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Foreign direct investment of Polish enterprises in Ukraine – its conditions and structure

1. Introduction

Ukraine is the second biggest state in Europe, almost two times bigger than Poland, with 46 million of citizens. Because of the wealth of natural resources, and fertile farmland, cheap labor and high demand for products of many industries, Ukraine is the interesting territory for foreign investors. On the other hand, Ukraine is the country with the instable legislation, unstable internal policies, unstable exchange rates. That affects the level of trust of potential foreign investors, who could be willing to carry out foreign direct investment (FDI) in that country.

The aim of this article is to present the analysis showing the structure and directions of development of the FDI (foreign direct investment) in Ukraine. The content of this article includes the analysis of data governed in Polish and Ukrainian Statistics Office, embassies in Kiev and Warsaw - in their faculty of Promotion and Trade; Ukrainian Center for Economic and Political Research in the name of Father Razumkov, as well as the opinions and analyzes of Polish academics dealing with the social, economic and political situation in Ukraine.

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The study consists of a theoretical part, which discusses the theoretical aspects of FDI, and the research section, which presents the conditions, problems and general characteristics of conducting business in the form of FDI in Ukraine: followed by the structure and directions of functioning of Polish FDI in Ukraine.

2. Theoretical aspects of taking the FDI through enterprises.

OECD has elaborated the model definition of FDI. Model includes investments aimed at obtaining an investor's lasting impact on a foreign company. The result is establishment of a long-term relationship between the investee and the company. According to the OECD, "a direct investment company is an entity in which a foreign direct investor holds at least 10% of the ordinary shares (i.e. shares in capital) or entitles to 10% of voting rights at the General Meeting of Shareholders or otherwise has an effective effect on the management of the company " (OECD, 1999, p. 7).

The motives and aspects, motivating factors for entrepreneurs to undertake FDI are widely analyzed in the literature. Particularly important seems to be the following conceptions - made by S. Hymera theory, followed by F. Knickerbrocker, which establish, that a company investing outside its home country has some losses compared to competitors from its host country. That is why the foreign investors will seek compensation, which is only possible if he has some advantages over local companies. Having these advantages is the reason and a condition for achieving its specific benefits (Karaszewski, 2014, p. 32).

The conception of inside transactions, made by M. Casson, P. Buckley, A. Rugman, S.P. Magee is saying, that the enterprise internalizes its activities in the form of FDI when the costs of contracts with contractors or transactions on the market, are lower than those within the company (home, national) (Buckey, 2002, p. 79).

S. P. Magee, the author of concept of appropriateness, underlines the same aspects and factors of the business activities, but it has brought them to the situation of innovative companies, which have their advantage over other organizations on the market owing to their technical knowledge and high production technology. They are making a foreign expansion through creating your own branches to provide them with the right level of protection for your technology and prevent it from spreading to your competitors, thus allowing you to get a better return on your investment (Gorynia, 2007, p. 102).

The product life cycle theory created by M. Posner, expanded to the FDI by R. Vernon, analyzes this phenomenon from the product side of the company and its existence on the domestic and foreign markets. The product goes through three stages: innovative, mature and standardized product. The first stage is when a company starts producing a new product, usually in a developed country, where it is possible to raise capital, and consumers have adequate income. Production and sales are made in one country (Gorynia 2007, p. 98). The next stage is the mature product. This stage begins when the price elasticity of demand is increasing and the company, seeking cheaper solutions, starts production in countries where it has previously exported its product, and where its production is cheaper. This usually means that it starts direct investment in these countries, creating its own new affiliates. The final phase is a standardized product. At this stage, the company loses its technological edge over its competitors and has to seek other solutions. Competition is based on price, so the company transfers the production of a given product from the country of current foreign investment to the developing countries, where the cost of producing it is the lowest (Pilarska, 2005, p. 22).

The consolidation of following theoretical conceptions is the “OLI paradigm” developed by J. Dunning. It presents a hypothesis indicating that the company is pursuing its foreign expansion in the form of FDI, if the conducting the business abroad is more profitable than in its home country. For this to happen, a company must have certain specific strengths that give it an edge over its competitors (Przybylska, 2001, p. 87). To those edges belongs: ownership advantages (Pilarska, 2005, p. 41), dominance over competitors through patented technology, trademarks, company size, advantage resulting from internationalization (reduction of transaction costs and others), and location advantages (e.g. local availability, investment climate in the host country, market size, and so on). J. Dunning has drawn from the aforementioned theories (and others) that the greater the profitability of these advantages abroad, the more the company will seek to invest directly outside the home (Rymarczyk, 2004, p. 49).

3. Condition for operating in the form of FDI in the Ukraine

For undertaking the business activity through foreign entities in a given country the administrative and legal conditions are very important. From those conditions depend largely on, if the investment will be profitable and the country attractive for the future investors. The main normative act in Ukraine in this

regard is the Constitution - passed in 1996, which in Article 42 authorizes doing business in that country, and in Article 26 extends this right to foreigners.

Very important for the foreign investors in the acts regulating the issue of FDI in Ukraine are also the Commercial Code and the Civil Code of Ukraine, as well as the law on joint stock companies, commercial companies and the principles of foreign investment (Sobczak, 2007, p. 460).

Foreign entrepreneur (the same as Ukrainian citizens) is able to start the business activity in this country through: to start from scratch on the Ukrainian law of a new entity, to buy in part or in full the existing Ukrainian company, to establish an agency or subsidiary (branch) and to enter into an agreement with an existing Ukrainian entity. Foreign entrepreneur (as well as Ukrainian citizens) can start a business in this country by: starting a new Ukrainian entity from the ground up, buying in part or in full the existing Ukrainian company, setting up a representative office or branch and concluding an agreement with an existing Ukrainian entity activity. The latter two forms are not recommended to the Polish companies by the Trade and Investment Promotion Section of the Embassy of the Republic of Poland in Kiev because of their lack of detailed regulations in Ukrainian law and potential problems related to the arbitrariness of their interpretation by the Ukrainian state administration. This department recommends that Polish companies choose the activity in the form of a limited liability company because of its high flexibility of operation and the most detailed regulation in the Ukrainian law. This form has legal personality, corresponds to the entire property for its obligations, and the shareholders are only responsible for the amount of contributions contributed to the company, its share capital is divided into the shares specified in the instruments of incorporation. This is the most commonly chosen form of FDI (Trade, Investment and Investment Promotion Section of the Embassy of the Republic of Poland in Kiev, Information Bulletin No. 1/2011, p. 17).

It is also important to bear in mind the burden on economic operators of compulsory social insurance. On January 1, 2011 four premiums were exchanged for such insurance: a uniform contribution to universal state social insurance. From that date, employers pay to the Pension Fund of Ukraine from 36.76% to 49.7% of the total remuneration, depending on the risk category of the activity and 3.6% of the salary paid to employees (*ibid*, 24).

The tax system in force in Ukraine has a huge influence on the taking of FDI in Ukraine. In Ukraine, it was regulated by the Tax Code of Ukraine, which entered into force 01.01.2011 and introduced or amended, among other things, taxes such

as PIT, CIT and VAT. The characteristics of these taxes in Ukraine are shown in table 1.

Table 1. Selection and characteristics of chosen taxes in Ukraine

Tax	Tax rate
PIT	15% of income; it increases to 17% when a taxpayer's monthly income is more than ten times the minimum wage, which was valid on January 1 of a given year.
CIT	23%; However, the law provides for a gradual reduction of the rate to 16% from 01.01.2016.
VAT	20%; By 2016 the rate is to be reduced to 17%. An automatic system of overpayment of VAT and administrative penalties was imposed for its late return

Source: elaborated on the basis of: WPHI Embassy of the Republic of Poland in Kiev, fiscal burden related to running a business in Ukraine (taxes and contributions to compulsory social security). Legal status at 20.04.2004, pp. 8-13; WPHI Embassy of the Republic of Poland in Kiev

In addition, a system of central registration of investments has also been introduced - currently foreign investments in Ukraine are no longer subject to compulsory registration controlled by the National Bank of Ukraine. New rules have also been introduced "on forms and ways of arrangement" (www.ukraina.com.pl) - in 2009 regulations of forms and methods of the agreement provided that the non-resident transfer of currency is made only through investment accounts opened on behalf of such non-resident and bank in Ukraine (it's about the State Bank of Ukraine). Moreover, foreign investments in Ukraine and their settlement could only be made in currencies that are included in the first group of currency classifiers (EUR, USD), i.e. from 2011, the settlement of contributions and revenues is possible in currencies included in the so called - the second group classifier of currencies, including the PLN.

FDI in Ukraine has entered a "good road". Time is good now - because according to the analysis of the Ukrainian Center for Economic and Political Research them. Father Razumkov, country (Ukraine) with such potential should have a much higher ranking in terms of competitiveness of the economy than it is now¹.

1 This analysis is quite consistent with the rating of "The Global Competitiveness Report". Ukraine in terms of competitiveness of economy ranks 73rd among 144 countries in the world. Ukraine - EU summit, S. Fule, *EP debate on the situation in Ukraine*. Strasbourg 2013.

4. Direct foreign investment in Ukraine - general characteristics.

Potentially Ukraine is an interesting investment direction for foreign investors, due to (www.ukrstat.gov.ua, p. 3):

- market size (second largest country in Europe, almost two and a half times larger than Poland, with 46 million inhabitants) (Grabowski, 2015, p. 10),
- low saturation in Ukrainian market goods, practically in any industry, especially in highly processed and technically advanced and technologically advanced products,
- relatively small competition,
- poorly exploited natural resources,
- fertile agricultural soils,
- low labor costs.

Unfortunately, there are also many barriers to running any type of business, including FDI in Ukraine such as:

- high degree of bureaucracy and complexity of all processes,
- inconsistent legislation or lack of it (Ukraine regained its independence in 1991),
- the uncertainty of running and maintaining a private business,
- significant economic and social disparities between the districts of the country,
- ubiquitous corruption,
- poor road and rail infrastructure, lack of good connections for domestic transport.

At the same time, the potential of Ukraine, according to the UNCTAD Ranking of 2014, evaluated against the background of the largest recipients of FDI from the transforming economies does not look so bad at all. This is illustrated in the data in table 2.

Table 2. Ukraine's potential against the background of the largest recipients of FDI from transforming economies

Potential components (among the all countries of the world)					
Country	Market attractiveness	Availability of cheap labor / qualifications, skills	Availability of infrastructure	Availability of natural resources	Ranked in the ranking
Russia	14	24	31	2	6
Kazakhstan	16	50	75	11	33

Ukraine	50	19	37	23	22
Croatia	103	--	23	92	63
Serbia	102	--	51	68	64
Turkmenia	43	--	115	95	76
Belarus	34	7	52	56	27
Poland	15	32	26	20	18

Source: Own study based on UNCTAD (World Investment Report Towards the New Generation of Investment Policies 2012), *Measuring FDI Potential: FDI determinants and proxy indicators*, UNITED NATIONS PUBLICATION, p. 30, 2014

The table, in the form of quantitative and quantitative data, presents the factual situation of Ukraine's attractiveness as a recipient country of FDI. It should be said, that this country is ranked on 22nd position, only 4 places below Poland, which after all is proud of the Eastern Partnership program or the Cross-Border Cooperation Program. It can therefore be argued, that compared to selected target countries, Ukraine is quite high in terms of selected potential components, but the overall assessment of market attractiveness for FDI is rather unfavorable, and may otherwise be inadequate to this data. It may affect the actual attractiveness of Ukraine as the host country of FDI. Maybe the other factors, such as political, non-market - a country at war in large part, etc., obstructs, hinders the placement of capital in the structures of the economy of Ukraine.

The value of USD million of FDI in Ukraine in 2005-2014 was estimated as follows:

Year

2005 - 6,794,4; 2006 - 9,047,0; 2007 - 16,890,0; 2008 - 21,607,3; 2009 - 29,542,7; 2010 - 35,616,4; 2011 - 40,053,0; 2012 - 44,333,0; 2013 - 50,333,9; 2014 - 54,462,4.

Source: based on data presented by K. Crane and F. Larabee [in:] *Encouraging Trade and Foreign Direct Investment in Ukraine*, Read Corporation Santa Monica, 2015, p. 29.

The above figures - in relation to the country's potential - are quite low despite the fact, that Ukraine - as a state - guarantees investor the right to freely export

abroad income, after paying all taxes and fees applicable to the State, free of export duties or cash and guarantees of equal treatment of foreign and domestic investors as regards their legal regulations.

As of 31.XII.2014, FDI from 130 countries in the world came to Ukraine. The most important foreign investors in Ukraine are: Cyprus - 17,275.1 million USD, Germany - 6,317,0 million USD, Netherlands - 5,168,6 million USD, Russian Federation - 3,785,8 million USD, Austria - 3,401,4 million USD, Great Britain - 2,556.5 million USD, France - 1,765.3 million USD, Sweden - 1,600.1 million USD, Switzerland - 1,106.2 million USD. Polish FDI in Ukraine at the end of 2014 amounted to USD 916.4 million – i.e. 1.7% of all FDI in Ukraine and 13th place in the ranking of investors (www.ukrstat.gov.ua, s. 4).

Direct Foreign Investments were invested in such sectors of the Ukrainian economy as:

- industry - 31.5%, including the processing industry - 29.5%,
- financial sector - 29.6%,
- real estate and other services provided to business entities - 16.6%,
- trade and repair services - 11%.

5. Analysis (structure and direction of development) of FDI Polish enterprises in Ukraine

Foreign direct investment in Ukraine on a larger scale began to emerge after the political transformation of the 1990s. Thanks to the introduction of a market economy and a large lucrative market, the country has begun to attract foreign investors. The close neighborhood and cultural similarity have made Ukraine one of the most frequently chosen directions of investing in Polish companies. Analysis of the value of Polish FDI in Ukraine indicates their systematic growth since 2002. Record value of \$ 382.1 million was recorded in 2008, as shown in figure 1.

This tendency was abruptly broken in 2008 - investments were negative (-75.6 million USD), which means that the value of the Polish capital withdrawn from Ukraine was higher than the value of capital flowing to Ukraine at that time. This can be explained by the effects of the economic crisis that Polish investors have faced and the unfavorable situation on the Ukrainian market. Recent years have been a gradual improvement - in 2009, Polish FDI has already reached \$ 91.6 million, and available data indicate an investment of more than \$ 68 million in the first ten months of 2010, and the last three years to 2013 are systematically increasing by several million USD per year.

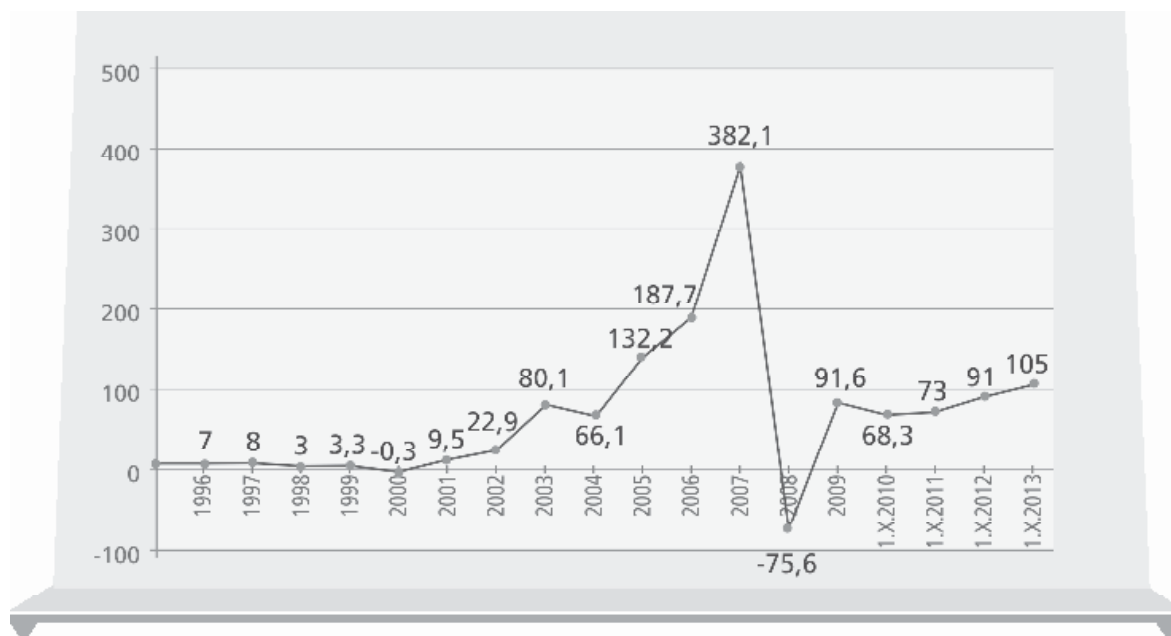


Figure 1. Polish BIZ in Ukrain from 1996 to 2013 in mln USD

Source: own study based on: WPHI Embassy of the Republic of Poland in Kyiv (2010), Ukraine. Market Guide 2014 Kyiv, p. 52; NBP (2000-2014)

In terms of value of Polish investments, Ukraine occupies a remote position, but it is the first in terms of the number of Polish companies. In the year 2014, 345 units of foreign Polish companies operating in Ukraine were registered. In the same period, 311 of them were in Germany, and in the next ones - the Czech Republic was 212 units (GUS 2010) (Polish direct investment abroad. Warsaw, 2015). The structure of Polish FDI in Ukraine is shown in table 3.

Table 3. Structure of Polish Direct Investment in Ukraine as of 01.01.2014

Kind of activity	Mln USD	Percentage %
Financial sector	470,0	54,3
Industry, including:	224,0	25,9
• Metallurgical and metal industry	71,1	8,2
• Chemical and petrochemical industry	29,8	3,4
• Food industry	18,7	2,2

• Wood and paper industry	10,8	1,2
• Light industry	9,0	1,0
• Mineral (not metal) industry	6,5	0,7
• Mining industry	5,1	0,6
• Machine industry	4,9	0,6
• Other industries	67,7	7,8
Trade and repair services	52,8	6,1
Operations on the real estate market	43,9	5,1
Agriculture	29,8	3,4
Architecture	12,7	1,5
Transport and communications	9,5	1,1
Other investments	22,2	2,6
Together	864,9	100,0

Source: Ministry of Foreign Affairs, Economic Newsletter about the countries of the world. Ukraine. Bilateral economic cooperation, p. 3, www.msz.gov.pl (20.05.2014 - access date)

It results in the fact, that most FDI from Poland was made in Ukraine in the financial sector. Their value was \$ 470 million in 2014 - which means they represent 54.3% of the value of all Polish investments. PKO BP (owner of Kredyt Bank Ukraina), PKO SA (Ukraine owns Uniredit Ukraine) and insurance companies such as PZU Ukraina. The second largest sector of investment in Ukraine is the industry with \$ 224 million invested, which gives it almost 26% of the value of all investments. By dividing the industry into particular sectors, it can be seen that the largest share of Polish capital was allocated to metallurgical and metallurgical industries (8.2%), chemical and petrochemical (3.4%) and food industries (2.2%). It follows that Polish FDI in Ukraine is characterized by a high sectoral concentration, because financial services and industry cover more than 8% of Polish investments in this country.

Similar conclusions can be drawn when investigating the type of activity of the largest Polish investors operating in Ukraine. Banks are dominant, among others. Barlinek, Black Red White, Forte, New Style, Marbet, Sanitec, Tersanit, as well as paint and emulsion companies: Śnieżka, Plast Box, Polifarb Cieszyn

and Camella. The largest Polish investors, their FDI in Ukraine, are motivated above all by the absorption capacity of the country's market, cheap labor and the possibility of improving their market position by overtaking competition - as shown in table 4.

Table 4. Motives for taking FDI in Ukraine in the opinion of selected companies

Name of the firm	Motives
Inter Groclin	<ul style="list-style-type: none"> • Attractive production costs (about 50% lower) • Five-year tax exemption • Customs relief
Nowy Styl	<ul style="list-style-type: none"> • Creation of production companies with existing counterparties • Avoid excessive bureaucracy (by entrusting this contractor) • Facilitating exports to Russia
Śnieżka	<ul style="list-style-type: none"> • Market absorption • Using the experience gained on the domestic market • Strengthening market position
Plast-Box	<ul style="list-style-type: none"> • Consequence of development of other industries • Omission of trade barriers • Greater experience of Polish entrepreneurs - in comparison with Western companies - in the completion of bureaucratic formalities • Lower labor costs • Market absorption • Lack of competition - technological advantage
Forte	<ul style="list-style-type: none"> • Raising capital for investment through share issues and expansion of production potential
Bioton	<ul style="list-style-type: none"> • Client's proximity
Can-Pack	<ul style="list-style-type: none"> • Increased production capacity
Orlen*	<ul style="list-style-type: none"> • Good investment climate • A chance to out-compete

* Orlen is only planning to launch direct investment in Ukraine

Source: Lizińska W., Żróbek A., Polish foreign direct investment - a new stage of investment development (on the example of Lithuania and Ukraine) [in:] Karaszewski W., *Foreign direct investment in building the competitiveness of enterprises and regions*, Wyd. Nicolaus Copernicus University, Torun 2015, p. 133

Despite the undoubted strengths of Ukraine as an FDI deposit, as shown in the table 3, Polish entrepreneurs also see a number of barriers and threats related to the activity in this country. Especially severe are delays in the return of overpaid VAT - and the state administration is in arrears with returns already paid tax. This is mainly the case for investors who produce products in the factories they set up in Ukraine for export to other countries. It is estimated that the Ukrainian government - owing to the economic crisis of the means to repay these debts - is guilty of Polish companies about 100 million USD. In such a situation are among others. Cersanit, Barlinek (only his Ukrainian authorities are liable for the payment of about PLN 100m), Maspex, or Duda. It seems, however, that the situation is gradually starting to improve as Ukraine is considering a debt swap for treasury bonds. The new tax code also introduced a mechanism for automatic reimbursement of this tax without the need for companies to go through a detailed fiscal audit (www.wyborcza.biz/biznes).

Polish entrepreneurs also point to difficulties connected with the exercise of their rights by the Ukrainian courts, as well as opacity and inconsistency of regulations. The problem is also poor infrastructure, a small number of border crossings with Poland, compulsory certification of goods, a multitude of necessary attestations and corruption of state authorities (Pałys, 2015, p. 21).

In spite of the above limitations Ukraine is indicated by the surveyed Polish entrepreneurs (except China) for already implemented or planned FDI (ibid, p. 31).

6. Conclusion

Ukraine, throughout some amazing problems concerning - in the last years - economic, and politic crisis, becomes slowly for foreign investors more and more interesting country to make business. This trend is also noticeable in the case of Polish companies, because for several years we have seen a slow but growing trend in the value of Polish FDI, mainly in the financial, industrial, metallurgical, metal and chemical sectors.

Polish entrepreneurs decided to make FDI in Ukraine because of the huge absorption of the market, cheap labor, cheap raw materials. Cultural and geographical location and closeness between Poland and Ukraine are also important. That is giving the Polish investors the advantage over competitors from the Eastern Europe. The hoping not only for maintenance, but also for the growth of this trend in the coming years.

Summary

The aim of the article is analysis (structure and direction of development) of Polish foreign direct investments in the Ukraine. The article consists of four parts: first shows the definition of FDI and some aspects and economic conceptions explaining the conditions of their undertaking by companies. The second part presents the economic situation of Ukraine as a country for FDI localization; the third part presents the legal and administrative conditions of business conditions in this country, and fourth shows the characteristics of FDI made in Ukraine by Polish entrepreneurs.

Materials for the preparation of this article were collected at the State Statistics Committee of Ukraine and at the Faculty of Industry and Trade of the Embassy of the Republic of Poland in Kiev. The data included also the elaboration of O.W. Polowin posted by Academy of Sciences of Ukraine.

Keywords: *internationalization, foreign direct investment, FDI, Ukraine.*

Streszczenie

Celem artykułu jest analiza (struktura i kierunki rozwoju) polskich BIZ na Ukrainie. Artykuł składa się z czterech części: w pierwszej została przedstawiona definicja BIZ oraz różne ekonomiczne koncepcje tłumaczące warunki ich podejmowania przez przedsiębiorstwa; w części drugiej przedstawiono sytuację gospodarczą Ukrainy jako państwa dla lokalizacji BIZ; część trzecia prezentuje warunki prawne i administracyjne prowadzenia działalności biznesowej w tym kraju, a czwarta zawiera charakterystykę BIZ dokonywanych na Ukrainie przez polskich przedsiębiorców. Materiały do opracowania niniejszego artykułu zebrano w Państwowym Komitecie Statystyki Ukrainy oraz w Wydziale Przemysłu i Handlu Ambasady RP w Kijowie. Wykorzystano także dane zawarte w opracowaniu O.W. Połowina wydanym przez Akademię Nauk Ukrainy.

Słowa

kluczowe: *internacjonalizacja, bezpośrednie inwestycje zagraniczne, BIZ, Ukraina.*

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