

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the preamble.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

S. Res. 466

Calling for the release from prison of Prime Minister of
Ukraine Yulia Tymoshenko.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. INHOFE (for himself and Mr. DURBIN)

Viz:

1 Strike the preamble and insert the following:

Whereas Ukraine has experienced encouraging growth and reforms since it declared its independence from the former Soviet Union in 1991 and adopted its first constitution in 1996;

Whereas the 1996 constitution provided basic freedoms like the freedom of speech, assembly, religion, and press, but was ultimately too weak to contain the existing corruption-laced political culture inherited from its communist past;

Whereas, as a result of the electoral fraud by which Prime Minister Viktor Yanukovych was declared the winner of the 2004 presidential election, the citizens of the Ukraine organized a series of protests, strikes, and sit-ins, which came to be known as “The Orange Revolution”;

Whereas the Orange Revolution, in concert with international pressure, forced an unprecedented second run-off election, which resulted in opposition leader Viktor Yushchenko defeating Mr. Yanukovich by a margin of 52 percent to 44 percent;

Whereas, in the 2010 presidential election, incumbent Yushchenko won only 5.5 percent in the first round of voting, which left former Prime Minister Yanukovich and then Prime Minister Yulia Tymoshenko to face one another in the run-off election;

Whereas, Mr. Yanukovich defeated Ms. Tymoshenko by a margin of 49 percent to 44 percent;

Whereas, shortly after the 2010 inauguration of Mr. Yanukovich, the Ukrainian Constitutional Court found most of the 2004 Orange Revolution inspired constitutional reforms unconstitutional;

Whereas, in 2010, President Yanukovich appointed Viktor Pshonka Prosecutor General;

Whereas, since Mr. Pshonka's appointment, more than a dozen political leaders associated with the 2004 Orange Revolution have faced criminal charges under the Abuse of Office and Exceeding Official Powers articles of the Ukrainian Criminal Code;

Whereas, in 2011, Prosecutor General Pshonka brought charges under these Abuse of Office articles against former Prime Minister Yulia Tymoshenko over her decision while in office to conclude a natural gas contract between Ukraine and Russia;

Whereas, on October 11, 2011, Ms. Tymoshenko was found guilty and sentenced to seven years in prison, fined

\$189,000,000, and banned from holding public office for three years following the completion of her sentence;

Whereas, recognizing the judicial abuses present in Ukraine, the Parliamentary Assembly Council of Europe (PACE) passed Resolution 1862 on January 26, 2012;

Whereas Resolution 1862 declared that the Abuse of Office and Exceeding Official Powers articles under which Ms. Tymoshenko was convicted are “overly broad in application and effectively allow for ex post facto criminalization of normal political decision making”;

Whereas, since Ms. Tymoshenko’s imprisonment, the Prosecutor General’s Office has reopened additional cases against her that were previously closed and thought to be sealed under a 10-year statute of limitations;

Whereas, beginning on October 28, 2011, and multiple times since, Ukrainian Deputy Prosecutor General Renat Kuzmin has alleged in television interviews that Tymoshenko was involved in contract killings, but has filed no formal charges;

Whereas, for much of Ms. Tymoshenko’s detention, she had limited outside contact and access to needed medical treatment;

Whereas international calls for Ms. Tymoshenko’s release, access to outside visitors, and adequate medical treatment were initially ignored even as her health continued to deteriorate;

Whereas, on April 28, 2012, major international news organizations, including the British Broadcast Corporation and Reuters, reported on and produced photos of bruises allegedly received by Ms. Tymoshenko from prison guards on April 20, 2012;

Whereas, in response to her inhumane treatment, Ms. Tymoshenko began a hunger strike on April 20, 2012;

Whereas, amid international outrage, the European Union has delayed indefinitely the signing of a free trade agreement with Ukraine;

Whereas, under international pressure, Ms. Tymoshenko was moved to a hospital in Kharkiv on May 9, 2012, prompting her to end her hunger strike, yet leaving her in poor health; and

Whereas on May 30, 2012, the European Parliament passed a resolution (C153/21) deploring the sentencing of Ms. Tymoshenko: Now, therefore, be it