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SUBJECT: IMPEACHMENT THREAT AGAINST YUSHCHENKO

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Classified By: Ambassador William Taylor for reasons 1.4 (b,d).

Summary

1. (C) On January 15 the Ukrainian parliament (Rada) passed legislation that sets forth procedures necessary to impeach the president. President Yushchenko is expected to veto the legislation - a move the Rada will likely overturn. Rada contacts tell us that while the measure, once it becomes law, would make impeachment technically possible, PM Tymoshenko and her allies are unlikely to initiate impeachment proceedings with less than a year left in Yushchenko's term. Rather, Tymoshenko will likely use the threat of impeachment as a lever against Yushchenko in their ongoing political battle. Tymoshenko has threatened to launch impeachment proceedings against Yushchenko if he does not dismiss National Bank (NBU) Chairman Volodymyr Stelmakh. End Summary.

Rada Passes Bill on Temporary Investigative Commissions

2. (SBU) On January 15, 408 Rada MPs voted in favor of legislation that gives subpoena power to Rada temporary investigative commissions, allowing the Rada to compel testimony and information during their investigations. The enabling legislation sets forth procedures required to impeach the president in accordance with the constitution.

3. (SBU) The legislation was previously passed on September 2 with support from Tymoshenko Bloc (BYuT) and Party of Regions (Regions), but President Yushchenko's veto was upheld when BYuT pulled its support for the bill in early October in an effort to re-form the collapsed BYuT/OU-PSD coalition (Ref. A). The legislation enjoyed nearly unanimous support from BYuT, Regions, the Communists and Lytvyn Bloc, with 36 Our Ukraine-People's Self-Defense (OU-PSD) MPs voting in favor.

4. (C) BYuT MP Valeriy Pysarenko told us that the Rada has been waiting for this legislation to be passed for years, as it will give teeth to Rada investigations. Yushchenko is



expected to veto the legislation, a largely futile gesture as the Rada needs only 300 votes to overturn. OU-PSD MP and former close Yushchenko ally Roman Zvarych told us that "if

Yushchenko were smart" he would offer amendments to strengthen the law rather than vetoing it, as the law and related constitutional articles set a high hurdle to avoid impeachment for political reasons.

Impeachment Technically Possible, But Unlikely...

5. (U) According to the Constitution, in order to impeach the president for "state treason or other crime" a majority of the Rada must vote to appoint a special investigation commission to investigate the charges against the President. The January 15 legislation sets forth the procedures, and the authority, of the commission. Based on the conclusions of the commission, two-thirds (300) of the 450 Rada MPs must vote to move forward with impeachment proceedings. The commission report would then be forwarded to the Constitutional Court, which reviews the constitutionality of the impeachment proceedings, and the Supreme Court, which must confirm that the President's actions contain elements of "state treason or other crime." Once the case has been reviewed and affirmed by both courts, three quarters (338 of 450) of the Rada must vote in favor of impeachment for the president to be impeached.

6. (C) BYuT's Pysarenko told us that the legislation's provisions on impeachment are important, but that BYuT was unlikely to push for impeachment at this time. While the measure would, once enacted, make impeachment technically possible, the process is still quite long, and the bar is set high. With less than a year left in Yushchenko's term, it is more likely that BYuT will use the threat of impeachment to put pressure on Yushchenko rather than go through with impeachment procedures. Tymoshenko said the same thing in a lengthy press interview published January 24.

7. (C) Pro-coalition OU-PSD MP Volodymyr Arieiev told us that he and his People's Self-Defense colleagues were unlikely to support any efforts to impeach Yushchenko, but that any such effort was unlikely anyway. He said that BYuT wants to use the threat of impeachment "as a stick" to get Yushchenko to stop obstructing the government's work. Tymoshenko wants Yushchenko "out of the way, but not necessarily out of office," Arieiev said. Pro-coalition OU-PSD MP Mykola Katerynychuk told us that talk of impeachment is "not serious," and merely "presidential campaign PR." Opposition Regions MPs told us that Regions would not likely be unified in support of impeachment if it came up because it would set a bad precedent for future "political impeachments."

Blaming Yushchenko

8. (U) On January 23, Tymoshenko announced that she and her allies in the Rada did not intend to initiate impeachment proceedings against Yushchenko. She noted that, as the law is currently written, an impeachment "could take years," and it would only further destabilize the political situation in Ukraine. She noted, however, that if Yushchenko failed to remove NBU chairman Volodymyr Stelmakh, as demanded by Tymoshenko and the Rada, "the President would have to answer for that."

9. (U) In an emergency plenary session on January 26, the

Rada adopted two resolutions. The first assigned blame to Yushchenko for the economic crisis, in part because he had refused to replace Stelmakh. The second revoked the 2004 Rada confirmation of Stelmakh as NBU chair. The Presidential Secretariat immediately dismissed the revocation vote as unconstitutional and forwarded a request to the Constitutional Court for clarification. Deputy head of the Secretariat, Ihor Pukshyn, stressed that Stelmakh remains NBU chief regardless of the resolution.

10. (U) BYuT MP Svyatoslav Oliynyk, the author of the first resolution blaming Yushchenko for the economic crisis, said that the resolution makes the President personally responsible for the depreciation of the Ukrainian currency, misuse of funds in bank recapitalizations and "an absence of supervision" of commercial banks. Oliynyk conceded that the resolution was political, but did not rule out the possibility that it could form a basis for impeachment in the future.

Comment

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11. (C) Impeachment proceedings would only be technically possible once the Rada overrides the expected veto and any potential court challenges are resolved. This could take months, or longer. In the interim, Tymoshenko will hang the threat of impeachment over Yushchenko's head to pressure him in their ongoing political feud. Their personal and political enmity is back on full public display after a short respite during most of the gas crisis negotiations and the winter holidays.

TAYLOR

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