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Comments

Ukraine: Not Putting Itself on the Right Track for MAP?

Kate Klunk*

I. INTRODUCTION

In 1991, Ukraine gained its independence from the Soviet Union and set out on a path toward democracy and freedom.¹ As a struggling new democracy in Europe, Ukraine was taken under the wing of the North Atlantic Treaty Organization (“NATO”).² Throughout its working relationship with NATO, Ukraine has made strides towards forming a democratic government and a free market economy.³ In 2002, Ukraine set forth a goal to one day become a member of the NATO Alliance.⁴ Most recently, Ukraine has petitioned NATO to create a Membership Action Plan (“MAP”), which is the last major step in gaining a

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1. See *NATO Handbook*, p. 219, (2006), [hereinafter *NATO Handbook 2006*], available at <http://www.nato.int/docu/handbook/2006/hb-en-2006.pdf>.

2. See *id.*

3. See *id.*

4. See *id.* at 220.

membership invitation to join the NATO Alliance.⁵ While Ukraine has achieved great successes in areas of reform, NATO has agreed that Ukraine needs to implement more reforms before Ukraine can become a NATO member.⁶ After the December 2008 meeting on Ukraine's MAP application, NATO tasked Ukraine and former President Viktor Yushchenko and his administration with devising a strategy for implementing its reform goals for 2009.⁷ Since 2008, Ukraine has faced great economic and political challenges.⁸ Ultimately, Ukraine needs to decide if it wants to move forward with pro-western policies of democracy, free markets, and military cooperation, or if it prefers aligning itself with Russia. If Ukraine decides that strong ties with NATO is beneficial to its long-term success and security, Ukraine will need to complete its NATO homework to help put it back on track for a MAP.

Part II of this Comment describes NATO's goals, NATO's structure, and the pathway for a country to obtain an invitation to NATO membership.⁹ Part III details the history of the NATO-Ukraine relationship, while discussing current events surrounding NATO's decision to deny Ukraine a MAP.¹⁰ Part IV analyzes the benefits and drawbacks of inviting Ukraine to become a member of NATO and the reasons why Ukraine has been denied a chance at a MAP.¹¹ Ultimately, this comment concludes that despite Ukraine's ability to show it has accomplished meaningful reforms, many additional reform goals need to be met in order for NATO to feel comfortable with extending a MAP invitation to Ukraine, as well as extending an eventual invitation to join the NATO Alliance.¹² In the coming months and years, Ukraine's relationship with NATO hinges on President Viktor Yanukovich's political ideology and decisions as well as the will of the Ukrainian people.¹³ If Ukraine decides that maintaining strong ties with NATO is

5. See Press Release, NATO, Joint Statement at the Meeting of the NATO-Ukraine Commission at the level of Heads of State and Government (Apr. 4, 2008), [hereinafter NUC Meeting Bucharest], available at <http://www.nato.int/docu/pr/2008/p08-051e.html>.

6. See Press Conference by NATO Secretary General Jaap de Hoop Scheffer and Minister of Foreign Affairs of Ukraine, Volodymyr Ogrzyko, Following the Meeting of the NATO-Ukraine Commission in Foreign Ministers Session, (Dec. 3, 2008) [hereinafter Scheffer], available at <http://www.nato.int/docu/speech/2008/s081203f.html>.

7. See *id.*

8. See *infra* Part III.G.

9. See *infra* Part II.

10. See *infra* Part III.

11. See *infra* Part IV.

12. See *infra* Part V.

13. See *id.*

beneficial to its long-term success and security, Ukraine will need to complete its NATO homework to help put it back on track for a MAP.¹⁴

II. NATO—BACKGROUND AND PATHWAY TO MEMBERSHIP

A. *Creation of NATO—Its Goals and Purpose*

NATO is an alliance of twenty-six countries¹⁵ from North America and Europe.¹⁶ NATO is committed to upholding the goals and the mission of the North Atlantic Treaty signed on April 4, 1949 in Washington, D.C. (“North Atlantic Treaty”).¹⁷ The NATO Alliance came into being after the end of World War II.¹⁸ At the beginning of the Cold War, countries of Western Europe and North America believed that military and economic support and cooperation was necessary to prevent more nations from falling under the Iron Curtain of Soviet Communism.¹⁹ To respond to the threats posed by the Soviets, leaders of original twelve nations²⁰ signed the North Atlantic Treaty. Under the North Atlantic Treaty, the signatory nations agreed to build up their individual defense systems and band together to resist aggression.²¹ The twelve original countries knew that through the NATO partnership they could preserve the national sovereignty of each nation through mutual support.²² Since NATO’s inception over sixty years ago, its membership has more than doubled to twenty-six countries.²³

14. *See id.*

15. *See* NATO Organization and Structure, <http://www.nato.int/structur/index.html> (last visited Feb. 6, 2008).

16. *See id.*

17. The original North Atlantic Treaty was signed on April 4, 1949 in Washington, D.C. and is known as both the North Atlantic Treaty and the Washington Treaty. *See* NATO, Frequently Asked Questions, [hereinafter FAQ] <http://www.nato.int/issues/faq/index.html#A1> (last visited May 9, 2010).

18. *See* Lord Ismay, Former Sec’y Gen. of NATO (1952-1957), *NATO: What it is and how it works*, Lecture before the Royal United Serv. Inst. [hereinafter Ismay], (Nov. 5, 1954) available at <http://www.nato.int/docu/speech/1954/s19541105.htm>.

19. *See id.*

20. The twelve original countries to sign the NATO Treaty include: the United States, the United Kingdom, Canada, France, Denmark, Iceland, Italy, Norway, Portugal, Belgium, Netherlands, and Luxembourg. *See* Carol L. Bowers, *NATO Looks to Expand Membership at Bucharest Summit*, AM. FORCES PRESS SERV., Apr. 1, 2008 available at <http://www.defenselink.mil/news/newsarticle.aspx?id=49430>.

21. *See* Ismay, *supra* note 18.

22. *See id.*

23. NATO member states currently include: Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Turkey, United Kingdom, and the United States. *See* NATO Member Countries, <http://www.nato.int/structur/countries.htm> (last visited May 9, 2010).

For nearly sixty years, the NATO Alliance has aimed to promote values of democracy, liberty, the rule of law, and the peaceful resolution of disputes.²⁴ Specifically, the North Atlantic Treaty's principle values include to "live in peace with all peoples and all governments" and "to safeguard the freedom, common heritage and civilization of their peoples."²⁵ Additionally, NATO's fundamental goal is to protect the security and freedom of its member nations through collective decision-making and defense.²⁶ NATO's cornerstone of the system of "collective defence" is found in Article 5 of the North Atlantic Treaty.²⁷ The result of this collective defense is a greater sense of stability and security among member countries.²⁸

B. *NATO Decision-Making*

To ensure that the values and goals of NATO are upheld and that the collective defense and security of NATO is maintained, Article 9 of the North Atlantic Treaty created the North Atlantic Council ("NAC"), which serves as NATO's decision-making body.²⁹ Currently, the NAC is comprised of representatives from the twenty-six member countries.³⁰

24. See North Atlantic Treaty, art. 10, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243, [hereinafter NATO Treaty] available at <http://www.nato.int/docu/basicxt/treaty.htm#Art10>.

25. See NATO Treaty, *supra* note 24, pmbl.

26. See FAQ, *supra* note 17.

27. Article 5 of the North Atlantic Treaty states: "The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area." NATO Treaty, *supra* note 24, art. 5.

28. See The NATO Xperience Dialogue and Cooperation: The Benefits of NATO, [hereinafter Xperience], <http://www.nato.int/docu/xperience/uk/21/21.html> (last visited May 7, 2010).

29. Article 9 states: "The Parties hereby establish a Council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall be so organized as to be able to meet promptly at any time. The Council shall set up such subsidiary bodies as may be necessary; in particular it shall establish immediately a defense committee which shall recommend measures for the implementation of Articles 3 and 5." NATO Treaty, *supra* note 24, art. 9.

30. Under Article 5's system of collective defense, should one member country be attacked, the other member countries would consider it an attack against all states and would respond as one united defense force. Collective defense allows smaller nations to participate in operations that they would normally not be able to execute or financially afford on their own. See North Atlantic Council: NATO's Key Political Decision-Making Body, <http://www.nato.int/issues/nac/index.html> (last visited May 6, 2010).

These representatives consist of Ambassadors, Prime Ministers, or heads of state and government.³¹

NATO's decision-making process operates by consensus.³² All decisions and actions require unanimous approval by all twenty-six member countries.³³ The NATO Secretary General serves as chair of the NAC and helps facilitate the decision-making process.³⁴ Should one member country not agree, the issue does not move forward. The NAC makes decisions on all political, military, and security issues affecting the NATO Alliance.³⁵

C. *NATO Military Structure*

Included in the NATO representative structure are military commanders and troops from member countries that serve at NATO's military installations throughout Europe and around the world.³⁶ The head of NATO's military arm is the Military Committee ("MC").³⁷ Each NATO member country appoints a senior military officer to serve as its representative to the MC.³⁸ The MC oversees military policy and strategy development and implementation for all NATO-led operations and missions.³⁹ NATO's military command structure is based on the ideals of multinational force planning and organization.⁴⁰ NATO strategic military advisors on the MC plan joint training, joint exercises, and joint operations among member and partner nations.⁴¹ To quickly respond to problems of instability and insecurity throughout the world with peacekeeping, humanitarian, as well as defense forces NATO has created the Combined Joint Task Force ("CJTF") made up of multiple

31. *See id.*

32. *See* Consensus Decision-Making at NATO, <http://www.nato.int/issues/consensus/index.html> (last visited May 6, 2010).

33. *See id.*

34. *See id.*

35. To cover the day-to-day decision-making and administrative functions of NATO, each NATO member country assigns a permanent NATO representative and staff to represent its interests at the NATO headquarters in Brussels, Belgium. *See id.* These NATO representatives meet regularly to discuss the business of NATO and travel to member and partner countries to carry out the business of NATO. *See id.* This centrally located representative system allows for an efficient response to an international crisis involving a member or partner country, because it does not require summoning country leaders to travel and convene in Belgium on the issue. *See id.*

36. *See* NATO Topics: The Military Committee: NATO's Senior Military Authority, http://www.nato.int/issues/military_committee/index.html (last visited Feb. 7, 2009).

37. *See id.*

38. *See id.*

39. *See id.*

40. *See* NATO Military Structure: A New Command Structure for a Transformed Alliance, (April 2007), available at <http://www.nato.int/docu/briefing/nms/nms-e.pdf>.

41. *See id.*

nations and multiple service branches for the execution of specific tasks.⁴² Over the past ten years, NATO forces have helped bring stability to nations all over the world including Bosnia, Kosovo, Macedonia, Afghanistan, Iraq, and Darfur.⁴³

D. NATO's Response to the Threat of Terrorism and Weapons of Mass Destruction

In addition to NATO's peacekeeping and military mission, NATO is transforming its collective security and military capabilities to respond to the threats of terrorism in the 21st century.⁴⁴ During the 2002 NATO Summit in Prague, NATO launched a modernization process of its crisis management operation to allow member countries to better respond to terrorism.⁴⁵ NATO's crisis management operation, the Partnership Action Plan against Terrorism ("PAP-T"), allowed for better coordination of missions among NATO members.⁴⁶ To date, the PAP-T has led to increased cooperation among NATO members and partner countries in border security, terrorism training, information sharing, investigating and eliminating terrorist financing, and crisis management preparation for future attacks.⁴⁷ Thus far, PAP-T has helped to bring stability and peace to war torn regions of the world, and has protected people against terrorism.⁴⁸ In particular, NATO member and partner countries have cooperated in anti-terror operations in Afghanistan and Bosnia and anti-terror maritime operations in the Mediterranean.⁴⁹

E. NATO Enlargement: Criteria and Process for Membership

1. Relationships with Non-Member Countries & Expansion

With the fall of the Soviet Union, NATO began deepening its relationships with non-member countries throughout Europe by setting up forums to promote dialogue and cooperation among member and non-member countries.⁵⁰ NATO saw the end of the Cold War as an

42. *See id.*

43. *See NATO Handbook 2006, supra* note 1, at 223.

44. *See* Prague Capabilities Commitment, http://www.nato.int/issues/prague_capabilities_commitment/index.html (last visited May 10, 2010).

45. *See id.*

46. *See NATO Handbook 2006, supra* note 1, at 205.

47. *See id.*

48. *See* NATO Topics: The Partnership Action Plan on Terrorism, <http://www.nato.int/issues/papt/practice.html> (last visited Feb. 6, 2008).

49. *See id.*

50. *See* Xperience, *supra* note 28.

opportunity to spread the ideals of democracy and freedom throughout former Soviet states in Eastern Europe.⁵¹ A 1995 NATO Study on NATO Enlargement, helped NATO realize the possibilities of expanding these democratic ideals among European states.⁵² The study determined that there was a need to improve security in Europe and extinguish any political, social, and military remnants of the Cold War that were still dividing many nations.⁵³ Enlarging NATO membership was considered the best option to enhance security, promote democracy, and foster more consensus building throughout Europe and the North Atlantic region.⁵⁴

NATO's attempts at expansion have succeeded, and NATO is currently forging new relationships with emerging democracies such as Ukraine, Russia, countries in the Mediterranean; and countries in the broader Middle East—including Turkey.⁵⁵ Furthermore, NATO is developing a strategic partnership in the areas of security and crisis management with the European Union ("EU").⁵⁶ Many countries partnering with NATO on military, security, or peacekeeping operations have formed these partnerships to help prove themselves experienced and capable in these areas in hopes of gaining eventual membership into the NATO Alliance.⁵⁷

2. Pre-Membership Process

Before the official NATO membership process begins, countries aspiring to become members of NATO must complete the following steps: 1) become a member of the Partnership for Peace ("PfP")⁵⁸; 2) create an Individual Partnership Action Plan ("IPAP")⁵⁹; 3) take part

51. *See id.*

52. *See NATO Handbook 2006, supra* note 1, at 185.

53. *See id.* at 185-186.

54. *See id.* at 186.

55. *See* Press Release, NATO, The Alliance's Strategic Concept, Approved by the Heads of State and Government Participating in the meeting of the North Atlantic Council (Apr. 23-24, 1999) *available at* <http://www.nato.int/docu/pr/1999/p99-065e.htm>.

56. Most recently, NATO and EU staffers met to discuss piracy and maritime security issues off the coast of Somalia. *See id.*; *see also* North Atlantic Council meets with Political and Security Committee of the European Union <http://www.nato.int/docu/update/2008/11-november/e1124a.html> (last visited May 10, 2010).

57. *See Road to Riga: Reflecting in Riga*, NATO REVIEW (NATO, Brussels, Belg.), Winter 2006, *available at* <http://www.nato.int/docu/review/2006/issue4/english/art2.html>.

58. *See* Press Release, NATO, Ministerial Meeting of the North Atlantic Council/North Atlantic Cooperation Council, Partnership for Peace: Invitation, Issued by the Heads of State and Government Participating in the Meeting of the North Atlantic Council (Jan. 10-11, 1994), [hereinafter PfP Invitation] *available at* <http://www.nato.int/docu/comm/49-95/c940110a.htm>.

59. *See* NATO Topics: *Individual Partnership Action Plans*, (Sept. 10, 2008), [hereinafter IPAP] *available at* <http://www.nato.int/issues/ipap/index.html>.

in the Intensified Dialogue Process;⁶⁰ and 4)⁶¹ complete a MAP.⁶¹ Even after a country completes these steps, the country must still wait for all NATO members to agree on extending it an invitation for membership.⁶²

a. Partnership for Peace

The first step on the path to NATO membership is joining the PfP.⁶³ At the 1994 NATO Summit in Brussels, Belgium, NATO launched its preliminary requirements for the PfP initiative.⁶⁴ The PfP program sets forth a plan for “practical bilateral cooperation between individual partner countries and NATO.”⁶⁵ The PfP program must be “tailored to individual needs and jointly implemented at the level and pace chosen by each participating government.”⁶⁶ Each PfP country is required to submit a Framework Document, which lays out the specific goals and commitments for the PfP country.⁶⁷

Once NATO committees assess the goals and capabilities of a PfP country, the country then creates a Presentation Document which is voted on by NATO’s full body.⁶⁸ Upon approval of the Presentation Document, a series of two-year Individual Partnership Program (“two-year programs”) are developed by the PfP country and NATO.⁶⁹ These

60. See Press Release, NATO, Madrid Declaration on Euro-Atlantic Security and Cooperation, Issued by the Heads of State and Government Participating in the Meeting of the North Atlantic Council (July 8, 1997) [hereinafter Madrid] available at <http://www.nato.int/docu/pr/1997/p97-081e.htm>.

61. See NATO Handbook, Ch. 3, *The Opening Up of the Alliance, The Process of NATO Enlargement, The Membership Action Plan*, (2002), available at <http://www.nato.int/docu/handbook/2001/hb030103.htm>.

62. See NATO Treaty, *supra* note 24, art. 10.

63. See PfP Invitation, *supra* note 58, see also Press Release, NATO, Ministerial Meeting of the North Atlantic Council/North Atlantic Cooperation Council, Partnership for Peace: Framework Document, Issued by the Heads of State and Government Participating in the Meeting of the North Atlantic Council (Jan. 10-11, 1994) [hereinafter PfP Framework Document] available at <http://www.nato.int/docu/comm/49-95/c940110b.htm>.

64. See PfP Invitation, *supra* note 58, see also PfP Framework Document, *supra* note 63; see also NATO Topics: *The Partnership for Peace*, [hereinafter PfP] <http://www.nato.int/issues/pfp/index.html> (last visited May 10, 2010).

65. See PfP Invitation, *supra* note 58; see also PfP Framework Document, *supra* note 63, see also PfP, *supra* note 64.

66. See *supra* note 65.

67. These commitments by the PfP countries include: political commitments to preserve democratic societies; to maintain the principles of international law; to fulfill obligations under the UN Charter, the Universal Declaration of Human Rights, the Helsinki Final Act and international disarmament and arms control agreements; to refrain from the threat or use of force against other states; to respect existing borders; and to settle disputes peacefully. See *supra* note 65.

68. See *id.*

69. See *id.*

two-year programs provide a list of goals and priorities a PfP country should aspire to achieve over the course of two years.⁷⁰ Becoming a PfP country does not ensure eventual NATO membership. However, by becoming a PfP country, the prospective nation is placed in a position where it can prove to current member countries that it has the military and emergency response capabilities to carry its own weight as a possible future member country.⁷¹

For example, PfP countries, including Ukraine have assisted with NATO-led peacekeeping operations in the Balkans and Afghanistan.⁷² These joint operations have improved relations among nations and have increased acceptance and confidence in the PfP country's military capabilities.⁷³ PfP countries also gain a greater understanding of NATO's complex military structure.⁷⁴ Ultimately, this helps the prospective member country better support NATO in future peacekeeping operations.⁷⁵ After a country has proved itself capable of supporting NATO-led peacekeeping operations, NATO may invite the country to work with NATO on the development of an IPAP.⁷⁶

b. Individual Partnership Action Plan

During the 2002 NATO Summit in Prague, NATO introduced the IPAP requirement for membership.⁷⁷ IPAP was created as a means of opening up relations with countries that are interested in furthering a stronger political and military relationship with NATO.⁷⁸ Prospective member countries are required to develop IPAPs that set out domestic objectives for the country to work to achieve over a two-year period.⁷⁹ Among these objectives, NATO requires the country to focus its IPAP efforts on "political and security issues; defense, security and military issues; public information; science and environment; and civil emergency planning."⁸⁰ Further, IPAP permits countries to receive tailored advice and assistance from NATO on comprehensive reforms

70. Most of these goals focus on military interoperability and defense, defense training, improvement of communications and information systems, and crisis management planning. *See NATO Handbook 2006, supra* note 1, at 198.

71. *See id.* at 199.

72. *See id.* at 199, 233.

73. *See id.* at 203.

74. *See id.*

75. *See NATO Handbook 2006, supra* note 1, at 203.

76. *See IPAP, supra* note 59.

77. *See id.*

78. *See id.*

79. *See id.*

80. *See id.*

focusing on institutional reforms within the prospective member country.⁸¹

The IPAP is not a means of guaranteeing membership into NATO.⁸² Instead, it is a way to help the prospective member country address political, security, and emergency planning issues and implement necessary reforms.⁸³ The IPAP builds upon the reforms and goals of the PfP process, but addresses more wide-ranging reforms including political issues.⁸⁴ Once NATO believes the prospective member country has adequately addressed these reforms, the prospective member country is invited to begin a process of an Intensified Dialogue.⁸⁵

c. Intensified Dialogue Process

The Intensified Dialogue process involves an in-depth discussion of the political, military, economic, and security goals and proposed reforms of the prospective member country.⁸⁶ The Intensified Dialogue first began after the 1997 Madrid Summit, when NATO decided, “to continue the Alliance’s intensified dialogues with those nations that aspire to gain NATO membership or that otherwise wish to pursue a dialogue with NATO on membership questions.”⁸⁷ These Intensified Dialogue discussions are more frequent and are more focused on assisting the prospective member country with addressing and achieving the goals set forth throughout the membership accession process.⁸⁸ Once NATO feels comfortable that the prospective member country has implemented reforms discussed through the Intensified Dialogue, NATO invite the country to begin the final major step toward NATO membership, the MAP.

d. Membership Action Plan

The MAP process is the final step of the formal application process for countries wishing to join NATO.⁸⁹ The MAP program, established during NATO’s Washington, D.C. Summit in 1999, builds upon PfP,

81. See *NATO Handbook 2006*, *supra* note 1, at 200.

82. See *IPAP*, *supra* note 59.

83. See *id.*

84. See *NATO Handbook 2006*, *supra* note 1, at 200.

85. See *Madrid*, *supra* note 60.

86. See *id.*

87. *Id.*

88. See *id.*

89. See *id.*

IPAP, and Intensified Dialogues.⁹⁰ A country's creation and implementation of a MAP does not guarantee a certain timeframe for a decision on membership, nor does it guarantee eventual membership into NATO.⁹¹ NATO's grant of a MAP to a country is merely the continuation of dialogue and an open door to the possibility of membership.⁹²

During the MAP process, NATO asks each aspiring country to identify specific goals and how it intends to achieve them. MAP goals for reform cover the following issue areas: political and economic issues,⁹³ defense/military issues,⁹⁴ resource issues,⁹⁵ security issues,⁹⁶ and legal issues.^{97 98} Feedback on the implementation plan of the goals is typically provided by a team of NATO staff possessing expertise in the

90. See Press Release, NATO, The Washington NATO Summit, Membership Action Plan (MAP) (Apr. 24, 1999), [hereinafter MAP] available at <http://www.fas.org/man/nato/natodocs/99042460.htm>.

91. See *id.*

92. See *id.*

93. Prospective member countries are expected to use peaceful means to settle disputes with other nations, commit to rule of law, honor human rights, encourage peace, maintain friendly relations with neighbor countries, promote economic stability, and exercise environmental responsibility. MAP also requires prospective member countries to annually submit information to NATO regarding "the state of their economy, including main macro-economic and budgetary data as well as pertinent economic policy developments." *Id.*

94. Prospective member countries that are involved in the MAP process are encouraged to "contribute militarily to the collective defense and to the Alliance's new missions." *Id.* Throughout the MAP process, NATO provides the prospective member country feedback on military force structure, resources, and the means for increasing the ability of integrating their forces with NATO allied forces to increase NATO interoperability. See *id.*

95. MAP provides prospective member countries with a framework for the effective use of budget resources for defense priorities and shows the country how they would be expected to contribute financially to NATO. See MAP, *supra* note 90.

96. Countries aspiring for membership within the MAP program are also required "to have in place sufficient safeguards and procedures to ensure the security of the most sensitive information as laid down in NATO security policy." *Id.* Prospective member countries also need to prove they have the security capabilities to safeguard shared NATO intelligence and sensitive military and security information should they become a member of the NATO. See *id.*

97. Prospective member countries are required to review the various legal agreements that govern NATO operation and cooperation among NATO member countries. See *id.* The purpose of this requirement is to ensure that the prospective member country's constitution, laws, regulations, and pending legislation do not conflict with any NATO regulations that could hinder that country's integration into NATO's activities. See *id.* Some of the binding agreements that new members must agree to include The North Atlantic Treaty, military agreements, security agreements, agreements on securing sensitive defense information, agreements on sharing information for defense purposes, and agreements regarding atomic information. See *id.*

98. See *id.*

particular issue area being addressed.⁹⁹ These NATO teams work closely with the prospective member countries to draft and implement the MAP.¹⁰⁰ At the annual NAC meeting, the MAPs are discussed and areas needing improvement are addressed in a report to the prospective member country.¹⁰¹ The prospective member country then decides whether to take further action to address NATO's comments to become a better candidate for NATO membership.¹⁰²

3. Invitation & Accession to Membership

Countries wishing to join the NATO Alliance must follow the process set forth by Article 10 of the North Atlantic Treaty.¹⁰³ Article 10 of the North Atlantic Treaty details the process by which countries may join the NATO Alliance.¹⁰⁴ First, the prospective country must be a "European state."¹⁰⁵ Second, the prospective country must be in a position to uphold the principles¹⁰⁶ of the North Atlantic Treaty, as well as assist in providing security to the North Atlantic region.¹⁰⁷ Third, the prospective country must receive unanimous support for NATO membership from all current member countries.¹⁰⁸ Finally, upon unanimous approval for membership, the prospective country is officially invited to join NATO as a member country.¹⁰⁹

99. *See id.*

100. *See* MAP, *supra* note 97.

101. *See id.*

102. *See id.*

103. *See* NATO Treaty, *supra* note 24, art. 10.

104. Article 10 states: "The Parties may, by unanimous agreement, invite any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument of accession." *Id.*

105. Only countries located in Europe may become members of NATO. *See id.*

106. *See id.* pmb1.

107. *See id.* art. 10.

108. *See* NATO Treaty, *supra* note 24, art. 10.

109. Once NATO members have unanimously agreed to invite a country to become a member, NATO and the prospective member country engage in a series of talks regarding future reforms. *See id.* After an invitation is extended, but before accession, NATO presents the country with a timetable for reforms that must be met before and after the accession. *See id.* Once the country meets the required reforms, the accession process begins. *See id.* During the accession process, each NATO member country must approve the newly invited country's protocol of accession. *See id.* Once all NATO members agree to the country's accession, the formal instruments of accession are drafted, signed, and submitted to NATO. *See id.* Upon submission of the formal accession protocols, the country is legally a member of NATO. *See id.* Once the country is a NATO member, it is expected to uphold the principles of NATO, financially

III. NATO & UKRAINE RELATIONS

For over the past seventeen years, NATO's relationship with Ukraine has developed into an active partnership with future hopes that Ukraine will be able to become a full member of the NATO Alliance.¹¹⁰ Ukraine is Europe's second largest country¹¹¹ and is strategically located between eastern and western Europe.¹¹² Ukraine is also bordered by Russia and four NATO member states: Poland, Slovakia, Hungary, and Romania.¹¹³ As such, Ukraine's partnership and possible future membership into NATO presents a potential for increased stability in Europe.¹¹⁴

A. *Ukraine and the Partnership for Peace*

NATO recognized the benefits of a relationship with Ukraine and began formal relations in 1991, when Ukraine joined the North Atlantic Cooperation Council, now the Euro-Atlantic Partnership Council ("EAPC").¹¹⁵ The EAPC serves as a NATO forum for member and non-member states to discuss political and security issues.¹¹⁶ In 1994, Ukraine became the first former Soviet state to become a member of the PfP program.¹¹⁷ Throughout the 1990s, Ukraine proved to NATO its commitment to PfP peacekeeping operations by contributing support during NATO's peacekeeping operations in the Bosnia, Herzegovina, and Kosovo.¹¹⁸ More recently, Ukraine has shown its support for fighting terrorism with NATO's PAP-T forces in the Mediterranean Sea.¹¹⁹ Because of its strong commitment to NATO's peacekeeping operations, NATO decided to further develop its relationship with Ukraine by establishing a distinctive partnership.¹²⁰

contribute to NATO operations, and provide military and administrative support to NATO's security and peacekeeping missions around the world. *See id.*

110. *See NATO Handbook 2006, supra note 1.*

111. *See* BBC News—Europe—Country Profiles—Country Profile: Ukraine, http://news.bbc.co.uk/2/hi/europe/country_profiles/1102303.stm (last visited May 10, 2010).

112. *See* Ukraine Map, <http://geology.com/world/ukraine-satellite-image.shtml> (last visited May 10, 2010).

113. *See id.*

114. *See NATO Handbook 2006, supra note 1.*

115. *See NATO Handbook 2006, supra note 1; see also* NATO Topics: Euro-Atlantic Partnership Council, [hereinafter EAPC] <http://www.nato.int/issues/eapc/index.html> (last visited Feb. 11, 2009).

116. *See supra note 115.*

117. *See NATO Handbook 2006, supra note 1.*

118. *See id.* at 223.

119. *See id.* at 167, 169.

120. *See id.* at 219.

B. *Establishment of the NATO-Ukraine Commission*

In 1997, Ukraine and NATO further strengthened relations by signing a Charter for Distinctive Partnership (“Charter”).¹²¹ The Charter created the NATO-Ukraine Commission (“NUC”),¹²² which provides that NATO countries support “Ukrainian sovereignty and independence, territorial integrity, democratic development, economic prosperity, and status as a non-nuclear weapons state.”¹²³ The NUC serves as the cornerstone for the NATO-Ukraine relationship and provides a means through which both sides can coordinate security, military, peacekeeping, and economic activities.¹²⁴ In particular, NUC helps assess the progress of goals of the PFP, as well as military and peacekeeping operations.¹²⁵ The NUC also helps assist Ukraine in developing means of implementing the necessary reforms to reach its goals.¹²⁶ The NUC joint working groups meet throughout the year to discuss progress in areas of defense capabilities, economic security, political stability, crisis management, and security.¹²⁷ For over eleven years, the NUC has strengthened the NATO-Ukraine relationship and has provided a forum through which joint operations and goals for reform could be discussed.¹²⁸

C. *Ukraine Partnership Action Plan*

Ukraine strengthened its relationship with NATO under the NUC in May 2002, when then-President Leonid Kuchma announced Ukraine’s goal of eventual NATO membership.¹²⁹ During a meeting of the NUC at the 2002 Prague Summit, the NUC adopted the official NATO-Ukraine Partnership Action Plan (“Action Plan”).¹³⁰ The Action Plan is rooted in the foundation of the NUC partnership Charter.¹³¹ The Action Plan’s purpose is to “identify Ukraine’s strategic objectives and priorities in pursuit of its aspirations for full integration into Euro-Atlantic security structures and to provide a strategic framework for existing and future

121. *See id.*

122. *See NATO Handbook 2006, supra note 1.*

123. *Id.*

124. *See id.* at 220.

125. *See id.*

126. *See id.*

127. *See NATO Handbook 2006, supra note 1, at 220.*

128. *See* Press Release, NATO, Joint Statement, NATO-Ukraine Commission Meeting (July 9, 2007) available at <http://www.nato.int/docu/pr/2007/p07-082e.html>.

129. *See NATO Handbook 2006, supra note 1.*

130. *See id.*

131. *See id.*

cooperation.”¹³² In particular, NATO has urged Ukraine to focus its reform efforts on “strengthening democracy, the rule of law, human rights, and the market economy.”¹³³ To achieve the goals of the Action Plan, the NUC has established a framework for reporting to NATO on progress of implementation and reforms twice a year.¹³⁴ In these bi-annual meetings, Ukraine’s Annual Target Plans (“ATP”) are developed, which list goals that Ukraine hopes to accomplish on its own, as well as goals it hopes to accomplish with assistance from NATO.¹³⁵ Some of the goals set forth in the ATPs include economic reforms, judicial system reforms, and election reforms.¹³⁶

1. Political Changes, Orange Revolution & Ukraine’s Action Plan

The 2004 Ukrainian Presidential election showed that Ukraine was in dire need of meeting the election reform goals set forth in its ATPs. As a part of Action Plan and ATP reforms, NATO called on “Ukraine’s leadership to take firm steps to ensure a free and fair electoral process, guarantee media freedoms and rule of law, strengthen civil society and judiciary, improved arms export controls and progress on defense and security sector reform and the allocation of financial support to its implementation.”¹³⁷ With President Kuchma’s term ending, two candidates entered the race for President, Viktor Yushchenko, a Western-leaning candidate, and Viktor Yanukovich, a Pro-Russian candidate.¹³⁸ Yushchenko, a grassroots campaigner supporting pro-Western, pro-NATO, and anti-corruption policies, was very popular among younger voters, voters in Kyiv, and voters in western Ukraine.¹³⁹ Yanukovich, a

132. *Id.*

133. *Id.*

134. See *NATO Handbook 2006*, *supra* note 1, at 221.

135. Annual Target Plans are the annual supplemental reports to Ukraine’s Action Plan. See NATO Topics: NATO-Ukraine Action Plan, http://www.nato.int/issues/nato-ukraine/action_plan.html (last visited May 10, 2010).

136. See NATO-Ukraine Annual Target Plan for the Year 2008 (Apr. 2008), [hereinafter ATP 2008] available at <http://www.nceai.gov.ua/download.php?918b7b1157c4999056732c7ef64239c0&target=1>.

137. *NATO Handbook 2006*, *supra* note 1, at 221.

138. See generally Paul Quinn-Judge and Yuri Zarakhovich, *The Orange Revolution*, TIME, Nov. 28, 2004, [hereinafter Quinn-Judge] available at <http://www.time.com/time/europe/html/041206/story.html> (from the Dec. 6, 2004 issue).

139. In September of 2004, Yushchenko became very ill and after numerous tests was diagnosed with dioxin poisoning. See generally Quinn-Judge, *supra* note 138. Yushchenko gained great support from the Ukrainian people, especially when theories began to surface that the Yanukovich camp might be involved. See generally Quinn-Judge, *supra* note 138; see also Roman Kupchinsky, *Ukraine: Mystery Behind Yushchenko’s Poisoning Continues*, RADIO FREE EUR., Sept. 18, 2006, available at <http://www.rferl.org/content/article/1071434.html>.

Pro-Russian candidate, was supported by many voters in eastern Ukraine.¹⁴⁰

On October 21, 2004, Ukrainians went to the polls to elect their President; however, neither candidate received fifty percent of the vote needed to win.¹⁴¹ The two top vote-getting candidates, Yushchenko and Yanukovych, then faced off in the November 21, 2004 run-off election.¹⁴² The November election results were mired in controversy and many Ukrainians believed the results showed widespread voter fraud.¹⁴³ Many Ukrainians protested the legitimacy of the results during political demonstrations called the Orange Revolution protests.¹⁴⁴ The Orange Revolution was comprised of Yushchenko's "Our Ukraine" supporters, as well as Parliament member Yulia Tymoshenko's "Power of the People" coalition.¹⁴⁵ These Orange Revolution protestors demonstrated in the capital at Kyiv's Independence Square by waving orange flags and banners and setting up tents.¹⁴⁶

The Orange Revolution public protest was a driving force behind the international observer's request for a re-vote.¹⁴⁷ Further, the Orange Revolution protests also influenced the Supreme Court of Ukraine in annulling the results from the November run-off and requiring a re-vote on December 26, 2004.¹⁴⁸ After the re-vote in December, Yushchenko was declared the President of Ukraine and was sworn in on January 23, 2005.¹⁴⁹ Since Ukraine took the proper steps to ensure free and fair

140. See Quinn-Judge, *supra* note 138.

141. Viktor Yushchenko received 39.87% of the vote while Viktor Yanukovych received 39.32% of the vote. See 2004 Presidential Election First Round, <http://www.skrobach.com/ukrel041.htm> (last visited May 10, 2010); see also Quinn-Judge, *supra* note 138.

142. See generally Quinn-Judge, *supra* note 138.

143. Viktor Yushchenko received 46.61% of the vote while Viktor Yanukovych received 49.46% of the vote. See 2004 Presidential Election Invalid Second Round, <http://www.skrobach.com/ukrel04s.htm> (last visited May 10, 2010); see also Quinn-Judge, *supra* note 138.

144. See generally Quinn-Judge, *supra* note 138; see also Orange Ukraine—What was the Orange Revolution?, <http://orangeukraine.squarespace.com/revolution/> (last visited Jan. 26, 2009).

145. Yulia Tymoshenko served as a member of Parliament in 2004. See About Tymoshenko, <http://www.tymoshenko.ua/en/page/about> (last visited May 10, 2010). She supported Yushchenko for President and was elected Prime Minister on February 4, 2005, a position that she held until 2010. See *id.*

146. See Helen Womack, *One Election, Two Viktors. Will Ukrainians Accept the Results?*, THE CHRISTIAN SCI. MONITOR, Nov. 23, 2004, available at <http://www.csmonitor.com/2004/1123/p05s01-woeu.html>.

147. See NATO Handbook 2006, *supra* note 1, at 221.

148. See Ukraine, 2004 Election, Supreme Court Key Findings in English, <http://www.skubi.net/ukraine/findings.html> (last visited May 10, 2010).

149. Viktor Yushchenko won the December election and received 51.99% of the vote while Viktor Yanukovych received 44.20% of the vote. See 2004 Presidential Election Second Round, <http://www.skrobach.com/ukrel04sa.htm> (last visited May 10, 2010); see

elections in 2004, NATO members expressed their support for President Yushchenko's reform agenda for Ukraine and agreed to begin an Intensified Dialogue on April 21, 2005.¹⁵⁰

D. Ukraine's Intensified Dialogue

With a new pro-NATO president in place, NATO agreed to begin the Intensified Dialogue with Ukraine concerning possible future membership.¹⁵¹ In June of 2005, Ukraine presented to the NATO Secretary General "an initial discussion paper" for the Intensified Dialogue.¹⁵² This discussion paper highlighted the necessary defense, security, and legal reforms that Ukraine would need to address to bring Ukraine closer to NATO membership.¹⁵³ This Intensified Dialogue process provided Ukrainian officials with a better idea of NATO's expectations for reform and helped identify urgent goals.¹⁵⁴ These goals were set forth in Ukraine's 2005 ATP and included goals for the strengthening of democratic and electoral institutions, strengthening judicial authority and independence, promoting human rights and civil freedoms, protecting religious freedoms, fighting against money laundering, and implementing institutional economic reforms.¹⁵⁵ Through the Intensified Dialogue process, Ukraine and NATO worked together to formulate and implement these goals.¹⁵⁶ The Intensified Dialogue processes signaled to Ukraine that NATO members supported Ukraine's desire to one day become a member of the NATO Alliance.¹⁵⁷ However, this support for NATO membership, will only remain as far as Ukraine cooperates with NATO on key reform areas.

1. Peacekeeping, Security, and Terrorism Prevention Operations

For nearly fifteen years, Ukraine has served beside NATO members in PfP NATO-led peacekeeping operations around the globe.¹⁵⁸ In particular, Ukraine has provided infantry and helicopter supplies to the

also Peter Finn, *In a Final Triumph, Ukrainian Sworn In*, WASH. POST, Jan. 24, 2005, at A08, available at <http://www.washingtonpost.com/wp-dyn/articles/A30051-2005Jan23.html>.

150. See *NATO Handbook 2006*, *supra* note 1, at 221-22.

151. See *id.*

152. See *id.* at 222.

153. *Id.*

154. See *id.*

155. See NATO-Ukraine Annual Target Plan for 2005, available at http://www.nato.int/docu/other/ukr/target_plan_e.pdf.

156. See *id.*

157. See *NATO Handbook 2006*, *supra* note 1, at 222.

158. See *id.* at 223.

NATO-led peacekeeping operation in Bosnia, Herzegovina, and Kosovo.¹⁵⁹ Over 1,600 Ukrainian troops have served in Iraq and even more troops are fighting terrorists in Afghanistan as part of the NATO-led International Security Assistance Force (“ISAF”).¹⁶⁰ Ukraine also assists the international war on terrorism by supporting NATO’s maritime Operation Active Endeavor in the Mediterranean Sea.¹⁶¹ Ukraine’s capability to integrate its military forces with NATO forces for peacekeeping missions helps prove to NATO that Ukraine would be capable of supporting future NATO-led missions as a member country.

2. Defense & Security Reforms

To transform its military into a 21st century defense force, Ukraine has undertaken many reforms with the assistance of NATO.¹⁶² After gaining independence from the Soviet Union, Ukraine inherited an established armed forces unit.¹⁶³ Over the years, Ukraine has worked with NATO in reforming its military to make the transition into a 21st century defense and security force.¹⁶⁴ To do this, NATO has assisted Ukraine in transforming its military forces “into smaller, professional, more mobile armed forces capable of meeting its security needs as well as contributing actively to European stability and security.”¹⁶⁵ Ukraine and NATO have also worked improve interoperability and integration of Ukrainian forces with NATO forces.¹⁶⁶ The Ukrainian military boasts a total of 191,000 civil servants and military personnel (148,000 military personnel and 43,000 civilian personnel).¹⁶⁷ These military personnel assist with PfP peacekeeping missions around the globe.¹⁶⁸ The Ukrainian military also works together with NATO forces in beginning the demilitarization process of Ukrainian landmines and other surplus conventional weapons.¹⁶⁹ Through this joint mission, Ukrainian and NATO troops have completed the removal of all nuclear weapons within

159. *See id.*

160. *See id.*

161. *See id.* at 223-24.

162. *See NATO Handbook 2006, supra* note 1, at 224-25.

163. *See id.* at 224.

164. *See id.*

165. *Id.*

166. *See id.*

167. *See* Ministry of Defense of Ukraine, White Book 2007 – Defense Policy Of Ukraine, (2008) [hereinafter White Book] available at http://www.mil.gov.ua/files/white_book/white_book_en2007.pdf.

168. *See id.*

169. *See id.*

Ukraine.¹⁷⁰ Ukrainian demilitarization will be the largest demilitarization project of its kind undertaken by NATO.¹⁷¹

3. Legal Reforms

The NUC is also working to address needed legal reforms in the areas of legal representation, judicial fairness, and human rights.¹⁷² In its 2008 NATO-Ukraine ATP, the NUC aimed to establish a “free-of-charge legal aid system” to protect the rights to legal representation for indigent citizens.¹⁷³ Additionally, the NUC hopes to conduct a review of the current Ukrainian constitution, laws, and other regulations to determine what legislative reforms are necessary to better align Ukraine’s political system and its laws with the principles of NATO.¹⁷⁴

In addition to reviewing the laws of Ukraine, the NUC hopes to perform a review of the administrative side of the Ukrainian legal system.¹⁷⁵ The 2008 ATP set goals to strengthen the authority and independence of the Ukrainian Judiciary system, to counter judicial corruption, and to strengthen the legal education system.¹⁷⁶ Reforms to the Ukrainian judicial system are desperately needed, since many citizens, including many Ukrainian lawyers, believe that the judiciary “is the country’s most corrupt branch of government.”¹⁷⁷

The current Ukrainian court system was established in 2002 with the help of the European Community, however Soviet influences remain.¹⁷⁸ Ukrainian judges are elected for a term of life, similar to other

170. Ukraine has worked with international partners in removing all nuclear weapons. At one time, Ukraine had the third largest nuclear arsenal in the world. *See* White Book, *supra* note 167; *see also* Press Release, Sen. Richard Lugar, Nunn-Lugar Program Destroys Hundreds of WMD in 2008, (Jan. 23, 2009) available at <http://lugar.senate.gov/press/record.cfm?id=307173>.

171. Ukraine inherited more than seven million surplus small arms and light weapons, and more than two million tons of munitions from the Soviets. *See* White Book, *supra* note 167. These large weapons stockpiles are dangerous and have caused explosions as the weapons begin to break down. *See id.* These stockpiles also present a security risk to Ukraine and the region. *See id.*; *see also* NATO Update: Largest Ever Demilitarization Project Launched in Ukraine, <http://www.nato.int/docu/update/2006/06-june/e0619a.htm> (last visited May 10, 2010).

172. *See* ATP 2008, *supra* note 136.

173. *Id.*

174. *See id.*

175. *See id.*

176. *See id.*

177. Anna Melnichuk, *Court Corruption and the Urgent Need for Legal Reform*, BUS. UKR., Feb. 25, 2008, [hereinafter Melnichuk].

178. The current Ukrainian court system is comprised of four levels: general jurisdictional courts, appeals courts and military courts, specialized courts including commercial and administrative courts, and the Supreme Courts. Additionally, the Constitutional Court of Ukraine hears cases on legislative and constitutional issues. *See id.*

European countries and the United States; however, in Ukraine the judges have not had a strong tradition of following the law.¹⁷⁹ In response to this widespread judicial corruption, then-President Yushchenko, created a Judicial Reform Commission to develop and promote a strategic plan to improve accountability among the judicial branch and provide a fair court system.¹⁸⁰ Ukraine also plans to further reform the judicial system by adopting a criminal procedure code and an administrative code.¹⁸¹

In addition to the many institutional legal reforms, the NUC has set goals to address general corruption among the public, to fight organized crime, and to stop money laundering and terrorist financing.¹⁸² To better investigate these crimes, Ukraine is conducting monitoring operations over financial transactions to better track money laundering and financial terrorism.¹⁸³ To better prosecute and punish individuals for these crimes, Ukraine has established goals to amend criminal acts to increase penalties and responsibilities for corruption activities and has established a “code of honest conduct” for state and local officials to follow.¹⁸⁴ In fighting corruption, the 2008 ATP calls on Ukraine to consult with NATO to “exchange experience in reacting to modern threats to international security” including “terrorism financing, transnational crime, and money laundering.”¹⁸⁵ Ukraine drafted a reform-oriented 2008 ATP in hopes of showing NATO that it was serious about reform, and that it is a strong country that should be considered for a MAP.

E. Public Support for Ukrainian Membership into NATO

To assist the Ukrainian government in gaining support for NATO membership, NATO has partnered with Ukraine in establishing an Information and Documentation Centre (“NIDC”) in Kyiv.¹⁸⁶ The NIDC helps “to promote the mutual benefits of Ukraine’s partnership with NATO and explain Alliance policies to the Ukrainian public.”¹⁸⁷ In addition, the NIDC offers seminars and conferences for the discussion of the NATO-Ukraine relationship and possible future membership of

179. Conduct of Ukrainian judges is reviewed by the High Court of Justice, which is comprised of former and current judges. *See id.* This High Court is intended to oversee disciplinary procedures against judges, but has seen little action, since many judges do not want to discipline their own. *See id.*

180. *See id.*

181. *See ATP 2008, supra note 136.*

182. *See id.*

183. *See id.*

184. *Id.*

185. *See id.*

186. *See NATO Handbook 2006, supra note 1, at 222.*

187. *Id.*

Ukraine into the NATO Alliance.¹⁸⁸ The NIDC also assists with educating the Ukrainian public about the positive military contributions Ukraine has made to NATO-led peacekeeping and military operations around the world.¹⁸⁹ Some Ukrainians, particularly older Ukrainians, still think of NATO as a Cold War Alliance and are unsure of NATO's principals and goals moving forward in a post-Cold War world.¹⁹⁰ After living under Soviet rule for over seventy years, many older Ukrainians are skeptical of western ideals and institutions like NATO.¹⁹¹ However, in light of the Orange Revolution and attempts to educate young Ukrainians about the abuses of the Soviets, younger Ukrainians are more supportive of the ideals of freedom and democracy and support Ukraine's membership into NATO.¹⁹² In better educating the Ukrainian people as to the NATO-Ukrainian relationship, benefits of reforms, and the military and security benefits of NATO membership, public support for Ukrainian membership into NATO should grow.¹⁹³

This education process is needed in light of poll numbers showing lagging support for NATO membership.¹⁹⁴ A December 2007 poll conducted by Ukraine's Democratic Initiatives Foundation showed that 49.4 percent of people polled objected to Ukraine's attempt at joining NATO, while 15.8 percent supported Ukraine's attempt at joining NATO.¹⁹⁵ The other 16.1 percent stated that they may approve of the attempt to join NATO.¹⁹⁶ In a more recent May 2009 Gallup study, Ukrainians were asked if they saw NATO as a form of protection or a threat.¹⁹⁷ Only 13 percent of Ukrainians saw NATO as a form of protection, while 40 percent saw NATO as a threat.¹⁹⁸ These numbers

188. *See id.*

189. *See id.*

190. *See NATO Handbook 2006, supra note 1, at 222; see also Taras Kuzio, Revival of Stalinism in Russia Shows Gap Between Neighbors, KYIV POST, Dec. 17, 2008, [hereinafter Kuzio] available at http://www.kyivpost.com/opinion/op_ed/32132.*

191. *See NATO Handbook 2006, supra note 1, at 222.*

192. One of the major Soviet abuses that the Ukrainian government teaches in schools is the 1933 Great Famine, an artificially imposed famine, which killed over four million people. *See Kuzio, supra note 190.*

193. *See NATO Handbook 2006, supra note 1, at 222.*

194. *See Mu Xuequan, Poll: Almost half of Ukrainians Oppose Joining NATO Membership Action Plan, P.C.R VIEW, Jan. 25, 2008, [hereinafter Xuequan] available at http://news.xinhuanet.com/english/2008-01/25/content_7491014.htm.*

195. The Democratic Initiatives Foundation poll was taken on December 5-12, 2007 and questioned 1,800 people. *See id.* The estimated margin of error was 2.3 percent. *See id.*

196. *See id.*

197. Julie Ray & Neil Esipova, *Ukrainians Likely Support Move Away from NATO*, GALLUP, Apr. 2, 2010, available at <http://www.gallup.com/poll/127094/ukrainians-likely-support-move-away-nato.aspx>.

198. *See id.*

certainly show a need for the NIDC to ramp up education efforts about the benefits of NATO membership to Ukraine.

F. 2008 Bucharest Summit—Ukraine's First Chance at a MAP Plan for Membership

Despite lagging poll numbers, Ukraine's leaders decided to request a green light to begin the MAP process at the April 2008 annual NATO Summit in Bucharest, Romania.¹⁹⁹ Before the Summit, President George W. Bush visited Kyiv and spoke about U.S. support for a MAP plan for Ukraine.²⁰⁰ In his remarks at the Presidential Secretariat, President Bush stated,

Ukraine now seeks to deepen its cooperation with the NATO alliance through a Membership Action Plan. Your nation has made a bold decision, and the United States strongly supports your request. In Bucharest this week I will continue to make America's position clear: We support MAP for Ukraine and Georgia. Helping Ukraine move toward NATO membership is in the interest of every member in the Alliance and will help advance security and freedom in this region and around the world.²⁰¹

At the Bucharest Summit, Ukraine petitioned NATO for the opportunity to begin the MAP process, but this request was denied.²⁰² Many factors contributed to this lack of MAP approval including lack of public support, the need for more reforms, strained political relations among Yushchenko and Tymoshenko, and possible strained ties with Russia.²⁰³

After the decision, NATO affirmed its commitment to assisting Ukraine in its aspirations for membership into NATO.²⁰⁴ In a joint statement after the meeting of the NUC, heads of state and government declared that they "agreed that Ukraine will become a member of NATO."²⁰⁵ Additionally, NATO members expressed their support for Ukraine and their willingness to work with Ukraine on implementing the necessary reforms to help Ukraine gain eventual membership into the

199. See NUC Meeting Bucharest, *supra* note 5.

200. See White House Press Release, President Bush Participates in Joint Press Availability with President Viktor Yushchenko of Ukraine (Apr. 1, 2008), [hereinafter Bush] available at <http://georgewbush-whitehouse.archives.gov/news/releases/2008/04/20080401-1.html>.

201. Bush, *supra* note 200.

202. See NUC Meeting Bucharest, *supra* note 5.

203. See Steven Pifer, *Ukraine and NATO Following Bucharest*, BROOKINGS INST., May 6, 2008, available at http://www.brookings.edu/opinions/2008/0506_ukraine_pifer.aspx.

204. See NUC Meeting Bucharest, *supra* note 5.

205. *Id.*

NATO Alliance.²⁰⁶ The joint statement also expressed appreciation for Ukraine's commitment to reform and the hope that Ukraine will begin implementing the goals set forth in its 2008 ATP.²⁰⁷ Finally, NATO expressed its appreciation for Ukraine's contribution to NATO-led peacekeeping operations around the world, noting, "Ukraine is the only Partner that actively supports all NATO-led operations and missions."²⁰⁸

After the Bucharest Summit, the NUC agreed to meet in December 2008 to further discuss the possibility of Ukraine obtaining a MAP.²⁰⁹ NATO tasked Ukraine to continue to implement necessary reforms set forth in its 2008 ATP to help it achieve its goal of eventual membership.²¹⁰ Ukraine set out to continue implementing reforms, but hit some roadblocks imposed by Russia.

G. *Post-Bucharest Turmoil*

1. Russian Influences in Eastern Europe

As Russia tries to assert its influence in the Eastern Europe, Ukraine's chances of gaining MAP may decline. NATO members are becoming wary of Ukraine's ability to protect its own interests vis-a-vis Russia and are becoming concerned with Russia's increasing presence in Eastern Europe.²¹¹ For example, on August 4 2008, Russia assisted South Ossetian separatists in their succession from Georgia.²¹² Georgia responded to the separatists attacks with gunfire, which gave way for Russia's eventual invasion of the South Ossetia region.²¹³ Russia's goals in assisting the separatists were to re-assert itself as a power in the region, to destabilize the pro-Western Georgian government, to dissuade NATO from offering membership to Georgia, and to send a message to Ukraine that NATO membership may lead to a military situation with Russia.²¹⁴

In response to Russia's increasing presence in Eastern Europe with its invasion of South Ossetia, the United States and Poland agreed on August 20, 2008 to place ballistic missile interceptors in Poland to help

206. *See id.*

207. *See id.*

208. *Id.*

209. *See* NUC Meeting Bucharest, *supra* note 5.

210. *See id.*

211. *See* Ariel Cohen, *The Russian-Georgian War: A Challenge for the U.S. and the World*, HERITAGE FOUNDATION, Aug. 11, 2008, [hereinafter Cohen] available at <http://www.heritage.org/research/RussiaandEurasia/wm2017.cfm>.

212. *See id.*

213. *See id.*

214. *See id.*

protect NATO interests.²¹⁵ Russia saw this action as a provocation, and on November 4, 2008, Russian President Dmitri Medvedev ordered Russian missiles to be sent to its military base in Kaliningrad on the Baltic Sea.²¹⁶ President Medvedev ordered the missiles to be placed against NATO's borders to counter the U.S.-Poland missile defense agreement.²¹⁷ In a sign of a possible reconsideration of its influence in Eastern Europe, Russia recently suspended its plan to base missiles in Kaliningrad.²¹⁸

However, the suspension of the plan to base missiles in Kaliningrad is likely not a signal that Russia plans to limit its influence in Eastern Europe. This is evidenced by Russia's January 2009 dispute with Ukraine over natural gas, which resulted in gas shortages and high gas prices throughout Europe.²¹⁹ Russia accused Ukraine of stealing gas supplies intended for other European consumers.²²⁰ Currently, Russia supplies Ukraine and Europe with a large portion of their natural gas supplies.²²¹ In response to this current crisis, Ukrainian leaders negotiated a new ten-year contract with Russia's state-controlled energy corporation, Gazprom.²²² This new contract gave Ukraine a break on gas prices until January 2010, when it was forced to pay the going market rate.²²³ This latest gas shortage crisis has shown that Russia has the upper hand when it comes to natural gas supplies, and that it is not afraid to assert control over Ukraine and its fellow European allies.

215. Former U.S. Secretary of State, Condoleezza Rice stated that the missile defense system "will help both the [NATO] alliance and Poland and the United States respond to the coming threats. Missile defense, of course, is aimed at no one. It is in our defense that we do this." *Poland Signs Missile Shield Deal with U.S.*, available at <http://www.cnn.com/2008/WORLD/europe/08/20/poland.us.missile/index.html> (last accessed May 10, 2010). The capabilities of the missile defense system include defending against long-range missile threats from as far away as the Middle East. *See id.*

216. *See* Tony Halpin, *President Dmitri Medvedev Orders Missiles Deployed in Europe as World Hails Obama*, THE TIMES (London), Nov. 6, 2008, available at <http://www.timesonline.co.uk/tol/news/world/europe/article5090077.ece>.

217. *See id.*

218. *See* Clifford J. Levy, *Russia Reported to Revise Missile Plan*, N.Y. TIMES, Jan. 28, 2009, at A12, available at <http://www.nytimes.com/2009/01/29/world/europe/29missiles.html>.

219. Nearly eighty percent of European gas supplies travel through Ukrainian pipelines. *See* *Russian Gas To Europe "Blocked,"* BBC NEWS, Jan. 13, 2004, available at <http://news.bbc.co.uk/2/hi/europe/7826142.stm>. Over fifteen countries have suffered from the cut back in natural gas supplies. *See id.* Individuals could not heat their homes and companies could not power their factories. *See id.*

220. *See id.*

221. *See id.*

222. *See* AP, *Analysis: Ukraine may be Bigger Loser in Gas War*, KYIV POST, Jan. 19, 2009, available at <http://www.kyivpost.com/nation/33739>.

223. *See id.*

2. Political Turmoil

In addition to having political issues abroad, Ukraine is experiencing political problems at home. During 2009, President Yushchenko, Prime Minister Tymoshenko and members of the cabinet experienced a strained relationship, despite being political allies during the 2004 Orange Revolution.²²⁴ This instability and lack of consensus has led outsiders to question whether Ukraine's leaders can come together and govern effectively.²²⁵ Because of the power struggle between President Yushchenko and Prime Minister Tymoshenko, Ukraine's credibility as a stable democracy and viable future member of the NATO Alliance remained in question.²²⁶

On September 3, 2008, Ukraine's Orange Revolution ruling coalition of the Yushchenko and Tymoshenko camps broke apart.²²⁷ Prime Minister Tymoshenko's supporters left and joined Yanukovich's opposition party in approving legislation that would limit presidential powers.²²⁸ In hopes of ousting Prime Minister Tymoshenko and punishing her for her change of allegiance, President Yushchenko dissolved Parliament on October 8, 2008 and announced plans to hold a snap parliamentary election in December 2008.²²⁹ In light of the recent growing economic crisis, Prime Minister Tymoshenko argued that it would be too costly to fund elections and subsequently blocked all funding for the elections.²³⁰

Elections for President of Ukraine took place in January 2010.²³¹ Yushchenko, Tymoshenko, and Yanukovich all ran for the office.²³² The January election resulted in a February 2010 run off between

224. See Sabrina Tavernise, *As Ukraine Stagers, Its Leaders Quarrel*, N.Y. TIMES, Nov. 4, 2008, at A6, available at http://www.nytimes.com/2008/11/04/world/europe/04ukraine.html?_r=1&em.

225. See *id.*

226. See *id.*

227. See *Ukrainian President Dissolves Parliament, Calls Snap Elections*, RUSS. NEWS & INFO. AGENCY, Oct. 9, 2008, available at <http://en.rian.ru/world/20081009/117604306.html>.

228. See *id.*

229. President Yushchenko can dissolve Parliament if its members fail to form a ruling coalition. See *id.* This is a Constitutional power and requires general elections within sixty days after the Parliament is dissolved. See *id.*

230. See *A Nation Deeply Unhappy*, KYIV POST, Nov. 12, 2008, available at <http://www.kyivpost.com/nation/30896>.

231. See *Ukraine Presidential Election Heads for a Second Round*, BBC, Jan. 18, 2010, available at <http://news.bbc.co.uk/2/hi/8463949.stm>.

232. See *id.*

Yanukovych and Tymoshenko, with Yanukovych declared the winner.²³³ The finger pointing regarding the response to the economic crisis certainly hurt voter confidence in both Yushchenko and Tymoshenko.²³⁴ This behavior benefited the pro-Russian candidate Yanukovych.²³⁵ Yanukovych capitalized on the growing feud between Yushchenko and Tymoshenko, and rightfully “predicted that this year marks Ukraine’s ‘last Orange winter.’”²³⁶

3. Financial Market Crisis

If the political and economic woes continue, Ukraine’s goal of joining NATO in the near future will not become a reality. Unfortunately, since Ukraine is a newer free market economy, it does not have the means of passing a large stimulus package.²³⁷ The International Monetary Fund provided Ukraine with \$16.4 billion in bailout funds in October 2008 to help spur the economy and increase credit availability.²³⁸ These bailout funds did inject some cash into the economy, but not enough cash since credit lines continue to dry up.²³⁹ Since June of 2008, the Ukrainian Hryvnia lost nearly a third of its value against the U.S. dollar, and the economic outlook for Ukraine is not looking good.²⁴⁰ Ukraine also suffered a set back with the swine flu outbreak in the fall of 2009²⁴¹ and also suffered from decreased steel production, which represents about forty percent of Ukraine’s yearly exports.²⁴²

As the crisis worsened and more Ukrainians lost their jobs, Ukrainians became more disconcerted with President Yushchenko and

233. *See id.*; *see also* Clifford J. Levy, *For Kremlin, Ukraine Election Cuts Two Ways*, N.Y. TIMES, Feb. 8, 2010, at A1, available at <http://www.nytimes.com/2010/02/09/world/europe/09ukraine.html>.

234. *See* Alan Cullison, *Rivalry Deepens Ukraine Economic Woe*, WALL ST. J., Feb. 6, 2009, at A7, [hereinafter Cullison] available at http://online.wsj.com/article/SB123387574604054371.html?mod=googlenews_wsj.

235. *See* Cullison, *supra* note 234.

236. Yanukovych gained enough support in Parliament to bring about a no-confidence vote on then Prime Minister Tymoshenko, but ultimately the vote did not pass. *See id.*

237. *See* Tom Lasseter, *Will Ukraine follow Iceland into Financial Meltdown?*, MCCLATCHY NEWS, Feb. 6, 2009, available at <http://www.mcclatchydc.com/255/story/61606.html>.

238. *See* Tavernise, *supra* note 224.

239. *See* Lasseter, *supra* note 237.

240. *See* Cullison, *supra* note 234.

241. *See* James Marson, *Ukraine Swine-Flu Panic H1N1 Crisis of Political Ploy*, TIME, Nov. 6, 2009, available at <http://www.time.com/time/world/article/0,8599,1934946,00.html>.

242. *See* Cullison, *supra* note 234.

Prime Minister Tymoshenko's lack of action.²⁴³ Former President Yushchenko had approval ratings in the single digits and former Prime Minister Tymoshenko's approval ratings were only slightly higher.²⁴⁴ As a result, many Ukrainian people may have become disheartened with free market and pro-western principles and looked to pro-Russian Presidential candidate Yanukovich as their President in 2010.²⁴⁵

H. December 2008 NATO Meeting for MAP Accession

With the political and economic situation in Ukraine worsening, NATO Foreign Ministers met on December 3, 2008, to discuss the status of Ukraine's MAP petition.²⁴⁶ At the meeting, NATO agreed to continue to support the Bucharest decision stating that Ukraine will eventually achieve membership into NATO.²⁴⁷ During a press conference after the NUC Foreign Ministers session, then NATO Secretary General, Jaap de Hoop Scheffer expressed NATO's support and future assistance in making further reforms in Ukraine to make the way for Ukraine's progress toward membership.²⁴⁸ The Secretary General expressed NATO's willingness to strengthen its ties in Kyiv to better support Ukraine in its implementation of its 2009 ATP.²⁴⁹ The Secretary General called on then Ukrainian Foreign Minister Volodymyr Ogrzyzko to step up public relations efforts to highlight the benefits of becoming a member of the NATO Alliance, as well as to dispel rumors and myths about NATO.²⁵⁰ Ogrzyzko stated that Ukraine would work with NATO on redrafting its 2009 ATP to achieve NATO goals.²⁵¹

In response to a press question regarding a timetable for membership, the Secretary General stated "No. That's the simple answer because this is a performance-based process. So you can never answer that question."²⁵² Based on this comment from the Secretary General, it might be a year or many years before Ukraine becomes a member of NATO. Additionally, this comment shows that NATO can hold up membership for any number of reasons, no matter how big or small. Year after year, an aspiring country might have to jump through more reform hoops in order to please all NATO countries.

243. *See id.*

244. *See id.*

245. *See Levy, supra* note 233.

246. *See Scheffer, supra* note 6.

247. *See id.*

248. *See id.*

249. *See id.*

250. *See id.*

251. *See Scheffer, supra* note 6.

252. *Id.*

NATO has sent Ukraine back to the drafting board with its 2009 ATP. Over the coming months and years, Ukraine will have to work with NATO to continue to make the necessary reforms and increase public support and understanding about the NATO membership process in order for it have a better chance at winning over members during the next meeting²⁵³ on approving its MAP request.

I. Election of Yanukovch & Pro-Russian Stance

In February 2010, Ukraine elected a new pro-Russian President Viktor Yanukovch.²⁵⁴ In three short months, Yanukovch and his administration put forth measures to reverse many of the pro-western policies of the Yushchenko administration.²⁵⁵ In particular, Yanukovch eliminated Ukraine's commission tasked with preparing the country for eventual NATO membership.²⁵⁶ Yanukovch and his supporters in the Ukrainian Parliament also approved a thirty year lease renewal for Russia's Black Sea fleets base in Sevastopol signaling closer ties with Russia and movement away from military ties with NATO.²⁵⁷ The base deal extended the Black Sea Fleet's presence in the Crimea until 2042 in exchange for discounts on natural gas imports from Russia.²⁵⁸ Some members of the Ukrainian Parliament did not approve the Sevastopol base deal and protested the deal in the Supreme Rada chambers.²⁵⁹ Opposition members threw eggs and smoke bombs on the Rada floor while citizens protested outside in the streets of Kyiv.²⁶⁰

It is clear Ukraine is going through another transition in its political process. Only time will tell if the pro-Russian policies of Yanukovch will hold or if another Orange Revolution will take place. Opposition leaders such as former Prime Minister Tymoshenko, have expressed fear that Yanukovch is not acting in the best interest of Ukraine and that in the coming months as Parliament remains in session protestors will take

253. NATO's 60th anniversary meeting is scheduled to take place on April 3-4 2009 in Stasbourg, France and Kehl, Germany. See Press Release, NATO, Summit Meeting of NATO Heads of State and Government (Jan. 26, 2009), available at <http://www.nato.int/docu/pr/2009/p09-008e.html>.

254. See Levy, *supra* note 233.

255. See Fred Weir, *Ukraine-Russia Relations: Why Kiev Made a Dramatic U-Turn Back Toward Moscow*, THE CHRISTIAN SCI. MONITOR, May 7, 2010, available at <http://www.csmonitor.com/World/Europe/2010/0507/Ukraine-Russia-relations-Why-Kiev-made-a-dramatic-U-turn-back-toward-Moscow>.

256. See *id.*

257. See *id.*

258. See *id.*

259. See *id.*

260. See Russia Today, *Video of the Smoke Bomb Egg Fight in Ukraine Parliament*, Apr. 27, 2010, available at <http://www.youtube.com/watch?v=SfCRyLlyqJl>.

to the streets in Kyiv to protest the pro-Russian policies.²⁶¹ What is clear is that Sevastopol base deal will not adversely impact Ukraine's relationship with NATO and that NATO looks forward to continuing its relationship with Ukraine regarding the plan set forth in 2008.²⁶² Ultimately, however, Ukraine and the Yanukovch government will determine how much of a relationship Ukraine will have with NATO in the coming months and years.

IV. UKRAINE & NATO GOING FORWARD—AN ANALYSIS

A. *Benefits and Drawbacks of Ukraine Joining NATO*

In analyzing the benefits and drawbacks of Ukraine joining NATO there are many things to consider. First, as a member of NATO, Ukraine would benefit from the support of the collective defense. This collective defense would help decrease Ukraine's overall defense spending and would increase its overall national security. Secondly, as a member, Ukraine would finally be able to participate in decisions made by the NATO Alliance. Since 1991, Ukraine and NATO have had formal relations; and for over ten years, Ukraine has contributed military assets to security and peacekeeping operations around the world.²⁶³ Currently, Ukraine is the only non-NATO member contributing to all of the NATO-led operations around the world.²⁶⁴ Having a vote at the NATO meetings would allow Ukraine to contribute a voice, not only military and peacekeeping assets.²⁶⁵ Third, on the home front, membership in NATO would provide more support for human rights reforms and would strengthen Ukraine's democratic values. Fourth, on the national stage, Ukraine would gain a stronger reputation as a military and economic power. NATO membership would increase investor confidence in the Ukrainian economy, would help to spur foreign investment in Ukraine, and would help to strengthen the Ukrainian economy.²⁶⁶ Finally, as a NATO member, Ukraine could strengthen its position against Russia on future issues of dispute.²⁶⁷

However, in light of recent political and economic instability in Ukraine, bringing Ukraine into NATO may be a great liability to the

261. See Weir, *supra* note 255.

262. See Rasmussen: *Russian naval base deal will not prevent Ukraine from joining NATO*, BSANNA NEWS, Apr. 23, 2010, available at <http://bsanna-news.ukrinform.ua/newsitem.php?id=12964&lang=en>.

263. See *NATO Handbook 2006*, *supra* note 1.

264. See Scheffer, *supra* note 6.

265. See *supra* Parts III.B-D.

266. See *supra* Part III.G.3.

267. See *supra* Part III.G.1.

stability of the NATO Alliance. There is also a possibility that becoming a member of NATO would worsen Ukraine-Russia relations. In the past, Russia has stated that it would perceive Ukrainian membership into NATO as a serious provocation.²⁶⁸ In a speech in Munich in February 2007, former Russian President, and now current Russian Prime Minister, Vladimir Putin declared that NATO expansion to include Ukraine “represents a serious provocation that reduces the level of mutual trust.”²⁶⁹ If Russia responds negatively to Ukraine’s membership, it could worsen relationships in the region; leading to more disputes over oil and natural gas supplies.²⁷⁰

B. Why has Ukraine Not Been Offered MAP?

In reflecting on the outcome of the April 2008 Bucharest Summit and the December 2008 meeting of NATO Foreign Ministers, Ukraine has received a clear signal that it will eventually become a member of NATO, should it want to become a member.²⁷¹ It is unclear when Ukraine will become a member of NATO, but NATO has made it clear that it is committed to its eventual membership.²⁷² Ukraine must work to achieving the goals set forth in the 2009 ATP, so it can show NATO members it has achieved concrete accomplishments.²⁷³ However, in light of Yanukovich’s dismantling of the committee in charge of NATO relations for Ukraine, the future relationship of NATO and Ukraine remains in question.²⁷⁴

1. Lack of Consensus Among NATO Members

Many NATO members have expressed full support for MAP including the United States, Great Britain, Poland, the Czech Republic, and many of the newer NATO members (many of which were former Soviet block nations like Ukraine).²⁷⁵ Countries that have expressed reservations about giving Ukraine the opportunity to submit a MAP

268. See *Putin’s Prepared Remarks at 43rd Munich Conference on Security Policy*, WASH. POST, Feb. 12, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/12/AR2007021200555.html>.

269. *Id.*

270. See *supra* Part III.G.1.

271. See *supra* Part III.F.

272. See *supra* Part III.F.

273. See *id.*

274. See Levy, *supra* note 233.

275. See Steven Erlanger, *NATO Duel Centers on Georgia and Ukraine*, N.Y. TIMES, Dec. 1, 2008, at A8, available at <http://www.nytimes.com/2008/12/01/world/europe/01nato.html?ref=todayspaper>; see also Judy Dempsey, *U.S. Presses NATO on Georgia and Ukraine*, N.Y. TIMES, Nov. 26, 2008, at A8, available at <http://www.nytimes.com/2008/11/26/world/europe/26nato.html>.

include France and Germany.²⁷⁶ Both France and Germany are concerned with political climate in Ukraine as well as the possible implications of strained ties with Russia should Ukraine become a NATO member.²⁷⁷ During the December 2008 NATO Foreign Ministers meeting, the United States suggested the possibility of allowing Ukraine to bypass the normal MAP process, which was not favored by France and Germany and a few other members and eventually was tabled.²⁷⁸ All members did agree to move forward with the Bucharest decision to assure Ukraine that it will be offered NATO membership at some point in the future.²⁷⁹

NATO has not set a timetable for Ukrainian membership, and based on the Secretary General's remarks in December 2008, NATO will not be setting a membership timeline for Ukraine.²⁸⁰ Since NATO operates under consensus, Ukraine's NATO membership might never get traction if one member state does not think that Ukraine would be an asset to the NATO Alliance.²⁸¹ Ukraine may be waiting for years to create a MAP, especially if Yanukovch continues to reduce the level of ties Ukraine keeps with NATO.²⁸²

2. Political Unrest

Many NATO members have been concerned with the growing political unrest in Ukraine, between the pro-west bloc of Yushchenko and Tymoshenko supporters and the pro-Russian bloc of Yanukovch supporters.²⁸³ President Yanukovch must work to strengthen and reform Ukraine's economic, political, and judicial systems. NATO members must see Ukraine as having strong political leaders who can work together on reforms and who want to see strong NATO ties.

3. Low Levels of Public Support

Public opinion polls have shown that a majority of Ukrainians do not favor NATO membership, a factor that many NATO members have considered when voting on a MAP for Ukraine.²⁸⁴ Should the political winds change and a more pro-western President comes into office in the coming years, the Ukrainian government along with the help of the

276. *See supra* note 275.

277. *See id.*

278. *See id.*

279. *See id.*

280. *See supra* Part III.F.

281. *See supra* Part II.B.

282. *See Levy, supra* note 233.

283. *See id.*

284. *See Xuequan, supra* note 194.

NIDC should ramp up its education campaign highlighting the benefits of NATO membership.²⁸⁵ This effort should focus on gaining more support among younger Ukrainians, as well as educating older Ukrainians who have misconceptions about NATO left over from the Soviet era.²⁸⁶ If Ukraine can accomplish this public education goal, NATO will see that it is taking real action on much needed reforms. Ukrainians need to see NATO as a means of security and not of a threat.²⁸⁷

4. Lack of Reforms

Each year, NATO and Ukraine have worked together to identify political, economic, military, and legal reform goals for Ukraine to address.²⁸⁸ Over the years, Ukraine has worked to achieve many of these goals, but more work needs to be done. If Ukraine addresses the goals set for in the 2009 ATP, it will increase its chances that NATO will consider its application for MAP at its future meetings. All of NATO's steps to membership are reform focused, so Ukraine needs to focus on accomplishing these goals if it is serious about becoming a NATO member. Even if the political winds do not point toward NATO membership at this time, Ukraine should still implement these reforms for the betterment of its own people.

5. Economic Collapse of the Ukrainian Market

NATO's membership process is very reform focused and in light of the recent global economic crisis, NATO will likely focusing its membership invitations on countries with stable economies that show a promise of future economic growth. NATO does not want to add a new member that cannot pull its financial weight within the NATO Alliance.²⁸⁹ Reforms to the Ukrainian financial and banking industries will help stabilize markets, increase consumer spending, increase manufacturing, increase employment, and increase consumer confidence. If the Ukrainian economy re-bounds from the current global crisis, outside investors will see Ukraine as a good place to invest, which will further spur economic growth. Finally, if Ukraine makes the needed economic reforms and the economy re-bounds, NATO will see Ukraine as a viable future member state that can financially support its weight in NATO.

285. See *NATO Handbook 2006*, *supra* note 1, at 223.

286. See *id.*

287. See *supra* Part III.E.

288. See *id.*

289. See *supra* Part II.A.

6. Russian Influences

Russia has greatly influenced Ukraine's chances at gaining a MAP. Russia's meddling in the Eastern European region whether in Georgia, the Baltic, or by cutting off gas supplies, has made NATO members think twice about moving forward with the membership process for Ukraine.²⁹⁰ Russia has in part achieved its goal of sending a message to Ukraine that NATO membership may lead to a military situation with Russia.²⁹¹ NATO does not want to make waves in the Baltic or Black Seas that could bring about an unwanted Russian response. Through careful negotiation, eventual NATO membership for Ukraine may be possible. Ukrainian relations with Russia and Ukraine becoming a member of NATO should not be mutually exclusive. However, if Russia does not respond favorably to Ukraine's attempts at NATO membership, Russia could continue to instigate small skirmishes to show that it is still a force in Eastern Europe.²⁹² Finally, Russia still exerts influence on Ukraine as seen in the recent lease extension deal for the Black Sea Fleet in Sevastopol.²⁹³ In the coming months, Ukrainians will either agree with the Yanukovch administration about strengthening ties with Russia, or they will act out in protest and demand a return to more pro-western and pro-NATO policies.²⁹⁴ Only time will tell.

V. CONCLUSION—WHERE UKRAINE GOES FROM HERE

Before NATO will offer Ukraine the option of preparing a MAP, Ukraine's leaders will need to show NATO that it is a strong democratic and emerging free market democracy. To get itself back on the NATO map for a MAP, Ukraine's leaders will need to reconcile their difference and focus on creating positive political, security, legal, and economic reforms. NATO is willing to work with Ukraine on achieving the goals set forth in the 2009 ATP, but NATO cannot do the job alone. Ukraine's leaders need to sit down at the table and figure out the best ways of completing their 2009 ATP "homework."

NATO's continual requests for additional reforms may seem arbitrary and may seem to be a means of putting off Ukraine's membership to appease Russian interests. However, NATO needs to protect its own interests of only letting in members that can uphold the principals of the North Atlantic Treaty and that can carry their financial weight. A band of countries bound together by a treaty is only as strong

290. See generally Cohen, *supra* note 211.

291. See *id.*

292. See *supra* Part III.G.1.

293. See Levy, *supra* note 218.

294. See *id.*

as its weakest link. As Ukraine currently stands amidst political turmoil and economic meltdown, an invitation to NATO membership would certainly not strengthen the NATO chain, it would only weaken it. Furthermore, in light of President Yanukovch's dismantling of the Ukrainian committee in charge of NATO reforms, ties between the Ukrainian government and NATO may be somewhat strained.

Ukraine needs to decide if it is dropping out of the NATO program completely, if it will pick and choose how it interacts with NATO, or if it will get serious about doing its NATO reform homework. If Ukraine does not continue to implement reforms and restore political and economic stability, it may never graduate from the Intensified Dialogue stage to get a MAP. Based on the recent 2010 presidential election, and the actions of the Yanukovch administration, Ukraine most certainly is not putting itself on the MAP track for future NATO membership. Ukraine needs to decide if it wants to move forward with pro-western policies of democracy, free markets, and military cooperation, or if it prefers aligning itself with Russia. If Ukraine decides that strong ties with NATO is beneficial to its long-term success and security, Ukraine will need to complete its NATO homework to help put it back on track for a MAP.