Evaluation of the Indiana University Parliamentary Development Program

Assessment of the Development and Functioning of the Verkhovna Rada

Recommendations for Future Assistance

Section 1. Introduction

USAID/Ukraine has provided legislative strengthening assistance to the Ukrainian Parliament – the *Verkhovna Rada* - since 1994. This represents one of USAID's longest running, sustained legislative strengthening efforts anywhere in the world. The vast majority of this legislative strengthening assistance has been implemented by Indiana University through a series of cooperative agreements collectively referred to as the Parliamentary Development Program (PDP). The most recent agreement with Indiana University runs from August 1, 2003 through July 31, 2008. In early 2008, USAID/Ukraine undertook an internal review of the impact of the current PDP for the purpose of (1) learning to what extent the PMP's objectives and goals – at all result levels – were achieved; and (2) informing the design of a potential new governance project.

An evaluation/assessment team from USAID/Washington, Eric Rudenshiold (E&E/DGST) and Keith Schulz (DCHA/DG), visited Kyiv from February 4 – 15, 2008 for the purposes of conducting this evaluation and assessment. The team met with a number of MPs and staff of the *Verkhovna Rada* (or *Rada),* representatives of Ukranian NGOs and civil society organizations, the staff of the PDP, other donor organizations, USAID/Ukraine implementing partners and USAID/Ukraine staff (see Annex D for full list).

This report presents the team's findings and recommendations. Part I of the report provides background, history, and context on legislative development in Ukraine and on the PDP in general. Part II sets forth the team's evaluation of the results and impact of the PMP. Part III contains an assessment of the current level of political and institutional development and functioning of the Rada and of the legislative process in general. Part IV provides recommendations for future assistance strategies and activities to further strengthen governance systems, including policy development processes and legislative decision-making, in Ukraine. Part V of this report provides responses to specific questions posed by USAID/Ukraine in the scope of work for this evaluation and assessment.

PART 1

Section 2. Background

2.1. *Parliamentary Political Environment and Development*

In order to assess the development and impact of the current PDP program, it is important to briefly review the historical environment and its legacies on the Ukrainian parliamentary system and political culture. Though Ukraine declared its independence from the Soviet Union in 1991, along with the other former-Soviet Republics, it did so with some reluctance and only after flirting with a newly reconstituted Soviet Union, but then rapidly joined with Russia and Belarus to form the Commonwealth of Independent States. The country's political leadership was then deeply divided between Ukrainian nationalist forces seeking independence and a sizable conservative, pro-Soviet, industrial base in the Eastern half of the country. Nevertheless, the population overwhelmingly supported independence in a 1991 referendum vote. Though many in the Eastern half of the country tacitly approved of the shift to a democratic form of government, expectations varied on what that would ultimately mean. The ensuing catastrophic inflation, economic chaos and competition for increasingly scarce political and central resources further pitted East versus West in Ukraine. The roots of those cleavages between expectations and reality have since grown into a cynical and often frustrated electorate and political system that remains deeply divided.

The Ukrainian Parliament has played a central, albeit at times figurative, role in Ukraine's post-independence development. The former Chairman of the Soviet-era Rada, Leonid Kravchuk, became the first President of the independent Ukraine in 1991. Shortly thereafter, the Rada drafted and adopted a new constitution. Divided into 450 territorial districts, the 1990 and1994 unicameral Parliaments were elected through a majoritarian system. In 1998, however, the Parliament was elected through a mixed system, with 225 seats coming from majoritarian districts and 225 proportionately divided between parties passing a four percent election threshold. In 2006, election to all 450 Parliament seats was changed to a strictly proportional, closed-list system, composed of parties passing a three percent threshold. Thus, each of the post-independence Radas has been elected under different electoral systems, charting a course shift from solely majoritarian to solely proportional representation.

This trajectory mirrors similar tinkering with the overall political system, resulting in a new President being elected in 1994 and a new Constitution being adopted in 1996. The second, post-independence Constitution shifted the country to a presidential system of government, which stabilized politics through the 1990s. But widespread complaints that the country's second president, Leonid Kuchma, having allowed if not facilitated massive corruption and having effectively concentrated too much power in the executive office, triggered a bitter and intense political competition between two major, successor candidates, Prime Minister Viktor Yanukovych and opposition leader (and former Prime Minister) Viktor Yushchenko, and their political parties.

The conflict came to a head through a process known as the Orange Revolution, after the highly criticized 2004 presidential elections declared Yanukovych the winner. The Rada eventually passed a resolution declaring that the elections did not reflect the will of the Ukrainian people, passed a no-confidence vote in the Government and adopted new election legislation that reduced chances for the massive electoral fraud which had previously occurred. The re-run of the elections resulted in a Yushchenko presidency. Amendments to the constitution were subsequently added to transfer power from the President to the Cabinet of Ministers to take

effect in 2006. A parliamentary-presidential system finally emerged, reflecting the stalemate in Ukrainian politics and the deadlock between the President, Prime Minister and Parliament; and between shifting party alliances and coalitions. A succession of political traumas and impasses have left the country with a number of failed coalitions, a cynical and jaded population, yet another ruling deadlock and a faction-dominated parliament that is not directly beholden to voters, but which also cannot legislate.

The current problems in the Parliament stem in large measure from a proportional-list system that has effectively concentrated the legislature's power in the hands of a few fraction leaders. As of 2006, Ukrainian Members of Parliament (MPs) are constitutionally compelled via an imperative mandate to vote according to faction or bloc line, lest they be replaced by their leaderships. This provision was implemented to avoid the frequent and unpredictable party and faction defections that plagued the prior parliamentary convocation. A shaky balance of power between competing blocs and fragile party alliances has ensued, further forestalling much legislative activity.

Nevertheless, the Parliament remains the center of political attention in Ukraine. Despite cascading political crises, on numerous occasions the Parliament has managed to maintain a measure of legitimacy, even as the rest of the Ukrainian political system appears to implode. Though a number of its members have been seen to be corrupt, the Rada has repeatedly intervened at critical political junctures and generally provided legitimate space for the depressurization of political tensions and impasses. The peaceful resolution of the Orange Revolution is in part credited to the Parliament's role and is doubtless a factor in the increased overall public confidence in the institution. As a result, the Ukrainian legislature has also remained a symbol of both hope and frustration in the current politically stalemated environment. Most political actors still look expectantly for the Parliament as the font of legislative reform in the country to act in the current environment, even though it is effectively blocked by the current constellation of political fractions.

2.2. *Foreign Assistance Efforts for the Ukrainian Rada*

The United States has played the leading role in providing foreign development assistance to the Rada, primarily through the Indiana University Parliamentary Development Program (PDP). Several other US-funded programs have had legislative or parliamentary components as well, particularly those of the National Democratic Institute and the American Bar Association programs. Some other donors and governments have also provided limited and ad hoc assistance efforts, but the USAID-funded PDP program has been active since 1994 with the largest, longest and most comprehensive legislative program effort. The US Congressional Research Service, along with the United Nations Development Program, worked on establishing information technology systems in the Rada from 1993-1995.

The US legislative assistance program was originally part of a strategic objective under the democracy and governance portfolio to enhance the effectiveness, transparency and accountability of government institutions to their citizens. The assistance effort was particularly envisaged to help strengthen the parliament's capacity to provide a more effective check on executive power, but also to enhance legislative effectiveness through the passage of key legislation and support the development of rule of law. A number of significant legislative reforms have been passed as a result of US assistance to the Rada, contributing to democratic and market economic transitions. Institutional capacity and increased transparency of the Parliament have also been major efforts of US-funded assistance effort.

Under the Foreign Assistance Framework, USAID's legislative assistance programming falls

under the Governing Justly and Democratically objective to support Ukraine as a "developing" country. Programming is designed to support the adoption of policies and programs that accelerate the strengthening of public institutions. To promote good governance strategies, as outlined in the Foreign Assistance Framework, a number of program elements and sub-elements have been designed. The PDP program falls under the Legislative Function and Processes element, and addresses multiple sub-elements, including: Representation; Oversight and Budget Capacity; Legislative Management, Administration, Accountability, and Transparency; Citizen Participation; Strategic Planning and Policy Making; and Oversight of the Executive Branch.

2.3. *PDP History*

The Indiana University Parliamentary Development Program, originally begun in 1994 and continuing through 2008, is a non-partisan effort designed to work with all political parties, structures and related forces comprising the Ukrainian Rada. The program was initially launched jointly by the Indiana University School of Public and Economic Affairs and the US-Ukraine Foundation, in response to a request for assistance from the then Rada Chairman, Mr. Ivan Pliushch.

The program has evolved over its nearly 14-year tenure and can be broken down into four phases: (1) from 1994 to 1997, the provision of global comparative information on democratic governance and legislative practice; (2) from 1997 to 2000, provision of assistance for strengthening democratic procedures, including budget capacity, committee hearings, and the provision of and access to information; (3) from 2000-2003, a focus on facilitating the passage of reform legislation; and (4) from 2003 to the present, strengthening internal management systems, improving executive-legislative relations and enhancing citizen access to the legislative process.

The first phase of the program in the mid-1990s concentrated on providing access to information for Rada Members and staff. Indicative activities included translation and publication of information on comparative legislative practice from other relevant democracies. Another major component of this early program was to enhance the budget capacity and process of the Rada.

The 1997-2000 second phase of the program built upon the introduction of the new Constitution and elections to introduce and implement new procedures in the Parliament. PDP worked to help establish a regularized framework of procedures between different branches of government, including local and national institutions. The introduction of committee hearings was another facet of this program period, as well as improving the capacity of committees to address legislation and policy analysis. Opening up the legislature to the public was another major program component where PDP worked with the Secretariat and press service staffs.

The third phase of the PDP program, from 2000-2003, shifted away from institution and capacity development of the Rada to focus instead on passage of key reform legislation. PDP provided assistance to a number of USAID contractors and other organizations with information and analyses on topics related to reform identified by Ukrainian legislators. Seminars, comparative analyses, reform information, organizational support and training, centered on key legislation, were provided to the Rada.

The current phase of the program, 2003-present, has refocused on capacity development of the Parliament vis-a-vis staff and internal management systems, improving executive and legislative relations, and increasing citizen access and feedback to the legislative process. With dramatic parliamentary staff increases between 2000 and 2002, PDP worked to enhance the capacity of newly staffed committees, particularly in terms of hearing and procedural competences. Legislative analysis and drafting skills were emphasized by PDP to build staff capacity, as well

as efforts to augment the adoption and implementation of a procedural code for the Rada to build process facilitation.

It should be noted that, since 1995, the PDP has implemented an internship program to augment staff capacities across the Parliament. A strong emphasis of the program has been to solicit interns from outside of the Kyiv region, as well as to leverage cost-share from the Parliament where possible (e.g. Housing, meeting space, offices, equipment, etc.). As of the end of the 2008 program, 816 interns will have graduated the program. Currently, an estimated 15-30% of graduating interns find positions within the Parliament. The program is currently organizing an alumnae association as both a lobby for program support within the Government, but also a means to enhance placement capabilities. Former interns have been elected to the national and local Radas and work in various line Ministries or Executive branch offices or agencies.

2.4. *Previous PDP Assessments*

A 1999 assessment of the PDP program and the functioning of the Parliament identified a number of serious deficiencies and highlighted the need for serious structural reforms and improvements. These included the need for procedural rules, committee hearing procedures, strengthening of the committee system, greater access to legislative information, institutional transparency, organizational assistance (particularly relating to the need for a legislative agenda), and legislative drafting capacity. In particular, it was recommended that PDP provide comparative legislative information from Europe and the US, as well as maintain support for the intern program as a means of developing competent staff. Staff training was also highlighted as a priority, along with improving executive-legislative relations. This latter recommendation targeted Budget Committee and taxation issues as high-priority areas for assistance.

A number of issues highlighted in this assessment appear to have been successfully addressed, while others continue to be implementation challenges. Legislative drafting capacity in the Parliament in 1998 was generally recognized as an uneven morass. The lack of effective rule of procedure was seen as a critical need, along with any ability to implement oversight functions within the Parliament itself. Also listed were the needs for: information dissemination and staff support, access to comparative legal information, access to internal documentation, unfamiliarity with Western parliamentary procedures, weak analytical capabilities, and skills to address an executive-legislative deadlock.

In retrospective, parliamentary capacity in many of these areas has significantly improved. Legislative transparency and access to information within and about the Parliament has increased, especially through electronic means such as the Rada website. Legislation drafting and analytical skills of MPs and staff have improved substantially. Rules of procedure have been established and enhanced. Committee capacity has increased and hearings and other procedures institutionalized. Comparative legislation and procedural information is more available and has been adapted to indigenous structures and legislation. The budget functions of the Rada have also increased.

The executive-legislative deadlock continues to be a challenge for the Rada, though it is a different set of issues than was prevalent in 1998. Oversight capabilities in the Parliament are still lacking. Procedural and capacity challenges remain, though to a far lesser degree than in the past.

A 2002 Rule of Law assessment did not focus primarily on PDP programming, but noted that it was difficult to assess at the time the impact of PDP's institutional capacity development work. The assessment did highlight, nevertheless, the implementation of many PDP recommendations

for information dissemination. In particular, the report discussed the Rada website enhancements--including the addition of daily summaries and a next-day agenda, as well as regular press conferences. The 2002 study also lauded the establishment of the Accounting Chamber, electronic legislation tracking systems, more efficient internal management procedures, increased committee analytic capacities, staff development, and the increased use of public hearings and "Government Days" as major accomplishments of the PDP program. The assessment additionally recognized PDP's activities and efforts centered around the successful passage of key reform legislation, including the Land, Budget and Criminal Codes.

Section 3. Overview of the Current PDP

In 2003, USAID/Ukraine awarded a five-year cooperative agreement to Indiana University for purposes of strengthening the Verkhovna Rada of Ukraine. The Parliamentary Development Program (PDP) began on August 1, 2003, and is scheduled to end on July 31, 2008. The total amount of the original award was $4,976,063. Subsequently, the PDP received $499,954 in supplemental funding on September 28, 2005, for an overall total of $5,476,017.

As part of the supplemental funding, two additional areas of activity were added to the PDP. These were:

- Facilitate the Legislative Reform Activity of Ukraine's Parliament; and
- Advance the Role of the Parliament under the New Constitution and Proportional System of Election.

In addition to its own work, the PDP also included a parliamentary citizen access small grant program that resulted in seven grants to Ukrainian NGOs, CSOs, associations, think tanks and other organizations totaling over $58,000 in all. The goal of the small grant program was to develop the skills and capacity of Ukrainian non-governmental organizations to more effectively access, and provide input into, the legislative process.

3.1. *Goals and Objectives of the PDP*

The overall goals and objectives of the PDP are as follows:

1. *Develop more effective and democratic internal management systems in parliaments;*
2. *Improve legislative-executive relations; and*
3. *Increase feedback and access by citizens to the legislative process*

As part of its strategic design for achieving these goals and objectives, the PDP developed a number of sub-results under each of the above objectives and performance measurement indicators for measuring progress toward achieving the objectives.

The sub-results for each of the three objectives are as follows:

Objective 1: More effective and democratic internal management systems in parliaments

Sub-result 1: Passage of Advanced Procedural Code as Law
Sub-result 2: Elevated Technical Competence of Members of Parliament and Staff

Objective 2: Improved legislative-executive relations

Sub-result 1: The Parliamentary/Presidential Structure Improved
Sub-result 2: Improved and Expanded Oversight Opportunities

Objective 3: Increased access and feedback of citizens to legislative process

Sub-result 1: Improved and Increased Information Dissemination Mechanisms
Sub-result 2: More and Better Opportunities for Popular Participation

The PDP developed a number of activities under each of these sub-results by which it intended to achieve those sub-results. These activities are described in detail in the Quarterly Reports produced by the PDP.

PART II

Section 4. Evaluation of the PDP

4.1. *Analysis of Quantitative Information*

The amount of reporting and quantitative information concerning the implementation, progress and performance of the PDP is significantly greater than the evaluation team has encountered for any previous USAID-funded legislative strengthening program. The PDP is to be credited with providing an enormous amount of very professional, credible, and detailed information regarding its program, activities, and results.

The documents available to the evaluation team include quarterly reports, bi-annual workplans, PDP MP surveys, various PDP publications, among other documents. Included in these documents is significant quantitative information including a well thought out performance monitoring plan (PMP) and five MP surveys conducted by the PDP over an eight year period from 1998 to 2006.

This subsection reviews the available quantitative information and analyzes whether and how it reflects PDP impact and results. Although quantitative information, taken alone, does not prove a direct connection between PDP assistance activities and changes in Rada performance - i.e. evidence of positive impact or results - such information can provide evidence of changes in behavior, attitudes, actions, or performance by MPs, staff, and/or the Rada, which is the first step in the attribution chain.

4.1.1. *PDP Performance Measurement Plan*

The PDP's performance measurement plan contains six indicators that measure progress towards achieving the three overall objectives of the project. These indicators were designed to track progress or changes in the Rada's performance of some of its key democratic functions or

activities. The six indicators are identified below. The actual results and data for these indicators, as compiled by the PDP, are contained in Annex A.

Objective 1: More effective and democratic internal management systems in parliaments

Indicator 1: Progress in the legislative consideration of the Rule of Procedure Milestone Scale
Indicator 2: Quality of the legislative process index
Indicator 3: Violations of the VR voting procedures

Objective 2: Improved legislative-executive relations

Indicator 1: Effective Government Days

Objective 3: Increased access and feedback of citizens to legislative process

Indicator 1: Number of VR hearings open to the general public

Indicator 2: Improved score of gender equality and gender issues in VR legislation

The evaluation team was not able to independently verify the data collection methods or statistics gathered by the PDP as part of its performance monitoring requirements. However, in analyzing the data findings for each of the indicators, results were mixed in terms of demonstrating progress towards achieving the three overall PDP objectives. Some of the indicator results showed positive trends in areas of Rada performance that were the focus of some of PDP programs and activities. For example, the PDP assisted the Rules Committee in developing a new version of the internal Rules of Procedure and in educating MPs on utilization and application of the rules. Although the revised Rules of Procedure are in use but have not yet been officially enacted, and the two most recent sessions of the Rada have not resulted in much parliamentary activity, PDP's indicator tracking violations of the Rada's voting procedures fell dramatically from 151 in 2003 to 12 in 2007.

The PDP's indicator for measuring improved executive-legislative relations focused on the effectiveness of the Rada's Government Days – a form of ministerial discussion and questioning by MPs on issues related to the implementation of laws. The PDP indicator measured the percentage of effectiveness of Government Days through an index of criteria such as executive compliance with regulations, media coverage, and rank of reporting government official, among others. In 2003, the effectiveness score for Government Days was 72% while in 2007, the effectiveness score was 77%. The PDP provided assistance to the Rada in organizing Government Days, as well as conducting training and developing manuals on executive-legislative relations and oversight. The apparently widespread civic awareness of Government Days and the acceptance by executive officials to respond to parliamentary requests are positive, transparency-enhancing developments that remain outliers in the comparative, post-Soviet experience.

Other indicators did not demonstrate as positive or direct an impact upon performance or results. The index of the quality of the legislative process fell from 2002 to 2006. In addition, the number of Rada hearings open to the public also fell from 89 in 2003 to 71 in 2007. However, the continuing polarization within the political system, which led to multiple parliamentary elections in three years, and an abbreviated Fifth Convocation of the Rada, contributed to a lack of stability and continuity, and an environment of uncertainly, within the Rada that greatly hampered progress on institutional reform and development. The change from a mixed,

proportional-majoritarian electoral system (with some MPs being elected from constituencies), to a closed party-list system, also created different dynamics and incentives for MPs to engage in less direct contact and interaction with constituents and with the public.

4.1.2. *PDP Surveys*

Since 1998, the PDP has conducted a serious of five surveys of members of the Rada that provide a tracking of MP opinions and attitudes over an extended period of time. Survey III of the PDP surveys was conducted in February and March 2002 and thus can serve as a baseline of information from which to compare changes in legislative performance. The most recent survey - Survey V - was conducted in early 2006. A number of questions from these surveys are instructive in demonstrating changes in performance of the Rada from 2003 to 2006 in various areas of legislative performance or functioning in which the PDP worked. Although information from Survey V is somewhat dated in terms of this current evaluation, it still suffices to demonstrate trends and trajectories in legislative performance during the period of the current PDP.

A number of the questions contained in the PDP surveys focused on the strengthening of areas of legislative performance or function that were key objectives of the PDP. This section sets forth the three key objectives of the PDP and reviews those survey questions that most closely pertain to the achievement of those objectives. The section analyses the results of the survey questions to evaluate whether and how those results reflect upon the impact of the PDP. The specific quantitative results of these survey questions are contained in Annex B.

Objective 1: More Effective and Democratic Internal Management Systems in Parliaments

PDP Survey Question: How well do existing Verkhovna Rada rules of procedure work?

PDP Survey Question: What proportion of existing Verkhovna Rada staff has the necessary skills to support the work of parliamentarians?

The results for these PDP survey questions generally demonstrate a positive trend toward more effective and democratic internal management systems in the Rada. Of the seven indicators to the first PDP survey question: *How well do existing Verkhovna Rada rules of procedure work?* - six of the indicators show improvements from 2002 to 2006. Significant increases occurred in indicators demonstrating that, under the existing rules of procedure, plenary sessions are conducted in an orderly fashion; parties are treated equally, important legislation is given priority, and the public's understanding of the legislative process is facilitated.

Given the large turnover in MPs, and the significant increase in first-time MPs during the last two sittings of the Rada, the increased penetration and utilization of the Rules might suggest an even greater impact than implied. Greater compliance among a stable cadre of elected officials alone would generally indicate an increased appreciation and adherence to the Rules of procedure, but rising adherence among a body with a significant number of new members could presuppose that peer pressure and even a normative shift may be taking place.

The only indicator showing a downward trend was in the lesser percentage of MPs who believe that the existing rules of procedure adequately ensure that deputies are disciplined for disruptions to the plenary session. The deep-seated cleavage in and the many, recent, successive failures of the Ukrainian political system, as played out in Parliament, also would tend to mitigate this indicator somewhat. The highly unstable nature of the Ukrainian legislative system has

exacerbated a number of tensions between factions and reduced opportunities for trust and working relationships across factions.

Another positive sign of more effective internal management systems within the Rada is the increase in the percentage of MPs who believe that a higher portion of VR staff have adequate skills. This may be due, in part, to the heavy emphasis placed on staff training by the PDP. Although the large increase in the number of staff since 2002 has resulted in a rise in raw numbers of staff who can actually work, there are some indications that the overall quality of staff has increased. The widespread popularity of the PDP internship program as a generator of qualified staff, and the selection of anywhere from 15-30% of those trained interns to work in the Rada would seem to corroborate this.

Objective 2: Improved Legislative-Executive Relations

PDP Survey Question: Effectiveness of mechanisms to provide for parliamentary oversight of the actions of the Executive Branch.

PDP Survey Question: Degree of communications between committees and ministries

The PDP surveys show that members of the Rada have increased their opinion of the effectiveness of various oversight mechanisms and functions from 2002 to 2006. For example, in 2002 only 40% of MPs thought that parliamentary hearings were "very" or "somewhat" effective while in 2006, 67% of MPs viewed parliamentary hearings as "very" or "somewhat" effective. Similarly, MPs opinion of the effectiveness of Government Days (a form of Question and Answer time) rose from 50% to 82% during that same time period. These surveys demonstrate an enhanced awareness of the importance of the Rada's oversight functions and are correlated in part, by increased usage of particular oversight tools such as parliamentary hearings and Government Days. As indicated before, this development is a significant departure from Soviet legislative culture and virtually unique to Ukraine.

Objective 3: Increased access and feedback of citizens to legislative process

PDP Survey Question: Would you favor use of public hearings by committees?

PDP Survey Question: How often do the committees on which you serve provide a place for the general public to be heard on pending legislation?

PDP Survey Question: Average monthly meetings with citizens groups.

The quantitative information for Objective 3 is mixed in terms of whether there has been increased citizen access and feedback in the legislative process. Although the PDP survey indicates that most MPs support public hearings for some or most laws, the actual number of public hearings, as evidenced by PDP Indicator for the number of public hearings open to the general public, fell from 2003 to 2007. According to data collected by the PDP, there were 89 open public hearings in Fiscal Year 2003 and 71 open public hearings in Fiscal Year 2007. In addition, the 2006 survey, administered at the end of the 4th Convocation, found that 52% of the MPs reported that committees "sometimes" or not at all provided a place for the general public to be heard on pending legislation. Only 43% of the MPs reported that committees "routinely" or "often" perform this functioned. This would tend to demonstrate that public hearings, while now institutionalized in the Rules of Procedure and conducted on a more common basis then

before, are still not as routine a practice among Verkhovna Rada committees as they could be.

The average number of monthly meetings with citizen groups reported by MPs decreased from 2002 to 2006. In 2002, 49% of MP respondents reported 16 or more meetings per month while by 2006, the number of MPs reporting 16 or more citizen meetings per month dropped to 27%. This likely reflects the change to a closed party list electoral system that provides fewer incentives for MPs to engage with constituents in their districts.

4.1.3. *Global Integrity Survey*

On the positive side, the Global Integrity Survey for Ukraine gives high scores to the Verkhovna Rada on its indicator of citizen access to legislative processes and documents (see Annex C). In its 2004 survey, Ukraine received a score of 75 out of 100 on this indicator. In 2007, Ukraine received a score of 83 out of 100. The 2007 survey reports that *"[i]n practice, citizens can access unclassified records of legislative processes and documents immediately through the Internet*." Again, in comparison to other post-Soviet legislatures, the Rada has departed significantly from the norm of limiting access to information to the adoption of a remarkably transparent and readily accessible portal. While outside usage of that site may be limited, a comprehensive catalogue of legislative information is available from the Rada. The PDP program has worked extensively with the legislative authorities to build out the Rada's website.

4.1.4. *IFES Public Opinion Surveys*

Since 2002, the International Foundation for Electoral Systems (IFES) has conducted a serious of surveys of public opinion in Ukraine on a variety of subjects. One of the questions asked in these surveys concerns public confidence in the Parliament. In 2002, eighty percent (80%) of the respondents to the survey indicated they had little or no confidence in the Verkhovna Rada. Only twenty percent (20%) indicted they had confidence in the Verkhovna Rada. The public's level of confidence in the Verkhovna Rada has increased over the time period of the PDP with a high of fifty-four percent (54%) expressing confidence in February 2005 to the most recent survey in September of 2007 in which forty percent (40%) of those surveyed expressed confidence in the Verkhovna Rada. Although the most recent public opinion survey is not exactly a resounding expression of support or confidence in the Verkhovna Rada, levels of confidence in the institution are significantly higher now than they were at the beginning of the current PDP in 2003. They also parallel and reflect a level of contemporary popular dissatisfaction and frustration with elected representative bodies in many democratic countries around the world and reflect the frustration in Ukrainian politics that has seen massive parliamentary upheaval in Ukraine and both the premature closure of the fifth and difficulty in opening the sixth convocations.

4.2. *Analysis of Evaluation Information*

4.2.1. *Overview*

As described in subsection 2.3, USAID/Ukraine in 2000 - in response to concerns about the lack of progress toward reform - shifted the focus of the PDP program from its previous emphasis on institutional development (1997-2000) to an emphasis on the passage of reform legislation. From 2000-2003, PDP assistance consisted largely of supplying comparative analysis, information, seminars and training to MPs and staff of the Rada on specific issues or legislation.

In 2003, starting with the current program, the PDP again shifted the emphasis of its activities back to a renewed emphasis on institutional and capacity development of the Rada. This was

partly in response to parliamentary reforms in 2001 and 2002 which resulted in a significant increase in the Rada's capacity and functioning. These changes were evident in the huge increase in staffing, the expansion in the number of Rada offices and buildings, the larger parliamentary budgets, and the greater utilization of computerization and information technologies. To take advantage of these significant reforms and commitments to the strengthening and development of the Rada, the PDP initiated the current program to strengthen internal Rada management systems, improve legislative-executive relations, and increase citizen access to the Rada.

The strategy to refocus the PDP on internal institutional development of the Rada appears to have been sound. The Rada today is a much different institution than it was prior to the year 2000. It functions at a much higher level of activity as evidenced by the increased numbers of committee meetings, hearings, draft legislation, staff, roundtables, working groups, political groups and factions, offices, and departments. The PDP was well-placed to take advantage of these reform and development efforts by providing technical assistance, support, and expertise to strengthen the Rada's internal management systems, legislative processes, and human capacity.

One question for the evaluation team is the degree to which the PDP helped to trigger these reforms efforts, assisted in the implementation of these reform efforts, or was the beneficiary of these reform efforts in terms of achieving its overall results and objectives. PDP activities in the early years of the overall program focused on providing information on comparative models of legislative process and practices from other countries. Long-serving members of the Rada give credit to the PDP for informing and educating members and staff of the Rada on committee operations and processes, legislative rules of procedures, and legislative drafting, among others. These efforts helped lead to the initiation or reform of certain practices and procedures within the Rada. Among those new practices or reforms credited to the PDP by different MPs or staff include the use of working groups and roundtables by Committees to work on specific laws, the requirement that each committee have a staff gender specialists, and committee field visits to different regions of Ukraine.

4.2.2. *Achievement of PMP Objectives and Sub-results*

The evaluation team finds that in general, the PDP has been successful over time in helping to improve the Rada's overall effectiveness and functioning. While not all of the current PDP objectives and sub-results were achieved in full, tangible progress was made towards achieving many of these objectives and sub-results. In addition, the PDP appears to have attained a general level of credibility and satisfaction within the Rada that reflects positively on USAID/Ukraine and the USG in general.

Addressing each objective and sub-result in order, the evaluation team makes the following findings with regard to the PDP's results and achievements:

Objective 1: More effective and democratic internal management systems in parliaments

Sub-result 1: Passage of Advanced Procedural Code as Law

Sub-result 2: Elevated Technical Competence of Members of Parliament and Staff

The PDP played a significant role in helping the Verkhovna Rada to develop more effective and democratic internal management systems. A substantial investment was made by the PDP in the form of a full-time coordinator for rules of procedure to help improve the conduct of the

plenary and the organization and effectiveness of the legislative process as a whole. Much of PDP's work in this area consisted of advising the Rules Committee on comparative legislative rules, procedures and practices; organizing or conducting training, seminars, and roundtables on the rules of procedure for MPs, staff, interns, and others; and preparing manuals on the Legislative Process and on the Rules of Parliamentary Procedure. The culmination of this work was the Verkhovna Rada's passage by resolution of new rules of procedure in March 2006. Although there are now legal challenges as to whether under the constitution the rules of procedure need to be ratified through a law rather than adopted as a resolution, as a practical matter, the rules of procedure are being utilized. Data from the PDP MP survey's demonstrates that MPs believe that the rules of procedure have been increasingly effective over time in ensuring that the plenary sessions are conducted in an orderly fashion, that individual deputies have fair opportunity to speak before the plenary, that parties are treated fairly, and that the rules have helped to facilitate greater public understanding of the legislative process (see Annex B).

The Chairman of the Rules Committee admitted that adherence to the rules of procedure is still a problem in some instances. The chairman indicated that although the rules as written are good, implementation and enforcement of the rules could be improved. However, he did also indicate that PDP assistance to the Rules Committee had been very extensive and very useful in the process of revising the rules and educating MPs on the rules.

The PDP also invested substantial resources into elevating the technical competence of MPs and staff of the Rada. This was done mainly through training and education of members and staff of the Rada and the provision of expert and comparative information and analysis on key policy and development issues. A variety of different types of training and education activities were conducted during the course of the PDP on topics and issues that included, but were not limited to, MP orientations, policy analysis, rules of procedure training, gender issues, committee hearings, legislative drafting, among others. Manuals produced by PDP for these purposes are considered by many as highly useful, self-explanatory and purportedly used extensively by staff.

It would appear that these activities and interventions were well received. A recent survey conducted by the Verkhovna Rada's Secretariat and the PDP of the heads of departments and committee secretariats found that 80% had received assistance or cooperated with the PDP. Approximately 75% of those surveyed indicated that PDP assistance had been "very useful" or "useful." The most successful PDP activities were identified as consultations on legislative and transparency issues, seminars, and assisting in the conduct of roundtables, field hearings, and committee hearings. Another sign of elevated technical competence of Rada staff is the recognition by MPs of the increased skill levels of staff of the Rada (see Section 4.1.2).

One of the reasons for the PDP success in working with MPs and staff of the Rada was the ability to attract highly qualified and experienced staff with specialized skills and knowledge. PDP activity managers did not just organize activities such as seminars and roundtables but in many cases were themselves experts on the issue or subject areas and were able to provide valuable information or make important contributions to policy discussions and dialogue.

By far one of the most successful aspects of the PDP has been the on-going internship program within the Rada. In its 12th year, the internship program was originally managed by the U.S. Association of Former Members of Congress. The PDP assumed management responsibilities for the internship program in 2000. Over 800 people have gone through the program and a significant number of those (estimates ranged from 15 to 30%) were subsequently hired on a permanent basis by the Rada. The internship program has been seen as an important source of highly qualified, trained, and experienced staffers that have helped contribute to an increasingly skilled Rada legislative workforce. PDP's management of the internship program appears to

have gone beyond the scope of internship programs in other countries by providing intensive training and orientation for interns, a small stipend, a geographically diverse and competitive selection process resulting in interns from across Ukraine, and a certain prestige and reputation that attracts top students.

Objective 2: Improved legislative-executive relations

Sub-result 1: The Parliamentary/Presidential Structure Improved

Sub-result 2: Improved and Expanded Oversight Opportunities

It is not evident to the evaluation team that much progress was achieved by the PDP in helping to improve legislative-executive relations. However, oversight by the Rada of executive actions and activities did continue to improve during the course of the PDP. Relations between different branches of government are often determined by political factors including whether control of the different branches of government are within the same political party or coalition. The time period of the PDP from 2003 to the present has been characterized by constant political change and turmoil, making it very difficult to establish effective working relationships and patterns between the executive and the Rada. During the course of the current PDP, several different political variations in legislative-executive relationships occurred, none of which lasted very long.

In 2003, at the beginning of the current phase of the PDP, the executive branch – the Presidency and the Cabinet headed by a Prime Minister – and the Verkhovna Rada were controlled by the same alignment of political forces headed by then President Leonid Kravchuk and Prime Minister Viktor Yanukovych. Following the flawed 2004 Presidential elections, which precipitated the Orange Revolution, Viktor Yushchenko was elected President as head of the coalition of reformist parties. President Yushchenko named another leader of the coalition, Yuliya Tymoshenko, as Prime Minister. Control of the Rada, however, continued in the hands of the political coalition headed by former Prime Minister Yanukovych and his Party of Regions.

In September 2005, President Yushchenko dismissed the government of Prime Minister Tymoshenko and named political rival Yanukovych as the new Prime Minister. The Rada and the Cabinet thus came under the control of political forces belonging to Yanukovych while the Presidency remained in the hands Viktor Yushchenko and the political factions of the Orange coalition. The March 2006 Rada elections resulted in the Party of Regions and the bloc of former Prime Minster Tymoshenko, whose government the President dismissed in September 2005, finishing ahead of the pro-presidential Our Ukraine bloc. Since no party held the majority of Rada seats needed to form a government, following four months of difficult negotiations, a government led by Prime Minister Yanukovych and including representatives from the Party of Regions, Our Ukraine, and the Socialist Party took office on August 4, 2006.

In April of 2007, President Yushchenko dissolved the Rada and new elections were held in June of 2007. The loose coalition of “Orange” political parties won the majority of seats and Yuliya Tymoshenko was installed as the new prime minister in December 2007, thus putting the Presidency, Prime Minister, and Rada nominally under the control of the same political coalition.

The lack of political continuity among the different branches of the government, and within the executive branch itself as between the President and Prime Minister, has created a continual political crisis for most of the period of the current PDP. Competition within the executive branch has created separate centers of power with often differing and conflicting policy and

legislative agendas. The Rada has sometimes had to deal with different and competing draft laws from the President and the Cabinet, making the institutionalization of formal policy processes and procedures, let along effective working relationships, between the executive and legislative branches extremely difficult.

However, there are institutional structures that if working properly can ensure that an ongoing working relationship continues between the executive and legislative powers even if each are control by opposing political forces. The goal of sub-result 1 under Objective 2 in the PDP work plan - *The Parliamentary/Presidential Structure Improved* - was "to facilitate: a) improved cooperation between the legislative and the executive branches b) the development of more effective legislative-executive relations by focusing on composition and inter-relations between branches of power and c) the strengthening of the position of parliament as an independent and equal branch of government and d) the advancement of comparative knowledge of democratic governance.[1]

The PDP sought to build consensus on improving legislative-executive relations by providing expert legal analysis and facilitating discussion and dialogue on the passage of constitutional and legal reform issues relating to the balance of powers. Although the PDP organized a number of consultations and roundtables, and PDP consultants attended a number of committee and working group meetings on these issues, key legal and constitutional reforms governing the relationship between the executive and legislature have not been adopted. Consensus building models appeared to worked better results on certain policy issues and legislation. The PDP sought to bring together representatives of the executive branch and representatives of the Verkhovna Rada on specific legislation through working groups and roundtables. The PDP helped a number of Rada committees to establish working groups on specific legislation bringing together MPs, outside experts, representatives of the President's office and of various ministries, and others to review and revise draft legislation. Although the overall political environment has not been very conducive to fostering cooperative relations, it appears to the evaluation team that PDP's positive acceptance by the Rada leaves USAID's future assistance to the Rada well positioned to capitalize on any positive openings, should they occur.

With respect to sub-result 2: I*mproved and expanded oversight opportunities*, the Rada's use of parliamentary hearing and Government Days mechanisms continued during the course of the PDP. As discussed in Section 4.1.2., MPs recognize the increased effectiveness of these mechanisms. This is likely due, in part, to the PDP which worked with a number of committees to organize public hearings, both within the Rada and during regional field visits, and which also worked with the Rada as a whole to help organize the process and procedures for Government Days.

Objective 3: Increased access and feedback of citizens to legislative process

Sub-result 1: Improved and Increased Information Dissemination Mechanisms

Sub-result 2: More and Better Opportunities for Popular Participation

The PDP had mixed success in assisting the Rada's efforts to achieve increased access and feedback of citizens to the legislative process. Although there were significant increases in the Rada's capacity to disseminate information to the public, opportunities for public participation

[1] See Indiana University Parliamentary Development Plan, *Implementation, Activity and Monitoring Plan,* August 1, 2003 – July 31, 2004, pg. 9.

and input in the legislative process are not as robust and institutionalized as would be hoped for.

The goal of sub-result 1: *Improved and Increased Information Dissemination Mechanisms*, was to "facilitate the improvement of the communication system within the parliament and from the parliament."[2] This goal appears to have been achieved. Among the Rada's finest accomplishments over the past five years is the development of its very impressive website and the placement of an enormous amount of information on that website concerning the legislative process that is freely available to the public. The evaluation team knows of no other parliament in this region with such a substantive and user friendly website.

In addition, the Global Integrity Survey gives the Rada high marks for providing the public with immediate access to extensive legislative records and documentation via the website (see Annex C). Among the records and documents on the website are copies of all draft laws, as introduced, and on first, second and third reading, bill histories and tracking information, plenary and committee agendas and calendars, and MP voting records, among other information. The website demonstrates the Rada's commitment to a significant degree of transparency in its actions and proceedings.

The director of the Rada's Information Technology Department indicated that PDP assistance was quite useful in helping the IT Department to develop its website. The PDP provided comparative information about other parliamentary websites, informational content and materials to place on the website, translation of key English language materials into Ukrainian, and specialized expertise in the form of at least one intern with computer and website design skills. This intern proved to be of such high quality that he was subsequently hired on a full-time basis by the IT Department.

The goal of sub-result 2: *More and Better Opportunities for Popular Participation*, was not completely met during the term of the current PMP. It does not appear to the evaluation team that the public has consistent access to MPs, committee proceedings, or the ability to participate in, or provide input into, the legislative process. In the 2006 MP Survey, less than 50% of the respondents indicated that committees provided a forum for special interest groups or the general public on pending legislation. In addition, the changes in the electoral system that resulted in a closed party list system eliminated constituent based voting, effectively did away with constituent offices, and reduced incentives for MPs to directly engage citizens, thus making it less likely that average citizens, especially those outside the big cities, would have any contact with an MP. Persons interviewed by the evaluation team noted that while certain NGOs, CSOs, interest groups, business people, or well-connected individuals have little trouble finding sympathetic MPs to engage with on particular issues or draft legislation, it is much more difficult for general members of the public or less connected or well-known NGOs and CSOs, especially those outside of Kyiv, to gain access to the legislative process. Nevertheless, these various organizations indicated that they do have a variety of options to try and influence legislation—either through the Committees or by approaching individual MPs. This is a significant development over prior gauges of openness in the Ukrainian legislative process.

The PDP worked extensively to create more opportunities for citizens to participate in legislative proceedings. PDP efforts in this area included helping at least three committees of the Rada to conduct regional hearings in different Oblast centers around Ukraine; providing small grants to Ukrainian NGOs to organize and participate in conferences, roundtables, and working groups on particular issues with members and committees of the Rada; and organizing training seminars for

[2] See Indiana University Parliamentary Development Plan, *Implementation, Activity and Monitoring Plan*, August 1, 2003 – July 31, 2004, pg. 13.

journalists on how to more effectively cover proceedings of the Rada.

The regional hearings, in particular, were considered to be very useful by MPs, according to interviews conducted with various MPs and staff during the assessment. Unfortunately, a lack of long-term budgeting and planning appears not to have institutionalized these regional meetings as part of a normal practice. It is difficult to assess whether PDP assistance is taken for granted, including its support for such activities. However, the regional hearings were not a comprehensive offering of the program but rather an ad hoc activity with a few committees. As a result, awareness of the utility for such hearings may well build demand for the Parliament to provide appropriate resources.

The PDP is currently conducting a series of meetings between representatives of committees, Secretariat staff, and members of the Information Technology Department to improve the transparency of committee proceedings through developing committee websites designed to increase the amount of information about committee discussions, processes and activities available to the public. However, it is evident that more work needs to be done to more fully institutionalize open committees, public hearings, and other forums for public input and participation in the legislative process.

4.3. Gender Issues

Gender issues were an important element of the PDP as evidenced by the presence of a full-time gender coordinator within the PDP. The PDP was successful in integrating gender considerations in Rada proceedings through its efforts to convince the Rada leadership to require that all committees have, as part of their staff, a gender point person responsible for ensuring that gender issues were considered in all committee actions and decisions. The PDP provided training to these gender specialists on a range of issues including gender related violence, equal rights and opportunities, and how to prepare gender impact statements for draft laws. As part of this training, the PDP produced a manual on equal rights and equal opportunities for women. An MP who worked closely with the PDP on gender issues credited the PDP for raising the level of awareness among MPs of gender related issues.

4.4. *Lessons Learned/Best Practices*

In reviewing and evaluating the results of the PDP, the evaluation/assessment team made a number of findings regarding the successes and limitations of the project. A number of these findings are relevant as potential “lessons learned” for future USAID legislative strengthening programs. These include:

- Long-term, sustained assistance efforts are likely to achieve the greatest impact on the democratic development of new or transition parliaments and legislatures;
- Non-partisan approaches in which USAID legislative strengthening assistance is made available to all members and factions within the parliament or legislature help ensure the credibility and acceptability of the assistance;
- Legislative strengthening assistance programs can strongly benefit from the utilization of local professionals with substantive expertise on critical policy issues and areas;
- Flexibility and adaptability in program design and implementation allows USAID-assistance to respond to changing needs and priorities and retain its relevancy

PART III

Section 5. Assessment of the Development and Functioning of the Verkhovna Rada

5.1. *Assessing the Political Development of the Rada*

A number of issues have a direct and indirect influence on the development of the Rada. Not the least of these is the Soviet legacy of zero-sum politics which leaves no tradition of compromise. Politics is generally still a winner-take-all affair in post-Soviet Ukraine, despite the formation of coalitions and blocs in the parliament. For example, parties that were to have merged in the Our Ukraine-People's Self-Defense bloc now refuse to do so, as proprietary leaders of the constituent parties seek to reassert their individual power. Hence, party alliances remain unstable, in spite of the imperative mandate to remain united. Compromise is considered akin to defeat.

Likewise, a long tradition of executive leadership has continued into the post-Soviet era, leaving the parliament with few long-term legislative traditions. A rubber-stamp institution in former days, the Rada has managed better than many of its peers to become a more substantive body, yet it still languishes behind the executive branch of government in balance of power politics. In addition, the fluctuating electoral systems have repeatedly replaced parliamentarians with inexperienced legislators. One fourth of the new Rada's convocation is composed of new MPs. Nearly 35% of the short-lived fifth convocation were first-time legislators. Taken together, 60% of all Ukrainian legislative members will have far less than two years of legislative experience. Whereas the imperative mandate may cow MPs into obedience and some semblance of legislative order, it does not take the place of experience.

The on-going power struggle between the President and Prime Minister also factor heavily into the stability of the Parliament, particularly as each controls a significant number of MPs through party affiliation. Both figures have exerted significant influence in the Parliament and continue to openly jockey for political advantage in the Rada. As a result, the opening sessions of the sixth legislative convocation were stalemated from the outset, and one session demonstrated the frustration of all parties involved with MPs shoving and scuffling for control of the Chairman's microphone.

Further heightening tensions between the executive branch of government and the Prime Minister is the Damoclesian threat of constitutional reform that may happen at any time and may result in a reshaping of the Rada and its composition. Duplicative structures within both sets of offices are springing up in a looming battle for constitutional revisions and power. A burgeoning presidential secretariat is springing up in replication of many Cabinet functions. Although most in Ukraine agree that the current constitutional construct does not function well, the battle lines between political factions and between the executive and the government result in a very unstable governing construct. Numerous realignments of political power are possible, given the current state of political play, which could easily result in a complete reshaping of the constitutional system to a solely parliamentary, solely presidential or an even different construct of the two. The Rada itself may shift from its current majoritarian composition to a proportional- or mixed-system composition.

Though there are many contributory issues, one last, major pull factor on the Rada's development is the prospect of European Union (EU) integration. The harmonization of laws to EU standards alone is a significant undertaking, but there are also a number of procedural and

normative shifts which need to be made in the legislative system. Rada interlocutors are aware that they fall short of EU standard standards in a number of areas, providing another powerful means to leverage needed reform.

5.2. *Assessing the Institutional Development of the Rada*

The Rada operates at a level of functioning that far exceeds any other parliamentary or legislative institution in countries of the former Soviet Union. The Rada conducts public hearings; committees meet and function; MPs initiate legislation; information and documentation about draft laws, legislative proceedings, and MP voting records are readily available to the public; MPs have offices and personal staff; and the Secretariat employs a large number of people to staff the committees, offices and departments of the Rada.

The facilities and staff available to MPs in the conduct of their official business is impressive and a marked change from ten years ago. There are now a number of Rada buildings housing MP offices, faction offices, committee meeting rooms, and Secretariat offices and departments. The Rada has well over 1000 employees, many of whom can be considered professional level staff. The Rada is much more accessible to the public in terms of attending sessions, committee hearings, meeting with MPs, and touring the buildings.

Despite these accomplishments, the Rada still faces systemic and institutional shortcomings that hamper its ability and capacity to operate in a more effective, efficient and democratic fashion. A number of persons interviewed noted that many of the hearings conducted by the Rada, either in plenary or in committee, tend to be more information dissemination rather than information gathering. MPs have a tendency to use these hearings as a means to publicize and politicize their positions on a law or issue rather than solicit public testimony, comments or input. There is little transparency or identifiable prioritization in the legislative calendar, resulting in little understanding or trust as to why certain drafts of laws appear to “come out of nowhere” and get acted upon rapidly. How much of this is just politics that rank-and-file MPs are not used to is difficult to ascertain. But more transparency in the internal processes would help to build more confidence among politicians from within the institution itself.

Policy expertise in the form of in-depth research and analysis of key issues and laws is still in short supply within the Rada. Although in theory, the Institute of Legislation should be supplying this type of non-partisan information, research and analytical information to committees, MPs and staff, a number of people within the Rada were less than positive about the quality of information and services provided by the Institute. In some cases, the PDP was used by MPs to supply policy analysis and expertise on specific issues or legislation. Although certainly helpful in the short-term, over reliance on the PDP as a source of analytical, comparative and policy information does not build capacity within the Rada to institutionalize these skills and expertise.

The Rada’s role in reviewing, adopting, and monitoring the implementation of the national budget appears to be relatively weak. Some of this is due to political factors as the executive branch attempts to marginalize or limit the role of the Rada in the budget process. However, institutional capacity to effectively engage on budget issues is limited as specialized staff expertise on budgetary and fiscal analysis is in short supply within the Rada.

The Rada does not have sufficient internal capacity to adequately focus on its own long-term strategic growth and development needs. According to the Deputy Secretary General, there is no office or department within the Rada that works on strategic planning and development issues. The political leadership of the Rada has been either too consumed with political issues to focus

on longer term institutional development issues or are more familiar with, and experienced in, authoritarian era legislative institutional legacies rather then newer, democratic models of more effective and independent parliaments. Long-term planning and budgeting training would be particularly beneficial to the Rada, especially as USAID seeks to institutionalize a number of programs and procedures that can have financial implications, but also to help the parliamentary leadership work on internal prioritization and fiscal efficiency. Further, fiscal planning will enable the Parliament to be competitive with other branches of government and provide sound arguments to the Council of Ministers for needed budget increases.

PART IV

Section 6. Recommendations for Future Assistance

6.1. *Program Scope and Objectives*

Based upon a cost-benefit calculus and development opportunities, the team recommends the Parliamentary Development Program for Ukraine primarily be expanded into a Policy Development Program (PDP2). The program would build upon both developments within the Parliament and Government of Ukraine and upon inroads made by the existing Parliamentary Development Program, but also ideally to continue through and be flexible enough to accommodate what appears to be a likely major constitutional overhaul that will likely have a great impact upon the Parliament. The proposed program should be a logical extension of existing USAID-funded PDP work and would also establish links between PDP2 and (1) the Mission's new civil society assistance programming, (2) existing the existing advocacy work of the Ukraine Citizen Action Network, and (3) the cross-factional and coalition-building work of the National Democratic Institute's programs.

The program's general objectives will be accomplished through five, primary program strands:

1. Promoting more effective and transparent policy development and legislative decision-making through the provision of technical assistance and resources in the executive and legislative branches of government.
2. Developing and strengthening the capacity of parliamentary committees and their specialized staff to include the expansion of hearings practices and procedures, as well as improving legislative drafting and review techniques.
3. Institutionalizing capacity in the *Rada* through the development of strategic planning and budgeting capabilities to (a) provide training and assistance for newly elected MPs and newly hired staff on parliamentary procedures, responding to constituency requests and issues, ethics programming, legislative procedure and process and (b) continue the exiting internship program within the Parliament.
4. Linking existing USAID-funded political process and civil society programming activities and efforts with legislative training programs to maximize impact and promote mutually reinforcing relationships.
5. Responding to political and other opportunities that provide entry into key development processes related to the legislature and legislation development, such as Constitutional reform.

The bulk and primary emphasis of the new program would seek to work in the arena of legislative policy development, both within the Parliament and with those branches of the Ukrainian Executive charged with legislative development. This is a refocusing of existing

capacity in executive-legislative relations, but targeted to take advantage of the expansion of *Rada* Committees and burgeoning legislation capacities in the executive. The primary goals of this aspect of the new PDP2 would be to:

- continue to expand upon the highly regarded legislation work of the existing program, in partnership with the Ukrainian Parliament, *Rada*, and relevant governmental offices;
- assist in the development of more streamlined and coordinated approaches to policy formation and the creation, review and adoption of legislation;
- facilitate dialogue between potentially competitive sources of legislation in line Ministries, the President's office and relevant Committees in Parliament to as much as possible review, set and discuss a legislative agenda;
- coordinate and cross-check proposed legislation with the Constitution, current laws and executive decrees in force; and
- develop an overall higher quality of legislative first drafts, thereby avoiding the current need to significantly amend or redraft existing legislation.

A continuation of some current activities of the Parliamentary Development Program for Ukraine is also strongly recommended for the PDP2, based upon contemporary political realities and strategic opportunities. In this regard, a number of successful program strands are recommended to be continued, refocused or to be institutionalized within the *Rada*:

- provide continued and deeper capacity-building for new and existing legislative committees, but focused to enhance the capacity of the Parliament to effectively address civil society concerns—including the expansion of hearings to include more outside testimony;
- train new Members of Parliament (MPs) and parliamentary staff and establish a sustainable institutionalization of this function within the Parliament;
- continue declining support to the internship program with the need to institutionalize a home for the program within the Parliament Secretariat;
- further fund PDP's small grants program as an appropriate and effective avenue for (a) targeting key policy issues as a nexus for CSO and Committee interaction and (b) to foster the reach of the Parliament to hold regional hearings, though this recommendation also depends upon the capacities of the new, USAID-funded, civil society assistance program;
- assist in the process of constitutional reform, should that process be initiated; and
- help in the re-establishment of constituency offices in the event of constitutional reform.

Due to a long history of successful cooperation between PDP and the Rada, not only has political will for change been demonstrated, but a number of changes in parliamentary practice have arguably become sustainable. Future assistance efforts have a very solid base of both continuity and trust to build off of, as there is widespread knowledge in the legislature and some appreciation in the halls of government regarding PDP's work and its cooperative approach. Thus, USAID's investment in legislative programming should be exploitable for broader program objectives, if similar operational practices are followed.

Nevertheless, though PDP has operated successfully in the past without one, regional experience has shown that implementation of a new program may benefit from a signed Memorandum of Understanding (MOU) or similar agreement that would spell out program objectives and highlight/leverage contributions from both partners—USAID and the government of Ukraine. Particularly if the program is to (1) branch out into work with new official sectors that may have

less hands-on experience with the past program, (2) seek to institutionalize program elements (e.g. internship, staff training) within the *Rada*, and (3) mitigate the impact of US budgetary pressures, a MOU can build confidence for all partners, as well as to underscore the need for both sides to contribute to the program. Appreciation for the existing program would make a future MOU seem a reasonable proposal.

6.2. USAID Mechanism

Unlike elsewhere in the region, where D-G programming has been unwanted and considered invasive, a number of factors appear to motivate *Rada* authorities to continue to approve and even welcome US assistance efforts to strengthen the country's Parliament. Not the least among these is the pragmatic and practical approach that the existing, multi-year program has employed, providing assistance in a non-partisan and unbiased manner. The program has been flexible in its responses to requests from the Parliament and assisted in helping the *Rada* meet some of its international commitments, including to the Council of Europe, but has also assisted in urgent ad hoc issues such as Constitutional reform, topical policy analysis and a number of other needed areas. The existing program has been widely praised by MPs, staff, the Secretariat, political parties and factions for providing practical and professional assistance that enhances the professional competence and capacity of the Parliament.

Given the need to build upon USAID's already extensive investment in legislative development work in Ukraine, a natural and logical recommendation would be to explore extending the existing Parliamentary Development Program. D-G work with official structures is normally quite difficult to successfully establish, with long periods needed to establish trust between the program and official partners. As noted, the PDP has achieved this measure of support and trust and has been assessed as highly effective during its long tenure, securing a number of unique and sustainable developments in the *Rada.* The program is well regarded and widely appreciated. Competed in a full and open competition five years ago, PDP could be granted a non-competitive cost extension as per USAID regulations. A number of advantages would accrue from such a decision:

1. Extension of existing program mandate–New program elements build extensively on what the current project has been generally successfully undertaking, with few added elements and a number that need to be institutionalized.
2. Continuity of program and "brand" reputation—Capitalizing on the existing program's contacts and resources is generally best done by the existing implementers, particularly if they are well regarded and received. PDP has wide name recognition, appreciation and respect. A crucial element of successful programming is continuity and the building of trust and partnership between implementer and program recipients. Cancellation of a successful program by USAID may well foster some measure of enmity among current program recipients.
3. PDP staff continuity and reputation—PDP staff is recognized and appreciated by the *Rada* and arguably a key component to the program's success. Extending the existing program would eliminate any risk of losing these professionals during the unsure period of program competition.
4. No start-up time—The existing program would simply evolve its current programs to meet the new program objectives, as opposed to a new organization needing extensive time to set up shop, hire and build relationships.
5. Ability to exploit and build out contacts—Reaching into new executive offices and avenues of legislative development will be easier for an extant, tried and trusted partner, as opposed to a new face and unfamiliar program.

6. More efficient use of funding—Extending a successful and cost efficient program saves the US taxpayer from needlessly closing down a good program for the purpose of fostering a pro forma competition.
7. Proven successful and adaptable program model for shifting *Rada* needs—Working with the *Rada* requires a considerable ability to adapt to a changing environment. This is not an easy skill for many implementers in this field.
8. Experience working with Government institutions—PDP has a solid reputation with many in Government and already inroads and credibility to play off of in expanding work into this sector.

Possible negative implications could include:

1. Missing possible new approaches to *Rada* and Government challenges—Some proposal might provide a more appropriate proposal than the organization which has been working closely and effectively with the legislature since 1994.
2. Perception of lack of competition for development work—One or two organizations might claim that the Mission is playing favorites and making awards to favorite implementers, despite their lack of expertise or comparative advantage in this development arena.
3. Cost-value unknown—Without competition there is no sure way of knowing that the US Government is getting the absolute best value for money in programming.
4. Political Overlay—Some high-profile implementers might object to being excluded from competing for what they consider legitimate business opportunities.

Failing the ability to extend the existing grant, a second option would be to solicit proposals from both the not-for- and for-profit sectors through a Cooperative Agreement. The legislative development field is relatively narrow, with few specialist organizations that are engaged in this form of work. Opening up the process to secure competitive proposals from the key players on the grant and the contract sides could benefit the Mission and allow the incumbent an opportunity to re-bid, alongside other key implementers. Possible advantages could include:

1. New expertise and ideas from other program implementers—Though it does not seem likely that greater expertise appropriate to the changing Ukrainian situation exists, the Mission would avail itself of the opportunity to allow more organizations with external and/or different Ukrainian experiences to compete.
2. Cooperative Agreement processes allow diversity—Enabling both contract and grant applications is the best way to ensure diverse proposals in the narrow field of legislative development.

The possible disadvantages of a competitive process and Cooperative Agreement mechanism include:

1. Staff Changes—The probable loss of existing PDP staff who are the core of the current, successful program.
2. Missed Opportunities–Loss of program momentum during the lengthy proposal review and award phase, possibly missing key development opportunities, particularly as the executive branch continues to expand its legislative mandates and constitutional reform processes mature.
3. Delays–The need for a lengthy start-up period for a new program (even a newly reconstituted PDP).

4. Global Situation—The recent increase in the number of legislative development programs has stretched the capacity of many existing implementers to meet current needs.

A third and far less favorable option would be to limit the competition to a contracts-only approach and disallow the existing implementer. The IQC for Deliberative Bodies is the most logical contract instrument for legislative assistance in this context, though the IQC expires in May of 2009, and could pose some restrictions on the duration of an intended program and related program commitments. A fourth and even more challenged option would be an open Request for Proposals (RFP). This option, limited to grantees, would take even more time to launch, implement and conclude than the aforementioned options and does not appear to offer any specific benefits.

6.3. Relationship to USG Strategy and Objectives

As USAID/Ukraine works to advance US interests and achieve US transformational diplomacy goals, future PDP2 efforts will contribute significantly and directly to consolidating democracy and strengthening the rule of law in Ukraine, as well as tangentially to building a positive image of the US among the country's leadership. A US goal, as stated in the Mission Strategic Plan for FY'09 is to see that "…Ukraine meets Euro-Atlantic standards of democratic practice and human rights, including improved government accountability and transparency, strengthened civil society, greater adherence to the rule of law, strengthened anti-corruption efforts, and greater integrity in the electoral process."

Increased democratic capacities in Ukrainian governing institutions are requisite to reach Euro-Atlantic community standards, a US policy goal for the country. The adoption of European standards by Ukrainian institutions responsible for drafting and implementing oversight of law is necessary for the promotion and consolidation of the rule of law and the stabilization of the country's governing institutions to implement democratic principles, procedures, and norms. The seriously degrading impact of corruption and the continuity of many Soviet governing practices have a deleterious effect on the rule of law and good governance in Ukraine.

To this end the PDP2 effort would provide technical assistance that promotes good governance and rule of law reform and practice in multiple official areas related to legislation development. The program would provide assistance to both the parliament and key executive institutions to become more effective, accountable, independent and representative. The program would also coordinate with USAID civil society assistance efforts to encourage central government officials to support citizen involvement in public policy and governmental oversight, particularly through the promotion of advocacy skills.

Over the next five years the Policy Development Program will directly contribute to the achievement of USAID Democracy and Governance's Objectives in Ukraine as described in the "F" framework: As a *developing country,* USAID's work will support the adoption of policies and programs that accelerate the strengthening of public institutions. In this regard, under the Functional Area of Governing Justly and Democratically, PDP2 efforts will fall under Program Area 2.2, Good Governance. Program Elements and Sub-Elements supported by PDP2 will include:

2.2.1: Legislative Function and Processes
- 2.2.1.1: Legislative Strengthening and Legal Reform
- 2.2.1.2: Representation
- 2.2.1.3: Oversight and Budget Capacity

2.2.1.4: Legislative Management, Administration, Accountability, Transparency
2.2.1.5: Citizen Participation

2.2.2: Public Sector Executive Function
2.2.2.1: State Formation and Democratic Legitimacy
2.2.2.2: Strategic Planning and Policy Making
2.2.2.3: Civil Service and Public Administration
2.2.2.4: Oversight of the Executive Branch

As parliamentary work is cross-cutting in the democracy-governance portfolio, the PDP2 will work towards achieving multiple objectives and link a number of different program initiatives. The program will have a major focus seeking to substantially develop the legislative policy capacity of the Parliament and the Government to (1) respond to and represent constituent issues and concerns, and (2) provide more transparency on legislation and related policy development.

Under Legislative Function and Processes, a number of Program Element Indicators will be measured, though the prior PDP data provides a number of interesting gauges that could be used to generate Custom Indicators.

Program Element Indicators
Number of National Legislators and National Legislative Staff Attending USG Sponsored training or educational Events
Number of women
Number of men
Number of Civil Society Organizations receiving USG assisted training in advocacy
Number of National Executive Oversight Actions Taken by Legislature Receiving USG Assistance
Number of Public Forums Resulting from USG Assistance in Which National Legislatures and Members of the Public Interact
Number of Draft Laws Subject to Final Vote in New or Transitional Legislatures Receiving USG Assistance
Number of USG assisted Civil Society Organizations that participate in legislative proceedings and/or engage in advocacy with national legislature or its committees

Future PDP2 work in the Public Sector Executive Function element would also collect data from a number of sources.

Program Element Indicators
Number of Reconstructed National Governing Institutions and Systems that Receive USG Assistance to Incorporate Principles that Support Democracy and Government Legitimacy
Number of Executive Branch Personnel Trained with USG Assistance
Number of women
Number of men
Number of Executive Office Operations supported with USG Assistance
Number of Governmental and non-Governmental Mechanisms Supported with USG Assistance for Oversight of the Executive Branch

6.4. Illustrative Activities and Expected Results

The principal strategic focus of the new Parliamentary Development Program will be on building **intra-governmental policy capacity, legislative responsiveness** and **institutionalization of processes**. Three aspects of capacity will be at the center of this program: First is executive and legislature staff and policy development. Staff training is foremost an opportunity to have

sustainable impact on the expanding and increasingly striated process of legislation development in Ukraine. Civil servant positions are comparatively permanent and most parliamentary staffers are careerists. Any development work in this sector can have long-term and sustainable impact. An important contribution of this program can be in assisting to adopt streamlined procedures and coordination mechanisms for the creation, development and adoption of legislation. By necessity these mechanisms must include dialogue between the multiple sources of legislation generation in the line Ministries, the President's office and relevant Committees in Parliament. Program contributions should also work to establish legislative agenda setting procedures, as well as providing training for verifying draft legislation vis-à-vis the Constitution, and laws and decrees in force. Assistance may be provided that would suggest methods for reorganizing existing staff and integrating them into larger legislation development teams. It is likely that any such structural changes would need to leverage the political weight of the Speaker's and Secretariat offices.

The second major aspect of capacity central to a new PDP effort is legislative responsiveness. Building upon the work of the existing program, procedural improvements for legislative committees will be further enhanced, particularly around the expansion of committee hearings and moving away from larger, *Rada*-wide sessions that do not facilitate the intake of civil society input. Targeting key political issues that will involve think tanks and other expertise from civil society for testimony to *Rada* Committees could be achieved through small grants from the program. Promoting advocacy and oversight expertise through such civil society testimony will have the benefit of enabling the development of parliamentary oversight capacity and a significant check on the Executive branch. Small grants to facilitate holding regional hearings will further the work already achieved by PDP, expanding the reach of Parliament, opening the institution to greater input from beyond Kiev, facilitating greater transparency into the legislative institution and its processes and build a demand in the *Rada* that external hearing mechanisms become a regular, budgeted aspect of Committee work.

A further element of the new program must be the ability to facilitate the capacity of the Parliament to be able to respond to pressures for constitutional reform. PDP has worked in the past in this difficult arena and similar approaches should be adopted, including counseling on comparative constitutional models and line-item amendments, the provision of assistance on approaches to the cost and challenges of implementing individual changes to the existing system, and counsel on mechanisms for approaching and adopting constitutional change in the current, politically charged atmosphere. A sub-set of these issues would be the fallout from such reform and the need for the program to respond to significant changes in the competences of the Parliament, such as the re-establishment of constituency offices. Staff training, office re-openings, etc. could all be a significant part of the program's contribution to the successful implementation of needed reforms.

The final aspect of capacity development is institutionalization of reforms. Foremost among the needs in this aspect of the program's work is to establish trainers and capacity within the Parliament to train new Members of Parliament (MPs) and parliamentary staff. A second and also important program element that needs to be indigenized is the internship program. Requiring close collaboration with the Secretariat, and possibly political backing by the US Government to press for the reform, significant resources will need to be planned for and leveraged by the Secretariat to take on these functions and to train permanent staff on how to successfully continue these popular and needed efforts. The Secretariat leadership and the Speaker's office will also need to be worked with to understand the importance of this work and the need to provide competent and trained staff cadre.

PART V

Section 7. Responses to Specific Questions Posed by USAID/Ukraine[3]

7.1. *Assess IUPDP's contribution towards achieving the following USAID results: more effective and democratic internal management systems in the Parliament; improved legislative-executive relations; and increased access and feedback of citizens to the legislative process.*

See Section 4.2.2.

7.2. *What are the successes and shortcomings of the current project? What aspects of project design and implementation contributed to these outcomes?*

The successes and shortcomings of the project are discussed in detail in Section 4.

7.3. *Explore whether the project has yielded results and impacts other than those planned that should be documented.*

One of the original purposes of the parliamentary internship program when it was created in 1995 was to provide a source of young, educated and motivated staffers who could assist MPs in the performance of their legislative duties and functions. This was at a time when the existing staff of the Rada was relatively low in number and quality in comparison to the current staff of the Rada. Over the years, the internship program has become a prime recruitment tool for the Rada Secretariat to hire qualified and experienced new legislative employees. This in turn, has helped to increase the overall competence and skill level of the existing staff within the Rada. This group of intern alumni within the Rada Secretariat also represents a pool of Rada staffers sympathetically inclined toward the PDP which has helped to open doors, smooth relations, and facilitate PDP activities within the Rada.

7.4. *Assess the effectiveness of IUPDP's approach to operating in an unstable political environment, including the political crisis of 2007 which effectively stalled the work of the Verkhovna Rada.*

The PDP appears to be welcomed by most, if not all political factions within the Rada. This has allowed it to continue conducting activities and working with a wide variety of actors within the Rada throughout the recent political crisis. The fact that the PDP is seen as a neutral actor, given its relationship to the U.S. Government, is a testimony to its non-partisan and neutral approach to working with the Rada. In addition, the PDP's flexible and adaptable program design and implementation allows it to respond to changing needs and priorities while retaining its relevancy. For example, although the Rada was in session relatively little in 2006 and 2007, thus effectively ruling out MP focused assistance activities, the PDP continued to work on, and produce, a series of legislative manuals which are now being used by the Rada for orientation and training of new members and staff.

7.5. *To what degree were the expectations of the primary beneficiaries—the members, staff and administration of the Rada—met by the performance of the current project?*

Based on the findings of the recent survey of heads of Secretariat departments and committee

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[3] See Scope of Work, Evaluation/Assessment, USAID/Ukraine Legislative Strengthening Programs, pg. 4-5, Annex E.

secretariats, there was general overall satisfaction with the work of the PDP by the staff and administration of the Rada (see Section 4.2.2). This was confirmed, in part, to the evaluation team by the Deputy Secretary General of the Rada who expressed strong support for, and satisfaction with, the PDP. Similar expressions of support and satisfaction with the PDP were expressed to the evaluation team in its meetings with Secretariat and committee staff. One committee secretariat head commented that "anyone within the Rada who is serious about their work knows about, and uses, the PDP." The evaluation team did not meet with any other members of the Rada leadership so was unable to assess the opinions of the Speaker of the Rada or the Secretary General regarding the PDP.

There did not appear to be the same level of awareness or familiarity with the work of the PDP on the part of MPs. The most recent MP survey conducted in early 2006 at the end of the 4th Convocation of the Rada found that most MPs (82% of those surveyed) had no answer when asked which organizations (of a list of about 18 organizations including PDP and USAID) had been helpful to the parliament as a whole. The PDP and USAID were the only organizations to garner more than one vote (10 in total). A similar question in the 2003 MP survey conducted at the end of the 3rd Convocation of the Rada found that 23 MPs (out of a total of 67 who answered the question) identified the PDP and USAID as the most helpful organizations to the parliament.

MPs that the evaluation team met with in person were universal in their phrase for the PDP. However, these MPs were a specially selected group and did not represent a random sample of MPs.

7.6. *To what extent has IUPDP been successful in coordinating and relating with other stakeholders (i.e, CSO) in the sector, including Mission partners such as NDI, IRI, and the Commercial Law Center?*

The evaluation team did not conduct interviews with all of the CSOs that received grants from the PDP or otherwise worked closely with the PDP. The CSOs that the team met with were generally positive about working with the PDP. It would appear that NDI and the PDP coordinated well and occasionally cooperated on activities. Significantly, the PDP chaired meetings and coordinated activities of international donor and technical assistance organizations working with the Rada. The evaluation team was not able to assess the PDP's effectiveness in this role.

7.7. *Assess the relevance of the current parliamentary strengthening indicators and suggest more appropriate indicators if relevant, based on intended results.*

The evaluation team was impressed by several of the PDP indicators. The quality of legislative process index provides as accurate a reflection on the overall effectiveness and efficiency of the lawmaking within the Rada as could be constructed. Although the PDP did not meet the original projections for that indicator – in fact scores for the quality of the legislative process fell slightly over the course of the five years – much of this is likely related to the political turmoil and relative inexperience of MPs created by two parliamentary elections in as many years. Likewise the effectiveness of Government Days index was useful in demonstrating increased usage by the Rada of a "question and answer approach" to oversight of executive branch actions. Less informative was the indicator on violations of the rules of procedure which just focused on violations of one procedural rule – the rule against double voting. One of the key issues with respect to the rules of procedure was the lack of penalties or sanctions for the violation of the rules and an indicator designed to measure enforcement of the rules of procedure would probably have been a better measure of increased compliance with the rule of procedure.

7.8. *Assess the sustainability (including 'localization' and institutionalization) of program interventions, as well as project results and outcomes, i.e.: 2) organizational changes within the Rada; and b) mechanisms, processes, and institutions through which governance is exercised; c) relationships between actors in the legislative process.*

The evaluation team is concerned with the sustainability of certain PDP-supported processes and institutions. For example, it appears that discussions with the Rada on transferring responsibility and administration of the internship program have been ongoing for a number of years. Although the Rada indicates that it is not currently ready to take over financial responsibility for the internship program, a reasonable 2 to 3 year turnover plan should be agreed upon by the Rada and USAID. This illustrates the lack of, and need for, leadership and capacity within the Rada to engage in long-term strategic planning and development so that institutionalization and sustainability of PDP-supported processes and organizations can occur. Any future program must be based on, and judged by, sustainable results. The evaluation team is also concerned about the possibility that the success of the PDP in providing comparative information and analysis may have inadvertently stunted the development of internal research and policy analysis capacities within the Rada. The evaluation team does not have sufficient information to determine whether this actually happened but a future assistance program should be mindful of the need to continue to strengthen policy research and analytical capacities within the Rada rather than substituting for it.

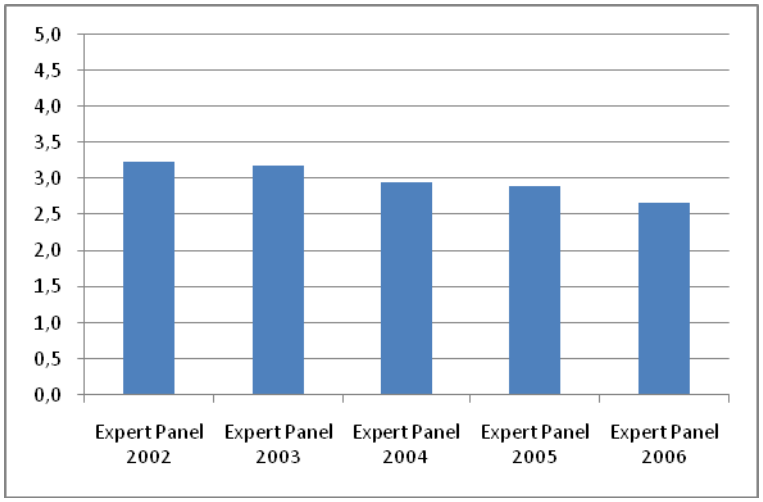
Annex A

PDP Indicators in Perspective (2003-2008)
(Compiled by PDP Staff)

A milestone instrument "passage of the Parliamentary Rules of Procedure as law" is no longer applicable.

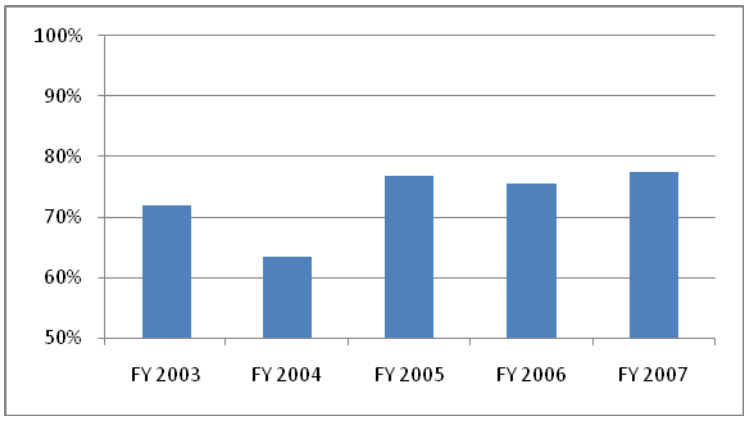
Quality of the Legislative Process Index

Legislation	Economic	Political	Budget	Judicial	Other	**OVERALL**
Expert Panel 2002	3,0625	3,4063	3,4844	3,0938	3,1406	**3,238**
Expert Panel 2003	3,0625	3,3214	3,3884	3,0982	3,0804	**3,190**
Expert Panel 2004	2,9861	2,6944	2,9861	3,1250	2,9415	**2,947**
Expert Panel 2005	2,6190	2,5972	3,1944	2,7986	2,9048	**2,903**
Expert Panel 2006	2,7202	2,7202	2,7183	2,5773	2,1806	**2,661**



Effectiveness of Government Days

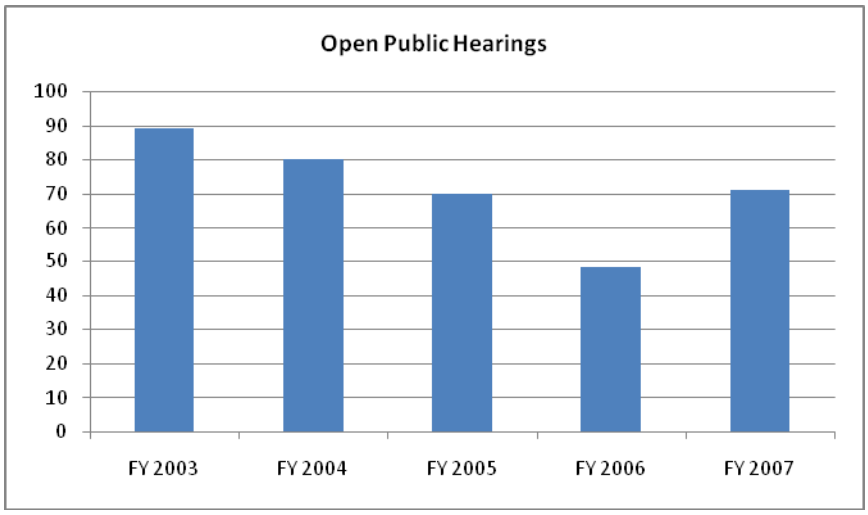
FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
71,88%	63,30%	76,88%	75,50%	77,41%	NA



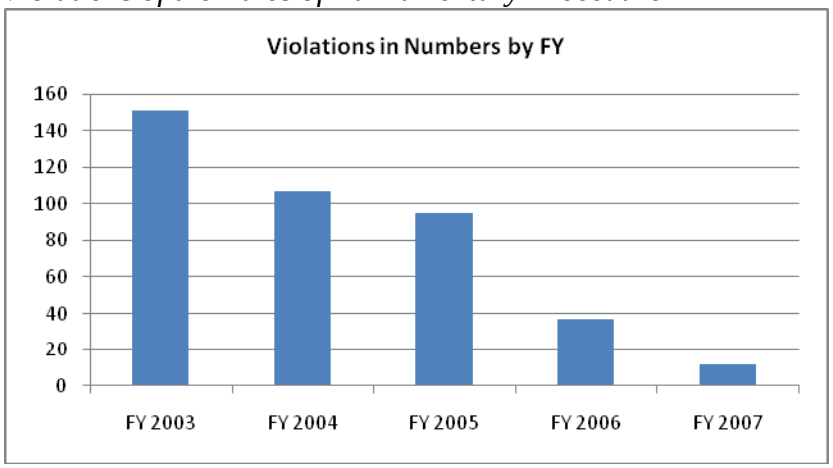
This measure will be replaced by the *effectiveness of government questioning hour* instrument for FY 2008.

Public Hearings

	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Hearings	89	80	70	48	71

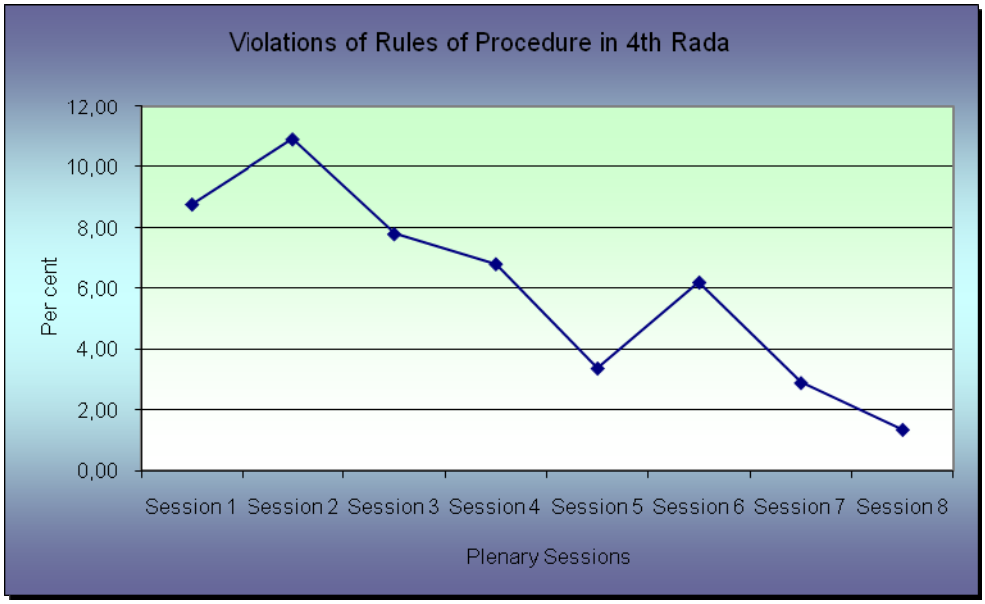


Violations of the Rules of Parliamentary Procedure



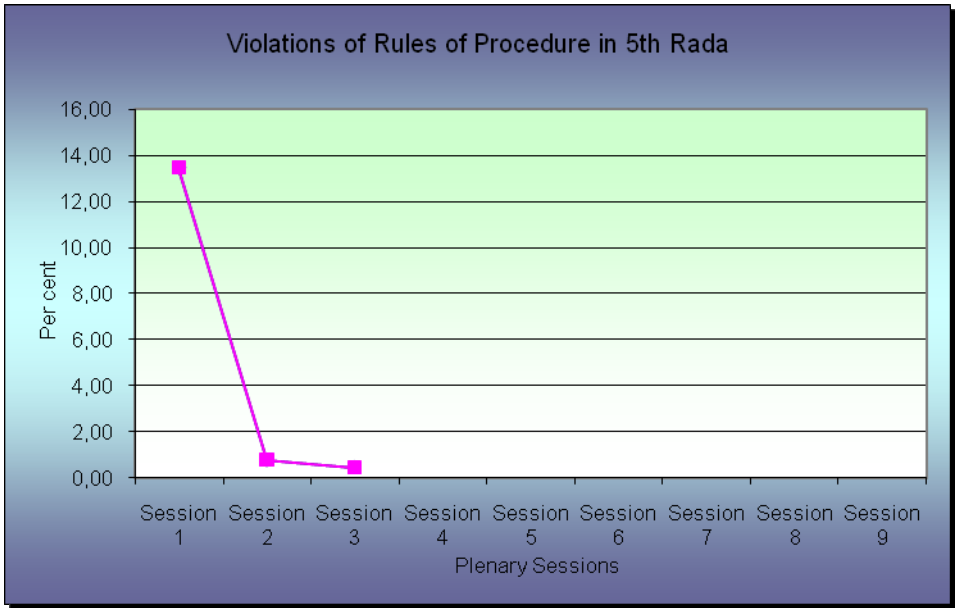
Violations in 2002-2006 convocation:

	Actual votings	Double votings	Violations proxy (in %)
Session 1	239	21	**8,79**
Session 2	869	95	**10,93**
Session 3	1396	109	**7,81**
Session 4	616	42	**6,82**
Session 5	1776	60	**3,38**
Session 6	1175	73	**6,21**
Session 7	897	26	**2,90**
Session 8	1697	23	**1,36**



Violations in 2006-2007 convocation:

	Actual votings	Double votings	Violations proxy (in %)
Session 1	156	21	**13,46**
Session 2	1303	10	**0,77**
Session 3	431	2	**0,46**



Gender Sensitivity Instrument
FY 2007 – 2.68

Annex B

Selective PDP Survey Questions Pertaining to PDP Project Objectives

Objective 1: More Effective and Democratic Internal Management Systems in Parliaments

PDP Survey Question: How well do existing Verkhovna Rada rules of procedure work in

ensuring that plenary sessions are conducted in an orderly fashion?
2002 70% very well or well
2006 81% very well or well

ensuring a fair opportunity for individual deputies to speak before the plenary session?
2002 38% very well or well
2006 43% very well or well

ensuring that parties are treated fairly?
2002 33% very well or well
2006 51% very well or well

ensuring that important legislation is given priority attention?
2002 38% very well or well
2006 50% very well or well

ensuring that committee recommendations receive a fair hearing?

2002 47% very well or well
2006 49% very well or well

ensuring that deputies that disrupt the plenary are disciplined?

2002 28% very well or well
2006 8% very well or well

facilitating public understanding of the legislative process?

2002 18% very well or well
2006 71% very well or well

PDP Survey Question: What proportion of existing Verkhovna Rada staff has the necessary skills to support the work of parliamentarians?

75-100% of existing staff 2002 20%
2006 29%

50-75% 2002 55%
2006 50%

25-50% 2002 19%
2006 17%

Objective 2: Improved Legislative-Executive Relations

PDP Survey Question: Effectiveness of mechanisms to provide for parliamentary oversight of the actions of the Executive Branch.

Percentage of MPs answering “Very effective” or “somewhat effective” for the following mechanisms:

Parliamentary Hearings	2002	40%
67%		
Committees	2002	58%
78%		
Government Days	2002	50%
82%		
Accounting Chamber	2002	84%
85%		
Budgeting Process	2002	64%
	2006	92%

PDP Survey Question: Degree of communications between committees and ministries

A great deal of communication	2002	63%
	2006	51%
Some communication	2002	28%
	2006	42%
A little communication	2002	8%
	2006	5%
No communication	2002	0.7%
0.7%		

Objective 3: Increased access and feedback of citizens to legislative process

PDP Survey Question: Would you favor use of public hearings by committees?

For Most Laws	2002	26%
19%		
For Some Laws	2002	68%
76%		
For No Laws	2002	3.4%
	2006	2.8%

PDP Survey Question: How often do the committees on which you serve provide a place for the general public to be heard on pending legislation? (asked on 2006 survey)

Routinely performs this task	2006	12%
Often performs this tasks	2006	31%
Sometimes performs this task	2006	42%
Does not perform this task	2006	11%

PDP Survey Question: Average monthly meetings with citizens groups.

16 or more per month	2002	49%
	2006	27%
11-15 per month	2002	16%
	2006	21%
6-10 per month	2002	21%

	2006	33%
1-5 per month	2002	11%
	2006	17%
None	2002	2%
	2006	0.7%

Annex C

Results of Global Integrity Survey Scorecards: Ukraine Parliament:

Indicator: Can citizens access legislative processes and documents?

From Ukraine Integrity Scorecard for 2004 at:
http://www.globalintegrity.org/reports/2004/2004/scores8a19.html?cc=ua&intQuestionID=92&catID1=3&catID2=2#31

Overall score on Indicator: 75 (out of 100)

31	**Can citizens access legislative processes and documents?**
	- 31a: ***In law, citizens can access records of legislative processes and documents.***
	Score: yes/1.00
	Comments: The law "On Information" makes no exception for public access to the records of legislative processes and documents. Only in the case of classified documents and closed hearings (e.g. on defense issues), is public access is impossible. **References:** Law "On Information" **Peer Review Comments:** The key is "unclassified" and it is important to note that the proportion of classified records and legislative acts has been rising.
	- 31b: ***In practice, citizens can access these records within a reasonable time period.***
	Score: < 3 months/0.75
	Comments: In practice, citizens can access unclassified records of legislative process and documents immediately through the Internet. **References:** **Peer Review Comments:** While the Rada Web site provides citizens with online access to documents such as verbatim transcripts of plenary debates, draft and adopted legislative acts, parliamentary agendas and records of votes held in the chamber, there are certain types of documents that are unavailable. These include the records of factions and standing committees, which can only be accessed via the Archive of the Verkhovna Rada or by contacting the committee or faction directly (which is then depended on the inclination of the leadership and staff).
	- 31c: ***In practice, citizens can access these records at a reasonable cost.***
	Score: sometimes/0.50
	Comments: Access to these records, when available, is free of charge. **References:**

From Ukraine Integrity Scorecard for 2007 at
http://report.globalintegrity.org/Ukraine/2007/scorecard/39

Overall score on Indicator: 83 (out of 100)

32	Can citizens access legislative processes and documents?

32a: In law, citizens can access records of legislative processes and documents.

Score: **YES** **NO**

Comments: The law "On Information" makes no exception for public access to the records of legislative processes and documents. Only in the case of classified documents and closed hearings (e.g. on defense issues), is public access impossible.
References: The law "On Information"

32b: In practice, citizens can access records of legislative processes and documents within a reasonable time period.

Score: 100 75 50 25 0

Comments: In practice, citizens can access unclassified records of legislative processes and documents immediately through the Internet.
References: www.pravda.com.ua
Peer Review Comments: The Verkhovna Rada Web site makes extensive documentation on the legislative process available almost immediately. Other documentation (e.g. some internal committee documentation) is in principle open but takes time to obtain. It is sometimes the case that records have gaps in particularly sensitive cases.
Peer Review Comments: In practice, many records are available online, but some are not and are very difficult for regular citizens to obtain.

32c: In practice, citizens can access records of legislative processes and documents at a reasonable cost.

Score: 100 75 50 25 0

Comments:
References: Available on the Internet www.4vlada net

Annex D

Assessment Team Meetings/Interviews

In addition to extensive meetings with US AID and PDP staff, the evaluation team also met with:

Members of Parliament
Olena Bondarenko (BYT), Committee on Human Rights, National Minorities and Inter-Ethnic Relations, (BYT) Justice Committee
Ostap Semerak
Viktor Tykhonov (PR), Budget Committee
Oleksandr Yefremov (PR), Chairman of the Rules Committee
Oleh Zarubynsky, MP (Lytvyn Bloc), Secretary of Parliamentary Committee on Energy, Fuel, Nuclear Policy and Safety

Parliamentary Staff
Mr. Yasenchuk, Deputy Head of Parliamentary Secretariat
Ladny Yuriy Anatoliyovych, Deputy Head of Secretariat of Party of Regions Faction
Alla Chyhryn, Deputy Head of the Secretariat of Human Rights Committee
O. L. Kopylenko, Director of Institute of Legislation of the Verkhovna Rada
Serhiy Plotyan, Head of the Secretariat of European Integration Committee
Vadym Shkurin, Head of the Secretariat of OUPSD Faction
Victoria Shvedova, Head of the Parliamentary Press Service
Yuriy Sorochyk, Head of Secretariat, Committee on Combating of Organized Crime and Corruption
Oleksiy Sydorenko, Head of the Computer Services Department
Kyrylo Tretyak, Head of Parliamentary Secretariat Department on Inter-Parliamentary Relations

Representatives of the Government of Ukraine
Yan Oleksandrovych Bernaziuk, Head of Service Liaison with the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, Secretariat of the President of Ukraine
Oleksandr Boldyniuk , Head of Information Service
Svetlana Reva, Head of Main Service for Organizational Support, Secretariat of the President of Ukraine
Alyona Shulima, Senior Consultant, State Legal Service
Maryna Tomko, Chief Consultant – Information Policy Department
Anatoliy Fedorovych Tkachuk, Advisor to the President

International and Development Partners
Andrei Astrahan, Director, MCC, TIBA
Eric Bergthold, Municipal Budget Reform project
Oleksandr Betsa, IRF
Valentina Danishevska, CLC
Katie Fox , NDI
Andrea Keerbs, IRI
Marta Kolomayets, NDI
Ulrika Lindberg-Labasauskas, Counsellor, Embassy of Sweden
Brian Mefford, IRI
Ludmyla Nestrylay, National Programme Officer, Swiss Cooperation Office
Petro Pavlychenko, UNDP
Helga Pender, Delegation of the European Commission to Ukraine
Kevin Prigmore, British Council

Taras Shevchenko, Media Law Institute (Internews)
Martin Schieder, Delegation of the European Commission to Ukraine
Tetyana Soboleva, NDI
Victoria Sydorenko, Head of AUC Legal Department
David Vaughn, Chemonics
Alex Vinnikov, ISC
Shelley Wieck, ABA/ROLI
Olena Yena, NDI
Darius Žeruolis, Senior legal approximation adviser, UEPLAC

NGOs, CSOs and Civil Society Representatives
Olesya Bondar, Executive Director, Ukrainian Women Foundation
Nataliya Izosimova, Foundation for Effective Governance
Igor Kohut, Laboratory of Legislative Initiatives
Zemphira Kondur, Vice-President, Chitikli Roma Women's Fund
Denis Kovrizhenko, Laboratory of Legislative Initiatives
Oksana Maydan, Center for Ukrainian Reform Education
Victor Tymoschuk, Center for Political and Legal Reform
Yuriy Yakymenko, Razumkov Center
Angela Yevgenieva, Laboratory for Legislative Initiatives
Pavlo Zhovnirenko, Chairman of CSS Board. Center for Strategic Studies

Others
Kent Logsdon, Counselor for Political Affairs, U.S. Embassy
Caitlin Turnaciouglu, Second Secretary, U.S. Embassy
Luiz Kornung
J. Zaretskaya

Annex E

SCOPE OF WORK
EVALUATION/ASSESSMENT
USAID/UKRAINE LEGISLATIVE STRENGTHENING PROGRAMS

I. Background

The USAID/Ukraine mission supports efforts to build transparent, representative, responsible and effective governance institutions based on meaningful public participation and oversight, and separation of powers through institutional checks and balances.

Effective governance has become an urgent political priority for Ukraine, seen as essential for strengthening the country's democratic base, sustaining a healthy rate of economic growth, and to improving the quality of life for the majority of Ukrainians. Improved governance is a pre-requisite for European integration and anti-corruption efforts.

Weak, ill-defined separation of powers between the executive, legislative and judicial branches remains a central problem with ramifications at all levels of government. The legislature is a cornerstone of governance, providing a base for effective governance at all levels outlining a framework for legislative-executive relations. USAID seeks to assist by supporting constructive, consensus-based Ukrainian approaches at constitutional reform and relevant reform legislation, which would clearly define authorities, jurisdiction and relationships between the various branches of government.

The issue of balance of power between the executive and legislative branches of government contributes significantly to Ukraine's current political turmoil. The rushed constitutional amendments promulgated in December of 2004 have resulted in a power struggle between the Parliament, Cabinet of Ministers and President. Constitutional reform is urgently needed to define and clarify authorities among the three branches of government. USAID's current assistance to the Verkhovna Rada (VR) can support constitutional reform efforts, as reform legislation must be initiated in the legislature through close cooperation between both committees and party factions.

Since the leadership of the three main parties in the Rada have affirmed that Ukraine has made its European choice and will pursue policies that promote democratic reforms, there is some opportunity to further assist the institution of the Rada and solidify Ukraine's parliamentary democracy. Current USAID program objectives are to strengthen internal parliamentary management systems, improve legislative-executive relations and expand citizen access to the legislative process. USAID assistance to the Rada and the legislative process may continue, but important questions regarding future program focus and objectives must be answered. This evaluation/assessment thus represents a key opportunity to shape the outline of future USAID legislative assistance in Ukraine.

B. Previous USAID Assistance

USG support to the Verkhovna Rada (VR) began in 1993 and has evolved through three main programs.

U.S. Congressional Research Service: From 1993-95, the U.S. Congressional Research Service,

in cooperation with the United Nations Development Program (UNDP), helped to establish the Verkhovna Rada's computerized information system. This included setting up an internet node, designing and launching the Verkhovna Rada's website, establishing a Local Area Network (LAN) linking the Verkhovna Rada as a partner in the Global Legal Information Network (GLIN), and establishing a foreign sources research and reference center.

U.S. Association of Former Members of Congress: Since 1995, USAID has funded a student internship program at the Verkhovna Rada that was initially managed by the U.S. Association of Former Members of Congress. The program selected university and college students through an open competition to serve as interns for nine months in Verkhovna Rada Committees and its Secretariat offices. The students are recruited from throughout Ukraine, trained in parliamentary procedures and analytical skills, and familiarized with the role of legislative staff in western parliaments. Since 2000, the program has been administered by the Indiana University Parliamentary Development Project through a cooperative agreement with USAID.

Parliamentary Development Project: Since 1994, USAID has funded the Parliamentary Development Project (PDP) through Indiana University to provide long-term technical assistance.

During the past 14 years, the PDP program has engaged in four distinct stages of assistance to the Ukrainian legislature: (1) providing the Verkhovna Rada with comparative information on democratic governance and legislation of world democracies (1994-1997); (2) assisting the establishment of democratic procedures: budget, committee hearings, and information exchange (1997-2000); (3) facilitating the passage of reform legislation (2000-2003); and (4) strengthening internal management systems; and improving legislative-executive relations and citizen access to parliament (2003-current).

In the first phase, from 1994 to 1997, one of the program's main objectives was to assist in improving the budget process of the Verkhovna Rada. The second phase from 1997 to 2000, was characterized by introduction and innovation of new procedures. The program helped to regularize the basic framework of shared powers between national branches of government and between local governments and the national legislature. In the area of committee structure and operations, PDP worked with key committee chairmen of the Verkhovna Rada to introduce committee hearings and improve legislative activity in the committees. PDP also collaborated with general secretariat staff and the Parliamentary Press Services to develop reports to inform the public of the work of the parliament. Additionally, PDP created training modules in policy analysis for the Verkhovna Rada staff, academicians, and CSOs. The third phase began in late 1999, when program objectives shifted from institutional strengthening of the parliament, to include a focus on particular legislation. Since September 2000, PDP provided targeted assistance to organizations, primarily USAID contractors, on a wide range of reform legislation. The goal of this assistance was to facilitate the passage of reform legislation identified as a priority by Ukrainian legislators with support of USAID. Generally, this assistance included supplying comparative analysis, information, and organizational support, including seminars, and other types of training within the Verkhovna Rada.

Under the current award (2003-2008) that expires on July 31, 2008, the Parliamentary Development Program cooperates with parliamentary leadership, factions and committees, as well as the Verkhovna Rada Secretariat (Apparatus) to strengthen the Ukrainian Parliament as a democratic institution through assisting to develop:

(1) more effective and democratic internal management systems in parliament;
(2) better legislative-executive relations; and
(3) feedback and access by citizens to the legislative process.

In pursuit of the objective of more effective and democratic internal management systems in parliament, the program has published twelve legislative manuals on effective lawmaking, compliance with principle of equal rights, and parliamentary oversight. The manuals are used for training new MPs, aides, VR staff, local NGOs.

The program has worked to build ties between the VR and the executive branch of power. It has worked at the committee level to connect committee staff with corresponding officials in the presidential administration and the staff of ministries as they develop legislation. The program has also worked with the parliament to continue institutionalizing parliamentary oversight mechanisms, such as Government Days, during which government officials meet with MPs in open sessions with media representatives present.

PDP also worked directly at committee level to encourage them to conduct oversight through legislative hearings. With the help of PDP, the concept of committee hearings became institutionalized in 2005 in a new law on parliamentary committees. IUPDP prepared a manual on procedure of committee hearings that is being actively used by committee staff. While there were no committee hearings held in the first two Ukrainian independent legislatures, starting from the third one, committee hearings became one of major oversight mechanisms (in addition to Government Days).

PDP also assisted the VR in developing a web page as well to disseminate current information on parliamentary debates, plenary sessions, and daily agendas.

Another objective of the program has been to work with NGOs and committee staff to improve NGOs' ability to participate in and contribute to the legislative process.

PDP also continues to implement a parliamentary internship program and is engaged with the leadership of the VR to institutionalize the program within the Rada.

Through supplemental funding PDP has provided targeted legislative support in the area of anti-corruption, administrative reform and the accession to international protocols.

II. Evaluation Purpose

The USAID/Ukraine Mission intends to conduct an evaluation of its legislative strengthening program of assistance to the Ukrainian Verkhovna Rada. This evaluation is meant to serve a dual purpose: (1) to learn to what extent the project's objectives and goals – at all result levels – have been achieved; and (2) to inform the design of a new governance project. It is expected that approximately one-third of the evaluation team's effort be devoted to an evaluation of IUPDP's activities from 2003-2008, and two-thirds of the evaluation team's effort be devoted to informing the design of the new governance program.

The life of the current USAID activity in this area is scheduled to come to an end in July 2008. This evaluation will assist the Mission in reaching decisions related to: 1) the effectiveness of the current approach to strengthening the legislative process; 2) the type of mechanism the Mission should use in any future assistance to the Ukrainian legislative process; and 3) the nature and scope of possible future interventions in the sector of legislative assistance; based on lessons learned from the current program, and an assessment of the legislative process viewed more broadly; 4) inform Mission's non-DG strategic objectives on the feasibility of accessing parliamentary committees to influence policy decisions that impact on other Mission legislative priorities.

The Mission anticipates as a deliverable for this evaluation/assessment, a two-part report no

longer than 40 pages. The first section should focus on an evaluation of IUPDP activities Cooperative Agreement activities from 2003-2008; and the second section should focus on recommendations for the Mission's new Governance Program, outlining priority directions for governance assistance over the next three-five years (2008 – 2013). Technical recommendations within this paper will serve as the basis for a concept paper for the new design and form the basis for the program description to be developed for this program. The paper shall also recommend optimal procurement options for the Mission's consideration.

III. Evaluation Questions

In accordance with the *Instructions for Conducting a Legislative Strengthening Impact Study*[4], USAID/Ukraine requests that the evaluation team address the following questions in the evaluation report:

- Whether and how legislative performance in representation, lawmaking, oversight, and political will for a stronger legislature has changed;
- What impact USAID or other donor interventions have had on these changes (if, indeed, such changes have taken place).

In addition to the aforementioned questions, the evaluation team is requested to address the following additional questions and tasks:

1. Assess IUPDP's contribution towards achieving the following USAID results: more effective and democratic internal management systems in the Parliament; improved legislative-executive relations; and increased access and feedback of citizens to the legislative process.
2. What are the successes and shortcomings of the current project? What aspects of project design and implementation contributed to these outcomes?
3. Explore whether the project has yielded results and impacts other than those planned that should be documented.
4. Assess the effectiveness of IUPDP's approach to operating in an unstable political environment, including the political crisis of 2007 which effectively stalled the work of the Verkhovna Rada.
5. To what degree were the expectations of the primary beneficiaries—the members, staff and administration of the Rada—met by the performance of the current project?
6. To what extent has IUPDP been successful in coordinating and relating with other stakeholders (i.e, CSO) in the sector, including Mission partners such as NDI, IRI, and the Commerical Law Center?
7. Assess the relevance of the current parliamentary strengthening indicators and suggest more appropriate indicators if relevant, based on intended results.
8. Assess the sustainability (including 'localization' and institutionalization) of program interventions, as well as project results and outcomes, ie: 2) organizational changes within the Rada; and b) mechanisms, processes, and institutions through which governance is exercised; c) relationships between actors in the legislative process.

Due to time constraints, USAID/Ukraine requests that the evaluation focus solely on the most recent IUPDP cooperative agreement, rather than the entire 14 years of USAID assistance to the Verkhovna Rada.

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[4] [4] USAID Handbook on Legislative Strengthening, Center for Democracy and Governance, February 2000.

Assessment/Design Questions

1. What possibilities exist for future interventions in policy work and the legislative process interpreted more broadly? Based on available funding for the new governance design, assess and prioritize how USAID assistance could most effectively contribute to the strengthening of the legislative process. Actors in the legislative process to be addressed include: the Verkhovna Rada, the Cabinet of Ministers, the Presidential Secretariat, and civil society actors.
2. Within the resource limitations of the new project, how can the new governance activity advance the legislative goals of other mission activities?
3. With 14 years of assistance to the Verkhovna Rada, are there areas of assistance that could be phased out, either because they have achieved a sufficient level of success and sustainability, or because continued assistance would yield diminishing returns?

IV. Recommendations

The evaluation team shall also make recommendations with respect to the above questions, including:

- Recommendations for how any new governance activity should be designed to be responsive in the event of continued political instability, such as the political crisis which effectively froze the operation of the Rada between April and December 2007.
- Make overall recommendations for future program interventions in the legislative and policy-making sector, identifying those which appear most appropriate and feasible and which would build on past effort. Also, identify types of interventions which show less promise and should be avoided.

The Evaluation Team shall ensure that findings, conclusions and recommendations of the evaluation are based on data that is accurate, objective and reliable and that enable the Mission's Democracy and Governance Office to make decisions that are grounded in credible evidence and facts.

V. Team Composition

USAID/Ukraine envisions a two-member team to include: (1) a senior-level legislative strengthening specialist, with significant experience working on legislative development projects and evaluations of USAID projects; and (2) a senior-level regional specialist with knowledge of democratic development and political transitions in the Eurasia region, and significant experience with evaluations of USAID projects.

VI. Gender Issues

- USAID requires that evaluations and assessments explore issues of gender; thus, the evaluation should examine gender issues within the context of the evaluation of IUPDP activities, and recommendations for the new governance program design.
- Is governance in Ukraine gender-responsive?
- Has the project integrated gender considerations into its activities?
- Has the project developed any measures to enhance women's participation in governance?

VII. Methodology

The team is encouraged to propose its own approach/methodology for the evaluation with its response to this scope of work. The methodology is likely to be a combination of interviews; roundtables and/or focus groups with project staff, other stakeholders, and beneficiaries; and reviews of documentation.

Documents for review prior to arrival in Kyiv:

IUPDP Cooperative Agreement (September, 2003);
Modifications to the Agreement
NDI and IRI Presidential Secretariat Cooperative Agreements
Performance Management Plan
Annual work plans
Implementing partner (IUPDP) periodic reports
Last Year's Mission Operational Plan, GJD sections
Most recent portfolio review materials for IUPDP
IUPDP annual MP surveys
FY07 Performance report
2008 Green Book of the Ukrainian Parliamnet Summary

VIII. Schedule and Logistics

The team shall spend a total of 10 days in Ukraine conducting the evaluation. Evaluation Team members shall arrive in Kiev, Ukraine in on February 4, 2008 and depart February 15.

The Mission envisions the Evaluation Team will spend the first day in consultation with Mission and ODG staff.

USAID will provide the team with names and contact information of key individuals to be interviewed in Ukraine and in the Mission (attachment A)

IX. Deliverables

Upon arrival in Kiev, the Evaluation Team shall have an initial orientation meeting with relevant USAID staff, including Mission Director, Program Office, Regional Contracting Office.

Prior to departure from Ukraine, the Evaluation Team shall debrief the USAID Mission staff on its findings, conclusions, and recommendations, and provide the Mission with a draft concept paper for the new design. The final evaluation/assessment report should outline priority directions for governance assistance over the next three to five years (2008 – 2013). Technical recommendations within this paper will serve as the basis for a concept paper for the new design and form the basis of a program description to be developed for a new program. The final report should be sent to head of the governance design team, Kerry Monaghan, USAID/Ukraine by February 28, 2008.

The assessment team should identify to the Mission which member is ultimately responsible for submitting the draft of the report to the Mission.