

Congress of the United States

Washington, DC 20515

May 23, 2023

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20050

Dear President Biden:

We write to you today as steadfast supporters of U.S. efforts to assist Ukraine and the Ukrainian people as they fight valiantly to protect their democracy, their sovereignty, their homes, and their right to self-determination in the face of Russia's unjust and unprovoked war. The Ukrainian people continue to demonstrate incredible resilience and courage as they defend their country against unspeakable acts of violence and war crimes. The costs are vast, both in terms of human lives and financial resources.

At this critical juncture, while each dollar could help make the difference in the outcome of the war, we urge you to use your authority to transfer the billions of dollars of Russian central bank assets frozen pursuant to U.S. sanctions to meet urgent military and humanitarian needs in Ukraine. Not only is there firm legal backing and precedent for such action, but it would also be the right thing to do.

Since Vladimir Putin launched his illegal and unjust invasion of Ukraine, the United States has provided robust assistance; Congress has appropriated more than \$110 billion in Ukraine-related emergency supplemental funds in FY 2022 and FY 2023. European allies have delivered significant aid as well. Yet even this generous assistance cannot keep pace with Ukraine's ever-growing needs. Ukraine's current budget requirements are estimated at \$5 billion each month, and rebuilding will be a massive undertaking expected to cost \$411 billion over 10 years, according to an assessment released March 23.¹ As Ukrainian Foreign Minister Kuleba stated in a recent panel discussion, "The aggressor must pay for all damages caused to Ukraine."²

It is clear to the international community who that aggressor is and who should bear the costs of this illegal war – Russia.

The International Criminal Court has charged Putin for war crimes and issued a warrant for his arrest. The UN General Assembly passed a resolution on November 14, 2022 calling for Russian reparations for Ukraine.³ We welcome the steps your Administration has taken to begin to confiscate the assets of Russian oligarchs, but it is the estimated \$300 billion in frozen Russian central bank reserves that could make a true difference. At least \$38 billion of these funds are reportedly frozen in the United States, and action by the U.S. government could also encourage EU partners to follow suit. The European Council underscored in a February 23 statement its continued political, economic, humanitarian, and military support for Ukraine, and noted it would "strive to use frozen and immobilised Russian assets in accordance with EU and international law."⁴ The United States must help lead the way.

¹ <https://www.worldbank.org/en/news/press-release/2023/03/23/updated-ukraine-recovery-and-reconstruction-needs-assessment>

² <https://it.usembassy.gov/secretary-antony-j-blinken-at-a-virtual-panel-session-on-a-just-and-lasting-peace-in-ukraine/>

³ <https://news.un.org/en/story/2022/11/1130587>

⁴ <https://www.consilium.europa.eu/en/press/press-releases/2023/02/23/statement-by-the-members-of-the-european-council/>

We are aware of ongoing discussions regarding the legal basis for confiscating frozen Russian government assets. Like you, we believe it is critical to uphold the international rules-based order and due process, even as Russia flouts these standards. Numerous legal experts have shown that the President already has sufficient constitutional and statutory authority to take the necessary steps, and that doing so would comport with pertinent international law principles and proclamations.

Laurence Tribe, a Harvard professor of constitutional law, points to the authority provided in the International Emergency Economic Powers Act (IEEPA) of 1977. Section 1702 of the IEEPA empowers the President to “direct and compel, nullify, void, prevent or prohibit” any “transfer, withdrawal..., or exportation of...any property in which any foreign country...has any interest...subject to the jurisdiction of the United States.”⁵

In the case of *Dames & Moore v. Regan*, the U.S. Supreme Court confirmed that the IEEPA “delegates broad authority to the President to act in times of national emergency with respect to property of a foreign country.”⁶ Your March 1, 2023 “Notice on the Continuation of the National Emergency with Respect to Ukraine” confirms the applicability of the Supreme Court’s statements in this matter.⁷ No new authorities or congressional actions need be taken before the President can act.

Moreover, there is past precedent that would support the seizure of these Russian assets. For example, in 2003, President George W. Bush transferred approximately \$1.7 billion in Iraqi government funds to compensate victims of terrorism. In 2012, Iranian central bank assets were transferred and used to compensate the families of terrorism victims. Your Administration’s decision to begin liquidating about \$7 billion in assets belonging to the Afghan central bank to support Afghan humanitarian efforts and compensate the families of terrorism victims is another valuable example.

Russia’s bloody and unprovoked war against Ukraine is the greatest threat to the international rules-based order since World War II. Working within the international rules-based order and our own Constitution and laws, the United States must continue to lead the way on condemning Russian aggression, ensuring robust support for Ukraine, and holding Russia to account for its war crimes and the loss and devastation it has inflicted. While U.S. sanctions are having an impact on Russia’s economy, they will be even more impactful if those frozen assets are immediately repurposed to deliver badly needed assistance to Ukraine. The international community has spoken clearly about who should bear the costs for this war – the only question is when Putin will pay for the devastation unleashed on Ukraine. It is imperative – morally, politically, strategically – to use these assets now and help Ukraine win the peace.

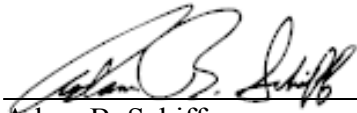
We will continue to advocate in the U.S. Congress for robust support for our Ukrainian partners to ensure they have what they need to continue to stand up to Putin and meet their immense humanitarian needs. We urge you to consider current or forthcoming legal analyses that may provide further details on the constitutional and statutory authorities that would enable the use of Russia’s frozen central bank assets to support Ukraine. Taking this action now will send an important message – to Ukraine, to Putin, and to the American taxpayers – about the United States’ commitment to continue supporting our Ukrainian partners and holding Russia accountable for its war of choice.

Sincerely,

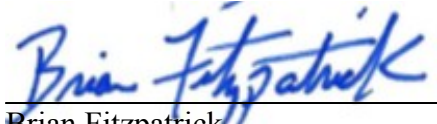
⁵ <https://casetext.com/statute/united-states-code/title-50-war-and-national-defense/chapter-35-international-emergency-economic-powers/section-1702-presidential-authorities>

⁶ <https://casetext.com/case/dames-moore-v-regan?resultsNav=false&tab=keyword>

⁷ <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/03/01/notice-on-the-continuation-of-the-national-emergency-with-respect-to-ukraine-3/>



Adam B. Schiff
Member of Congress



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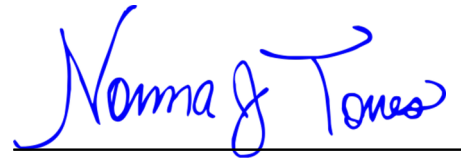
Eleanor Holmes Norton
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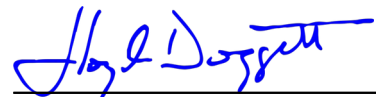
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