

Journal of
Economics and Political Economy

www.kspjournals.org

Volume 2

June 2015

Issue 2

**Pursuing FDI Policy in the EU - Member States and
Their Policy Space^{*}**

By Marta GÖTZ[†]

Abstract. This article looks into broader context of FDI policy in the European Union. It examines key aspects defining the available space for conducting the policy towards incoming and outflowing investments. From investigating general economic and political settings some conclusions as to the scope of FDI policy can be drawn. Changing international environment including the rise of Chinese OFDI, negotiated Transatlantic Trade and Investment Partnership (TTIP) and internal EU developments mainly Lisbon Treaty provisions as to the common investment policy, shape the FDI policy space available for the EU members.

Keywords. FDI, policy, EU, MS, China, TTIP.

JEL. F00, F23, F40, F53.

1. Introduction

The global crisis has raised the threat of protectionism (Görg, & Krieger-Boden, 2011). Following the 2008 + financial turbulences and subsequent economic crisis which manifested itself in deteriorating macroeconomic conditions and translated into lower attractiveness for foreign direct investment (FDI), international direct capital flows have fallen significantly (Kinoshita, 2012). EU FDI flows have been severely affected by the global crisis. They hit a record peak in 2007, but dropped sharply in 2008, for both inward (52%) and outward FDI flows (34%) (Goncalves, & Karkkainen, 2010). In 2013 FDI started recovering, however, still EU-28 FDI flows stood at more than 20% below the EU-27 peak levels of 2011 in terms of both inward and outward investment relations with the rest of the world (Eurostat FDI statistics, 2014). Addressing these negative tendencies would require also dedicated FDI policy (Filippov, & Kalotay, 2009). Understood as course or principle of action adopted or proposed by an organization or individual, this policy can encompass various instruments by which certain goals may be achieved (Oxford dictionary). Needless to say, policy pursued is shaped by and remains under influence of political institutions and actors involved (Jahn, & Müller-Rommel, 2010). Multiple typologies of FDI policies could be conceived. They can refer to various criteria which take into account: investors' origin, type of FDI, mode of entry, whether it refers to existing or new investors, the level of authority responsible and accountable of pursuing given policy, measures applied whether fiscal or financial, informational or promotional; territory of application -

^{*} Research has been undertaken within the project funded by the National Science Centre allocated on the basis of decision number DEC-2014/13/B/HS4/00165 titled "State role in (post-)crisis European economy – policy towards foreign direct investment".

[†] Institute for Western Affairs in Poznan. Poland.

☎. (48)618527691ext.301 ✉. mgoetz@iz.poznan.pl

at home or abroad and many others criteria. The simplest and most obvious would account for the direction of capital flows i.e. differentiate between IFDI and OFDI policies. Incoming investors could usually count on some incentives such as: fiscal incentives (i.e. capital investment-based, profit-based, labour-based, import- or export-based, etc.), financial (grants, credits) and other incentives, such as subsidized infrastructure (Faeth, 2009). Measures undertaken towards incoming foreign investors can be divided also into those dealing with: entry / screening / approval issues, operational aspects including restrictions such as limits on land purchase or on repatriation of profits or capital, regulations on key foreign personnel as well as requirements concerning the equity thresholds (OECD). The OFDI policy can come in many forms and involve different actors, instruments and methods. One of approaches towards government OFDI promotional policy distinguishes the provisions of: 1) technical and informational assistance to firms wishing to invest abroad; 2) financial and fiscal incentives; and 3) investment protection instruments (Mistura, 2011). Fiscal measures can include accelerated depreciation, tax rebates, exemptions, relief, whereas financial support usually takes form of subsidies, grants as well as insurances and guarantees. In Poland, one may distinguish five areas of the system of country's promotion abroad (Promocja Polskiej gospodarki zagranicą, 2014). Firstly, there are measures aiming at advertising Poland as a brand and improving the image of Polish firms (addressing Polishness as liability). Secondly, during state visits Polish officials are frequently accompanied by representatives of Polish business (economic missions). Thirdly, departments of Polish Embassies (Promotion and Trade and Economic Units) offer assistance to Polish firms setting up business there. Fourthly, special system of information provision has been set up which provide insight into conditions for business activities on foreign markets. Finally, and fifthly, financial support for export is made available. Broad classification of OFDI support policies includes not only financial and non-financial measures but also takes into account wider steps which might be undertaken in order to stimulate home economy's internationalization and competitiveness, thus indirectly stimulating OFDI in the long run (Gorynia, et.al 2013). There are: OFDI-dedicated financial measures, which aim at lowering the economic risks of foreign investment projects and encourage otherwise reluctant investors to venture abroad; Non-OFDI-dedicated financial measures, which are usually directed towards supporting general internationalization also in less advanced form of export, and they stimulate OFDI indirectly by affecting firms competitiveness and foreign market experience; OFDI-dedicated non-financial measures, which are mainly designed to help investors overcome information-related market failures and last but not least Non-OFDI-dedicated non-financial measures which are universal measures improving firms' capabilities (human resource exchange programs, training and consulting services enhancing human capital in domestic companies, growth stimulating policies including infrastructure, education, better transparent rules of law and regulatory regimes) and thus impacting their competitiveness which in the long run might translate into foreign market expansion (TeVelde, 2007; Globerman, & Chen, 2010; Gorynia et.al, 2013).

Summing up, the theory and practice offer various approaches as far as classifications of FDI policies are regarded. Whether they are still useful and how long they would remain a valid reference points for assessing and comparing FDI policies among countries is an open question. Next section touches upon the main aspects critical for FDI policy in the EU. It is based on the critical review of recent literature on this subject. It discusses the challenges involved as to the design and pursuing the FDI policy. This paper concludes with some remarks and possible

recommendations as to the possibly optimal course of actions towards FDI which might be undertaken by EU members.

2. Major aspects of FDI policy context in the EU

2.1. Impact of 2008+ Crisis

2008+crisis sent ripples across the economies and societies of most European countries. In the context of instable public finances, unsustainable financial systems, massive layoffs, growing current account imbalances or steep decline of industrial output governments are forced to tap into extraordinary measures (Götz, 2013a; 2013b; 2015). Various policies have been modified most prominently monetary policy with Quantitative Easing (QE) or ultra-low interest rates and fiscal policies with both initial spending growth boosting economies and subsequent severe austerity measures (Lo 2012; Eichengreen, & Baldwin 2008; Farkas, 2013; Stiglitz, 2013; Sinn, 2013, Pisani-Ferry, 2012). Calls for economic patriotism became more popular (Clift, & Woll, 2012). Recent rise of this phenomenon, which might be defined as *policies that give special advantages to firms controlled by domestic private capital or by the state* (Woo-Cumings, 2005) shall be however understood more subtly as it does not exclude pursuing liberal economic policies and it allows simultaneous endorsement for liberalization of economic regulations and advocating the interests of firms based on their countries' territories also via national champions' promotion and industrial policy tools (Helleiner, & Pickel 2005; Callaghan, & Lagneau-Ymonet, 2012; Morgan, 2012, Naczyk, & Palier, 2013; Rosamond, 2012). In the novel contribution about economic patriotism, B. Rosamond claims that ongoing deepening of integration in the EU does not have to be mutually exclusive with the notion of economic patriotism (Rosamond, 2012). These two can be indeed regarded as antonyms only if two assumptions hold. Namely, *"that economic patriotism is an exclusive property of nation-state space and that is necessarily associated with the suspension of economic liberalism"*. 2008 + financial crisis has clearly showed how governments seek to steer their economies rather than surrendering to the free play of market forces. The current complex international environment and interplay of economic and political forces create the *"paradox of neo-liberal democracy where it is the mandate of politicians is to defend the economic interests of their constituents under conditions where large parts of economic governance are no longer exclusively within their control"*. (Clift, & Woll, 2012). These developments and calls for more active state role in the market economy can find their extension in the policy pursued towards FDI (Filippov, & Kalotay, 2009). How the respective policy has changed is tough to assess, mainly due to the lack of comprehensive and reliable information. As there is no unified database providing such information, one needs to rely on some substitutes and employ data which can serve as proxies for FDI policy. The evidence collected by Global Trade Alert initiative indicates that particularly in 2009 governments launched new trade protection measures affecting also investment flows - around 7% of all instruments were more linked to FDI. Listed European cases include among others: France: Law to protect against foreign takeovers in various sectors and pressure on Philips to preserve jobs in Dreux, and on Total to preserve jobs in Dunkirk; The Netherlands: Nationalisation of the bank SNS REAAL and expropriation of its shareholders without compensation; Hungary: Ban on foreign land ownership; Italy: Investment protection of companies operating in certain sensitive sectors from foreign takeovers; United Kingdom: Tighter FSA's grip over international banks; Germany: Nationalisation of the bank Hypo Real Estate and expropriation of the minority shareholders and review of foreign investments on national security and public policy grounds. Apparently, infamous protectionist steps have been mainly introduced by

governments in advanced countries (Görg, & Krieger-Boden, 2011). On the list of “countries with measures implemented” listed are without exceptions all 28 EU member states (Görg, & Labonte, 2011). Helpful by assessing the (post)crisis changes in FDI policy might be the OECD’s FDI Regulatory Restrictiveness Index (RRI) which evaluates the openness to FDI by considering four types of measures: equity restrictions, screening and approval requirements, restrictions on foreign key personnel, and other operational restrictions such as limits on land purchase or on repatriation of profits (OECD 2014; Zhang, & Van Den Bulcke, 2014). OECD data point to growing restrictions mostly in primary sectors such as mining, fishing and agriculture, but also in media and transport. Statistics for RRI capturing last crisis years show clearly there has not been any change in regulatory restrictiveness as measured totally for all types of measures and all sectors in the OECD EU countries with exception of Czech Republic and Estonia, who reduced their RRI after 2010. The highest RRI levels was recorded in Austria (0,1), followed by Poland (0,07), UK (0,06) and Sweden (0,06). Similar index but covering all 28 EU MS prepared by CESifo DICE (2014) traces the magnitude of hostility towards foreign investors. It demonstrates that Poland (0,07), Austria (0,1) and Denmark (0,07) are states most closed to FDI flows, whereas Luxemburg (0,004), Slovenia (0,007) and Portugal (0,007) as judged by restrictiveness indices are the most open ones. Valuable information as to the changes in policy pursued after 2008 towards foreign investment may come from investment promotion agencies (IPAs). In order to gain some first-hand data from FDI dedicated authorities several European IPAs have been approached.¹ Only some of them responded. Approached IPAs in general reluctant to share information and inclined to argue that no particular crisis-triggered measures have been adopted in their countries. They point either to some long term tendencies which started before crisis (focus on job creation, high tech sectors, R&D) or reshuffles such as mergers of authorities dealing so far separately with OFDI and INFDI. With the exception of Greece, the impression one may have is that most agencies run policies according to the principle “business as usual”. Modifications, if any, are part of broader tendencies which started long before the crisis erupted and share certain similarities such as focus on advanced FDI in knowledge-intensive sectors or on strategic promising markets. More flexible and welcoming attitude apparently promoted in some MS are accompanied by potentially more restrictive / selective legislation in other countries.

Summing up, the available imperfect data on FDI policies which draws on in fact proxies of such policy do not allow to diagnose any significant shift in FDI policy as a result of 2008+ crisis. With the exception of political narrative and more hostile approach expressed by some politicians or visible in certain specific legal acts adopted, there have not been any particular modifications and reorientations as far as FDI policy is regarded. In the aftermath of 2008+ crisis many governments face a dilemma of encouraging and yet regulating somehow the inflow of foreign investors. It has been widely acknowledged that in time of credit crunch and constraints with access to the capital, FDI can play a key role in providing necessary resources and helping boosting the economy and governments aware of benefits coming from foreign firms seek to retain present and attract new investors (Alfaro, & Chen, 2010; Navaretti, & Venables, 2013). However, it has also demonstrated the risks involved with uncontrolled too liberalised influx (Poulsen, & Hufbauer 2011). The need to reconcile the openness for foreign firms with assuring their beneficial character for the host economy particularly with respect to strategic sectors become critical. The idea of sustainability advocated by UNCTAD seems the adequate premise here as well (WIR, 2012). Governments should balance their efforts to attract foreign companies with safeguarding their presence does not involve any harm for host economy. Investors' motives should be

aligned with country's development strategy. Such rebalancing requires adequate recognising host country's classic strengths and weaknesses, opportunities and threats, and resulting feasible growth vision with incoming foreign investors' strategies. Thanks to such match and mutual fit potential disadvantageous effect of FDI might be avoided. Crisis has illuminated the ambiguous character of capital inflow in the form of FDI and consequences of too liberalised or ill-designed policy towards such investors. As it seems it influenced the political discourses and altered the official rhetoric in many capital cities, left however rather untouched the practice of FDI policy.

2.2. Influx of Chinese investments

The recent influx of Chinese OFDI into the EU poses a real challenge in the area of FDI policy (Meunier 2012). Tough, still negligible in volumes as they account for less than 1% of total stock of FDI, Chinese direct investment are growing extremely fast. Chinese purchases in Europe surged from 2 bln USD in 2010 to 18 bln USD in 2014. In 2014 mergers and acquisitions done by Chinese firms accounted for more than 40% of all deals (Obserwator Finansowy, 2015). Chinese investors view the EU as a *“safe and stable place to invest, with a transparent and predictable legal environment (...)are confident about the long-term prospects of their investments there, which were contrasted with regions such as Africa and Southeast Asia”* (European Union Chamber of Commerce in China 2013). Chinese FDI is substantial, rapidly growing, and profoundly diverse and enables acquiring technology, learning know-how, building brands, servicing Chinese companies abroad as well as circumventing trade barriers (Meunier, et al. 2014). On the one hand, so desperately needed in cash-strapped EU MS burdened with debt crisis, on the other hand, perceived as risk for national icons and treasured assets or enabling state and commercial espionage, Chinese investments in Europe require *“politics of hosting Chinese investment”* (Meunier, et al. 2014). Instead of buying European sovereign debt (China owned only 7% of Europe's debt), Chinese firms (often state owned, sovereign wealth fund CIC - China Investment Corporation) prefer *“going shopping”* and purchasing tangible assets (Meunier, et al. 2014).

The stream of Chinese investors to EU might be regarded as relief given the strained after crisis conditions. However, governments cannot be sure whether see Chinese capital as *“good bargain—a positive-sum game where both investor and investee benefit—or rather a Faustian bargain—a zero-sum game in the long term where capital is accompanied by implicit conditionality affecting European norms and policies, from human rights to labor laws”* (Meunier, 2014a; 2014b). So it is unclear whether Chinese investors are saviours or predators (Meunier, 2012). Particularly, since these investment are sometimes conducted according to the principle *“rule and divide”* thrusting a wedge in EU integration processes. The much faster growth of Chinese OFDI in the EU compared to US can also translate into unhealthy transatlantic competition with security consequences. Hence, finding the right balance between ensuring the benefits from Chinese FDI, from job creation to productivity gains, while protecting from its harmful effects is crucial. S. Meunier argues, that in the end, the benefits of Chinese OFDI outweighs the costs. First, it provides an influx of capital rising employment without cost to the taxpayer. Second, as confirmed in various studies, jobs in foreign affiliates are typically better remunerated than similar jobs in domestically owned companies (Alfaro, & Chen, 2010; Navaretti, & Venables, 2013). Third, by remaining open even to more controversial foreign investment EU becomes a model for international openness. Finally, one has to be aware that *Chinese money refused by the EU could alternatively be directed to competitors or even enemies* (Meunier, 2012). However, wise dealing with potential danger requires truly coordinated

European response, both among MS and with respect to the US. Recommendations include: devising and implementing supranational, apolitical and transparent procedure for reviewing investments; regulating the incentives and preventing the “race to the bottom” competition among EU member states to attract FDI; concluding a BIT with China; and encouraging Chinese firms to showcase their investments’ contributions to European societies among others via corporate social responsibility (CSR) practices. The perceived imbalances in China-EU relations as far as mutual openness is concerned - with European liberalisation and Chinese restrictiveness - call for reviewed approach relying instead of traditional trade liberalisation on the new dynamic international investment regime with organisational structure and institutional design for proper governance (Gavin, 2012). Three options for EU-China investment agreement have been considered so far: to negotiate comprehensive agreement both liberalising and protecting FDI; standalone investment protection but not liberalisation and continuation of status quo with existing BITs of MS (Gavin, 2012). Option one seen as single legal framework would be certainly the best solution, covering three stages: pre-establishment market access, standard of treatment on post-establishment phase and protection against expropriation, however, given the previous problems with issues such as security or labour standards, would be hard to achieve.

Summing up, the influx of Chinese investors, especially the sharp increase in recent years, poses a new challenge for EU governments. Capital dearth and miserable economic shape force many of them to accept almost every foreign investors even if with strings attached. The controversies it ensues come mainly on the ground of their character - often public or state owned not private enterprises. Seen from the EU perspective Chinese investors can set in motion positive forces uniting Members States as well as centripetal ones leading to harmful competition among countries and "beggar they neighbour" policy which would bring about only lose-lose situation and can mean “race to the bottom”. Common stance and more coordination towards this Chinese phenomena seems more important than ever.

2.3. *Investment chapter in Transatlantic Trade and Investment Partnership (TTIP)*

In June 2013, EU and US officials announced the launch of negotiations on the Transatlantic Trade and Investment Partnership (TTIP). It is expected that this agreement would promote economic growth, support more jobs, and contribute to the development of global rules that can strengthen the multilateral trading system (US State Dept. 2014). Almost 30% of all outward FDI stock from 28 MS of the EU and nearly 40% of all FDI coming from outside the EU28 will be covered by this agreement whereas for the US, these shares are even larger: 50% of US outward stock will be covered by TTIP and almost 62% of total US inward stock (Poulsen, Bonnitcha, Yackee 2015). Most likely, the final TTIP agreement would much resemble the US model comprehensively covering and regulating various aspects of FDI. Interestingly and quite surprisingly, for the time being, US has relatively few BITs in place with EU countries and in fact no BITs with the EU’s most powerful and developed members (Poulsen, Bonnitcha, Yackee 2015). The future agreement should theoretically contribute to improved investment promotion and protection. As it seems, however, there is already not much room for improvement. This is clear from the US government’s official “Investment Climate Statements”, that it considers foreign investments in the EU generally *safe from expropriation and post-establishment discrimination, and advertises it as such to potential American investors* (Poulsen, et al. 2015). Thus implementation of investment chapter in TTIP does not seem to be of critical importance and key factor improving investment attractiveness. A 2012 study found that past US

treaties with investment protection clauses rarely had a tangible impact on US OFDI – even in far more risky jurisdictions than European economies (...) this is a strong indication that US investors are highly unlikely to factor the availability of ISDS with EU countries into their investment decisions (Poulsen, et al. 2015). Similarly, there is no evidence that protection clause would change the situation enjoyed by European firms in the US, given the already favourable conditions - high quality and independence of US courts, no restrictions on repatriation of profits, dividends, interest or royalties. Nevertheless, certain negative effects may take place. It is conceivable that investment chapter of TTIP would lead to FDI diversion by redirecting US firms to EU members that currently lack a BIT with the US (Poulsen, et al. 2015). Given the relative unimportance of such provisions on investment promotion this risk seem, however, low. This is also because already now US firms can thanks to the "treaty shopping" bypass the missing BIT protection (Poulsen, et al. 2015). Summing up, *ISDS in TTIP will prove largely redundant with the coverage US investors can already enjoy, if they wish.* Moreover, there is already little evidence that ISDS might lead to another benefit such as the *"de-politicisation of the dispute settlement process"*. There are however, certain costs likely - risk of claims and adverse awards (Poulsen, et al. 2015). Analysis of legal costs and their distribution between investors (claimants in ISDS proceedings) and the EU and the member states (respondents) shows not only considerable price of such litigation but also problems after winning the case as it may happen that despite positive verdict the costs of the tribunal, and legal fees would still be borne by the winning party" (Poulsen, et al. 2015). Besides, given the fact that host countries would have to maintain their judicial system (experienced, well linking all kinds of law - administrative, corporate, civil etc.) regardless of the ISDS inclusion in TTIP the costs of arbitration would most likely exceed those incurred by domestic system. Critics draw attention to limited policy space as a result of ISDS. ISDS-backed protection of investment may namely dissuade host state from enacting appropriate in given situation law or undertaking steps such as closing factory causing harm to environment or society. *"The impact of TTIP's investment protection provisions on EU policy space can be understood as the extent to which the treaty prevents the EU and the EU member states from adopting or applying policies that the relevant government would have preferred to apply in the absence of the treaty"* (Poulsen, et al. 2015). Besides economic costs of litigation, there are political costs of lost policy space, additionally reinforced by the potential risk of come controversial high profile cases which would significantly hamper the support for transatlantic cooperation and withdraw public backing. Proponents of TTIP claiming the aforementioned costs and risks are exaggerated or ill-calculated, nevertheless, they suggest available alternatives to ISDS in TTIP (Baetens, 2015). The first would be state-to-state arbitration which may, however, bring a risk of blowing the dispute out of proportion and politicising it even more. Second option would allow *"the home state to block any claims brought by investors (...) and to be a third-party intervene"* (Baetens, 2015). Third alternative which might be time consuming would *"require the exhaustion of local remedies before allowing a claim to be brought under ISDS"*. Fourth option would be simply *"to exclude substantive investment provisions from the agreement entirely"*. Additionally negotiated Treaty would benefit from some improvements. More transparency, active role of potentially interested parties including wider society and NGOS; enacting code of conduct with disclosure rules and methods of avoiding conflicts of interest as well as creation of an appellate mechanism would certainly help and address current controversies. TTIP offers an unique occasion to rewrite the complex international investment law. It is *"an unprecedented opportunity to reform and improve the system of investment law, in a way that*

gradual renegotiation of individual BITs never would be able to achieve" (Baetens 2015).

Summing up, from European perspective investment chapter in TTIP has more drawbacks than advantages¹¹. Threats stemming from investment chapter inclusion in TTIP are various. First there is a risk of reduced policy space. Less room for manoeuvre might be available for host countries both legislative as well as executive decision makers vis-a-vis foreign firms. Setting investment tribunals adjudicating in investor state disputes would most likely involve additional costs. Thirdly available studies do not allow to claim that thanks to planned provisions the country's attractiveness would increase and protection of investors significantly improve. It may bring about, as some proponents argue, new standards for future global investment regime and end the current "spaghetti bowl" of overlapping agreements and regulations. As it seems, however, whereas expected benefits are rather of global character and relate to the whole international community, the risks are more calculable and short term phenomena affecting mainly EU MS.

2.4. Lisbon Treaty provisions for Common Investment Policy (CIP)

While discussing the topic of FDI in the EU it is worthwhile to remind that EU is founded on the "four freedoms" (free movement of goods, persons, services and capital). With respect to free movement of capital it is required by Article 49 TFEU, that MS provide national treatment to investors from other MS regarding the establishment and conduct of business (Consolidated version of the TFEU, Official Journal C 326, 26/10/2012). Any violation of EU law ultimately can be adjudicated by the European Court of Justice (ECJ) in Luxembourg. Important from the perspective of foreign investors are EU's rules on competition, including antitrust and merger control (Articles 101 through 106 of the TFEU, Merger Regulation) and on state aid rules (TFEU Articles 107 and 109 TFEU). The landmark development for the investment policy in Europe was the Lisbon Treaty in 2009 that changed EU jurisdiction over direct investment issues in major respects and is perceived as legal innovation at the EU level (Chaisse, 2015). It brings FDI within the scope of the EU common commercial policy (CCP), making it an exclusive EU competence (Art 207 TFEU) and it enables now the EU to negotiate bilateral investment treaties or investment chapters of FTA. Besides it requires the consent of the European Parliament for new EU investment agreements. EU FDI policy comprises typical set of standards safeguarding: non-discrimination as compared to domestic and third-country investors; Fair and Equitable Treatment (FET) - complementing non-discriminatory standard, assures that investor enjoys a basic level of protection no matter the treatment granted to other investors; prohibition of unlawful expropriation of investment and free transfer of funds. Such standard protection is given, however, only to actually operating investors (no "mailbox" companies). In July 2010, European Commission issued „Communication" entitled "Towards a comprehensive European international investment policy" which touches upon the directions of a future EU investment policy geared towards the objectives of smart, sustainable and inclusive growth, and steps which shall be taken in this context and the other document - Regulation which set up transitional arrangements for various BITs between EU and non-EU countries, in order to assure legal certainty to European and foreign investors (COM (2010) 343 final; COM (2010) 344 final). In 2011, the European Parliament adopted its Resolution, which notes that the future EU investment policy should have the goal of promoting high-quality investments and making a positive contribution to worldwide economic progress and sustainable development (<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0141+0+DOC+XML+V0//EN>).

Journal of Economics and Political Economy

Resolution makes a number of specific suggestions on IIAs clauses such as: a clear definition of investment, excluding speculative forms of investment; non-discrimination; protection against direct and indirect expropriation, with a clear and fair balance between public welfare objectives and private interests; specific attention to protecting the right to regulate and the inclusion of social and environmental standards; and changes to the present ISDS regime towards greater transparency ([Investment Policy Monitor, No. 5, 2011](#)). These changes also brought about growing need for other stakeholders active participation. Civil society, business and parliamentarians have been voicing their views regarding the costs and benefits and the future orientation of IIAs ([Investment Policy Monitor, No. 6, 2011](#)). In 2012 the European Parliament and the European Council adopted Regulation No 1219/2012, establishing transitional arrangements for BITs between EU Member States and third countries which enables the “grandfathering” by the EU of Member States’ BITs concluded before the entry into force of the Lisbon Treaty, and lays down the conditions under which Member States can be authorized to amend or conclude new BITs in the future ([Investment Policy Monitor, No. 9, 2013](#)).

The exclusive competence over investment matters that the EU has acquired implies a shift of powers which leads to a corresponding loss of powers on the part of the Member States. Since Lisbon Treaty coming into force, MS have had a sense of being more and more at the mercy of the Commission with regard to their investment policies. *"The Council's position reflects the diverse interests of the Member States (...) ranging from those who would prefer to keep their sole responsibility for the conclusion of investment protection treaties to those which are content with the Lisbon shift of powers to the EU. The Council's compromise position appears to be its insistence on investment as an area of **mixed** competences between the Union and its members"*(Reinischl 2013). Although, theoretically, *"FDI is now covered by the CCP, enabling the EU to take a uniform policy in the international arena, FDI is still outside the reach of the EU's exclusive competence"* ([Shan, & Zhang, 2010](#)). In international investment matters (both direct and portfolio investment, various stages of investment process) EC has shared, not exclusive competences. Inevitable thus for entering BITs is the cooperation between the EU and its Member States particularly since the EU is inclined to sign treaties covering both direct and indirect investments. It must be stressed, that legally seen there are different interpretations of *"the Lisbon Treaty provisions with regard to the inclusion of FDI in the CCP"* ([Shan, & Zhang, 2010](#)). First, narrow considering only that only *those aspects of FDI which are directly linked to international trade agreements*; second bringing under the CCP only *measures and instruments of 'investment liberalization' or 'market access', and does not cover those of 'investment protection'*; third covering both *investment liberalization and regulation, but excluding two important areas: investment protection against expropriation and a general standard of fair and equitable treatment*; fourth sees that *the inclusion of FDI enables the EU competence only to negotiate and conclude agreements in this area, not to enter into substantive rights and obligations*, and finally fifth - enables a *comprehensive EU competence in FDI, covering admission, capital movement (transfer), post-admission treatment including FET treatment, performance requirements and free movement of key personnel, expropriation, and investor–state dispute settlement*. For the moment being *the Union's exclusive competence on investment has been confined to FDI, while BITs typically cover both direct and indirect investment. The latter, also termed 'portfolio' lies beyond the exclusive competence of the Union* ([Shan, & Zhang, 2010](#)). Given the FDI as exclusive EU competence and portfolio as shared, the expression of "half-way toward complete CIP" seems justified. Broad definition

of FDI means that some aspects of investment fall outside the EU authority. Most important issues raising concern which require further close inspection and monitoring include: the environment protection, labour, health standards often challenged by investors as breaches of a granted rights; insufficient transparency of ISDS as well as so called "chilling effect"ⁱⁱⁱⁱ on the right to regulate or insufficient policy space for States (EU investment policy, State of Play, Brussels, 2013). Clarifications is also needed in the financial aspect i.e. who bears the financial responsibility in the event of ISDS against the EU. New competence and broader CCP including FDI policy may enhance EU competitive position in global order and should help attain goals set among others in Europe 2020 Strategy. Nevertheless, experts identify various challenges - legal uncertainty and possible incompatibilities arising from this competence reshuffle. Some of them result from imprecise and inadequate definitions (investors, etc.), unclear scope and coverage of new EU competence (portfolio investments are outside exclusive competence, or aspect of FDI stages – admission, treatment, protection, etc.), and actual responsibility in external relations (dispute settlement) (Dimopoulos, 2014). Besides, the situation is complicated by multiple voices of EU institutions with Commission stressing the competitiveness and liberalization issues and European Parliament accentuating development aspects and by authorization system which in fact creates more uncertainty (Dimopoulos, 2015). Particularly monitored should be the phase-in process or transition period when agreements concluded by MS coexist with newly created EU regulations and are subsequently substituted by new solutions require attention (Wu, 2014). Smooth transition might happen via political negotiations (like it was for acceding countries in 2004 and 2007), law case i.e. judicial litigation through infringement proceedings or special legislation like the Commission Regulation on legal status of existing BITS and empowering MS to legislate (Wu, 2014). Dimopoulos argues that, Commission seems to be pursuing the short term policy of procrastinating the uncertainty rather than solving it as *"planned action focuses only on short-term measures, which merely postpone the uncertainty that EU investment policy will raise"* (Dimopoulos 2014). Potential benefits seem for the time being *„darkened by technical, but important, issues of investment treaties implementation and the uncertain future of existing investment treaties signed by Member States"* (Chaisse, 2015).

In fact, since the Lisbon Treaty we are witnessing the process of emerging "European international economic order in the field of FDI" (Strik, 2015). The Council has so far granted the Commission authority to negotiate investment chapters in the FTAs (negotiated with Canada, India, Singapore and the TTIP). *The Commission has indicated that it does not currently plan to develop a model investment treaty, preferring instead to establish general objectives and principles* (Investment Climate Statement - European Union, Bureau of Economic and Business Affairs, June 2014). The first EU BIT would be most likely the agreement with China which negotiations started in 2014.

Truly common investment policy like the commercial policy, would bring a number of benefits. It would improve the policy coherence, thus reducing asymmetries and uncertainties with the different policies existing in the EU (transparent investment environment is crucial to attracting and "sending" FDI) and strengthen EU trade policy as trade and investment are linked. It would enhance the international bargaining and negotiating power of the EU, as genuine global actor speaking with one voice. Experts argue, that locating FDI within CCP and integrating FDI into trade agreements would strengthen the EU's leverage in its relations vis a vis third countries thus translating into improved EU's competitiveness (Wu, 2014). The EU's CIP would bring advantages to outside world as well specifically by reviving and by showing as success story the

multilateral investment treaty. The EU CIP might then serve as best practice for global investment regime. This is particularly due to high standard and quality of CIP since the EU in the negotiation of investment agreements does have not only a liberalization agenda, but also the other objectives - human rights, good governance, environmental protection, and sustainable development. "It is hoped that the EU's emphasis on social responsibilities will eventually help to build a more balanced global investment regime" (Shan, & Zhang, 2010).

Although, the overall positive impact of the Europeanization of FDI policies on EU countries is expected, given the "differences so far with regard to FDI volumes and pursued policies, the individual impact would vary" (Blomkvist, 2011). *Several MS have expressed their negative feelings toward a common FDI approach and instead favoured keeping bilateral agreements.* How this centralization of FDI policies change national policies time will tell.

Europeanization of investment policy is in the state of flux – home-grown hurdles such as lack of uniform stance, competing visions and strategies additionally make the shift more difficult. Despite obvious legal pitfalls to be expected the transfer of power to supranational level is rather welcomed at least among scholars. *"Bringing trade and investment matters into the same hands contributes to ensuring the development of a strong, coherent and efficient external economic policy for the EU (...), it puts to an end the unnatural distinction of trade and investment policies (...). The new competence simultaneously contributes to reducing fragmentation of international investment regulation by first reducing the number of existing international instruments and, thus, ensuring a better homogeneity of the contents of these rules."* (Chaisse, 2015). FDI Competences have crept to the EU level by stealth and serendipity rather than rationale as argues by S. Meunier (2014c). Notwithstanding reasons such as higher costs, cacophony of current complex legal system governing international investments, all given the growing importance of FDI, the shift of prerogatives happened rather by historic accident (Member States busy at that time with other priorities on agenda) and entrepreneurship of European actor (EU Commission initiatives). Such "integration by stealth" implies rather bumpy road ahead for CIP, including European Court of Justice Involvement in controversial cases. Plenty of issues require further clarification; such as the precise definition and thus the scope and coverage of common investment policy including the stages a of investments undertaken. Situation is additionally complicated by the voices' differences between major EU institutions involved in the process European Parliament and Commission and by transitional mechanism of authorisation enabling MS pursuing some FDI policy yet under supervision of the Commission. Reference to earlier experience gathered over the accession negotiations might be helpful in this respect. Similarly can drafting certain regulations or relying on judicial procedures.

2.5. Genuine FDI and Offshoring jurisdiction

FDI figures are often upward biased as they include also purely financial flows. This problem may be finally addressed by introducing new OECD benchmark definition (BMD4),^{iv} which would make FDI data more transparent and significantly improve their quality by providing a better distinction between genuine investments and purely financial flows. *"The new standard will require countries to report so-called Special Purpose Entities (SPEs) separately. These SPEs are "typically holding companies used to channel capital through countries without generating any significant real economic activity or employment. (...) BMD4 will also improve the recording of round-tripping and capital in transit through intercompany loans."* (Vetter, 2014). In case of Poland, experts underline that notwithstanding the genuine homegrown expansion of domestic firms certain portion of Polish OFDI constitutes in fact "transit capital" - flows of funds within

units of MNEs also Polish ones to other economies, undertaken mainly for tax reasons (Zimny, 2013). "*Foreign affiliates in Poland, established to channel these flows have minimal or no employment and do not produce anything; they simply transfer capital among units of an MNE located in different countries or undertake other (unspecified) financial operations on their behalf. The characteristic feature of this capital is that it arrives in a transit host country (and, satisfying statistical concepts, is registered there as inward FDI flow) and, typically in the same year it is invested by an SPE in another country (and, satisfying statistical concepts, is registered as outward FDI flow)*". Recent figures may suggest that less than three quarters of Poland's outward FDI represents international production of MNEs, or "genuine" FDI, and an even closer look at the industry and geographical composition of Poland's OFDI stock suggests that the share of genuine FDI in total OFDI stock may be less than one half of the OFDI stock, and perhaps even less than that.

Traditionally perceived in terms of real MNEs' operations, FDI has become increasingly dominated by "*networks of abstract financial accounting entities spanning onshore and offshore jurisdictions*" (Haberly, & Wójcik, 2014). Available figures show that at least 30% or even 50% of world FDI can be termed "offshore FDI" deprived of direct attachment to productive activity in the economy where it is reported (Palan, et al. 2010). This complicated picture of "growing financialization of FDI underscores the need for analyses of the global economy that not only bridge the gap between financial and "real" activity, but also problematize the role of offshore legal constructs in defining the institutional geography of capital" (Haberly, & Wójcik, 2014). Policy challenge in this respect lies not that much in "*corralling of numerous competing jurisdictions*" but rather in the concentration of power vested not in Offshore Jurisdictions (OJ) but "*in the broader ABS (advanced business service)-offshore nexus, who exercise the principal agency within offshore finance, and (...) design the laws and regulations formally implemented by OJ governments*". Continuous financialization of FDI and proliferation of offshore judicial in form of periphery located, less or unregulated centres prove a challenge for governments as well. The strengths of the lobby against any regulations rather than coordination problems come in the forefront of discussion. As it seems, last but not least, the challenge for pursuing FDI policy may come also from imprecise definition of this category, its blurred nature and problems with proper measuring.

3. Conclusions and the way forward

In general, surveyed issues might be regarded as coordinates defining the space available for the EU MS for pursuing the policy towards FDI. Internal developments resulting from Lisbon Treaty provisions and subsequent shift of investment policy on EU level as well as external changes linked mainly with fast rise of new global players clearly are responsible for the silhouette of FDI policy space in European countries. As it seems their independence in this respect has been continuously shrinking. Hence even more important than ever are sound economic conditions including the right policy mix. If any selective measures might be applied then in subtle way conforming to legal regulations. Scholars point to arduous process of designing and implementing international investment regime which started years ago and proved unsuccessful. The current highly complex system of arrangements and treaties is becoming less manageable and pose more challenges than solutions.

Given the constraints created by the EU external and internal developments the room to freely design and launch policy towards FDI is systematically dwindling. There are not only competition rules and basic freedoms such as to establishment

and capital movements or general anti-discriminatory provisions as enshrined in most BITs but also more recent trends. The critical literature survey draws attention to some of them. Influx of Chinese capital in particular and the rise of emerging countries OFDI and their MNEs in general, process of further trade and investment liberalization as pursued under TTIP and last but not least the shift of investment policy from national to European level profoundly alter the way the FDI policy can be run. Classic measures typically involving some discrimination and state aid cannot be employed. More nuanced and subtle instruments need to be adopted.

Industrial policy seems only available, legal, fashionable or even recommended in light of re-industrialization promoted in the EU, type of policy which might be pursued towards FDI (COM (2014)14/2; Dhéret, et.al 2014; COM (2014) 614; COM (2012) 582 final). However, given the controversies it arises its appropriate design cannot be overestimated. Optimally, industrial policy shall act as a bridge between incoming foreign investors and outgoing FDI. Industrial policy can take many forms: from import substitution to export promotion, from infant industry protection to state ownership of enterprises in strategic sectors or national champions' development (Cimoli, et al. 2009). Despite some cross-country variations, some convergence of opinion regarding modern industrial policies can be spotted: *the importance of manufacturing R&D, emphasis on engineering skills and vocational education, and - following the 2008 financial crisis - access to finance for manufacturing-based firms. Highlighted is also strategic role for government in supporting the coordination and alignment of systems with increasing emphasis on 'partnership' with industry, often in cooperation with industrial associations* (O'Sullivan, et al. 2013). The fact that modern industry is organized along the value chains, which highly fragmented consist of slices of activities spread all over the world and yet concentrated in certain particularly attractive hubs (nodes) implies that any industrial policies affect often unintentionally MNEs and their FDI (Lichtblau, et. al. 2013). Properly shaped and pursued industrial policy should aim at addressing systemic and network failures (O'Sullivan, et al. 2013). It could help attract the right type of foreign investment - the most valuably from the point of view of national economy which than via the system of requirements should lead to the rise and development of strong domestic firms which in turn become capable of starting foreign expansion.

SCHEME 1: FDI policies and industrial policy - relations



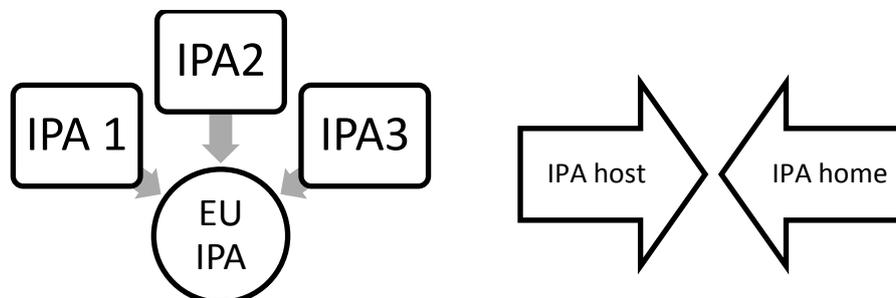
Clusters remain the adequate response to this challenge. As argued by experts, it is therefore highly recommended to "make the presence of cluster a key criterion in the distribution of public money" and "reinforce the role of regional authorities in the identification and building-up of clusters" (Dhéret, et al. 2014). From a couple of years clusters are regarded as factors improving region's attractiveness for FDI (Götz, 2007; Yehoue, 2005; Andersson, 2004). Cluster-based policy is therefore the way to encourage foreign firms to locate in given place. They can be considered as

Journal of Economics and Political Economy

more advanced form of SEZ which are raising some controversies due to the state aid they usually involve and are under close scrutiny by competition watchdogs. What is important is their universal (not differentiating between national and foreign firms), horizontal (encompassing different sectors closely related competing and cooperating), bottom-up (grass root initiative often supported from top authorities resulting from critical mass of entities representing given sector and related fields) character and the fact they contribute to the region's development in general. They improve location's attractiveness by offering localized capabilities which determine the spatial distribution of economic activities, as they influence firms' competitiveness (Malmberg, & Maskell, 1999). Clusters by providing rare, valuable and imperfectly imitable assets thanks to the mass efficiency; time compression dis-economies and inter-connectedness of asset stocks are attractive places for companies seen as bundle of competences (Foss, & Knudsen, 1993). It is the specialized applied knowledge that is the decisive element in gaining an advantage over a competitor. For companies the most attractive locations are therefore those which offer the best package of desired competencies - knowledge and the capacity to be able to make use of that knowledge. Clusters are created over a span of many years of changes; they crystallize, develop, undergo life cycle and cannot therefore be created purely by political directive from scratch. They presuppose a willingness to cooperate and atmosphere of trust. This suggests that no kind of policy can substitute for the dynamism and social organizational skills that must exist. The state's commitment seems to be right and necessary, but cannot replace bottom-up initiatives (Götz, 2010). Dwindling room for manoeuvre and shrinking options available combined with high competition to attract valuable foreign investment would require much more political fine tuning. The offer encompassing various elements would need to be tailor-made, adjusted to specific investor requirements, and yet difficult to replicate elsewhere (Götz, 2006).

Optimal solution would also require more cooperation among national IPAs. Although investment protection and liberalisation become key instruments of a common international investment policy to be conducted by the Commission, there will remain scope for Member States to pursue and enforce complementing investment promotion policies (COM (2010) 343 final). This will require even more coordination among the Union and its members. It would enable better resources allocation and prevent other problems stemming from classic prisoner dilemma. For the best of the EU as a whole such enhanced collaboration seems desired.

SCHEME 2: *IPAs suggested cooperation*



Summing up, there are various home-made, European and exogenous, resulting from international developments processes which are limiting the freedom of pursuing sovereign FDI policy by EU members. Challenges are numerous. Coping

Journal of Economics and Political Economy

with them might be facilitated by well-designed non-discriminatory legally allowed industrial policy aligning investors motives with host country development strategy, fostering clusters and in general better coordination among member states. The command of sound macroeconomic condition and right policy mix with sustainable and stable public finances and monetary policy is even more valid than ever, given the constraints with employing other measures and progressing convergence in institutional legal regulations - investment regime. As the EU members are by international standards already very open for foreign investors, further improvement in attractiveness can materialize only by structural reforms (Vetter, 2014). Besides, as it seems classic approach to FDI policy and its instrument might become soon obsolete with less practical utility. Conducted review and critical analysis of main challenges for FDI policy show also the dominance of specific legal issues which would most likely shape the FDI agenda in the EU and determine the debate concerning FDI policy in the near future (Baetens, 2013).

Notes

- ⁱ Over the period of November 2014 – February 2015 repeated mails with short questionnaire have been sent to many European agencies. Besides those who responded approached have been also IPAs or respective bodies in UK, France, Germany, Slovenia, Cyprus, Slovakia, Ireland, Belgium, Lithuania, Malta, Bulgaria, Romania, and Spain.
- ⁱⁱ In the public hearing organised by the Commission, more than 145,000 European citizens agreed with NGOs that investment arbitration should not be included in TTIP (European Commission, 2015a). The results made European Trade Commissioner Cecilia Malmström conclude: “The consultation clearly shows that there is a huge scepticism against the ISDS instrument.” - “Public backlash threatens EU trade deal with the US”, Financial Times, 13 January 2015.
- ⁱⁱⁱ “Chilling effects” occur when law enforcement regulations execution is suppressed on the fear of some groups’ claims, possible lawsuits etc.
- ^{iv} The new OECD Benchmark Definition for FDI (BMD4), which is going to come into effect in late 2014? While the 4th edition was completed in 2008, it has not yet been implemented by reporting countries. The methodology of the statistics currently published by the OECD still relates to the 3rd edition. As stated on OECD statistics website.

Bibliography

- A Stronger European Industry for Growth and Economic Recovery. (2012). European Commission Communication 582 final.
- Alfaro, L. & Chen, M. (2010). *Surviving the Global Financial Crisis: Foreign Direct Investment and Establishment Performance*, NBER Working Paper No.17141.
- An Integrated Industrial Policy for the Globalisation Era - Putting Competitiveness and Sustainability at Centre Stage. (2014). European Commission Communication 614 final.
- Andersson, T. (2004). *Linking National Science, Technology, and Innovation Policies with FDI policies*. http://unctad.org/Sections/meetings/docs/andersson_en.pdf.
- Baetens, F. (2015). *Transatlantic Investment Treaty Protection – A Response to Poulsen, Bonnitca and Yackee*. CEPS Special Report No. 103.
- Baetens, F. (Eds.). (2013). *Investment Law within International Law Integrationist Perspectives*, Cambridge University Press.
- Blomkvist, K. (2011). *The Impact of a Common EU FDI Approach on Individual Member States and Overall EU Competitiveness*, The 13th Annual SNEE European Integration Conference.
- Callaghan, H. & Lagneau-Ymonet, P. (2012). The Phantom of Palais Brongniart: Economic Patriotism and the Paris Stock Exchange, *Journal of European Public Policy*. 19(3), 388-404. doi: 10.1080/13501763.2011.640788.

- Chaisse, J. (2015). Promises and Pitfalls of the European Union Policy on Foreign Investment—How will the New EU Competence on FDI Affect The Emerging Global Regime? *Journal of International Economic Law* 15(1): 51–84. doi:10.1093/jiel/jgs001.
- Cimoli, M., Dosi, G., & Stiglitz, J.E. (Eds.) (2009). *Industrial Policy and Development: The Political Economy of Capabilities Accumulation*, New York, Oxford University Press.
- Clift, B., & Woll, C. (Eds.) (2012). Economic patriotism: reinventing control over open markets, *Journal of European Public Policy*. 19(3), 307-323. doi:10.1080/13501763.2011.638117.
- Consolidated version of the Treaty on the Functioning of the European Union* (2012). Official Journal C 326.
- Dhéret, C. & Frontini, A. Hedberg, A. Morosi, M. Pardo, R. (2014). *Towards a New Industrial Policy for Europe*, EPC Issue Paper 78.
- Dimopoulos, A. (2012). *Creating an EU Investment Policy: Challenges for the Post-Lisbon Era of External Relations*. In P.J. Cardwell (Eds.). *EU External Relations Law and Policy in the Post-Lisbon Era* (pp. 401-421). doi: 10.1007/978-90-6704-823-1.
- Eichengreen, B., & Baldwin, R. (Eds.) (2008). *Rescuing our jobs and savings: What G7/8 leaders can do to solve the global credit crisis*. <http://www.voxeu.org/article/rescuing-our-jobs-and-savings-what-g78-leaders-can-do-solve-global-credit-crisis>.
- EU investment policy, State of Play, Civil Society Dialogue*. (2013). http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150853.pdf.
- European Parliament resolution of 6 April 2011 on the future European international investment policy*. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0141+0+DOC+XML+V0//EN>.
- European Union Chamber of Commerce in China*. (2013).
- Eurostat. (2014). *Foreign direct investment statistics*. http://ec.europa.eu/eurostat/statisticsexplained/index.php/Foreign_direct_investment_statistics.
- Faeth, I. (2009). Determinants of foreign direct investment – a tale of nine theoretical models, *Journal of Economic Surveys*. 23(1), 165-196. doi: 10.1111/j.1467-6419.2008.00560.x.
- Farkas, B. (Eds.) (2013). *The Aftermath of the Global Crisis in the European Union*, Newcastle upon Tyne. Cambridge School Publishing.
- Filippov, S. & Kalotay, K. (2009). *Foreign Direct Investment in Times of Global Economic Crisis: Spotlight on New Europe*. Working Paper UNU Merit 021.
- For a European industrial renaissance*. (2014). European Commission Communication 14/2.
- Foreign Direct Investment (FDI) Regulatory Restrictiveness Index, 1997 – 2012*. (2015). <http://www.cesifo-group.de/ifoHome/facts/DICE/Other-Topics/Product-Markets/Product-Market-Regulations/foreign-direct-investment-regulatory-restrictiveness.html>.
- Foss, N., & Knudsen, C. (1996). *Towards a competence theory of the firm*. London. New York. Routledge.
- Gavin, B. (2012). Europe needs a dynamic international investment regime with Chin, *Intereconomics*, 47(4), 248-256. doi:10.1007/s10272-012-0425-8.
- Global Trade Alert*. <http://www.globaltradealert.org/>
- Globerman, S., & Chen, V. Z. (2010). *Best Policy Practices for Promoting Inward and Outward Foreign Direct Investment*. Ottawa: The Conference Board of Canada. Report October 2010. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1722003.
- Goncalves, E., & Karkkainen, A. (2010). *Foreign direct investment flows hit by the crisis. Economy and finance Statistics in focus*. <http://ec.europa.eu/eurostat/documents/3433488/5565132/KS-SF-10-029-EN.PDF/42fb2cd7-36c9-4ae0-bc8d-978978bc522a?version=1.0>.
- Görg, H., & Krieger-Boden, C. (2011). *Trade protection backfires on FDI*. <http://voxeu.org/article/protectionism-backfires-fdi>.
- Görg, H., & Labonte, P. (2011). *Trade protection during the crisis: Does it deter foreign direct investment?* Kiel Working Paper 1687.

- Gorynia, M., Nowak, J., Trapczyński, P., & Wolniak, R. (2013). *Overview and Evaluation of Policy Measures Supporting Outward FDI: The Case of Poland*. In: E., Kaynak and T.D. Harcar, (Eds.) *Twenty Second World Business Congress Flexibility, Innovation and Adding Value as Drivers of Global Competitiveness: Private and Public Sector Challenges* (pp. 108-115), National Taipei University, Taipei, Republic of China (Taiwan).
- Götz, M. (2007). *Knowledge environment in clusters as a factor attracting Foreign Direct Investments (FDIs) – Implication for Innovation Policy in Poland*. In M. Weresa and W.L. Filho (Eds.) *Achieving Competitiveness through Innovations. A Challenge for Poland and Other New EU Member States* (pp. 145-162). Frankfurt/Main, Peter Lang – EuropäischerVerlag der Wissenschaften
- Götz, M. (2010a). *Clusters as Drivers for Attracting FDI and as Tools For Improving a Region's Attractiveness: The Case of Poland's Mazovia Region*. In M. Weresa (Eds.). *POLAND Competitiveness Raport2010* (pp. 273-295), Warszawa.
- Götz, M. (2013b). Reflections on the Eurozone's Challenges. *Contemporary Economics*, 7(4), 5-24. doi:10.5709/ce.1897-9254.120.
- Götz, M., (2006). Konkurencyjność regionu jako rezultat jego atrakcyjności kształtowanej przez posiadane kompetencje – przykład duński (Embedded Knowledge-based Competences as the Cource of Region's Attractiveness), in: Konkurencyjność regionów. Rola technologii informacyjno-komunikacyjnych, pod red. M. Runiewicz (Regional Competitiveness. The Role of ICT, ed. M. Runiewicz), Wydawnictwo WSPiZ im. L. Koźmińskiego, Warszawa 2006, pp. 199-216.
- Götz, M., (2013). Nauki ekonomiczne po kryzysie, *PrzeglądZachodni* 4, 127-142.
- Götz, M., (2015). Innovations in Solving Eurozone Crisis: Review of Some Unconventional Proposals. *Transformation in Business and Economics*. 14(1), 126-143.
- Haberly, D., & Wójcik, D. (2014). Regional Blocks and Imperial Legacies: Mapping the Global Offshore FDI Network, *Economic Geography*, 13(07). doi: 10.1111/ecge.12078.
- Helleiner, E. & Pickel, A. (Eds.) (2005). *Economic Nationalism in a Globalizing World*. Ithaca, NY: Cornell University Press.
- Investing in the SDGs: An Action Plan*. (2014). World Investment Report UNCTAD, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=937>.
- Investment Climate Statement* (2014). European Union, Bureau of Economic and Business Affairs. Report, <http://www.state.gov/e/eb/rls/othr/ics/2014/231435.htm>.
- Investment Policy Monitor* No. 5. (2011). UNCTAD.
- Investment Policy Monitor* No. 6. (2011). UNCTAD.
- Investment Policy Monitor* No. 9 (2013). UNCTAD.
- Jahn, D. & Müller-Rommel, F. (2010). Political Institutions and Policy Performance: A Comparative Analysis of Central and Eastern Europe. *Journal of Public Policy*, 30, 23-44. doi: 10.1017/S0143814X09990250.
- Kinoshita, Y. (2012). *Foreign Direct Investment and the Crisis: Is This Time Different?* IMF Research Bulletin, 13(1), 1-2. <http://www.imf.org/External/Pubs/FT/irb/2012/01/index.pdf>.
- Lichtblau, M., Matthes, J., Fritsch, M., Bertenrath, R., Grömling, M., & Busch, B. (2013). *Industry as a growth engine in the global economy*, IW Köln. http://www.iwconsult.de/fileadmin/user_upload/downloads/public/pdfs/final_report.pdf.
- Lo, A. (2012). Reading about the Financial Crisis: A Twenty-One-Book Review, *Journal of Economic Literature*, 50(1), 51–78. doi: 10.1257/jel.50.1.151
- Malmberg, A. & Maskell, P. (1999). Localised learning and industrial competitiveness, *Cambridge Journal of Economics*, 23(2), 167-185. doi: 10.1093/cje/23.2.167
- Meunier, S. & Burgoon, B. Jacoby, W. (2014). The politics of hosting Chinese investment in Europe –an introduction, *Asia Europe Journal*, 12(1), 109-126. doi: 10.1007/s10308-014-0381-y.
- Meunier, S. (2012). *Political Impact of Chinese Foreign Direct Investment in the European Union on the Transatlantic Relations*. European Parliament Briefing Paper. Princeton University, 04.05.2012.

- Meunier, S. (2014a). A Faustian bargain or just a good bargain? Chinese foreign direct investment and politics in Europe, *Asia Europe Journal*, 12(1-2), 143-158. doi: 10.1007/s10308-014-0382-x.
- Meunier, S. (2014b). Divide and conquer? China and the cacophony of foreign investment rules in the EU, *Journal of European Public Policy*, 21(7), 996-1016. doi:10.1080/13501763.2014.912145.
- Meunier, S. (2014c). *Integration by stealth: how the European Union gained competence over foreign direct investments*, Paper prepared for the 7th Annual Conference of the Political Economy of International Organizations, January 16-18, 2014, Princeton University.
- Mistura, D.G. (2011). *The Promotion of Outward Foreign Direct Investment: A Comparative Policy Analysis of BRIC Countries*, file:///C:/Users/Magda/Downloads/20111010%20-%20ThesisMistura.pdf.
- Morgan, G. (2012). Supporting the City: Economic Patriotism in Financial Markets, *Journal of European Public Policy*, 19(3), 373-387.
- Naczyk, M. & Palier, B. (2013). *Feed the Beast: Finance Capitalism and the Spread of Pension Privatization in Europe*, Paper presented at the Annual Meeting of the American Political Science Association, Chicago, IL, 29 August 2013.
- Navaretti, G. B. & Venables, A. J. (2013). Multinationals and industrial policy, *Oxford Review of Economic Policy*, 29(2), 361–382. doi: 10.1093/oxrep/grt016.
- O’Sullivan, E. & Andreoni, A. Lopez-Gomez, C. Gregory, M. (2013) What is new in the new industrial policy? A manufacturing systems perspective. *Oxford Review of Economic Policy* 29(2), 432–462. doi: 10.1093/oxrep/grt027.
- OECD. <http://www.oecd.org/investment/fdiindex.htm>
- Oxford dictionary <http://www.oxforddictionaries.com/definition/english/policy>.
- Palan, R., Murphy, R., & Chavagneux, C. (2010). *Tax havens: How globalization really works*. Ithaca, NY: Cornell University Press.
- Pisani-Ferry, J. (2012). *The Euro crisis and the new impossible trinity*, Bruegel Policy Contribution. <http://www.bruegel.org/publications/publication-detail/publication/674-the-euro-crisis-and-the-new-impossible-trinity/>.
- Poulsen, L., Bonnitcha, J., & Yackee, J. (2015). *Transatlantic Investment Treaty Protection*, CEPS Special Report No. 102.
- Promocja Polskiej gospodarki zagranicą*. (2014). Raport PISM, Warszawa
- Proposal for a Regulation of the European Parliament and of the Council*. (2010). Communication 344 final.
- Reinischl, A. (2014). The EU on the Investment Path – Quo Vadis Europe?, *The Future of EU BITs and other Investment Agreements*, 12 *Santa Clara J. Int’l L.* 12(1), 111-157.
- Rosamond, B. (2012). The European Union, legitimacy and the reconstruction of state space, *Journal of European Public Policy*, 19(3), 324-341. doi:10.1080/13501763.2011.638119.
- Shan, W. & Zhang, S. (2014). The Treaty of Lisbon: Half Way toward a Common Investment Policy. *The European Journal of International Law*, 21(4), 1049–1073. doi:10.1093/ejil/chq071.
- Sinn, H.W. (2013), *Rescuing Europe from the Ground Up*, <http://www.project-syndicate.org/commentary/hans-werner-sinn-argues-that-reconstructing-the-euro-is-the-only-way-to-save-the-european-integration-project#pI76WfvIJPr3B0Sm.99>.
- Skovgaard Poulsen, L. & Hufbauer, C.G. (2011). Foreign direct investment in times of crisis, Special Issue FDI, the Global Crisis and Sustainable Recovery, *Transnational Corporations*, 20(1), 19-38.
- Stiglitz, J. (2013). *The lessons of the North Atlantic crisis for economic theory and policy*, <http://www.voxeu.org/article/lessons-north-atlantic-crisis-economic-theory-and-policy>.
- Strik, P., (2014). *Shaping the Single European Market in the Field of Foreign Direct Investment*, Bloomsbury Publishing.
- TeVelde, D.W. (2007). Understanding developed country efforts to promote foreign direct investment to developing countries: the example of the United Kingdom. *Transnational Corporations*, 16(3), 83-104.

- Towards a comprehensive European international investment policy.* (2010). Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. 343 final. Brussels.
- Towards a New Generation of Investment Policies.* (2012). World Investment Report UNCTAD, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=171>.
- Vetter, S. (2014). *Recent trends in FDI activity in Europe Regaining lost ground to accelerate growth.* Research Briefing European Integration DB Research.
- Woo-Cumings, M. (2005). *Back to Basics: Ideology, Nationalism, and Asian Values in East Asia.* In E. Helleiner, and A. Pickel (Eds.). *Economic Nationalism in a Globalizing World* (pp.91-117). Ithaca, NY: Cornell University Press.
- Wu, C.H. (2012). *Foreign Direct Investment as Common Commercial Policy: EU External Economic Competence After Lisbon.* In: P.J. Cardwell (Eds.), *EU External Relations Law and Policy in the Post-Lisbon Era* (pp. 375-400),. doi: 10.1007/978-90-6704-823-1_18
- Yehoue, E. B. (2005). *Clusters as driving engine for FDI*, IMF Working Paper 05/193.
- Zhang, H. & Van Den Bulcke, D. (2014). China's direct investment in the European Union: a new regulatory challenge?, *Asia Europe Journal*, 12(1-2), doi: 159-177.10.1007/s10308-014-0383-9.
- Zimny, Z. (2013). *Outward FDI from Poland and its policy context, 2012, Columbia FDI Profiles.* Country profiles of inward and outward foreign direct investment issued by the Vale Columbia Center on Sustainable International Investment. http://ccsi.columbia.edu/files/2014/03/Poland_OFDI_-_14_Jan_2013_-_FINAL_0.pdf.



Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal. This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by-nc/4.0>).

