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## **REPORT**

on the Common Strategy of the European Union on Ukraine  
(C5-0208/2000 – 2000/2116(COS))

Committee on Foreign Affairs, Human Rights, Common Security and Defence  
Policy

Rapporteur: Paavo Väyrynen



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## PROCEDURAL PAGE

The Common Strategy of the European Union on Ukraine, adopted by the European Council in Helsinki on 11 December 1999, was published in OJ L 331 of 23 December 1999 (2000/2116(COS)).

At the sitting of 3 May 2000 the President of Parliament announced that she had referred the Common Strategy to the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy as the committee responsible and the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0208/2000).

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy had appointed Paavo Väyrynen rapporteur at its meeting of 11 January 2000.

The committee considered the Common Strategy and the draft report at its meetings of 6 February and 27 February 2001.

At the latter meeting it adopted the motion for a resolution by 36 votes to 1, with 2 abstentions.

The following were present for the vote: Elmar Brok, chairman; Baroness Nicholson of Winterbourne and Catherine Lalumière, vice-chairmen; Paavo Väyrynen, rapporteur; Alexandros Baltas, Bastiaan Belder, Andre Brie, John Walls Cushnahan, Karel C.C. Dillen, Andrew Nicholas Duff (for Pere Esteve), Michael Gahler, Alfred Gomolka, Vasco Graça Moura (for Jas Gawronski), Bertel Haarder, Klaus Hänsch, Magdalene Hoff, Georg Jarzembowski (for Philippe Morillon), Armin Laschet (for Arie M. Oostlander), Pedro Marset Campos, Linda McAvan, Pasqualina Napoletano, Raimon Obiols i Germà, Reino Paasilinna (for Hannes Swoboda), Hans-Gert Poettering, Jacques F. Poos, Lennart Sacrédeus (for Gunilla Carlsson), Jannis Sakellariou, José Ignacio Salafranca Sánchez-Neyra, Jacques Santer, Jacques Santkin (for Gary Titley pursuant to Rule 153(2)), Jürgen Schröder, Elisabeth Schroedter, Ioannis Souladakis, Ursula Stenzel, Ilkka Suominen (for Ingo Friedrich), Johan Van Hecke, Geoffrey Van Orden, Jan Marinus Wiersma, Matti Wuori.

The opinions of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Industry, External Trade, Research and Energy are attached; the Committee on the Environment, Public Health and Consumer Policy decided on 23 May 2000 not to deliver an opinion.

The report was tabled on 28 February 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

### European Parliament resolution on the Common Strategy of the European Union on Ukraine (C5-0208/2000 – 2000/2116(COS))

*The European Parliament,*

- having regard to the Common Strategy of the European Union on Ukraine, adopted by the European Council in Helsinki on 11 December 1999 (C5-0208/2000)<sup>1</sup>,
- having regard to the work programmes for the implementation of the Common Strategy of the Portuguese and French Council Presidencies,
- having regard to the Partnership and Cooperation Agreement (PCA) between the European Union and Ukraine, which entered into force on 1 March 1998,
- having regard to the press statement of the EU-Ukraine Cooperation Council issued after its meeting on 23 May 2000 and to the corresponding statements from its two previous meetings,
- having regard to the Joint Statement of the EU-Ukraine summit on 15 September 2000 and the two previous summits after the entry into force of the PCA,
- having regard to the Swedish Presidency's statement of 7 February 2001 on the general situation in Ukraine and the disappearance of the journalist Georgiy Gongadze,
- having regard to the Action Plan for the Development of Relations Between the EU and Ukraine adopted by the Council on 6 December 1996 and its resolution of 12 March 1998<sup>2</sup> on the preceding Commission communication on this Action Plan,
- having regard to its resolution of 30 November 1995<sup>3</sup> on the proposal for a Council and Commission Decision on the conclusion of the Partnership and Cooperation Agreement with Ukraine,
- having regard to Article 49 of the Treaty on European Union,
- having regard to Rule 47(1) of its Rules of Procedure,
- having regard to the report of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the opinions of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Industry, External Trade, Research and Energy (A5-0083/2001),

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<sup>1</sup> OJ L 331, 23.12.1999, p. 10

<sup>2</sup> OJ C 104, 6.4.1998, p. 226

<sup>3</sup> OJ C 339, 18.12.1995, p. 42

- A. whereas Ukraine by virtue of its size, geographical location, deep historical, cultural, spiritual, economic and other links to Central and Western Europe as well as to Russia, its contributions to the development of regional, Europe-wide and transatlantic cooperative structures and its strong ambition to deepen its relations to the EU and to EU candidate countries plays a key role for peace, stability and prosperity in post-cold-war Europe,
- B. whereas Ukraine is an active member of the Council of Europe and the Organisation for Security and Cooperation in Europe,
- C. whereas Ukraine occupies an important place in the Central European Initiative and in co-operation in the Black Sea region, plays a key role in the so called GUUAM group composed of Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova and selectively participates in activities of the Commonwealth of Independent States (CIS),
- D. whereas Ukraine takes an active part in the Black Sea Cooperation Organisation (BSCO) and in the Black Sea Cooperation Bank based in Thessaloniki,
- E. whereas Ukraine has made important contributions to the safeguarding of peace and stability, in particular by ridding itself of nuclear weapons, engaging in the search for a solution to the problems in Transdnistria and contributing to peacekeeping forces in ex-Yugoslavia; whereas Ukraine is also an active participant in NATO's Partnership for Peace Programme,
- F. whereas the EU is building up capacity for crisis management and the European Council has declared that Ukraine is a country that may be invited to take part in EU-led operations; whereas Ukraine is very interested in becoming involved in the EU's preparations in this regard, wishes to see arrangements for consultation on and participation in crisis management operations developed and may make valuable contributions,
- G. whereas Ukraine has a big defence industry and is an important arms exporter; whereas it has asked for assistance in harmonising its export controls with those of the EU and is considering the possibility of aligning itself with the EU's Code of Conduct on Arms Exports; whereas this should be encouraged,
- H. acknowledging the Ukraine's signature of the Ottawa Mine Ban Treaty,
- I. whereas relations between ethnic Ukrainians and the large Russian minority generally do not give cause for concern, but some tensions have emerged in Lviv and Western Ukraine; whereas harmonious development of relations between Ukrainians, Russians, Tatars, Roma and all other ethnic groups represented in the population must be ensured,
- J. whereas the accession of Poland, Slovakia, Hungary and Romania to the EU will give the EU and Ukraine a common border and further increase the significance of EU-Ukraine relations; whereas the Schengen border will divide an ethnically mixed area and will therefore give rise to problems in terms of the coexistence of the local population; whereas a number of questions on visa rules and border management will

have to be answered,

- K. whereas this must be done in a way that reconciles the need to prevent illegal immigration and combat international crime, including trafficking in drugs, arms, sex and human beings and smuggling of counterfeit goods and other items, with that of promoting trade, cooperation and human contacts and avoid to damage mutual perceptions,
- L. whereas progress in stopping similar flows into Ukraine over its other borders as well as curbing of organised crime activities within Ukraine are important for future relations with the EU; whereas migration problems should be addressed with comprehensive measures which must not infringe the rights of refugees, as established in international conventions,
- M. whereas trafficking of girls and women for sexual exploitation from Ukraine to EU countries has taken on a large scale and thereby developed into a very serious social problem both in Ukraine and the EU,
- N. whereas large numbers of illegal immigrants come to Ukraine and neighbouring states have little will to conclude re-admission agreements,
- O. whereas the EU and EU candidate countries have significant trade interests in relation to Ukraine, including the purchase of gas from Russian and other producers which is transited through Ukraine,
- P. whereas the Commission in the context of EU's anti-dumping policy recently decided to apply a regime which opens the way to more favourable treatment of Ukrainian firms working under market conditions,
- Q. whereas the dramatic decline of the Ukrainian economy since 1991 has caused a sharp deterioration in living conditions which, if it continues, could put social cohesion at risk; whereas conversely, an economic rebound could considerably improve the internal situation as well as external relations,
- R. whereas a stable Ukraine making rapid economic progress and conducting mutually beneficial cooperation with the EU as well as with Russia and with other neighbours is very much in the EU's interest,
- S. whereas investments from EU Member States should not bypass the Ukrainian economy but should, instead, be encouraged and even guaranteed by the EU and Ukraine; whereas investments in the Ukrainian agriculture, agroindustrial complex, SME, banking system, transport, energy and telecommunications are of high importance for both the EU and Ukraine,
- T. whereas power struggles between the President and the Parliament and between different factions within the Parliament have in the past blocked reform efforts for long periods, with very serious consequences for the country's economy; whereas the risk of new crises of this kind still exists,

- U. whereas the last parliamentary and presidential elections, in 1998 and 1999 respectively, failed by far to meet conventional standards for democratic elections,
- V. whereas there is need for improvement in the human rights situation and the freedom of the media; whereas the murder of the journalist Georgiy Gongadze, editor of the critical internet newspaper *Ukrainska Pravda*, and the inexplicably slow and inefficient police investigation into the matter constitute particularly serious elements in this picture,
- W. whereas relations between the political and the business elites should be clarified and put on an entirely sound footing,
- X. whereas the achievement of greater stability within and between the different branches of government, the strengthening of the rule of law, substantive progress in the fight against corruption and unsound business practices as well as fair and predictable taxation are also indispensable for the creation of an environment which stimulates investments and produces economic growth,
- Y. whereas Ukraine has taken the remaining reactor at the Chernobyl nuclear power plant out of production and the EU, its Member States and other donors support the rebuilding of the sarcophagus around the damaged reactor at the same site, as well as the completion of the 'K2' and 'R4' reactors, as replacement capacity for the newly decommissioned one,
- Z. whereas Ukraine is heavily dependent on imported energy; whereas Ukrainian-Russian relations in the energy area have been very problematic, with accumulation of billion dollar arrears in payments for deliveries from Russia and allegations of large scale unauthorised use of gas intended for foreign markets transited through Ukraine; whereas arrangements which should prevent new disputes on energy deliveries and payments in the year 2001 have recently been agreed upon and these arrangements may form part of a more comprehensive redefinition of the Ukrainian-Russian relationship,
- AA. whereas agriculture is of the utmost importance in the Ukrainian economy and approximately 1/3 of the Ukrainian population lives in rural areas; whereas however agricultural production is not very efficient in spite of favourable climate and soil conditions; whereas that sector must undergo urgent reform both in terms of ownership structure and production methods,
- BB. whereas the EU assists Ukraine through the TACIS programme and has pledged further macro-financial assistance, once International Monetary Fund (IMF) conditions have been met; whereas EU Member States also provide assistance through the IMF as well as through bilateral programmes,
- CC. whereas technical assistance under the TACIS Indicative Programme for Ukraine 2000-2003 is focused on the three main areas of (1) institutional, legal and administrative reform, (2) the private sector and assistance to economic development and (3) addressing the social consequences of transition,

- DD. whereas direct people to people contacts should be promoted through much wider use of exchange and twinning programmes, possibilities to study in the EU and other arrangements,
- EE. whereas an International Science and Technology Centre has been set up in Kiev to help Ukraine make the best use of the knowledge of its scientists and prevent the spread of know-how on weapons of mass destruction to states and non-state actors representing an international safety risk,
- FF. whereas the longstanding idea of concluding a Scientific and Technological Cooperation Agreement between the EU and Ukraine should rapidly be realised,
- GG. whereas successful further development of the EU-Ukraine relationship presupposes both strong commitment on both sides and a realistic view on what can be achieved in the short and medium term; whereas in the absence of such a view, frustrations, backlashes and diminished support for the deepening of the partnership may be difficult to avoid,
- HH. whereas success in this regard will be closely linked to the progress of political, social, administrative and economic reforms in Ukraine and investments by EU companies in Ukraine on a bigger scale is likely to provide additional impetus once these reforms have created a stable and predictable environment,
- II. whereas first of all the PCA must be correctly implemented and the possibilities therein should be fully exploited, but a clearer perspective of further deepening of EU-Ukraine relations is also needed,
- JJ. whereas an indication of under what conditions the EU would be ready to conclude a free trade agreement and consider an association agreement could stimulate Ukrainian reform efforts; whereas both sides should aim at achieving very significant facilitation of bilateral trade, ideally free trade, no later than at the time of the first accessions of candidate countries to the EU,
- KK. whereas the Treaty on European Union lays down that any European State which respects the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law may apply to become a member of the Union<sup>1</sup>; whereas there is no valid reason for excluding the possibility of Ukrainian accession to the EU at some point in the future,
- LL. whereas the European Parliament has considered that the EU should develop a wider pan-European cooperation by taking into account the situation in the Balkans, the relations with Russia and Ukraine, the Northern Dimension as well as the challenges of deepening cooperation in the Mediterranean; whereas it has proposed that the prospect of participation in a new European area based on trade, security, protection of the environment and fundamental rights be opened up to countries with which accession is not being negotiated at present, stressing that participation in such an area must not

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<sup>1</sup> Art. 49 (TEU)

preclude eventual membership of the EU,

*General*

1. Expresses its support for the Common Strategy on Ukraine adopted by the European Council on 11 December 1999 in Helsinki;
2. Underlines Ukraine's key role in post-cold-war Europe and recognises the importance of harmonious development of its relations to all of its neighbours; emphasises therefore the importance of the Common Strategy and considers it essential that it be implemented promptly and comprehensively in order to avoid a new divide in Europe; at the same time supports the conclusion of the High Representative that the common strategies will become more credible if their goals will become more specific, if priorities will be clearly formulated, if there is a vision on added value and if sufficient means are available for implementation;
3. Recognises that the proposed measures are necessary and takes a highly positive view of the overall strategy adopted with the objective of ensuring that both the European Union and its Member States coordinate all aspects of their policy towards Ukraine in a coherent and complementary manner;
4. Warmly welcomes Ukraine's strong ambition to deepen its general relationship with the EU and considers that the EU could prepare a road map for this, indicating what each step would presuppose, in particular in terms of Ukrainian internal reforms;
5. Declares a strong wish to see Ukraine finally succeed in its transition process and create ever better living conditions for the whole of its population; points to the success achieved by other ex-communist countries as examples of what determined reform efforts can bring; is convinced that this will increase the capacity of the Ukraine to act independently;
6. Emphasises that nothing can substitute determined internal reform efforts, but points out that the EU should continue to offer support, *inter alia* through increased technical assistance, improved access to the EU market and as soon as possible a free trade agreement, support for WTO membership preparations and renewed macro-financial assistance when conditions have been met;
7. Underlines the importance of the parliamentary dimension in promoting ever closer ties between the Ukraine and the EU; considers the present parliamentary co-operation to be insufficient to enable a real and fruitful working relationship; welcomes the proposed dialogue between the Latvian, Ukrainian and European Parliaments;
8. Stresses that large scale private investment is an essential pre-requisite for the development of the Ukraine, and therefore believes that providing a political and economic framework for private business to thrive and for encouraging inward investment is of the utmost priority for the Ukrainian authorities;

9. Believes that, given the scope and nature of the common strategy on Ukraine, priority should be given to supporting the efforts of Ukraine to reform its internal structures so that an institutional and regulatory framework, conducive to promoting sustainable economic development, trade, and investment and improving the efficiency of industry, in particular, the agricultural and energy sectors, while improving the level of environmental protection, in particular as concerns pollution from industry, be established as soon as possible;
10. Insists on the principle that Community technical assistance implemented either through the TACIS support programmes, or TEMPUS and DEMOCRACY projects, or macro-financial assistance, or any future measure, should add value to the economic transition process in Ukraine, and not be wasted in unnecessary consultative fees and studies;

*On the political situation in Ukraine*

11. Deplores that the last parliamentary and presidential elections were not up to international standards for democratic elections and regrets that the media are not exercising their proper role in a democratic society; calls for more active support of the EU in this area;
12. Regrets that a state genuinely governed by the rule of law has not yet been consolidated in Ukraine and urges, therefore, the Council, Commission and Member States of the Union to provide coordinated and coherent support for all measures leading to democratically clean elections, the creation of an independent judiciary and a professional and efficient administration and of media free from all interference;
13. Stresses the need for Ukraine to adopt all the necessary legal and operational measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, as well as discrimination in the field of employment;
14. Is deeply concerned about the murder of the journalist Georgiy Gongadze and underlines the importance of a proper and transparent police investigation and of adequate handling by the judiciary of this case; remains concerned about the allegations of official involvement in this case;
15. Is concerned that freedom of the press as a fundamental aspect of democracy has not yet been fully established in Ukraine and that the media must continue to work in an insecure environment; calls on the Ukrainian Government and its authorities to ensure that journalists can carry out their work unhindered, that broadcasting licences are issued in a way that does not restrict pluralism and that, in general, they create irreversible democratic structures in the media;
16. Congratulates the Ukrainian authorities on the abolition of the death penalty in their penal code, in accordance with the European Convention on Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and with Protocol No 6 to that Convention;

17. Strongly hopes that the different branches of government will be able to keep up the present tempo in economic reform, or further increase it;
18. Invites all relevant forces in the Ukraine to settle the outstanding constitutional issues in such a way that there will be the right democratic balance between the executive and legislative branches of the government;

*On the economic situation and on EU-Ukraine economic relations*

19. Considers that Ukraine's economic problems are essentially the result of a largely failed transition process, partly due to the emergence of business interests with privileged or corrupt relations to the country's governing institutions or individual members thereof; is aware of the role in facilitating an economic upturn that the EU can play through its commercial policy and by becoming an important source of investment; warns, however, against every tendency to regard EU-integration as a quick fix for the Ukrainian economy;
20. Takes the view that an extension of financial support, e.g. through the EIB or other international organisations, should result in the intensification of bilateral projects which would also promote economic consolidation in the transport, telecommunications and financial sectors;
21. Calls on the European Commission, the European Investment Bank, the EBRD, the World Bank and other International Financial Institutions (IFIs), as well as the Ukrainian government to establish a foreign investments insurance and export promotion agency in Ukraine;
22. Encourages Ukraine to speed up reform in the agricultural sector and complete the transition to private ownership of the land; proposes that the Commission study the possibility to support individual farmers and cooperatives with appropriate micro-credit schemes, in addition to offering them technical advice;
23. Calls on the European Commission to establish a political dialogue with Ukraine on the production of biofuel (biodiesel, ethanol etc.) in Ukraine and its further supply to the EU;
24. Calls on the European Commission to encourage and foster investments into the hydro, solar and wind energy sector in Ukraine, which have a special value for the creation of energy substitute capacities and cover an energy deficit in Ukraine, as created by the closure of Chornobyl;
25. Warmly welcomes the definitive closure of the Chornobyl nuclear power plant and supports the granting of the Euratom 'K2R4' loan as part of the implementation of the 1995 Memorandum; demands regular reporting on the decommissioning of the Chornobyl site and the repairs of the Shelter of Reactor IV; asks the European Commission to present a report on the health conditions in the areas, especially in Belarus, that were contaminated in 1986; asks the Commission to support the Ukraine in addressing the issue of mass-unemployment and other social problems in the

Chornobyl region;

26. Reiterates its position that Community financing of nuclear plants should be conditional upon the following criteria:
  - a) Achieve a safety level equivalent to Western-type nuclear power operational and design safety,
  - b) Agree on an Environmental Action Plan, which will be implemented by the recipient country satisfactorily,
  - c) Contribute to decreasing energy dependency on third countries;
27. Insists that, in relation to the nuclear sector, the Commission give priority to support of the Regulatory authority and monitor its independence and capability in relation to resources and staffing, and to the continuing efforts to deal with the serious environmental and health consequences of the Chornobyl disaster;
28. Urges the Commission, in collaboration with the EBRD and the World Bank, to agree a comprehensive Energy Plan with the Ukraine Government. Such a plan should include, inter alia, upgrading of thermal power plants, the creation of a viable coal industry, and an effective energy efficiency strategy;
29. Emphasises, however, that the most important path to be pursued when addressing Ukraine's energy problems is rapid creation of reasonable conditions in the energy market, such as more rational distribution, energy saving, a market approach and diversification;
30. Considers that the recent Ukrainian idea of transferring to an international consortium the management of the Ukrainian pipeline through which Russian gas is transited to Central and Western Europe should be further explored in order to guarantee continued gas transport via Ukraine; completing the Odessa-Brody pipeline should be considered as well;
31. Calls on the Council and the Commission to increase their support for the development of Ukraine's transport and communications networks; calls on the European Bank for Reconstruction and Development to exhaust all the possibilities of obtaining additional funds for the development of these systems;
32. Calls on the Commission to extend the measures for disseminating information on the European Union in Ukraine and to examine the possibilities of broadcasting Euronews in Ukraine;
33. Calls upon the Commission to submit to Parliament and Council the findings of the study requested by the Common Strategy, on a possible EU-Ukraine Free Trade Area (FTA) as foreseen in the March 1998 Partnership and Cooperation Agreement (PCA), and requests the Commission to undertake an impact assessment;
34. Supports Ukraine's application to accede to the World Trade Organisation (WTO) but an unprepared accession will not be in the interest of Ukraine or of the EU; requests the Commission to report on the issues to be addressed before WTO accession can take

place.

*On technical assistance*

35. Believes that Community technical assistance should be geared towards improving Ukraine's VAT system, consolidating the system of cash collection in the energy sector, developing the underdeveloped capital markets and enforcing clear property rights, and addressing in general the endemic corruption problems;
36. Finds the main focuses of the TACIS programme for Ukraine appropriate; calls, however, for more attention to civil society development, promotion of independent media and development of exchange and twinning programmes and asks the Commission to improve coordination between the TACIS and PHARE programmes in the context of cross-border cooperation between the EU candidate countries and Ukraine;
37. Stresses the importance of developing cooperation over the future EU external border with Ukraine in order to relieve pressure on the population in the border areas;
38. Calls on the Commission to improve cooperation with Ukraine on the European Global Navigation Satellite System by the means of prompt conclusion of the memorandum concerning cooperation in the field of the GNSS – development;
39. Calls on the European Commission to assist in establishing a national monitoring system on greenhouse emissions in Ukraine;

*On Justice and Home Affairs (JHA)*

40. Welcomes the fact that Community programmes forming part of TACIS paid particular attention to promoting the rule of law in Ukraine during 2000;
41. Advocates the continuation of programmes forming part of TACIS and supported by the Council of Europe aimed at promoting respect for human rights among the Ukrainian authorities and media;
42. Urges Ukraine to adopt the necessary legislative and operational measures to guarantee an adequate level of data protection by comparison with that required in the European Union;
43. Calls on Ukraine to sign, ratify and apply the United Nations Convention on Transnational Organised Crime;
44. Supports the European Union measures to assess the scale of illegal immigration;
45. Stresses that cooperation in border management and the adjustment of Ukraine's visa policy in accordance with EC provisions should take full account of traditional economic and cultural relations between Ukraine and its neighbouring countries, whereas solutions for flexible forms of movement of individuals in border areas should

be found;

46. Underlines that cooperation in the area of JHA should be expanded at the same pace as improvement of the police and judiciary in Ukraine creates the necessary conditions;
47. Considers that for the time being, the EU cannot agree to visa-free entry into its territory for Ukrainian citizens, stresses, however, that multiple entry visas should be widely used, fees be kept very low and the general level of service to applicants high; insists that the EU increase its support to the Ukraine in improving its border control system;
48. Asks that the European Union, in accordance with Article 31(e) of the EU Treaty, should adopt the necessary measures to classify as crimes, with the corresponding penalties, activities linked to trafficking in women, whose victims and exploitation networks have increasingly been of Ukrainian origin in recent years;
49. Calls on the Commission to study ways of combating trafficking of girls and women for sexual exploitation from Ukraine in a more effective way and urges the Member States and, in particular, the habitual countries of destination (Italy and the Netherlands), to take practical action and intervene effectively on their own territory to assist the Ukrainian authorities in combating this unacceptable practice;
50. Calls on Ukraine to sign and ratify the Geneva Convention on the Status of Refugees, along with other international conventions on the protection of migrants, and to apply them immediately; stresses that this is indispensable in order to improve EU-Ukraine cooperation on admission;

#### *On foreign policy issues*

51. Welcomes Ukraine's interest in having a role in EU-led crisis management operations and calls on the Council and relevant committees to discuss with Ukraine what forms this may take;
52. Underlines the importance of the Ukraine as a partner in finding solutions for regional problems such as the democratic deficit in Belarus or the Transdnestr conflict;
53. Calls on the Council and the Commission to assist Ukraine in harmonising its export controls with those of the EU and aligning itself with the EU Code of Conduct on Arms Exports; calls for closer co-operation in the areas of space technology and aviation;

#### *On other issues*

54. Calls for rapid conclusion of a Scientific and Technological Cooperation Agreement with Ukraine and supports continued EU contributions to the International Science and Technology Centre headquartered in Kiev;
55. Urges the Ukraine to ratify its signature of the Ottawa Mine Ban Treaty and to take steps to fulfil its obligations including the destruction of its considerable stocks of anti-personnel mines;

*On a Pan-European policy of the EU*

56. Considers that the EU should pay more attention to the non-candidate countries of Eastern Europe; a new European area based on market economy and free trade, protection of the environment, democracy, human rights and security should be created for them; points out that all European nations are eligible for EU membership if they fulfill the political and economic criteria;
57. Calls on the Council and the Commission to develop a comprehensive Pan-European policy for the Union by combining the enlargement process with both the bilateral and multilateral external relations of the Union; the EU should systematically utilise the OSCE and the Council of Europe for preparing the present and future candidate countries for membership and for promoting the goals of the CFSP and integration on the Pan-European level; the EU should improve cooperation and coordination with these organisations and NATO;
58. Instructs its President to forward this resolution to the Council, the Commission, the Governments and Parliaments of the EU Member States and the President, Government and Parliament of Ukraine.

## EXPLANATORY STATEMENT

### Introduction

Ukraine is an old East Slavonic word the meaning of which is disputed. Many sources consider it to be 'border region', but some Ukrainians adamantly reject this interpretation and argue that it means 'inland'. Whatever derivation is correct, 'border region' describes a role that Ukraine has frequently had to play in the past.

When the first Eastern Slavonic state, Kiev-Rus, was set up on its soil in the 9th century, Ukraine harboured an important centre, but it then came to play the role of an outer region or periphery in relation to powerful neighbours, in particular Russia and Poland. At the time of the First World War, the Russian and the Habsburgian empires met in Ukraine. In the wake of the Russian Revolution, Ukraine declared itself independent and lived through some tumultuous years before formally becoming, in 1922, a part of the Soviet Union. In 1991, it re-emerged as a sovereign state.

While other new developments triggered by the dissolution of the Warsaw Pact and the Soviet Union rapidly took on an irreversible character, the future of the new Ukrainian state was at first less evident.

Ukraine's and Russia's shared history and their strong common linguistic, cultural and religious heritage distinguished their relationship from those between Russia and almost all other of Russia's new neighbouring states.

Russians make up more than a fifth of the population. Russian is spoken by about half of the population and understood by most<sup>1</sup>. Furthermore, the economic integration between the two countries was extremely deep and Ukraine's dependence on Russian energy resources was and remains very great. The separation of Ukraine and Russia was rendered more complex still by the questions of the future status of the mainly Russian inhabited Crimea and the ownership of the former Soviet Black Sea Fleet, based in Sevastopol. These questions were, however, resolved in a Treaty of Friendship and Cooperation signed in 1997 and the three so called Sevastopol agreements shortly after.

In the West, Ukraine's new-won independence was warmly welcomed. The USA made Ukraine its third biggest aid recipient after an agreement on making Ukraine nuclear weapon free had been reached and a US-Russian-Ukrainian trilateral statement on the security of Ukraine had been issued. In September 1996, US Vice President Gore and the Ukrainian President Kuchma announced a "strategic partnership".

Ukraine was the first country to join NATO's Partnership for Peace initiative and has been a very active participant there ever since. It also actively participates in peacekeeping in ex-Yugoslavia and has created a joint peacekeeping battalion with Poland. In 1997, NATO and

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<sup>1</sup> This is partly due to Soviet policy. Today, the use of Ukrainian is promoted and Russian is no longer an official language.

Ukraine signed a 'Charter on a Distinctive Partnership'. This includes a broad agenda for cooperation and a crisis consultative mechanism, which could be used 'whenever Ukraine perceives a direct threat to its territorial integrity, political independence or security'.

Fortunately, Ukraine's independence and territorial integrity is today not seriously put into question. Ukraine's ability to effectively exercise its sovereignty is however adversely affected by its economic weakness. In particular, mounting debts for energy imported from Russia and inability to pay in cash has forced Ukraine to consider proposals for other concessions, including the transfer of control of parts of the energy sector to Gazprom, the partly state-controlled Russian gas company, and to Russian oligarchs.

Ukraine's energy debt certainly weighs down its relationship with Russia. This is compounded by allegations of unauthorised use, or so called siphoning, of Russian gas transited through Ukraine to foreign markets. Because Russia is looking for alternative channels for its gas export, Ukraine has suggested that an international consortium is set up to manage the existing pipeline through Ukraine and utilise its full capacity. This is an interesting idea.

### **The choice of general approach**

In its transition, Ukraine has faced difficulties similar to those of Russia. Fortunately, it has not experienced any internal violence.

Although there are now encouraging signs that reform efforts are gathering momentum, the general picture is still one of a country where the transition process has to a large extent failed. The constitutional order is unstable, the functioning of democratic procedures and processes highly questionable, corruption is rife<sup>1</sup> and public confidence in the different branches of government has been severely undermined by very destructive power struggles between these branches, by corruption cases involving *inter alia* a former prime minister and by the failure to halt the country's decline in almost every aspect. Human rights are violated. Production has fallen to below half of its level a decade ago, salaries often remain unpaid for months and the standard of living has plummeted. In 1991, Ukraine ranked number 31 in the world in the UNDP's Human Development Index. The combined life expectancy, educational attainment and income level now puts it in the 78th place.

Painting this picture does not mean flagging in one's commitment to supporting Ukraine and its government to reverse the negative trends. On the contrary. An honest appraisal, based on objective data and information from credible sources, is necessary to grasp the current situation. It also provides points of reference which will make progress from now on stand out more clearly.

Your rapporteur is of the opinion that the European Parliament chose a wise general approach in its resolution on the EU Common Strategy on Russia of 13 December 2000. He proposes that Parliament take the same basic approach towards Ukraine. The Union should not hesitate to criticise for example human rights violations and failures by Ukraine to live up to

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<sup>1</sup> A study of perceived corruption in 90 countries, published by the NGO Transparency International 2000, put Ukraine in the 87th place.

democratic standards. On the other hand, we must cooperate with Ukraine and help it in its further development towards full democracy and market economy.

Ukraine's geopolitical significance is great. Both in Russia and in western countries there seem to be tendencies to see Ukraine as a borderland to be secured or as a pawn in a game of power politics. This kind of views reflects the attitudes of the Cold War era.

In the new Europe, we should understand the complex situation of Ukraine both internally and externally.

Historically, culturally and politically, Ukraine is deeply divided. Western parts of the country have been under strong influence from Central and Western Europe, while central and eastern parts have had close ties with Russia.

In order to succeed in its nation building, Ukraine should be able to enjoy balanced and mutually beneficial relations both to the EU and to Russia. On the other hand, only an internally harmonious Ukraine can promote stability in its neighbourhood and in Europe as a whole.

The focus should be on internal developments in Ukraine. The case for this is not only a moral one: that the welfare of its people should not be subordinated to power ambitions or often ill perceived security interests of others. There is also a very strong pragmatic argument: that internal developments are the underlying cause of both internal and some external problems and that successful reforms will provide a key to fruitful and harmonious development both in Ukraine and in the region. It will indeed also facilitate the deepening of EU-Ukraine relations.

The Common Strategy is compatible with this approach.

### **The EU's policy objectives in relation to Ukraine and its means to pursue them**

The common strategy lays down the following principal objectives:

- I. Support for the democratic and economic transition process in Ukraine.
- II. Ensuring stability and security and meeting common challenges on the European continent.
- III. Support for strengthened cooperation between the EU and Ukraine within the context of EU enlargement.

These objectives are clearly appropriate, but too generally formulated to provide much guidance. Before taking a closer look at what the EU seeks to achieve, it may be useful to briefly consider what assets it can draw upon and how.

#### *TACIS and macro-financial aid*

Practically ever since the birth of the new Ukrainian state, in 1991, the EU has committed financial resources to assistance to Ukraine. This has taken the form of technical assistance through the TACIS programme and, at times, macro-financial assistance. The latter has been

linked to IMF conditions. The EU has now used somewhat more than € 900 million for TACIS aid to Ukraine and granted it loans of €565 million.

### *Partnership and political dialogue*

Ukraine sees big political and economic benefits in EU integration. It does not consider the present PCA legal framework sufficient, but asks for an association agreement and has declared an ambition to fulfil criteria for EU membership in 2007. The EU, for its part, stresses that the focus should be on the PCA and its correct implementation.

Clearly, Ukrainian accession to the EU will not be on the agenda for years. The matter is nevertheless of much more than academic interest. Statements that Ukraine is not eligible would clearly damage reform efforts in Ukraine. At the same time, strongly exaggerated hopes about when accession could take place may, when it becomes obvious that they will not be realised, cause frustration and damage.

Your rapporteur considers that the door to EU membership at some point in the future, which can at present not be specified, should be open, but that present cooperation should be focused on the pursuit of mutual benefits that can be realised already.

## **Support for the democratic and economic transition process in Ukraine**

### *Democratic transition*

Regrettably, Ukraine is still very far from having achieved 'stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'.

The parliamentary elections in March 1998 and the presidential election in October/November 1999 were both severely criticised by observers of the Organisation for Security and Co-operation in Europe (OSCE). The final reports of the OSCE's Office for Democratic Institutions and Human Rights on the parliamentary and presidential elections provide a full picture.

A referendum on amendments to the constitution was held in April 2000. It was surrounded by strong doubts both within and outside Ukraine as to the constitutionality of the referendum procedure and of the amendments proposed. Some modifications were made as a result of rulings by the Constitutional Court. The Venice Commission, which is an advisory body on constitutional law set up within the Council of Europe, still concluded that two of the changes to the constitution which are now due to be adopted "might raise serious problems as regards democracy, the rule of law and the balance of powers".

In the Council of Europe's Parliamentary Assembly, the question of demanding suspension of Ukraine's membership of the organisation has repeatedly been considered. This has also been due to the poor human rights situation in Ukraine. The death penalty has been abolished, but there are according to Amnesty International numerous reports on torture of detainees, sometimes resulting in death.

Tensions between the Russian minority and Ukrainians have risen in Lviv and the western parts of Ukraine, but in the rest of the country, such problems are small. However, there are reports that police subjects both Roma and dark-skinned persons to violence and abuse. Also, returning Crimean Tatars face difficulties.

The French Presidency's Work Plan for the implementation of the Common Strategy included EU action in relation to the consolidation of democracy, the rule of law and public institutions. Democracy, rule of law and human rights issues are reportedly regularly raised by the EU in its political dialogue with Ukraine at all levels. Ukraine's ability to make progress in these regards is of critical importance to its prospects of success both in deepening relations to European institutions and in attracting foreign investment and achieving economic growth.

### *Economic transition*

Economic development in Ukraine after the fall of communism have a number of features in common with that in Russia, but is even more sombre. Oligarchs have built fortunes on privileged relations to corrupt or semi-corrupt politicians and officials, ruthless exploitation of opportunities provided by highly defective tax laws, regulatory frameworks and administrative procedures or outright fraud and criminal behaviour. The miserably irrational energy sector has provided a particularly fertile breeding ground for such careers.

For many ordinary people, the economic decline has spelled disaster. Poverty is widespread and real unemployment has been estimated to around 25 per cent. Mortality rates have increased and the population is decreasing with some 300 000 persons per year.

Deficits in foreign trade and public finances have forced Ukraine to raise loans. Its external debt is now in the order of 13 billion USD and debt servicing is a major burden for the cash-strapped state. At the same time, capital flight has deprived the economy of some 10-30 billion USD.

After having suffered GDP falls for nine consecutive years, Ukraine in 2000 registered growth. The recent dampening of the power struggles within the Parliament and between the Parliament and the President and Government contributes to creating more stable conditions and reform efforts have gathered momentum. If reform efforts continue, not least as regards taxation, and the business climate is considerably improved, Ukraine may become attractive for foreign direct investment. The EU is currently giving policy and legal advice, in particular in relation to privatisation. Together with other actors, it also seeks to promote energy sector reform, which is a very pressing need.

In line with a Memorandum of Understanding (MoU) signed by Ukraine, the G-7 Group of industrialised countries and the European Commission in 1995, Ukraine closed the last operating reactor of the Chornobyl nuclear power plant on 15 December 2000. In the MoU, Ukraine is promised important financial aid for the completion of two new reactors at two other sites as replacement capacity (the so-called 'K2R4' reactors). The EU should honour its commitment in the MoU and go ahead with its planned Euratom loan. At the same time, it should insist that Ukraine continue the radical reform of its energy sector that it has recently embarked upon.

## **Ensuring stability and security and meeting common challenges on the European continent**

Ukraine has participated in the IFOR and SFOR forces in Bosnia and currently makes a contribution to the KFOR peacekeeping force in Kosovo through a joint Ukrainian-Polish battalion. The EU recognises Ukraine's constructive role in south-eastern Europe and has also welcomed its contributions to the search for solutions to problems in Moldova, notably concerning the Transdnistria-region. Ukraine's active participation in NATO's Partnership for Peace has already been mentioned.

It should be noted that Ukraine is also an important arms exporter. Known transfers in recent years include e.g. Pakistan, India, China, Indonesia, Algeria and Sierra Leone. As pointed out in Parliament's resolution on the implementation of the EU Code of Conduct on Arms Exports of 5 October 2000, the EU should strive to extend the application of this code to other countries, including Ukraine. Given that Ukraine has indicated an interest in this, no time should be wasted.

### *Organised crime*

Ukraine's geographic position makes it an important East-West trade route. Unfortunately, this is true also when it comes to the smuggling of drugs, weapons and other goods as well as trafficking in human beings. Also, Ukraine is according to the International Organisation for Migration a source from which some 100 000 girls and women have been trafficked to Central and Western Europe and to the Middle East for sexual exploitation since the country became independent. In the EU, Italy and the Netherlands are common destinations. Ukrainian authorities' commitment to fighting this phenomenon is variable, but in some instances, the main problem may rather be a lack of funds.

Organised crime causes severe damage to the Ukrainian economy and its chances to develop. Fighting money laundering is one way of combating the reach and influence of such groups and here EU-Ukrainian co-operation is clearly important.

## **Support for strengthened cooperation between the EU and Ukraine within the context of EU enlargement**

The EU-accession of Poland, Slovakia, Hungary and Romania will affect Ukraine in a number of ways. Most obvious is that their shared borders will become EU external borders, to which Schengen rules (now becoming EU rules) will apply. In principle, this will mean intensified border controls and new or stricter visa requirements.

Small-scale cross-border trade provides the livelihood for at least tens of thousands of people in Western Ukraine and also benefits the local economy e.g. in the Polish border region. There is strong reluctance in Poland to adopt visa regulations that could deal a blow to this trade. A proper balance between the safeguarding of the EU's security interests and the need to protect and promote cross-border contacts must be found. This difficult task will be

facilitated if Ukrainian authorities become more capable of controlling criminal groups within the country and their international operations. The EU has strong reason to continue its assistance in this regard.

The general trade effects on Ukraine of EU enlargement may need to be more carefully studied, but should not represent any insoluble problem. Adverse effects should be possible to compensate and effectively outweigh through continued improvements in Ukrainian exporters' access to the entire EU market. In particular, efforts to prepare the ground for Ukrainian WTO accession and for an EU-Ukrainian free trade agreement should be intensified.

The INOGATE initiative for gas transports from the Caucasus to Europe and the TRACECA project providing a similar road and rail link must also be taken forward.

### **The Common Strategy on Ukraine as part of a comprehensive Pan-European Policy of the EU**

The case of Ukraine clearly illustrates the problems the EU is facing in its ambitious enlargement process. Negotiations with twelve countries are ongoing and Turkey is a recognised candidate. The Feira European Council, in June 2000, recognised all the countries of the Western Balkans as potential candidates for EU membership. Ukraine has set itself the goal of being ready for EU membership in 2007. Moldova, Belarus and the three countries of Southern Caucasus may well follow suit. And if Russia would, at some point in the future, apply for membership, its European credentials can certainly not be considered less convincing than Turkey's.

Ukraine has adopted an ambitious programme for EU-integration. Nevertheless it risks facing new barriers to trade and human contacts as its Western borders become external borders of an enlarged EU. Moreover, the view that Ukraine would not be eligible for EU membership is presented in the general debate.

Parliament has recently stated that 'simultaneously with the ongoing enlargement process, the EU should develop a wider Pan-European cooperation by taking into account the situation in the Balkans, the relations with Russia and Ukraine, the Northern Dimension as well as the challenges of deepening cooperation in the Mediterranean'. It has proposed 'that the prospect of participation in a new European area based on trade, security, protection of the environment and fundamental rights be opened up to countries with which accession is not being negotiated at present; participation in such an area must not preclude eventual membership of the EU'<sup>1</sup>

Your rapporteur strongly supports these ideas and considers that they should be further elaborated. In so doing, the EU should pay special attention to the present work and potential to take on wider roles of the Council of Europe and the OSCE. Creating yet another

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<sup>1</sup> Resolution on the enlargement of the European Union, adopted on the basis of the Brok Report 4.10.2000, recital M and para 28 (not yet published in OJ C)

multilateral forum could easily lead to duplication of work.

Your rapporteur is of the opinion that we should combine the enlargement process with both the bilateral and multilateral external relations of the Union.

As the Union gradually becomes larger, candidate countries become members and neighbouring countries become candidates.

We already use our bilateral external relations to prepare candidate countries and potential candidate countries for membership. The Union and its Member Countries should utilise the existing multilateral organisations, as well.

These Pan-European fora should be utilised in promoting the goals of integration in the whole of Europe and even on a Trans-European level.

Thus, we should build a wider Europe both through steadily progressing enlargement and through pursuing coordinated bilateral and multilateral external policies.

#### *The Organization for Security and Cooperation in Europe (OSCE)*

The OSCE was created to maintain stability and enhance security in Cold War Europe. It also enhanced change by promoting human rights, democracy, cultural interaction and economic cooperation. During the transition the OSCE provided us with the means to govern those revolutionary developments.

The European Union should use the OSCE in maintaining peace and security and in promoting Pan-European cooperation in certain areas, especially in the fields, where we could benefit from the Trans-European nature of this organisation.

Today and in the future the OSCE should concentrate on security issues. It could be developed into a collective regional security arrangement under the UN Charter. In crisis management the OSCE could use the resources of NATO, EU, CIS and individual member countries.

The OSCE should continue its activities in promoting democracy, human rights and minority rights. In these fields, there should be close cooperation and a clear division of labour between the OSCE and the Council of Europe.

In promoting cooperation in the "Second Basket" we should consider the possibility of merging or at least linking the activities of the UN Economic Commission for Europe (ECE) with those of the OSCE.

Because of the Trans-European nature of the OSCE we should consider if we could utilise it as a multilateral forum to enhance the Northern and Southern Dimensions of our policies.

The Northern Dimension includes not only the Baltic Sea Region, but also the Barents Region and the Arctic. The Arctic Ocean is surrounded by OSCE Member Countries. It should be seen as a link between Europe and America and as an important area for cooperation.

In the South, in the Mediterranean region, we should consider using the OSCE as a framework for promoting the goals of the Barcelona process. The neighbouring Mediterranean countries have already been involved in the activities of the OSCE. Because of the Trans-European nature of the organisation, they could even become members. In the Mediterranean we can also benefit from the Trans-Atlantic nature of the OSCE; in this region Europe and America have to work together.

The European Union has already decided to implement the method of Joint Action in the framework of the OSCE. Now it is time to start utilising this forum systematically and effectively in promoting our common goals in all fields.

### *The Council of Europe*

The Charter gives the Council of Europe a wide mandate, which also includes economic cooperation. However, the establishment of the European Coal and Steel Community created a "core" inside it and started a division of labour, which limited the activities of the Council of Europe mainly to human rights and culture.

Now we should start using the Council of Europe as an important instrument of our Pan-European policies. The "core" should take the lead.

The Council of Europe has well-functioning institutions - Parliamentary Assembly, Council of Ministers and a secretariat - which should be given new tasks.

There is an urgent need for Pan-European cooperation in several fields, such as transport, energy, nuclear safety, environment and the fight against crime.

By creating multilateral European cooperation in the framework of the Council of Europe we could immediately promote some goals of the enlargement process on the whole continent. In this way we could also assist the candidate countries to prepare for membership. In some cases it could even lessen political pressures for too early membership.

We should have a Joint Action also in the Council of Europe. In principle, it should cover all areas of our policies. We should systematically analyse our possibilities to utilise this important forum in promoting effectively our common goals.

Your rapporteur realises that these ideas need to be further developed. Here he would only like to inspire some discussion concerning the Pan-European policies of the Union.

When gradually creating the common foreign policies of the Union we should have an open mind to consider different ideas.

### **Conclusion**

Ukraine has successfully consolidated its newly gained status as an independent state. Its internal political, economic and social development has, however, been full of

disappointments and produced a dramatic decline in the standard of living.

Ukraine's problems are internal and attributable to a failed transition process. When raising to the challenge of reversing the trends, the Ukrainian government and people need to foster a new civic spirit. The different branches of government must focus firmly on the main problems of the country and avoid destructive power struggles. They must prove their ability to work within the constitutional framework, strictly respect democratic procedures and let the media and civil society play their full roles. Words must be followed by deeds when it comes to respecting human rights protected by treaties to which the country is a party.

For the economy to recover and the country to bounce back into its natural place as one of the more prosperous in the world, order must be brought to the taxation system, the regulatory framework for business activities and law enforcement. Incentives to invest in productive capacity must be created and opportunities to build fortunes on exploiting political contacts and legal and administrative weaknesses must rapidly be closed.

In the absence of a new commitment within Ukraine to political and economic reform and of tangible results, there will be little that the EU, the international financial institutions or other actors can do to assist Ukraine.

By adopting its Common Strategy, the EU has clearly demonstrated the importance it attaches to developing its relations with Ukraine. Your rapporteur strongly hopes that internal developments in Ukraine will soon make it possible to put the taking of a number of new steps on the agenda, such as the participation of Ukraine in more EU programmes and activities and the setting up of a free trade area.

17 January 2001

**OPINION OF THE COMMITTEE ON CITIZENS' FREEDOMS AND RIGHTS,  
JUSTICE AND HOME AFFAIRS**

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the Common Strategy of the European Union on Ukraine  
(C5-0208/2000 - 2000/2116(COS))

Draftsman: Anna Terrón i Cusí

**PROCEDURE**

At its meeting of 4 September 2000 the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs appointed Anna Terrón i Cusí draftsman.

It considered the draft opinion at its meetings of 4 December 2000 and 16 January 2001.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Graham R. Watson, chairman; Robert J.E. Evans, vice-chairman; Anna Terrón i Cusí, draftsman; Mary Elizabeth Banotti, Alima Boumediene-Thiery, Marco Cappato, Michael Cashman, Charlotte Cederschiöld, Carmen Cerdeira Morterero, Ozan Ceyhun, Carlos Coelho, Thierry Cornillet, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Pernille Frahm, Daniel J. Hannan, Jorge Salvador Hernández Mollar, Anna Karamanou, Margot Keßler, Timothy Kirkhope, Baroness Sarah Ludford, Luis Marinho, William Francis Newton Dunn (for Jan-Kees Wiebenga pursuant to Rule 153(2)), Roy James Perry (for Ewa Klamt pursuant to Rule 153(2)), Hubert Pirker, Fodé Sylla, Maurizio Turco and Gianni Vattimo.

## SHORT JUSTIFICATION

### I. INTRODUCTION

The emergence of Ukraine as an independent state following the break-up of the Soviet Union on 8 December 1991 was an historic event which changed both the map of Europe and the shape of international relations.

Even though Ukraine is now one of Europe's major states, the country remains largely unknown.

Ever since Ukraine gained its independence the European Union has devoted particular attention to its relations with that country, the majority forces within which have always aspired to join both the European Union and its related security organisations (either NATO or the WEU).

### II. SUBSTANCE OF THE EUROPEAN UNION'S COMMON STRATEGY ON UKRAINE

Article 13(2) of the Treaty on European Union states that: 'the European Council shall decide on **common strategies** to be implemented by the Union in areas where the Member States have important interests in common'.

Likewise, the second paragraph of Article 13(3) states that 'the Council shall recommend **common strategies** to the European Council and shall implement them, in particular by adopting **joint actions** and **common positions**'.

It is clear, therefore, that the common strategy has an essentially political content, which creates an obligation amongst the 15 EU Member States but does not impose any legal obligation on the Union with regard to Ukraine.

The common strategy is to be implemented by means of:

- (a) joint action by the 15 Member States in respect of a specific issue, which imposes a shared political obligation on the Member States to carry out that action;
- (b) a common position, which imposes a political obligation on the Member States to adopt and maintain the same stance in whatever international forum they may find themselves.

The common strategy on Ukraine was the first to be adopted by the European Union (together with the one on Russia) and it serves a dual purpose:

- (a) it expresses the Union's wish to strengthen a special relationship with a partner whom it regards as essential; Ukraine is an extremely important partner for the Union, for the stability of Europe and for the continent's security structure;
- (b) it establishes a policy guideline at the highest level, which should ensure that hitherto uncoordinated action is better orchestrated.

The text of the common strategy on Ukraine is divided into 67 paragraphs grouped under three general objectives involving the adoption of eight specific initiatives and appropriate means and instruments for implementing those initiatives.

The basic features of the common strategy are as follows:

**(A) PRINCIPAL OBJECTIVES**

- (a) support for the democratic and economic transition process in Ukraine;
- (b) ensuring stability and security and meeting common challenges on the European continent;
- (c) support for strengthened cooperation between the EU and Ukraine within the context of EU enlargement.

**(B) SPECIFIC INITIATIVES:**

- (a) the consolidation of democracy, the rule of law and public institutions in Ukraine;
- (b) support for the economic transition process in Ukraine;
- (c) cooperation to strengthen stability and security in Europe;
- (d) cooperation in the field of the environment, energy and nuclear safety;
- (e) support for Ukraine's integration into the European and world economy;
- (f) cooperation in the field of justice and home affairs;
- (g) regional and cross-border cooperation with neighbouring countries;
- (h) cooperation in the fields of culture, twinning and exchange programmes.

It should be pointed out that the above initiatives (which are based on the principal objectives and which are contained in the common strategy) will not prevent the drawing-up of further initiatives in the future.

The initial duration of the common strategy will be four years and each six-month Presidency will be required to submit to the EU Council a work programme for the implementation thereof.

**III. ASSESSMENT OF THE EU COMMON STRATEGY ON UKRAINE FROM THE POINT OF VIEW OF THE COMMITTEE ON CITIZENS' FREEDOMS AND RIGHTS, JUSTICE AND HOME AFFAIRS**

The objective of this opinion is, naturally enough, to analyse those elements of the common strategy on Ukraine, which are relevant to the powers and responsibilities of this committee:

**(A) ASPECTS RELATING TO HUMAN RIGHTS, THE RULE OF LAW AND THE CONSOLIDATION OF DEMOCRACY**

The common strategy makes particular reference to these aspects in points 10 and 50. In this respect, your draftsman takes the view that Ukraine must make considerable efforts to improve the current situation, given that there have been clear signs of democratic irregularities in all the elections held to date, which have been denounced by the various missions sent to observe elections in the country.

The same criticism might be made with regard to the establishment of a state genuinely governed by the rule of law, given that there is no really effective and independent judicial system, nor a public administration based on merit and professionalism.

Your draftsman also stresses the need to curb corruption, which appears to be widespread at all levels.

Your draftsman nevertheless welcomes the fact that Ukraine ratified Protocol No 6 to the European Convention on Human Rights this year and that, as a consequence, the death penalty has been removed from the Ukrainian Penal Code.

#### (B) ASPECTS RELATING TO DATA PROTECTION

Your draftsman welcomes the fact that point 20 of the common strategy reflects Member States' concerns with regard to the fundamental right to privacy which data protection legislation should guarantee.

On the other hand, however, and as a consequence of the above, your draftsman stresses that there should be no systematic transfer of data between the European Union and Ukraine until Ukraine guarantees European citizens the same level of data protection as the European Union. Ukraine should therefore adopt legislation guaranteeing a satisfactory level of data protection as soon as possible.

#### (C) ASPECTS RELATING TO THE FIGHT AGAINST DISCRIMINATION ON THE GROUNDS LISTED IN ARTICLE 13 OF THE TREATY ON EUROPEAN UNION

Your draftsman takes a highly critical view of this area of the common strategy because no specific reference is made to this key issue anywhere in the text. Point 53 of the common strategy merely mentions gender equality, but only in the employment field.

Your draftsman would therefore urge the Council to take account in its relations with Ukraine, and in the forthcoming review of the common strategy, of the fact that a new point should be included referring to the need to combat all discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

#### (D) ASPECTS RELATING TO JUSTICE AND HOME AFFAIRS

Your draftsman congratulates the Council on the fact that the common strategy pays particular attention to cooperation in the area of justice and home affairs, described in points 34, 35, 63 and 64, and that it has been far-sighted enough to take account of the fact that Ukraine will share borders with the European Union following the accession of four of the current applicant countries.

Your draftsman nevertheless takes a critical view of the lack of a well-defined timescale for the measures and the vague description of the measures to be adopted.

Your draftsman considers it highly positive that the common strategy seeks to guarantee that Ukraine fully applies the Geneva Convention on the status of refugees.

Nevertheless, pressure should be brought to bear on Ukraine to ratify and apply that international convention as soon as possible.

A further positive aspect is the fact that the common strategy also covers issues linked to illegal immigration, trafficking in human beings, cross-border security and the fight against organised crime in areas such as money laundering and illegal trafficking in weapons and drugs.

One criticism which must be made, however, is that the measures envisaged to tackle this problem lack both precision and scope, despite the availability of reliable information revealing that trafficking in human beings and money laundering is currently being perpetrated on a vast scale in Ukraine, without the necessary measures being taken by the Ukrainian authorities to eradicate such crimes.

Your draftsman considers it unacceptable that no provision has been made for any specific measures in this regard.

Finally, your draftsman takes a highly positive view of the evaluation measures laid down with a view to making the corresponding adjustments, for example in the fight against illegal immigration, even though it is to be regretted that no provisions have been included on the need to conclude an agreement with Ukraine on the readmission of its own nationals, stateless persons and third-country nationals. The common strategy also fails to include any evaluation or adjustment measures with regard to the dialogue between the judicial authorities of the Member States and Ukraine in civil and criminal matters, or as regards cooperation between EU Member States' police forces, Europol and Ukrainian police forces.

## **CONCLUSIONS**

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs calls on the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to incorporate the following points in its motion for a resolution:

The European Parliament,

1. Expresses its support for the common strategy on Ukraine adopted by the European Council on 11 December 1999 in Helsinki;
2. Recognises that the proposed measures are necessary and takes a highly positive view of the overall strategy adopted with the objective of ensuring that both the European Union and its Member States coordinate all aspects of their policy towards Ukraine in a coherent and complementary manner;
3. Congratulates the Ukrainian authorities on the abolition of the death penalty in their penal code, in accordance with the European Convention on Protection of Human

Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and with Protocol No 6 to that Convention;

4. Welcomes the fact that Community programmes forming part of Tacis paid particular attention to promoting the rule of law in Ukraine during 2000;
5. Advocates the continuation of programmes forming part of Tacis and supported by the Council of Europe aimed at promoting respect for human rights among the Ukrainian authorities and media;
6. Regrets that a state genuinely governed by the rule of law has not yet been consolidated in Ukraine and urges, therefore, the Council, Commission and Member States of the Union to provide coordinated and coherent support for all measures leading to democratically clean elections, the creation of an independent judiciary and a professional and efficient administration and of media free from all interference;
7. Calls on Ukraine to combat corruption, which undermines the key principles of democracy;
8. Urges Ukraine to adopt the necessary legislative and operational measures to guarantee an adequate level of data protection by comparison with that required in the European Union;
9. Stresses the need for Ukraine to adopt all the necessary legal and operational measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, as well as discrimination in the field of employment;
10. Calls on Ukraine to sign and ratify the Geneva Convention on the Status of Refugees, along with other international conventions on the protection of migrants, and to apply them immediately; stresses that this is indispensable in order to improve EU-Ukraine cooperation on admission;
11. Points out that judicial and police cooperation between the European Union and Ukraine should be intensified in order to combat organised crime, in particular trafficking in human beings, money laundering and trafficking in weapons and drugs;
12. Asks that the European Union, in accordance with Article 31(e) of the EU Treaty, should adopt the necessary measures to classify as crimes, with the corresponding penalties, activities linked to trafficking in women, whose victims and exploitation networks have increasingly been of Ukrainian origin in recent years;
13. Stresses that cooperation in border management and the adjustment of Ukraine's visa policy in accordance with EC provisions should take full account of traditional economic and cultural relations between Ukraine and its neighbouring countries, whereas solutions for flexible forms of movement of individuals in border areas should be found;

14. Calls on Ukraine to sign, ratify and apply the United Nations Convention on Transnational Organised Crime;
15. Supports the European Union measures to assess the scale of illegal immigration.

9 February 2001

## **OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY**

for the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy

on the Common Strategy of the European Union on Ukraine  
(C5-0208/2000 – 2000/2116(COS))

Draftsman: Gordon J. Adam

### **PROCEDURE**

At its meeting of 25 May 2000 the Committee on Industry, External Trade, Research and Energy appointed Gordon J. Adam draftsman.

It considered the draft opinion at its meetings of 23 November 2000, 25 January and 6 February 2001

At the latter it adopted the following conclusions by 47 votes to 6.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Renato Brunetta, Nuala Ahern and Peter Michael Mombaur, vice-chairmen; Konstantinos Alyssandrakis, Maria del Pilar Ayuso (for Godelieve Quisthoudt-Rowohl) González, Ward Beysen (for Colette Flesch), Yves Butel, Massimo Carraro, Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Claude J.-M.J. Desama), Willy C.E.H. De Clercq, Harlem Désir, Raina A. Mercedes Echerer (for Yves Piétrasanta), Concepció Ferrer, Per Gahrton (for Caroline Lucas), Pat the Cope Gallagher, Fiorella Ghilardotti (for Elena Valenciano Martínez-Orozco), Neena Gill (for Glyn Ford), Norbert Glante, Lisbeth Grönfeldt Bergman (for Christos Folias), Michel Hansenne, Roger Helmer, Philippe A.R. Herzog, Hans Karlsson, Hans Kronberger (for Daniela Raschhofer purusant to Rule 138(2)), Helmut Kuhne (for François Zimeray), Bernd Lange (for Mechtild Rothe), Werner Langen, Rolf Linkohr, Eryl Margaret McNally, Erika Mann, Marjo Matikainen-Kallström, Angelika Niebler, Giuseppe Nisticò (for Umberto Scapagnini), Reino Paasilinna, Elly Plooij-van Gorsel, John Purvis, Alexander Radwan (for Guido Bodrato), Imelda Mary Read, Christian Foldberg Rovsing, Paul Rübig, Ilka Schröder, Konrad K. Schwaiger, Esko Olavi Seppänen, Astrid Thors, Claude Turmes (for Nelly Maes), Jaime Valdivielso de Cué, W.G. van Velzen, Alejo Vidal-Quadras Roca, Dominique Vlasto, Anders Wijkman, Myrsini Zorba.

## SHORT JUSTIFICATION

### Introduction

The common strategy that was agreed at the Helsinki Summit on 11 December 1999 is a follow-up to the Agreement on Partnership and Cooperation (PCA), which entered into force on 1 March 1998. The strategy is a comprehensive document in the sense that it covers the main subjects of mutual interest to both the EU and Ukraine. It will serve as a guidance document for at least four years. However, the document under consideration should be seen in the context of the responsibilities of this opinion giving committee, and in particular, the undertakings that the EU has assumed with regard to Ukraine as well as the developments that have taken place since the adoption of the common strategy.

The three principal objectives of the common strategy are 1. Support for the democratic and economic transition process, 2. Ensuring stability and security, 3. Support for strengthened cooperation between the EU and Ukraine. These are mainly to be attained by measures and actions that fall in the remit of this committee. As to objective 1, for example, the EU is committed to supporting the efforts of Ukraine that would lead to establishing a favourable environment conducive to increasing economic activity and to reforming its economic and social structures. And the common strategy specifies the following policies: a. macro-economic aiming at price stability, b. the establishment of an independent central bank, c. strengthening of prudential supervision, d. reform of the tax system, etc.

### The transition to a market economy

The main concern of the Strategy document is to help Ukraine build a functioning of a market economy. This has required a reform programme agreed with the IMF and the World Bank. The reform programme includes sector reform of agriculture, energy and transport as well as privatisation of large enterprises and liberalisation of prices while SMEs would be encouraged. The EU has committed itself to generous macro-economic assistance supporting Ukraine's effort with the 'reform programme', and debt relief or balance of payments urgencies or specific projects that are associated with the energy sector.

The transition to a market economy has not been easy. Ukraine in recent years has been in a stagflation. GDP at constant prices has fallen as follows: in 1996 by -10%, in 1997 by -3%, in 1998 by -1.7% and in 1999 by -3%. On the other hand, consumer prices increased by 39.7% in 1996, 10% in 1997, 22% in 1998 and 21% in 1999.

Despite the serious recession, Ukraine managed to constrain its public spending and hence has maintained a small public deficit (the ratio of deficit/GDP was -3.2% in 1996, -5.6% in 1997, -3.5% in 1998 and -1.3% in 1999). Equally Ukraine's current account deficit was managed with prudence (the ratio of current account deficit/GDP was -2.7 in 1996, -3.4% in 1997, -1.2% in 1998 and -2.1 in 1999). However, in order to manage its balance of payments and an increased risk of default, Ukraine used its foreign exchange reserves to pay foreign creditors. Ukraine's foreign exchange reserves were equivalent to 5.2 months of imports in 1996 but continuously fell and reached in 1999 the equivalent of less than one month of imports (it stood at only about 1.1 billion US dollars in 1999). Yet Ukraine was able to avoid a banking crisis during the Russian crisis of August 1998. But her foreign currency rating was downgraded from B3 to Caa1

(Moody's rating).

### Industrial restructuring

Progress has been recorded in privatisation of traditional industry, which has taken the form of sales to employees with vouchers. Over a quarter of the 2000 large enterprises has been sold, and small-scale privatisation is complete. Yet this method of privatisation (i.e. mass voucher) has left industry with little access to new capital and thus no major investment has taken place in the last five years. The Ukraine government intends to sell the state telephone monopoly, Ukrtelekom, in 2001.

Supporting the economic transition in Ukraine means at least the development of four processes: Trade, Investment, Technology and Finance. In none of these four areas, according to complaints of the Ukrainian government, has the international community been forthcoming with concrete proposals and means. Foreign direct investment is minimal, the lowest in the region on a per capita basis. But the EU counter-argues that there is no satisfactory legislation to protect and induce Foreign Direct Investment, and not a regulatory environment conducive to promoting private enterprise activity. In fact enterprises are subject to a high tax burden while the tax regulations are changed frequently, and the government have run significant expenditure arrears with inter-enterprises arrears having increased to worrying levels.

### Energy

Progress in the restructuring of the energy sector has been mixed. The electricity sector is faced with significant customer arrears, especially in the public and commercial sectors, and low cash collection. There have also been delays with the privatisation of distribution companies. However, in the field of *energy and nuclear safety*, the EU and Ukraine agreed on a "Recovery Plan". The plan covers issues of price liberalisation, privatisation of distribution companies, nuclear safety and infrastructure investment.

The recovery plan is partly based on the content of a Memorandum of Understanding (MoU) between the G-7 countries and the Government of Ukraine, which was agreed on in 1995, following the catastrophic accident of the Chernobyl nuclear power plant. The MoU is on the closure of the Chernobyl plant by the year 2000. In fact on 15 December 2000 the last remaining operational reactor was taken out of service and the Chernobyl NPP is now closed. In order to facilitate the closure of the Chernobyl nuclear power plant the international community pledged to support Ukraine to restructure completely its energy sector. The MoU in its attachment 1 stated the financial resources from the international community. Grants were of the order of US \$ 498 millions and loans from International Financial Institutions (IFI) and Euratom were of the order of US \$ 1,809 millions, a total of US \$ 2,307 millions.

As part of the Recovery Plan, the Commission decided in December 2000 to grant an Euratom loan of about US \$ 585,000,000 to Energoatom, the state company of Ukraine. The loan will contribute to the financing of the completion, modernisation, safety upgrade and commissioning of two nuclear plants, the unit 2 at Khmel'nitsky and unit 4 at Rovno Nuclear Power Plant (the so-called "Project"). The Commission representative appearing before this committee assured members that in granting the Euratom loan, the main aspects of the Project

were examined in detail and the conditions laid down were respected. Hence the aspects of nuclear safety, environmental concerns, economic viability, financial risks and political considerations have been taken into consideration.

### Accession to WTO

The Strategy document refers to the need that Ukraine should be integrated into European and world economy. This is an interesting subject for at least two reasons. Firstly, Ukraine is not yet considered as a would-be applicant for EU membership. Secondly, Ukraine does not fully participate in all international organisations and institutions. It has applied for WTO membership but accession is not expected to happen soon. These are serious hindrances to the proper development of relations between the EU and Ukraine, and the EU could do a lot more in this context to facilitate Ukraine's integration.

In fact Ukraine has introduced a number of trade restrictions and a temporary 2% import surcharge, which both are in violation with the provisions of the PCA. In addition companies exporting to Ukraine face a number of non-tariff barriers and discriminatory practices. There are customs duties, high excise taxes with a discriminatory clause leading to differential treatment, and there are no appeal procedures for import cases. In the area of standards and certification as well as intellectual property rights protection, Ukraine's laws and practices are not fully conforming to WTO standards and rules.

### Free Trade Area

There is another commitment made in the Strategy document: The establishment of an EU-Ukraine Free Trade Area (FRA). This possibility is foreseen in the PCA but the government of Ukraine complains that almost nothing has happened in this area, and that the EU is mainly interested in the first 3 or 6 candidate countries to accede, not really in Ukraine. In fact, Article 4 of the PCA provides for an EU-Ukraine Free Trade Area, and a feasibility study on such an initiative should be completed soon.

It would not be "unlikely" that the findings of such a study would concentrate on the range of obligations that Ukraine would have to assume if a FRA were to be mutually beneficial. Trade may increase total welfare but the distribution of trade gains is not evident. In a sense under a FRA Ukraine would be obliged to follow the restructuring example of the countries currently considered as candidates for accession to the EU. They had to comply with an agreement on competition rules, state aids, government procurement, technical standards, a reliable taxation system, an effective system of rules of origin, etc. Ukraine would face the same problems and obligations but in order to be able to implement a FRA, to the benefit of citizens of Ukraine, she would need to make a considerable effort to reform its administrative and judicial system.

### Other considerations

The infrastructure networks of the EU, both in their design and would-be implementation, stop at the borders of Ukraine. They do not link Ukraine with the EU. The Trans-European Networks are supposed to link these countries via the road and rail networks of the EU, but not much is being done at present.

EU technical assistance to Ukraine via the TACIS is, according to the Strategy document, satisfactory but a fuller examination of this aspect needs to be undertaken. The interesting thing to know is what other EU programmes, apart from TACIS, should be mobilised by the EU in order to serve the purpose of the Ukraine Strategy document so as to keep the promises made by successive EU Summits.

## CONCLUSIONS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, as the committee responsible, to incorporate the following amendments in its report:

### As regards industry, energy and trade

1. Believes that, given the scope and nature of the common strategy on Ukraine, priority should be given to supporting the efforts of Ukraine to reform its internal structures so that an institutional and regulatory framework, conducive to promoting sustainable economic development, trade, and investment and improving the efficiency of industry, in particular, the agricultural and energy sectors, while improving the level of environmental protection, in particular as concerns pollution from industry, be established as soon as possible;
2. Insists on the principle that Community technical assistance implemented either through the TACIS support programmes, or TEMPUS and DEMOCRACY projects, or macro-financial assistance, or any future measure, should add value to the economic transition process in Ukraine, and not be wasted in unnecessary consultative fees and studies.
3. Stresses the need for setting priorities over Community financing and notes the recent initiative of the Commission to raise a US\$ 585 million Euratom loan to finance the completion, rehabilitation and modernisation of two nuclear plants, the one concerns unit 2 at Khmelnytsky (K2) and the other concerns unit 4 at Rovno (R4). Requests the Commission to ensure that the Parliament's relevant committees are kept fully informed on the progress of the K2 and R4 completion, the construction of the sarcophagus at Chernobyl N°4 and the decommissioning of the Chernobyl Nuclear Power Plant
4. Reiterates its position that Community financing of nuclear plants should be conditional upon the following criteria:
  - a) Achieve a safety level equivalent to Western-type nuclear power operational and design safety,
  - b) Agree on an Environmental Action Plan, which will be implemented by the recipient country satisfactorily,
  - c) Contribute to decreasing energy dependency on third countries.

5. Insists that, in relation to the nuclear sector, the Commission gives priority to support of the Regulatory authority and monitors its independence, and capability in relation to, resources and staffing, and to the continuing efforts to deal the serious environmental and health consequences of the Chernobyl disaster;
6. Urges the Commission, in collaboration with the EBRD and the World Bank, to agree a comprehensive Energy Plan with the Ukraine Government. Such a plan to include, inter alia, upgrading of thermal power plants, the creation of a viable coal industry, and an effective energy efficiency strategy;
7. Believes that Community technical assistance should be geared towards improving Ukraine's VAT system, consolidating the system of cash collection in the energy sector, developing the underdeveloped capital markets and enforcing clear property rights, and addressing in general the endemic corruption problems;
8. Calls upon the Commission to submit to Parliament and Council the findings of the study requested by the Common Strategy, on a possible EU-Ukraine Free Trade Area (FTA) as foreseen in the March 1998 Partnership and Cooperation Agreement (PCA), and requests the Commission to undertake an impact assessment.
9. Supports Ukraine's application to accede to the World Trade Organisation (WTO) but an unprepared accession will not be in the interest of Ukraine or of the EU. Requests the Commission to report on the issues to be addressed before WTO accession can take place.