Chevron Corporation would be partnering with a state-run and a privately-run Ukrainian company to explore and develop the country's shale gas reserves, with commercial gas production intended to begin in 2017.⁵⁹ According to the U.S. Energy Information Administration, Ukraine has the third largest reserves of shale gas in Europe at 1.2 trillion cubic metres.⁶⁰

57 State Agency for Investment and National Projects of Ukraine, *Invest in Ukraine: The Reasons Why*, Kyiv, Ukraine. Document provided to Committee in Kyiv, Ukraine.

58 The World Bank, "[Ukraine](#)," *World Development Indicators*.

59 "Ukraine sees 2017 for commercial shale gas output," *Reuters*, May 16, 2012.

60 Ibid.

Jorge Zukoski, president of the American Chamber of Commerce in Ukraine, explained to the Committee that the development of Ukraine's reserves of shale gas could represent an important turning point in its economic development. The involvement of multinational corporations in the exploration will be the first case of foreign companies doing this type of business in Ukraine's energy sector. Mr. Zukoski said that there has not been foreign investment on this scale in Ukraine since the country's independence. This analysis was echoed by Dan Bilak, a Canadian lawyer that works with clients in Ukraine. Mr. Bilak told the Committee that shale gas represents a paradigm shift because of the need for foreign technology to develop the resource. In his words, Ukraine's government has a chance to become a major energy player over the next 20-30 years. If it handles the contracts poorly, however, international companies will take their investment capital elsewhere. Benefits to the country from this shale gas will depend on whether the returns are reinvested in Ukraine and whether the gas will flow to the domestic market.

Energy Efficiency and Security: the Country's Key Preoccupation

It appears that a key motivating factor behind the country's current push to develop its shale reserves is the desire for greater energy independence.⁶¹ The country has struggled to modernize its energy infrastructure from Soviet times and is plagued by the dual characteristics of high energy inefficiency and high energy consumption. One witness drew a comparison with neighbouring Poland, which both produces more and consumes less gas annually than Ukraine. It is likely for these reasons that, in an informal briefing with the Committee, Ukraine's deputy foreign minister, Pavlo Klimkin, told the Committee that shale gas should not be seen as Ukraine's saviour; the country must also pursue greater energy savings and investment in the energy sector. In other words, efforts towards enhancing the extraction of Ukraine's energy resources must be coupled with equal efforts to enhance the country's energy efficiency and investment in new technologies and applications. This is a top priority for the country.

Because of the problems with its energy sector, Ukraine is very dependent on Russia for supplies of natural gas, the price of which has been an on-going tension in Ukrainian-Russian relations. While a complex issue, in basic terms Russia is a major gas producer, and Ukraine is a major transit and consumer country with the pipeline infrastructure to carry gas to countries in Europe. According to the Economist Intelligence Unit: "Some 80% of Russia's gas exports to the EU are transported through Ukraine ..."⁶² Disputes between the two countries over prices and transshipments resulted in a disruption of gas supplies to Western Europe in 2006 and 2009.

61 Roman Olearchyk and Guy Chazan, "Ukraine opens shale gas reserves to exploration," *Financial Times*, February 23, 2012. The Committee was also told that Ukraine is currently developing a liquefied natural gas terminal on the Black Sea coast in an effort to diversify energy supplies.

62 EIU, "Ukraine politics: A rock and a harder place," January 25, 2012.

Ukraine's government has tried to negotiate a reduction from the current price that was negotiated in a 2009 gas deal with Gazprom ("the Russian state gas monopoly"), which it views as too high, but has to date been unsuccessful.⁶³ The Yanukovich government feels that the price it pays for Russia's natural gas must come down along with the annual volume of gas that Ukraine is obligated to buy from Russia. The Ukrainian government also wants to see the fee that Russia must pay to use Ukraine's gas transit system increased.⁶⁴ Mr. Klimkin told the Committee that Ukraine pays a much higher rate for Russian gas per cubic metre than Germany and Poland. Ukraine is also currently obligated to buy 41 billion cubic meters of gas annually from Russia or it must pay sanctions, which provides Russia with significant leverage in the relationship. So far, "Russia maintains that Ukraine must stick by all aspects of the bilateral contract, with respect to both price and volume."⁶⁵ Mr. Klimkin indicated that Ukraine's economy is not sustainable at these prices given the dominance of industries like steel and chemicals in the economy.

Ukraine's energy inefficiency is all the more troubling and likely frustrating for the country's leaders given that Ukraine has not always been as dependent on Russia for gas imports. The evolution of the industry was explained by a Senior Fellow of the Center for Strategic and International Studies, in testimony to the U.S. Senate Foreign Relations Committee. Edward Chow told the Committee:

Until the discovery and development of major West Siberian gas fields in the 1970s, Ukraine was an exporter of gas to the Soviet Republic of Russia. Ukrainian gas production peaked at 69 billion cubic meters (bcm) in 1975, more than its current annual consumption. Today Ukraine's domestic gas production has stagnated below 20 bcm and it is two-thirds dependent on gas imports from Russia. Reliance on imports has diminished only because of the dismal performance of the overall Ukrainian economy, not because of efficiency improvements or increased domestic production.⁶⁶

As one witness in Kyiv jokingly put it, Naftogaz, Ukraine's national oil and gas company, is the only company in the world today with "oil" or "gas" in its name that has negative revenues. Mr. Chow also told the U.S. Congressional Committee that "Ukraine's oil and gas sector is operated in a totally dysfunctional manner."⁶⁷

Ukraine's bargaining position with Russia could diminish in the future, which is likely increasing the pressure to develop new sources of energy. At the end of last year, the first supplies of natural gas were delivered by Russia's Nord Stream pipeline, which carries

63 ["Ukraine rejects Russian gas discount offer,"](#) *Reuters*, February 24, 2012.

64 Olga Shumylo-Tapiola, ["Q&A — Ukraine and Russia: Another Gas War?"](#) *Carnegie Moscow Center*, February 21, 2012.

65 EIU, *Country Report: Ukraine*, London, February 2012, p. 13-14.

66 Edward C. Chow, ["Ukraine at a Crossroads: What's at Stake for the U.S. and Europe?"](#) Statement before the Senate Foreign Relations Committee, Subcommittee on European Affairs, February 1, 2012.

67 *Ibid.*

gas from Russia under the Baltic Sea to Western Europe. If Russia implements plans to develop the South Stream pipeline that would bypass Ukraine by sending gas under the Black Sea to South-Eastern Europe, Ukraine's key bargaining chip as the main transit route of Russia's natural gas to Europe could further erode.⁶⁸

Ukraine's Economic Inequality

Wealth stratification is an impediment to the country's economic potential. It is estimated that the top 10% of the population have 20% of the nation's income, while the bottom 10% have 4%.⁶⁹ As was noted above, per capita GDP remains low by European standards.

In Kharkiv, Yevhen Zakharov, the head of the Kharkiv Human Rights Protection Group, emphasized that poverty is one of Ukraine's main challenges. He told the Committee that every fourth citizen of Ukraine considers themselves to be poor. Yaroslav Hrytsak, a professor at the Ukrainian Catholic University, also highlighted this problem in the context of the city of Lviv. He told the Committee that Ukraine has many advantages from the perspective of its natural and human resources. Three out of four young people who graduate from high schools in Ukraine go on to attend university, which places Ukraine among the top 10 countries in the world on this metric. But, the country's widespread corruption negates this potential wealth. The end result is that Ukraine stands today as what he said was paradoxically, a "rich country of very poor people." The low average salaries paid to people in various professions such as doctors (reportedly \$200/month in Lviv) and civil servants (reportedly \$150/month in Lviv) also contribute to an environment where low-level, day-to-day corruption is possible in everything from the health care sector to public administration, and where people struggle to get by.

68 Judy Dempsey, "[If Gas Talks Fail, Europe Has a Backup Plan](#)," *The New York Times*, January 9, 2012.

69 The World Bank, "[Ukraine](#)," *World Development Indicators*.

The Committee heard that many young people are seeking opportunities outside of Ukraine. The country's population has declined from around 51 million people at independence in 1991 to around 45 million people today.⁷⁰ Providing economic opportunities for young Ukrainians is therefore imperative for the country's future.

The Rule of Law and Economic Development: Indivisible Issues

Overall, the Committee was left with a paradoxical message following its meetings on the economy and investment climate in Ukraine. On the one hand, it was told repeatedly of the desire for greater foreign, and in particular Canadian, investment in Ukraine and of the exciting business opportunities that exist in the country. On the other hand, the Committee was told repeatedly by numerous witnesses of the barriers to greater foreign investment and local small- and medium-sized business development in the country, all of which relate to problems with the rule of law and corruption.

Ukraine is currently 152nd out of 183 countries on the World Bank's *Ease of Doing Business* rankings. While a low ranking globally, Ukraine's ranking also does not compare favourably in the region, including in comparison to its neighbors: Russia ranks 120th, Moldova 81st, Belarus 69th and Poland 62nd. In Ukraine, it takes 24 days and 9 procedures to start a business. Dealing with construction permits requires 21 procedures over an average of 375 days. Somehow, 10 procedures are required to register property during a process that typically takes 117 days. Moreover, there are typically 135 tax payments required per year, which usually involves 657 hours of time.⁷¹

Andre Kuusvek, the director in Ukraine of the European Bank for Reconstruction and Development, explained to the Committee that while Ukraine's macroeconomic fundamentals — in terms of inflation levels, GDP growth, currency stability, etc. — are relatively sound, there are significant problems at the microeconomic level. The Committee heard from many witnesses that Ukraine is a difficult business environment. In fact, the executive director of the Canada-Ukraine Chamber of

70 Writing in 2008, the Economist Intelligence Unit stated that the drop in Ukraine's population since independence "reflects the deterioration in economic and social conditions associated with severe economic recession after independence, as well as emigration. Falling standards in healthcare, nursery provision and nutrition have led to a reduction in fertility and life expectancy. Between 1991 and 1993 the decline in population caused by higher deaths rates than birth rates was offset by large net immigration from other former Soviet republics, in particular, by the arrival of about 250,000 Crimean Tatars from Central Asia, where they had been exiled during the second world war. However, the trend since 1995 has been towards net emigration, particularly to the US, Canada and Israel. Ukrainians are also migrating to work in other European countries, where wages are higher." EIU, *Ukraine: Country Profile 2008*, p. 21. According to July 2011 estimates from the International Organization for Migration (IOM), Ukraine's population is shrinking by 330,000 people per year. The IOM estimates that there are 6.5 million expatriate Ukrainians. In terms of labour migration from 2005-2008, the main destination countries of Ukrainian labour migrants were Russia, Italy, the Czech Republic, and Poland. See: IOM, [Migration in Ukraine: Facts and Figures](#), September 2011.

71 The World Bank, International Finance Corporation, "[Ease of Doing Business in Ukraine](#)," *Doing Business 2012*.

Commerce, Emma Tuross, told the Committee that the Chamber does not currently recommend investment in Ukraine to its members because of potential difficulties with investment protection. Jorge Zukoski, the president of the American Chamber of Commerce in Ukraine, stated that in a challenging business environment like the one in Ukraine, both the risks and potential rewards are high.

Ukraine's business environment is particularly challenging for small and medium-sized enterprises (SMEs). Mr. Zukoski mentioned that there is still not a proper legislative and regulatory structure in place to stimulate SMEs. Yevheniy Khomaiko, the chief trader with Viterra Ukraine, also pointed to the lack of transparency in various customs procedures and certification systems. The regulations for the value added tax (VAT) tax are also constantly changing which presents challenges for budgeting. Mr. Zukoski explained that while there are some progressive laws on the books, the problem exists in the gap between the official legislative and regulatory environment and actual enforcement. SMEs must navigate endemic corruption, which poses many challenges in activities like tax collection and inspection and business registration. In the words of Veronika Movchan, academic director at the Institute for Economic Research and Political Consultations, a country's tax burden is not just about how much a business must pay, but how they have to pay it.

Indeed, Dan Bilak described corruption as the single greatest issue holding back investment and Ukraine's business climate. As Mr. Kuusvek forecast for the Committee, the longer the corrupt practices remain in place, the longer the close links between politics and business continue and the deeper those links grow, the harder they will be to cut. It is because of all of these risks that the foreign direct investment in Ukraine is dominated by large corporations, which have long-term investment strategies, and the advantages of large-scale operations and resources, international lawyers and diplomatic contacts, and the ability to mitigate risk through an internationalized structure of business activity.

Witnesses therefore seemed to agree that Ukraine is not currently an investment destination for small- and medium-sized companies, and those that exist locally face considerable obstacles. Yet, despite these challenges, as Valeriy Piatak, deputy head of the Lviv Oblast Council emphasized to the Committee, small businesses must be developed in Ukraine both as an engine of future economic growth and as a component of democratic society.

REGIONAL FORCES

The central tension in Ukraine's foreign policy derives from the country's geographic position between the recently expanded eastern borders of the EU and the North Atlantic Treaty Organization (NATO), and Russia. Ukraine is a key part of the region that Russia views as its 'near abroad'.

Throughout the 17th and 18th centuries, Ukraine was divided between Russia, Poland and the Ottoman Empire. In the 19th century it was divided between Russia and Austria-Hungary. As the Central Intelligence Agency explains,

Following the collapse of czarist Russia in 1917, Ukraine was able to achieve a short-lived period of independence (1917-20), but was reconquered and forced to endure a brutal Soviet rule that engineered two forced famines (1921-22 and 1932-33) in which over 8 million died. In World War II, German and Soviet armies were responsible for some 7 to 8 million more deaths.⁷²

Indeed, Ukraine's closest and most complicated ties over the centuries have been those with Russia. By the 20th century Vladimir Lenin wrote that "if we lose Ukraine, we lose our head."⁷³ In 1954, Soviet Leader Nikita Khrushchev celebrated the 300th anniversary of the allegiance of eastern Ukraine with the Russian Empire by transferring Crimea, base of the important Black Sea Fleet, from Russia to Ukraine, which were then both republics within the Soviet Union. While this move was not controversial at the time, ownership of Crimea and by extension of the Black Sea Fleet was to become an important issue in relations between the two countries following the collapse of the Soviet Union and independence of Ukraine.

As many commentators have noted, in the years since the country's independence in 1991 the political leadership in Ukraine has attempted to balance its desire for closer integration with the West with its ties to Russia. The latter relationship is not black-and-white; it was described to the Committee as "complex" by a senior Department of Foreign Affairs and International Trade (DFAIT) official.⁷⁴ Recently, Ukraine's Foreign Minister, Kostyantyn Gryshchenko, told an audience in London that for many Ukrainians, Russia is "more than just a neighbour and partner." In his words: "For some — it is a second cultural motherland. For others — a nation coping with the same post-Soviet malaise Ukraine suffers from and wants to get rid of via EU integration."⁷⁵ In an informal meeting with the Committee, the deputy foreign minister described Russia's stance towards Ukraine as being based on political considerations, economic considerations and emotions.

The Committee heard of concerns about Russia's cultural influence in Ukraine, which some witnesses argue has been growing again under the relatively pro-Russian government of President Yanukovich. Educational curriculum, religious leadership and language remain sensitive issues in the country. Tensions over language manifested themselves shortly after the Committee's trip to Ukraine in the form of a brawl that broke out in the Ukrainian Parliament. Legislators literally fought over a bill that had been introduced in the parliament that proposes to elevate Russian to an official language in the eastern and predominantly Russian speaking regions of Ukraine, including Kyiv.⁷⁶

72 CIA, "[Ukraine: Background](#)."

73 Cited in Paula J. Dobriansky, "[Ukraine: a question of survival](#)," *The National Interest*, Summer 1994.

74 FAAE, [Evidence](#), October 20, 2011.

75 "European Integration of Ukraine and its Security Policy," Speech by Minister for Foreign Affairs of Ukraine H.E. Mr. Kostyantyn Gryshchenko, International Institute for Strategic Studies, London, April 2, 2012.

76 Andrew Roth and J. David Goodman, "In Ukraine Parliament, Push Comes to Shove, Wrestle and Punch," *The New York Times*, May 25, 2012.

As noted previously, in April 2010, just a couple of months after Mr. Yanukovich's inauguration as President, his government completed negotiations with the Russian government to extend that country's lease of naval facilities in Crimea — the port of Sevastopol — for its Black Sea Fleet for an additional 25 years, beginning in 2017. This extension was given in exchange for a 30% reduction in the prices that Ukraine pays Russia for imports of natural gas over a 10-year period. According to Olga Shumylo-Tapiola, a visiting scholar at the Carnegie Endowment for International Peace: "The agreement has been widely seen as a diplomatic victory for Russia."⁷⁷ Later that year, in June, Ukraine's parliament voted against the country pursuing membership in NATO.⁷⁸

At the same time, the Yanukovich government has, as noted, pursued negotiations with the EU over an Association Agreement and a deep and comprehensive free trade agreement, a stated priority, while resisting overtures from Moscow for it to instead join Russia's customs union with Belarus and Kazakhstan.⁷⁹ Joining the customs union, as desired by Russia, would have the effect of negating Ukraine's ability to integrate economically with the EU. Concerns have been raised that joining the customs union could also raise questions about the country's existing obligations under the WTO. Ukraine's deputy foreign minister explained to the Committee that Ukraine's terms for WTO accession were different than those for Russia (which must still have its accession, approved by the WTO ministerial in late 2011, approved by the Russian parliament). Lingering in the background of all of these debates is Russian President Vladimir Putin's stated vision of a new Eurasian Union that would encompass all of the former Soviet states, a vision which he articulated in a speech before his recent election to a third presidential term.⁸⁰

Despite the desire of Ukraine's leaders to maintain a balance in its foreign policy between Europe and Russia, serious concerns have, as noted earlier, been raised by European leaders regarding the country's democratic trajectory. Meeting the Committee in Kyiv, Hryhoriy Nemyria framed this as a strategic miscalculation by President Yanukovich, arguing that Ukraine has reached a crossroads. Nemyria argued that Ukraine's government underestimated the strength and the cohesiveness of the international

77 Olga Shumylo-Tapiola, "[Ukraine and Russia: Ever Closer Neighbors?](#)" *Policy Outlook*, Carnegie Endowment for International Peace, June 8, 2011.

78 Economist Intelligence Unit (EIU), *Country Report: Ukraine*, London, February 2012, p. 5. According to the NATO Web site: "Allied leaders meeting at the Lisbon Summit in November 2010 stated their respect for Ukraine's policy of "non-bloc" status and welcomed the Ukrainian government's commitment to pursue fully Ukraine's Distinctive Partnership with NATO. ... They also recalled that NATO's door remains open to Ukraine, in line with the decision taken at the Bucharest Summit in April 2008, when Allied leaders agreed that Ukraine may become a NATO member in the future. Ultimately, it is up to the Ukrainian people and their elected leaders to determine the country's future path with NATO." See: NATO, "[NATO's relations with Ukraine](#)."

79 Rajan Menon and Alexander J. Motyl, "Counterrevolution in Kiev: Hope Fades for Ukraine," *Foreign Affairs*, 90.6 (Nov./Dec. 2011): 137-148.

80 Nikolas K. Gvosdev, "The New Russian Empire," *The National Interest*, April 16, 2012.

community's position on issues pertaining to the state of Ukraine's democracy. This has resulted in a diplomatic backlash against Ukraine. James Sherr, a senior fellow at Chatham House, also argued that President Yanukovych has made strategic errors in navigating his country's position with the EU. Despite the typical dominance of economic issues in discussions about the EU's external relations and possible expansion, it remains an institution fundamentally grounded by binding principles of democratic governance and rule of law. To Mr. Sherr,

President Yanukovych is an individual who is impervious to his own inability to understand the premises upon which EU integration is based. For him, the EU is about markets, not about making the changes that would enable Ukraine to exploit these markets to its own benefit. It is doubtless true that Yanukovych would prefer an association agreement with the EU to integration into the Russia-sponsored CIS customs union. But the bigger truth is that Yanukovych would rather be president of a Ukraine reintegrating with Russia, than not be president of a Ukraine integrating with the European Union.⁸¹

While the association agreement between the EU and Ukraine has now been initialled, it has not been signed and ratified. It is currently in abeyance until at least after Ukraine's parliamentary elections in October 2012, at which point EU leaders will be able to better evaluate whether Ukraine's government is respecting democratic norms and the rule of law.⁸²

The growing isolation is a cause of anxiety for many Ukrainians. As Andriy Pyshnyi, deputy head of the Front of Change party, told the Committee in Kyiv, the 2012 European soccer championships could have been an opportunity for Ukraine to showcase its European values to the rest of Europe; instead the event has become a focal point of diplomatic censure of the country.

Overall, given its size and geographic position, many witnesses highlighted Ukraine's geostrategic importance. The country is arguably the focal point of the post-Soviet space and is seen as the bellwether in gauging whether that region is in general swaying more toward Europe or away from it. This assessment presents challenges for countries like Canada that wish to find ways to engage with Ukraine, yet remain concerned with the democratic backsliding. Some witnesses also pointed out that as much as Russia can have a substantial influence on the political and economic environment in Ukraine, this should not be viewed as a one-way dynamic. A member of Poland's Parliament,

81 FAAE, [Evidence](#), March 7, 2012.

82 According to High Representative of the European Union for Foreign Affairs and Security Policy, Catherine Ashton, the status of the initialled free trade and association agreement is as follows: "We expect Ukraine to address the issues of politically motivated trials, independence of the judiciary and selective use of law — they marred the case of Yulia Tymoshenko and other opposition leaders and they need to be resolved. We will follow the parliamentary elections in October very closely. We believe that all candidates who wish so must be able to run, and the conditions of the electoral campaign and the voting process will be crucial for our assessment of these elections." See: European Union, "[Remarks by High Representative Catherine Ashton following the Foreign Affairs Council](#)", May 14, 2012," A 225/12.

Marcin Swiecicki, told the Committee of the impact that developments in Ukraine could have on Russia. He said,

... Ukraine right now is under enormous pressure from Russia. Russia wants to prevent this association agreement, but if Ukraine succeeds in modernization, if Ukraine succeeds in implementing its European aspiration, I think it will also be a very good example for Russia, for all these forces in Russia who are in the minority, but who are fighting for democracy and modernization and a rule-by-law Russia. If Ukraine fails, of course, it will be a disaster because it will nourish all this nostalgia for imperium, for an extension of their influence.⁸³

James Sherr agreed that Ukraine's success "on the road to democracy and European development will be decisive, not only for Ukraine itself, but for Russia and for all the post-Soviet space."⁸⁴

CANADA'S ROLE

The links between Canada and Ukraine began in the 1890s, when the first wave of Ukrainian immigrants arrived in Western Canada. In fact, celebration in various communities in Canada of the 120th anniversary of Ukrainian settlement in Canada began in May 2011. Although relations between the two countries are no longer based solely on the fact that there are some 1.3 million Ukrainian Canadians, interlocutors in Ukraine clearly accepted that a unique relationship exists with Canada, which is arguably the most Ukrainian country in the world outside Ukraine.

In terms of official relations, during a visit to the Soviet Union in November 1989, Canadian Prime Minister Brian Mulroney announced that Canada would open a consulate in Kyiv in recognition of "the close ties of family and friendship that bind the peoples of Canada and Ukraine." As was noted at the outset of this report, Canada was the first western country to recognize Ukraine's independence in 1991. Canada's Governor General, the Right Honourable Ramon Hnatyshyn, who was himself of Ukrainian descent, became the first foreign Head of State to make an official visit to Ukraine in late September 1992. During the Committee's visit to Ukraine in May 2012, members attended a reception at the Canadian Embassy on May 14th in honour of the 20th anniversary of diplomatic relations between Canada and Ukraine. The reception was attended by the Deputy Foreign Minister of Ukraine, Committee members, members of the diplomatic corps, and representatives of civil society in Kyiv.

The multiple challenges facing Ukraine have been discussed above; the following contains the Committee's recommendations for why and how Canada should continue to assist it. Fundamentally, Ukraine is an important country that, two decades after independence, is still struggling to consolidate democracy and realize prosperity, and it is

83 FAAE, [Evidence](#), March 7, 2012.

84 Ibid.

in Canada's interest to see that it does so. In addition, the people of Ukraine with whom many Canadians have a special bond need and want our help. As Ihor Kozak of the League of Ukrainian Canadians told the Committee in Ottawa, "...today more than ever, Ukraine and its people need Canada to stand by them."⁸⁵ For his part, poet, former ambassador and former Member of Parliament Dmytro Pavlychko told the Committee in Kyiv that it is necessary to think beyond individuals, and to see Canada-Ukraine relations as eternal.

The Committee's hearings in Ottawa and its meetings in Ukraine have convinced members that Canada can and should continue to play an important role in helping Ukraine to achieve both democracy and prosperity — particularly if the Government of Canada coordinates its policies with like-minded partners such as the European Union and the United States. While Canadians would agree on the challenges that have thus far impeded Ukraine's progress, the issue is how to balance clear messages to all Ukrainian political leaders with the ongoing need to help Ukrainians and their country.

ENGAGEMENT OR ISOLATION?

The recent democratic challenges in Ukraine, and in particular the apparently politically motivated persecutions of Yulia Tymoshenko and other opposition leaders, have led many to question whether sanctions or other similar actions by governments might send stronger messages to Ukrainian politicians and citizens than continued interaction.

While almost all with whom the Committee met argued against isolating Ukraine, some argued for limited sanctions such as selective travel bans on oligarchs. For his part, Father Borys Gudziak of Ukrainian Catholic University responded to a question about free trade negotiations by arguing that to have influence you need to be involved. He added that in his opinion policies pursued by Poland towards Ukraine had been more enlightened than European policy in general, and boycott-type movements in particular.

In terms of official bilateral relations, the Government of Canada has cooperated with Ukraine in a number of ways over the past two decades in the pursuit of democratic and economic development. Canada and Ukraine signed a Declaration on a "Special Partnership" in 1994, which was renewed in 2001 and 2008.⁸⁶ In September 2009, the two countries signed a Road Map at the ministerial level which set out priorities for future cooperation, including the expansion of commercial relations and political, security, humanitarian and cultural cooperation. At the political level, then-Ukrainian president Viktor Yushchenko visited Canada in 2008. Governor General Michaëlle Jean visited Ukraine in 2009, and Prime Minister Stephen Harper did so in 2010.

85 FAAE, *Evidence*, March 5, 2012.

86 DFAIT, "[Canada – Ukraine Relations](#)."

At the same time, the Government of Canada has been public and forceful with its concerns over the deteriorating situation in Ukraine, including numerous public statements issued by the Foreign Minister, the Honourable John Baird, regarding the various cases of selective prosecution. Immediately following the conviction of Ms. Tymoshenko in 2011, Minister Baird stated that “Canada is troubled by the manner in which the arrest, prosecution and conviction of Yulia Tymoshenko were carried out by Ukrainian authorities.” In addition, Prime Minister Stephen Harper wrote to President Yanukovich in 2011 stating that “I am ... deeply concerned by recent developments in your country, in particular by the apparent political motivation behind the trial of former Prime Minister Yulia Tymoshenko.” He added: “I cannot overstate the potential negative impact of the current judicial proceedings against Yulia Tymoshenko both on Ukraine’s future relations with Canada and others, and on Ukraine’s long term democratic development.”⁸⁷ On October 18, 2011, the House of Commons held an emergency take note debate on the situation in Ukraine.⁸⁸

In late February 2012, the Government of Canada protested the “apparent political bias and arbitrary prosecution in Ukraine” following the conviction of opposition politician and former Interior Minister of Ukraine Yuri Lutsenko.⁸⁹ Similarly, following the conviction and sentencing of former defence minister Valeriy Ivashchenko in April 2012, Minister Baird stated that “A troubling trend is continuing in Ukraine. Like previous, apparently politically motivated prosecutions, this undermines the institutions upon which a peaceful, prosperous and democratic society depends.”⁹⁰ During her visit to Ukraine in April 2012, and in her meetings with Ukraine’s Prime Minister and various ministers, Canada’s Minister of International Cooperation, the Honourable Beverley Oda “underlined the important need for an environment that will allow open and fair elections, democracy, human rights, and the rule of law for all Ukrainians.”⁹¹ Such messages were also communicated to Ukraine’s government in other high-level meetings involving Canada’s Prime Minister and the Minister of Foreign Affairs, including most recently at the NATO Summit in May 2012.

Just days before the Committee’s visit to Ukraine, senior Foreign Affairs official Jillian Stirk provided an update on her previous testimony in a submission to the

87 Campbell Clark, “PM Warns Ukraine Relations with Canada on Shaky Ground,” *The Globe and Mail*, October 15, 2011.

88 On [October 17, 2011](#), the House of Commons unanimously agreed to the following motion: “That a take-note debate on the subject of concerns regarding the ongoing erosion of democracy in Ukraine, including most recently the politically motivated and arbitrary prosecution and conviction of former prime minister Yulia Tymoshenko by Ukrainian authorities, take place, pursuant to Standing Order 53.1, on Tuesday, October 18, 2011.”

89 DFAIT, “[Baird Troubled by Conviction of Former Ukrainian Interior Minister Yuri Lutsenko](#),” News release, February 27, 2012.

90 DFAIT, “[Baird Troubled by Latest Conviction in Ukraine](#),” News release, April 13, 2012.

91 CIDA, “[Minister Oda focuses on economic growth and democracy in Ukraine](#),” New release, April 16, 2012.

Committee. She reiterated that Canada's policy has been to build on its special partnership with Ukraine, engaging with the Ukrainian administration and cooperating with Ukrainians who seek to build a peaceful, democratic and prosperous society. She added that "We believe there is much more to be lost than gained by not engaging, and engagement is what the Ukrainian people want from us."⁹²

This emphasis on engagement over isolation has not prevented Canadian diplomacy in Ukraine from being effective, however, notably in relation to Canada's actions in negotiating independent medical access to Yulia Tymoshenko. While the initial visit of Canadian and German doctors to examine Ms. Tymoshenko was again followed by disputes with the Government of Ukraine, Ms. Tymoshenko's daughter thanked the Committee in Kyiv for the fact that Canada had been among the first to intervene to demand humanitarian treatment for her mother. In addition to calling for further action, she asked that Canada continue to help with the "information war" underway, by continuing to report facts about the situation in Ukraine.

In an informal meeting with the Committee in Kyiv, Ukraine's Deputy Foreign Minister, Pavlo Klimkin, told members that he believed more engagement — which would also include pressure for change in Ukraine — would benefit both Canada and Ukraine, particularly if it were more structured. The Government of Ukraine has suggested the establishment of an ongoing ministerial-level bilateral Commission that would act as an umbrella structure for working groups in areas such as investment and energy. Mr. Klimkin told members that such a Strategic Partnership Commission had been established between the United States and Ukraine, and that the experience has been positive.⁹³ Beyond structures, Mr. Klimkin argued that the relationship needed more attention from the political level, adding that the Committee's visit was a good sign. In one of the Committee's subsequent meetings, when asked his opinion of some sort of bilateral commission, the President of the American Chamber of Commerce in Ukraine, Jorge Zukoski, agreed that the American experience had been positive.

Overall, the Committee believes that continued engagement with Ukraine is the most effective way to achieve Canadian goals in that country. However, such engagement must be principled and not open-ended. The erosion of rule of law and democratic principles in Ukraine, including widespread corruption, apparently politically motivated prosecutions and the shrinking space for media freedom, cannot be overlooked.

The Committee believes that Canada must continue to deliver strong and public messages to Ukraine about the need for full adherence to the principles of representative democracy, human rights and the rule of law. While it does agree that, on balance, engagement is preferable to isolation, particularly in the months leading up to the

92 Jillian Stirk, "Briefing on Ukraine," provided to Standing Committee on Foreign Affairs and International Development, May 9, 2012.

93 Further information available [here](#).

October 2012 parliamentary elections, the conduct of those elections and the treatment of opposition and democratic forces in Ukrainian society may force re-examination.

Engagement between governments is important. However, as a final point, the Committee agrees with many of the people it met in Ukraine that increasing non-governmental linkages, from businesses to civil society organizations to individuals, is of great importance to both the democratic development of that country and to building stronger relations with Canada.

PRIORITIES FOR ACTION

A. Development Assistance

The majority of Canada's assistance to Ukraine over the past 20 years — which has ranged from cooperation on nuclear non-proliferation to governance and prosperity — has come through more than \$380 million in bilateral official development assistance. This disbursement has made Canada the sixth largest bilateral donor to Ukraine after the United States, Germany, Japan, Sweden and France. While assistance to Ukraine was initially directed by a Task Force on Central and Eastern Europe at DFAIT, responsibility was transferred to CIDA in 1995. A 2004 internal evaluation of the Ukraine program by CIDA stated that “the Ukraine program’s move to CIDA marked a narrowing of focus to the areas of good governance and private sector development (as an element of economic well being).”⁹⁴ These broad areas remained at the heart of CIDA’s work in Ukraine for the rest of the decade, with approximately 46% of project disbursements between 2004-05 and 2009-10 devoted to democratic governance, and 49% to private sector development.⁹⁵

Ukraine was identified as one of CIDA’s 25 development partner countries in 2005, and then in 2009 was included as one of its 20 countries of focus. CIDA’s technical cooperation program in Ukraine remains its only one in Europe. The program in Ukraine disbursed some \$28.55 million in 2010-11, and averages about \$20 million per year. CIDA’s priorities in Ukraine for the 2009-2014 period are sustainable economic growth and food security.⁹⁶ These allow cooperation in areas such as support for credit union movements, reduction of red tape, regional economic development and assistance to the agricultural sector. CIDA’s Web site adds that “The goal of CIDA’s program in Ukraine is to improve economic opportunities for Ukrainians in a strengthened democracy.”⁹⁷ As one

94 Canadian International Development Agency [CIDA], [Ukraine Country Program Evaluation](#), March 2005, p. 24.

95 CIDA, “Country Program Evaluation — Ukraine: Synthesis Report,” June 2011, p.64. This report states in footnote 85 that “Sectoral disbursement figures should be seen as approximate, given that categorization may be open to question.”

96 CIDA, [Ukraine: CIDA Report 2009-2010](#).

97 CIDA, [Ukraine](#).

specific example of these joined goals, CIDA is currently implementing a project entitled “Judicial Education for Economic Growth in Ukraine.” It focuses on developing “curriculum and training courses, and train[ing] trainers, in order to improve the judiciary’s capacity to resolve cases where business firms and entrepreneurs are involved.”⁹⁸ Through this overall approach, CIDA is currently assisting with elements of democratic governance, including funding electoral preparation and monitoring.

Civil society representatives and other interlocutors in Ukraine were thankful for Canadian assistance. However, notwithstanding the fact that economic development may also contribute to the strengthening of democracy, the clear preoccupation of witnesses was on rule of law and governance issues. As a result, Taras Zalusky of the Ukrainian Canadian Congress told the Committee that:

With respect to CIDA, the Canadian International Development Agency, its focus at present is on agriculture and food security and economic development for Ukraine. We believe those priorities should be modified to include good governance, democratic development, judicial reform, and civil society support. Canada can help foster NGO sector development, especially groups working in the areas of human rights, education, and law reform, as a vibrant civil society is one of the best guarantors of Ukraine’s long-term democratic evolution.⁹⁹

When asked about the balance of CIDA programming in Lviv, Professor Yaroslav Hrytsak of the Ukrainian Catholic University similarly recommended a focus on democracy first. In Kharkiv and other locations in Ukraine, the Committee also heard clear calls from the non-governmental organizations active in this area for increased assistance with information sharing, training and capacity-building. In addition, witnesses such as former Ambassador of Ukraine to Canada, Dr. Yuri Scherbak, emphasized the importance of internships and other opportunities for Ukrainian and Canadian youth. Father Borys Gudzyak told members in Lviv that such programs are “worth their weight in gold”, and urged Canada to increase them. A youth mobility agreement saw some 100 Ukrainian youth come to Canada in 2011.

Overall, while existing CIDA programming in Ukraine is addressing issues related to democratic development, a more explicit focus on governance and rule of law issues — *beyond* the context of economic development — would send a strong and positive message both to Ukrainian political leaders and to members of civil society in that country about the focus of Canada’s engagement with Ukraine.

98 “Canadian Development Assistance in Ukraine.” Briefing note provided by CIDA to the Committee in May 2012. A full list of CIDA projects in Ukraine is available through the Agency’s [Project Browser](#). A list of projects funded by CIDA is also provided in Appendix A of this report.

99 FAAE, [Evidence](#), October 20, 2011.

B. Election Observation

As a result of its unique relationship with Ukraine and the existence of a large number of Ukrainian-speaking Canadians, one longstanding and substantial Canadian contribution to democratic development in Ukraine has been election observation. Canadians, including Canadian parliamentarians, have monitored both parliamentary and presidential elections, as part of international missions carried out by the Organization for Security and Cooperation in Europe (OSCE), on bilateral Government of Canada missions, and in missions organized by the Ukrainian Canadian community. In the 2004 presidential elections, Canadian observers were led by a former prime minister, the Right Honourable John Turner. In the 2010 presidential elections, Canadian observers were led by Senator Raynell Andreychuk. In testimony before the Committee in Ottawa, Ukrainian parliamentarian and former foreign minister Borys Tarasyuk told members that “I would like to remind you that in 2004, at the most dramatic presidential elections, Canadian NGOs and parliamentarians were represented in the largest group of foreign observers, which numbered 1,500. Our expectation is that this time Canada will provide no less than 1,500 of the international observers.”¹⁰⁰

In light of the importance of the forthcoming October 2012 parliamentary elections in Ukraine, witnesses underlined the absolute necessity of both long and short-term election observation in the months to come. Long-term observers should be deployed at the earliest possible time in advance of the election. The Committee agrees with the need for this contribution, and believes Canada should use multilateral, bilateral and non-governmental mechanisms to ensure that a very substantial contingent of observers, led at a high political-level, is sent to Ukraine.

C. Economic Relations and Free Trade Negotiations

The Web site of DFAIT states that “Canada and Ukraine enjoy positive commercial relations.”¹⁰¹ Two-way merchandise trade between Canada and Ukraine totalled some \$286.4 million in 2011, with exports from Canada (\$150.2 million) including fish and seafood, machinery, pharmaceuticals and beverages. Imports from Ukraine (\$136.4 million) in that year included iron and steel, mineral fuels and oils, fertilizers, and iron and steel products.

In fact, however, trade relations are quite small given all of the connections described above — Ukraine was Canada’s 63rd largest export destination globally in 2011, and its 82nd largest source of imports — and the existence of a very large community of Ukrainian-speaking Canadians who could potentially invest profitably in that country. In fact, according to Ukrainian government statistics, provided to the Committee by Veronika Movchan, the inward stock of Canadian foreign direct investment in Ukraine

100 FAAE, *Evidence*, March 7, 2012.

101 DFAIT, “[Canada – Ukraine Relations](#).”

amounted to some US\$119.4 million as of December 31, 2011, or about 0.24% of total inward FDI stock in Ukraine.

The figure of \$286.4 million for two-way trade was down significantly from \$427.1 million in 2008, which is perhaps not surprising given that Ukraine was seriously affected by the global financial crisis. Yet as noted earlier in this report, in addition to the financial crisis, the Committee was told in Ukraine that continued uncertainty regarding the rule of law, corruption and a lack of transparency prevents increased Canadian and other investment in that country. Beyond contributing to the prosperity of Ukraine (and Canada), Canadian businesses employing and demanding best practices through investment could also be a force for change in Ukraine that goes beyond the development of its economy.

In June 2010, it was announced that Canada and Ukraine would enter into negotiations toward a Canada-Ukraine Free Trade Agreement. Four rounds of negotiations have been held, the latest in Kyiv in April 2012. Canada and Ukraine have already signed a Foreign Investment Promotion and Protection Agreement, a Convention for the Avoidance of Double Taxation and an Air Transport Agreement. Yet beyond providing a framework for Canadian producers and exporters to gain competitive access for products and services, information provided to the Committee by the Government of Canada stated that another goal in seeking a comprehensive agreement is to create a more secure environment for Canadian traders and investors doing business in Ukraine. In addition, according to information provided to the Committee, Canadian companies are seeking investments in strategic Ukrainian sectors like agriculture and energy and mining, and niche opportunities are emerging in the area of clean technologies.

When asked about the free trade negotiations in the fall of 2011, Foreign Affairs official Jillian Stirk told the Committee that “the challenge is balancing the incentives with the deterrents. The government will be watching the situation closely and we’ll consider what would be the best way to proceed in the ongoing negotiations.”¹⁰²

At least one group testifying before the Committee in Ottawa, the Canadian Friends of Ukraine, recommended suspending the negotiations pending the ability of Yulia Tymoshenko to participate in the parliamentary elections in October; it advocated withdrawal from the process entirely if she could not do so. Former Deputy Prime Minister and current Tymoshenko advisor Hryhoriy Nemyria told the Committee in Kyiv that while free trade was a good thing, momentum mattered, and the negotiations provided some leverage that Canada should consider using. Other witnesses, including the majority of interlocutors in Ukraine, did not advocate suspending negotiations. As noted above, Father Borys Gudziak argued that to have influence Canada needed to be involved.

The Ukrainian Canadian Congress told the Committee in Ottawa that “negotiations should be made conditional upon the Ukrainian government committing to respecting

102 FAAE, [Evidence](#), October 20, 2011.

democracy and human rights.” It added that “Given the political context in Ukraine, we strongly encourage Canada to ensure that the proposed Canada-Ukraine FTA contains specific provisions guaranteeing human rights, rule of law, and adherence to fundamental democratic principles as a condition to the conclusion of such an agreement.”¹⁰³

The Committee recognizes the argument that proceeding with negotiations at this point in time and in the midst of the difficult political context in Ukraine may be seen as a signal to Ukrainians, including those working for change, as an acceptance of current abuses. At the same time, the Committee believes that continued negotiations will hold open the possibility of increased prosperity for Ukraine. As noted above, EU countries have signalled clearly that ratification of their association and free trade agreement with Ukraine will depend on developments in that country. The Committee is mindful of the fact that the Government of Canada is committed to a policy of tabling all international treaties before the House of Commons for review. Therefore, all parties will have an opportunity to consider any free trade deal that is reached with Ukraine before ratification.

D. Combating High-Level Corruption

In its hearings in Ottawa and its meetings in Ukraine, the Committee was told about the activities of powerful oligarchs in Ukraine, who provide funds to politicians from across the political spectrum, and who, more particularly, are seen as symbols of high-level corruption in the country and as a base of support for the current regime. Testifying in Ottawa, Dr. Taras Kuzio of Johns Hopkins University told the Committee that the presence of such oligarchs gives the West significant leverage over Ukraine, since they have homes, businesses and children being educated in Western Europe and elsewhere. For this reason, he argued that coordinated discussions between countries such as the United States and the United Kingdom about the possibility of establishing a visa blacklist to prevent particular individuals from travelling abroad would threaten their personal interests. He said, “I think it needs to be a coordinated response to the effect that Canada, the U.S., and the EU will be participating. It doesn't have to be real yet, but if it's just leaked that we are discussing this possibility, it would have a big impact.”¹⁰⁴ Others also raised with the Committee the issue of Canada and like-minded countries taking action related to travel bans against specified individuals and officials, money laundering and organized crime.

At the same time, Ukraine expert James Sherr, who also testified before the Committee, believes that discussions of visa blacklists in particular are “a terrible distraction,” arguing instead for increased enforcement within our own jurisdictions of national rules against money laundering and other corrupt practices. In his words:

103 Ibid.

104 Ibid.

These are not sanctions or politically motivated punishments but upholding the integrity of our legal and values space. And that will send a message that the current mode of governance and business is not only at variance with ours, but damaging to business prospects and profits. And that is a much more powerful message than to say that the son of this minister cannot attend school in Britain or that particular individual cannot travel to Europe.¹⁰⁵

In practical terms, the most effective visa blacklist or related action would undoubtedly be those taken by the European Union or the United States. At the same time, the Committee believes that Canada and its allies should individually and jointly investigate all existing or potential mechanisms at their disposal to curb illegal international activities by Ukrainian oligarchs, thereby hopefully mitigating their unhealthy impact on the political and economic life of that country.

RECOMMENDATIONS FOR CANADIAN ACTION

The goals of strengthened democracy and prosperity for Ukrainians will not be quickly or easily achieved. Nevertheless, the Committee believes that they are possible, particularly with the help of friends such as Canada. For this reason, the Committee will continue to monitor closely developments in Ukraine.

On the basis of the evidence it heard and the conclusions outlined in this report, the Committee believes that the following recommendations must guide Canadian engagement with Ukraine:

- 1. The Committee recommends that the Government of Canada pursue a long-term policy of principled engagement with Ukraine. This engagement should address the full range of issues raised in this report, including the rule of law, political and economic governance, elections, the enabling environment for civil society, media freedom, academic freedom, religious freedom, business and investment, youth mobility, and cultural exchanges.**
- 2. The Committee recommends that in the immediate term the Government of Canada should advocate forcefully for:**
 - Immediate, independent and appropriate medical treatment for all incarcerated political leaders, in particular those detained under apparently politically motivated charges;**
 - The prompt release of all political leaders who have been convicted as part of apparently politically motivated**

105 Yuriy Onyshkiv, [James Sherr: "Ukraine's Relationship with the EU is Destructive"](#), *Kyiv Post*, April 26, 2012.

prosecutions, including Yulia Tymoshenko, Yuri Lutsenko, and Valeriy Ivashchenko, among others;

- A strengthened rule of law and full respect for human rights, media freedom, religious freedom and academic freedom in Ukraine.
3. The Committee recommends that the Government of Canada take all practical action to assist in the holding of free, fair and transparent parliamentary elections in Ukraine in October 2012 that are acceptable according to international standards and to the citizens of Ukraine. In addition to other training and capacity-building support, the Government of Canada should use multilateral, bilateral and other channels to ensure a significant number of Canadians, at least equivalent to the number sent during the presidential election of 2010, participate as long and short-term observers in these critical elections. Long-term observers should be deployed at the earliest possible date. Canada's election observation mission to Ukraine should be led by a Canadian of prominent stature.
 4. The Committee recommends that the Government of Canada continue to conduct free trade negotiations with the Government of Ukraine. However, any final agreement must contain provisions related to the rule of law and democracy in accordance with existing Canadian practice. In addition, the Government of Canada must state publicly that ratification of any free trade agreement will be contingent upon the achievement of real progress related to human rights, democracy and rule of law, and on acceptable action regarding selective and apparently politically motivated prosecutions against political leaders.
 5. The Committee recommends that the Government of Canada continue CIDA assistance to Ukraine. At the same time, it recommends that an explicit focus be placed on activities that support the rule of law and good governance in Ukraine and improved capacity for civil engagement in governance and decision-making at all levels. Development assistance should also specifically target the strengthening of civil society organizations that are working on rule of law, human rights and governance issues.
 6. In order to foster development of civil society, democracy and rule of law, the Committee recommends that the importance of increasing the numbers of young Ukrainians and young

Canadians participating in the Youth Mobility Agreement be recognized.

- 7. The Committee recommends that the Government of Canada play a leadership role in the G8, the G20, the International Monetary Fund and other international fora to explore all of the ways in which the international community can combat money laundering in and through Ukraine.**
- 8. The Committee recommends that the Government of Canada explore with its international partners the means by which the international travel and illicit “business” activities of corrupt oligarchs, government officials and their families could be restricted in accordance with applicable Canadian law.**

APPENDIX A: PROJECTS IN UKRAINE FINANCED BY THE CANADIAN INTERNATIONAL DEVELOPMENT AGENCY

BILATERAL PROJECTS — CURRENT

Rule of Law (Sustainable Economic Growth)

Combating Corruption — \$5,639,571 (2008-12)

Implementing Organization — Justice Canada

- This project enhances the effectiveness of the Government of Ukraine in developing a coherent and integrated national strategy to combat corruption.
- Results to date: In order to help build a better understanding of the specific nature of corrupt practices in Ukraine, research was conducted on 14 subjects including: capacity of media and NGOs to contribute to anti-corruption efforts, corruption in the private sector, whistleblowing, public views of elected officials, business environment, political environment, opposition to anti-corruption efforts. The findings from these studies will be shared with the Ukrainian government before the project ends to contribute to future government efforts to combat corruption.

Juvenile Justice Reform — \$6,661,799 (2009-15)

Implementing Organization — AgriTeam Canada

- This project addresses current issues and concerns regarding the services, rehabilitation and support provided to youth at risk in Ukraine.
- Results to date: 8 judges and 36 juvenile justice stakeholders participated in a national Policy Development Seminar to review juvenile justice best practices, learn about juvenile justice policy options and how to support reform, as well as begin work on identifying, analyzing and addressing gaps in juvenile justice policy and legislation.

Judicial Education for Economic Growth in Ukraine — \$6,600,000 (2012-16)

Implementing Organization — National Judicial Institute and Office of the Commissioner for Federal Judicial Affairs

- This project will develop curriculum and training courses, and train trainers, in order to improve the judiciary's capacity to resolve cases where business firms and entrepreneurs are involved.
- Expected Results: Up to 120 staff and judges within the National School of Judges will be trained to improve the knowledge and skills of at least

500 judges on core judicial skills and general commercial, corporate, and administrative matters in pilot locations.

Accountable Public Institutions (Sustainable Economic Growth)

Municipal Local Economic Development project — \$14,147,560 (2010-15)

Implementing Organization — Federation of Canadian Municipalities

- This project improves planning and delivery of services that support economic growth at the municipal level.
- Results to date: All 12 cities involved in the project have established Strategic Planning Task Forces. 180 people (city staff, city councilors, business and public representatives) are involved with the strategic planning process taking place in each city.

Evidence-Based Economic Development — \$10,012,797 (2010-15)

Implementing Organization — Conference Board of Canada

- This project strengthens the capacity of officials in Lviv and Dnipropetrovsk to develop economic development plans (national, regional and municipal).
- Results to date: 6 partner cities were identified (Lviv, Drohobich, Chervonograd, Dnipropetrovsk, Nikopol and Krivii Rig). A training capacity and needs assessment was designed and undertaken for all partner cities.

Policy Reform Implementation Support Mechanism — \$8,400,000 (2006-13)

Implementing Organization — Canadian Bureau for International Education

- This initiative supports sub-projects to improve the capacity of government institutions at the regional level to formulate and implement reform-oriented policies that are in the public interest and that adhere to international best practices and European standards.
- Results to date: Eleven policy formulation projects targeting communication policy, agricultural cooperatives, gender equality, regional strategic development and permit services have been approved by CIDA and are under way.

Civil Service Human Resource Management Reform — \$5,732,562 (2006-12)

Implementing Organization — Canadian Bureau for International Education

- This project supports Ukraine's efforts in developing an accountable and transparent civil service that is in line with European norms.
- Results to date: Collaborated with the Canada School of Public Service to help establish a leadership program for Ukrainian senior civil servants. This program was originally intended as a pilot reaching 15 participants, but it was expanded to become the official leadership program for all

deputy ministers and assistant deputy ministers at the request of the Ukrainian Cabinet of Ministers, reaching 150 senior officials out of 600. In addition, new candidate assessment instruments in line with SIGMA/OECD norms were developed and piloted as part of hiring and promotion processes, leading to the appointment of seven managers and seven policy analysts.

Regional Governance and Development — \$7,650,814 (2005-12)
Implementing Organization — Canadian Urban Institute

- This project assists the government of Ukraine to institutionalise and replicate the successful participatory regional economic development practices piloted by the project in two regions from 2005 to 2010.
- Results to date: Thirty-seven strategic priority projects and 22 capital investment projects have been developed, attracting a total of \$5,478,843 in investment to the two regions. To replicate these achievements beyond the initial two regions of focus, the project has launched a training program to train trainers across Ukraine.

Developing Election Training Capacity and Enhancing Voter Awareness — \$1,200,000 (2012-13) — Implementing Organization — Organization for Security and Co-operation in Europe

- This project builds the capacity of the Central Elections Commission (CEC) to train election commissioners and helps raise awareness of Ukrainian voters about the importance of elections, their legal rights, elections procedures.
- Expected results: Increased voter activity and civil society engagement in election activity in Ukraine, measured through voter turnout and the level of civil society engagement in the election process

Enabling Environment (Sustainable Economic Growth)

State Customs Service of Ukraine Capacity Building — \$2,019,122 (2009-12)
Implementing Organization — Canada Border Services Agency

- This project strengthens the capacity of customs laboratories to properly identify goods in order to apply the correct duties.
- Results to date: Four gap analyses (methodology, instrumentation, detection instrumentation, relationships between central/regional labs) completed on the central laboratory in Kyiv and 3 regional laboratories (Dnipropetrovsk, Simferopol, Odessa).

Business Enabling Environment — \$2,200,000 (2008-12)

Implementing Organization — International Finance Corporation

- This project streamlines and simplifies burdensome administrative and regulatory procedures for SMEs.
- Results to date: Reduced red tape by improving or eliminating more than 2,100 administrative procedures, including the reduction of mandatory permits and licenses to start and operate a business. Canada's support for regulatory changes has resulted in 11 pieces of legislation and generated \$24 million in savings to private sector businesses.

Strengthening the National Bank of Ukraine — \$6,045,901 (2009-13)

Implementing Organization — International Monetary Fund

- This project improves the overall business environment and potential for economic growth by strengthening the National Bank of Ukraine.
- Results to date: Helped the National Bank of Ukraine (NBU) intervene in 28 banks, of which 3 received recapitalization by the state, 6 were rehabilitated or sold, 16 were sent into liquidation and 3 were placed under temporary administration.

Entrepreneurship (Sustainable Economic Growth)

Decentralized Management and Skills Training — \$7,027,560 (2005-2012)

Implementing Organization — Saskatchewan Institute of Applied Science and Technology in association with the Association of Canadian Community Colleges

- This project assists the development of a national demand-driven vocational skills training system across the country.
- Results to date: Nearly 700 vocational schools have created committees that involve employers in the design of training programs, and over 240 schools have designated an officer responsible for promoting and ensuring gender inclusiveness.

Agriculture (Sustainable Economic Growth and Food Security)

Improving the Competitiveness of the Dairy Sector — \$9,100,000 (2008-13)

Implementing Organization — Société de coopération pour le développement international

- This project assists dairy farmers in Lviv and Dnipropetrovsk to improve the quantity and quality of the milk they produce and gain access to the dairy marketing and processing value chain.
- Results to date: A total of 3,000 dairy farmers from 70 village communities, 37 private farmers and 14 agri-businesses have benefitted

from technical assistance, exceeding the target 2,500 dairy farmers in 50 communities.

Horticulture Development — \$10,250,000 (2008-13)

Implementing Organization — Mennonite Economic Development Association

- This project strengthens the capacity of smallholder farmers and other value chain stakeholders in Crimea and Zaporizhzhia to engage in the production, processing, and marketing of selected crops.
- Results to date: Over 3,300 smallholder farmers increased their competitiveness in the horticulture sector through technical assistance that focused on the cultivation of high value crops. CIDA also helped improve the ability of 142 women farmers, especially poor, single mothers, to earn extra income through the cultivation of high value crops such as strawberries and table grapes.

Grain Quality and Safety — \$3,000,000 (2011-13)

Implementing Organization — CanEd International

- This project improves grain quality grading and classification systems to meet international standards and provides lab testing equipment.
- Expected Results: Demand for grain testing and quality analysis services will increase by 50%, to be measured by the range of testing and analysis services provided to different stakeholders in the grain supply chain.

Agri-Insurance Development — \$2,500,000 (2011-13)

Implementing Organization — International Finance Corporation

- This project establishes a viable agriculture insurance industry in Ukraine, through a better regulatory framework, greater transparency, improved capacity of private insurance firms, and public awareness.
- Expected Results: A government agency consisting of a minimum of 5 staff members will be created and financially supported to manage subsidy programs for agri-insurance.

Ukraine Grain Storage and Marketing Cooperatives — \$13,500,000 (2012-16)

Implementing Organization — To be determined (Directive Project, RFP to be launched shortly)

- This project will address the constraints faced by small and medium-sized grain producers in two regions of Ukraine by organizing cooperatives to provide modern storage, grain handling and marketing services.
- Expected Results: Volume of grain sold by cooperative members will increase from 15,000 tonnes to 60,000 tonnes.

BILATERAL PROJECTS — LEGACY

Inclusive Education for Children with Disabilities — \$4,899,922 (2008-13) Implementing Organization — Canadian Centre on Disability Studies Inc.

- This project promotes the inclusion of children with disabilities in schools and communities in Lviv and Crimea, and increases the capacity of non-governmental organizations to support this inclusion.
- Eighty-five national and 60 regional government representatives were trained on developing social policies for children with disabilities and formed three cross-sectoral ministerial working groups.

PARTNERSHIP PROJECTS — CURRENT

Canada World Youth — Youth Leaders in Action: 2008-14 —\$4,668,326

- Canada World Youth is the largest PWCB partner in Ukraine. Ukraine accounts for 10% of funding under PWCB's current program support envelope for Youth Leaders in Action 2009-14, or a total of \$4,669,326 over the 5-year program. Seventy-two volunteers will be sent to Ukraine each year for the 5 years of the program, partnered with 72 volunteers from Ukraine who will also visit Canada. Key areas of intervention for Canada World Youth in Ukraine include Health Education, STD Control including HIV/AIDS, Biosphere Protection, and Environmental Education and Training.

Association of Universities and Colleges of Canada — Students for Development: 2010-15 — \$614,221

- The Students for Development 2010-2015 program provides Canadian and developing-country senior level university students with work experience that complements their fields of study and career goals, while increasing their knowledge of international development issues. Operations in Ukraine represent 4% of the overall project.

World Hope International — Program to Assist At-Risk Youth: 2009-13 — \$435,391

- World Hope International Canada works with a local NGO, World Hope Ukraine and the municipal government of the City of Odessa (social services department and three local orphanages). The project aims to introduce an improved model of care to strengthen the human rights and life opportunities of at-risk and institutionalized youth. This project is exclusively implemented in Ukraine.

Disabled Peoples' International — DPI Human Rights Defenders: 2010-12 — \$101,080

- The Disabled Peoples' International (DPI) project aims to positively influence the lives of people with disabilities in developing countries, more specifically in five CIDA Countries of Focus that have ratified the Convention on the Rights of Persons with Disabilities (CRPD): Tanzania, Bangladesh, Peru, the Caribbean (Jamaica) and Ukraine. Nineteen percent of the overall activities target Ukraine.

Mennonite Economic Development Associates — International Youth Internship: 2010-13 — \$134,640

- In Ukraine, the project goal is to enable Ukrainian individuals, organizations, public and private institutions to sustainably support and promote a thriving, equitable horticulture subsector with full participation of smallholder farmers including women, men and marginalized communities. Interns will identify new Value Chain Development opportunities. The Ukraine component represents 27% of the MEDA's internship program.

YMCA — International Youth Internship YMCA: 2010-12 — \$44,550

- The objective of the internship is the development and implementation of a youth leadership program in three YMCA locations within Ukraine (Volyn, Kyiv and one more TBD) based on a current program offered by the YMCA of Calgary. The Ukraine component represents 9% of the YMCA's internship program.

Saskatchewan Institute of Applied Science and Technology — Skills for Employment in Ukraine: 2012-16 — up to \$4 million

(Note: Contribution agreement under negotiation (Over \$2 million Call))

- The proposed project aims to improve the ability of vocational training graduates to succeed in the growing private sector in Ukraine and to improve access to training for employment and self-employment for women and other disadvantaged groups, with emphasis on economically disadvantaged areas. The project will enhance business programming in three institutions: The Anton Makarenko Industrial-Pedagogic College (Kyiv), the Lviv Higher Vocational School of Restaurant Service and tourism, and the Ivano-Frankivsk Higher Vocational School of Hotel Service and Tourism. Activities include: i) the development of stronger and mutually beneficial relationships among government, community and private sector stakeholders, ii) new teaching resources, iii) curriculum review, and iv) training of trainers. This project will benefit 1,300 students immediately and 14,000 students over the course of the project.

Equitas — (Component of) **Global Human Rights Education Program: 2008-13** — **\$521,393** (including some CEE/FSU sub-regional expenses)

- Within its Global Human Rights Education Program, Equitas has a sub-regional component in Central and Eastern Europe (CEE)/Former Soviet Union (FSU) that mainly involves four countries: Ukraine, Armenia, Azerbaijan and Georgia. Since 2008, nine Ukrainians have been trained through Equitas' annual training session in Montreal, while CEE/FSU sub-regional activities have involved 13 Ukrainians to date. This initiative also included the design of a human rights education training course adapted to the regional reality, which was delivered in March 2011 and is expected to become an ongoing human rights education course that will be delivered on a regular basis by Equitas' local partner based in the Ukraine, the Ukrainian Center for Common Ground.

APPENDIX B LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>As an individual</p> <p>Taras Kuzio, Senior Visiting Fellow Center for Transatlantic Relations, Johns Hopkins School of Advanced International Studies, Johns Hopkins University</p> <p>Canadian Friends of Ukraine</p> <p>Lisa Shymko, Executive Director Chair, Canada-Ukraine Parliamentary Centre</p> <p>Department of Foreign Affairs and International Trade</p> <p>Leigh Sarty, Director Institutions, Policy and Operations Division</p> <p>Jillian Stirk, Assistant Deputy Minister Europe, Eurasia and Africa</p> <p>Ukrainian Canadian Congress</p> <p>Taras Zalusky, Executive Director National Office</p>	2011/10/20	7
<p>Institute of World Policy</p> <p>Alyona Hetmanchuk, Director</p> <p>Kharkiv Human Rights Protection Group</p> <p>Halyna Coynash, Representative</p> <p>League of Ukrainian Canadians National Executive</p> <p>Ihor Kozak, Chairman External Affairs Committee</p> <p>United Action Center</p> <p>Oleh Rybachuk, Chairman</p>	2012/05/03	24
<p>As individuals</p> <p>Valentyn Nalyvaichenko</p> <p>Andrei Piontkovsky</p> <p>James Sherr</p> <p>Marcin Swiecicki</p> <p>Borys Tarasyuk</p>	2012/07/03	25

APPENDIX C MEETINGS WITH INDIVIDUALS AND ORGANIZATIONS IN UKRAINE MAY 13 TO 17, 2012

Organizations and Individuals	Meeting location
Ministry of Foreign Affairs of Ukraine	Kyiv
Pavlo Klimkin, Deputy Minister	2012/05/13
As individuals	2012/05/14
Ihor Fomin, Lawyer	
Valentyna Ivashchenko	
Iryna Lutsenko	
Borys Nechyporenko, Lawyer	
Evgeniya Tymoshenko	
Hryhoriy Nemyria, Foreign Policy Advisor	
Daniel Bilak, Partner CMS Cameron McKenna LLC	
American Chamber of Commerce in Ukraine	
Jorge Zukoski, President	
Canada-Ukraine Chamber of Commerce	
Emma Tuross	
Committee for the Defense of Democracy in Ukraine	
Dmytro Pavlychko, Chair	
Yurij Scherbak, Deputy Chair	
European Bank for Reconstruction and Development	
André Küüsvek, Director Ukraine	
European Business Association	
Anna Derevyanko, Managing Director	
Institute for Economic Research and Political Consultations	
Veronika Movchan, Academic Director	
Ministry of Justice of Ukraine	
Robert Sivers, Acting Director Anti-corruption Legislation and Justice Department	
Svitlana Komysenko, Director International Legislation and Cooperation Department	

Organizations and Individuals	Meeting location
<p>Prosecutor General's Office of Ukraine Natalia Kovtun, Head of Section/Deputy Head of Department</p>	
<p>State Agency for Investment and National Projects of Ukraine Serhiy Yevtushenko, Director State Penitentiary Service of Ukraine Vlad Klysha, Head International Cooperation Department</p>	
<p>Verkhovna Rada Andriana Kultchytska, Head International Department, Human Rights Ombudsperson Oleh Bilorus, Chair Foreign Affairs Committee</p>	
<p>Viterra Ukraine Yevheniy Khomaiko, Chief Trader</p>	
<p>As an individual Yaroslav Davydovych</p>	2012/05/15
<p>BYuT Faction Serhiy Sas, Deputy Leader</p>	
<p>Central Electoral Commission Andriy Mahera, Acting Head</p>	
<p>Committee of Voters of Ukraine (CVU) Oleksandr Chernenko, Head</p>	
<p>Front Zmin Party Andriy Pyshnyi, Deputy Head</p>	
<p>Hromadianska Pozytsiya Anatoliy Hrytsenko, Leader</p>	
<p>ICTV Andriy Kulykov, Journalist</p>	
<p>International Foundation for Electoral Systems (IFES) Denys Kovryzhenko, Expert on Elections</p>	
<p>Opora Olha Ajvazovska, Head of the Board</p>	
<p>Svoboda Party Oleh Tyahnybok, Leader</p>	
<p>TVi Television Network Mykola Knyazhytskiy, Editor-in-Chief</p>	

Organizations and Individuals	Meeting location
<p>Udar Party Rostyslav Pavlenko, Head Strategy and Ideology</p>	
<p>Ukrainska Pravda Serhiy Leschenko, Editor</p>	
<p>ATN Channel (Kharkiv) Oleh Yukht, Director</p>	<p>Kharkiv 2012/05/16</p>
<p>City of Kharkiv Ihor Terekhov, Deputy Mayor, City Development</p>	
<p>Foundation for Local Democracy Olga Miroshnyk</p>	
<p>Institute for Regional Press and Information Angelina Soldatenko, Executive Director</p>	
<p>Kharkiv Human Rights Protection Group Yevhen Zakharov, Head</p>	
<p>Kharkiv Oblast Council Leonid Konovalov, Member, Party of Regions Yevheniy Potapov, Member, Party of Regions</p>	
<p>Kharkiv Oblast State Administration Anatoliy Pedeshko, Head Main Department of International Trade and Foreign Cooperation</p>	
<p>City of Lviv Andriy Sadoviy, Mayor of Lviv Vasyl Kosiv, Deputy Mayor, Humanitarian Issues</p>	<p>Lviv 2012/05/17</p>
<p>Batkivshchyna Party Roman Ilyk, Leader of the Opposition</p>	
<p>Express Newspaper Ihor Pochynok, Editor-in-Chief</p>	
<p>Front Zmin Party Stepan Kubiv</p>	
<p>Lviv Oblast Oleh Rudnytskyy, Deputy Governor</p>	

Organizations and Individuals**Meeting location**

Lviv Oblast Administration

Denys Shmyhal, Head
Main Department of Economics

Sergiy Kiselyov, Head of Tourism

European Integration, Foreign Relations and Investment
Department

Lviv Oblast Council

Valeriy Piatak, Deputy Head

Museum “Prison on Lonsky”

Ruslan Zabily, Director

Republican Christian Party

Bohdan Pankevych

Svoboda Party

Iryna Farion, politician

**Ukraine Municipal Local Economic Development
Program (MLED)**

Solomiya Rozhko, Regional Coordinator
Lviv Oblast

Oleksandr Kobzarev, Acting Chairman, Institute of City

Ukrainian Catholic University

Borys Gudzyak, Rector

Yaroslav Hrytsak, Professor

APPENDIX D LIST OF BRIEFS

Organizations and Individuals

Kuzio, Taras

Canadian Friends of Ukraine

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the Government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 7, 24, 25, 40, 42, 43](#)) is tabled.

Respectfully submitted,

Dean Allison, M.P.

Chair

Supplementary opinion

The New Democratic Party wholeheartedly agrees with the present report. However, we feel the need to add further recommendations to those already agreed upon.

1. New Democrats recommend that any further negotiations on a trade deal between the Government of Canada and the Government of Ukraine be suspended until after the fall 2012 Ukraine parliamentary elections. We further recommend that completion of negotiations and final ratification be made conditional on the following:

- A determination by Canada that the elections were free, fair and transparent in accordance with accepted international standards,**
- Release prior to the elections of all politicians who have been convicted as part of apparently politically-motivated prosecutions,**
- The incorporation of clear, binding and enforceable obligation on the parties to the agreement, requiring demonstration of a commitment to human rights, rule of law, adherence to fundamental democratic principles and the international standards for free and fair elections,**

- **The incorporation of processes whereby any Canadian or Ukrainian citizen could trigger a process to review compliance with the abovementioned measures.**
2. **With regards to the suspension of trade negotiations with Ukraine, New Democrats recommend that Government of Canada should coordinate its actions with those undertaken by the European Union.**
 3. **The Committee recommends that the Government of Canada, through appropriate agencies and other channels, provide information and advisories on potential risks to investments in Ukraine, in particular for small- and medium-sized investors.**