

RESULTS OF PREVIOUS POLICIES ON FOREIGN INVESTMENT PROMOTION IN UKRAINE IN LIGHT OF POST-WAR RECONSTRUCTION CHALLENGES

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Abstract. The *purpose* of this article is to analyze the evolution of investment promotion policies in Ukraine and to identify the results and lessons of previous state approaches in the context of the country's future post-war recovery. The research *methodology* combines a historical-institutional analysis of legal frameworks and fiscal regimes introduced since the 1990s, as well as a comparative assessment of the effectiveness of various special legal regimes of economic activity. Special attention is paid to the legal, institutional, and strategic communication dimensions of foreign direct investment (FDI) policy. The *results* demonstrate that Ukraine's early investment protection laws provided essential guarantees – such as safeguards against expropriation, repatriation of profits, and legal stability – but lacked strategic coherence and did not evolve into an integrated policy framework. The first generation of special regimes – free economic zones (FEZs) and territories of priority development (TPRs) – suffered from conceptual ambiguity, legal fragmentation, inconsistent incentives, and weak accountability. While they were designed to stimulate structural transformation at the regional level, their actual implementation was undermined by the absence of clear national strategies, regulatory instability, and corruption risks. The study highlights the relative advantages of more recent initiatives, such as industrial parks and the national-level framework introduced by the Law on Projects with Significant Investments (2020). These newer instruments prioritize infrastructural support and procedural transparency, rather than blanket fiscal benefits. They also introduce stricter eligibility criteria and contractual guarantees of legislative stability for up to 15 years. In light of Ukraine's upcoming post-war reconstruction, the study emphasizes the need to focus future investment policy not on expanding fiscal incentives, but on ensuring legal stability, institutional reliability, and trust-based strategic communication. *Practical implications.* The findings provide guidance for a renewed FDI policy that avoids the inefficiencies of the past and contributes to a more resilient, transparent, and investor-oriented economic recovery. The proposed directions can inform both national strategies and local implementation frameworks. *Originality.* The article offers a structured synthesis of institutional lessons from past investment regimes in Ukraine and proposes key vectors of reform aimed at building long-term investor confidence in the post-war period through coherent, predictable, and credible governance mechanisms.

Keywords: foreign direct investment, intensification of foreign investment, post-conflict recovery, investment promotion policy, special economic zones, industrial parks.

JEL Classification: F21, F35, O10

1. Introduction

Enhancing the effectiveness of foreign investment promotion in Ukraine is a critical prerequisite for successful post-war economic recovery. Amidst constrained domestic resources and the gradual reduction of international aid, the country faces an urgent need not only to increase the volume of foreign capital inflows but also to modernize investment promotion policy, placing greater emphasis on long-

term socioeconomic returns. While Ukraine's core investment legislation – developed in the 1990s – offers fundamental protections, it requires adaptation to wartime and post-war realities, with particular attention to regulatory stability and predictability. The experience of the first generation of special legal regimes – free economic zones (FEZs) and territories of priority development (TPRs) – revealed limited effectiveness, due to conceptual ambiguity, institutional weaknesses,

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and lack of control mechanisms. In the context of large-scale reconstruction challenges, a renewed policy framework must go beyond financial incentives, integrating transparent project selection, institutional support, and strategic communication.

The novelty of this study lies in the interdisciplinary synthesis of lessons from previous investment promotion policies and the formulation of strategic directions for updating Ukraine's national investment policy in the post-war context. The paper also offers a structured analysis of institutional conditions that underpin the effectiveness of various regimes, including FEZs, TPRs, industrial parks, and large-scale investment agreements. The aim of the research is to identify key results and shortcomings of past foreign investment promotion models in Ukraine and to formulate practical policy recommendations for the post-war phase.

The main objectives are: to provide a comprehensive analysis of the current state policy of foreign investment promotion; to identify the institutional causes of low effectiveness of earlier special regimes; to investigate the legal, administrative, and communication dimensions of investment policy; to outline recommendations for renewing investment promotion policy in line with reconstruction challenges.

Methodologically, the paper draws on institutional analysis, historical-legal review, and comparative assessment of investment regimes.

The structure of the article includes three main sections: the development of the legal framework; the evaluation of first-generation investment regimes; and an analysis of current mechanisms and marketing strategies. The article concludes with strategic insights for future policy design.

2. Evolution of Legal Regulation of Foreign Investment

The initial stage in the evolution of Ukraine's investment promotion policy was the formation of a basic legal framework that provided protection guarantees, procedural clarity, and market access. Foundational norms were established as early as the 1990s and remain in force today. The Law of Ukraine "On the Protection of Foreign Investments" defined requisition procedures, guaranteed profit repatriation, and permitted reinvestment (Verkhovna Rada of Ukraine, 1991). The Law "On the Regime of Foreign Investment" prohibited nationalization, limited requisition to exceptional circumstances with compensation, allowed duty-free capital repatriation, and mandated reimbursement of losses, including lost profits (Verkhovna Rada of Ukraine, 1996). Although not part of a coherent strategic framework, these provisions helped reduce risks and build investor trust in the regulatory system. Until 2016,

investment registration was largely formal and served as a basis for state protection. With the enactment of Law No. 1390-VIII (Verkhovna Rada of Ukraine, 2016), this requirement was abolished, simplifying procedures and increasing transparency. Article 8 of the Law "On the Regime of Foreign Investment" continues to guarantee the stability of investment conditions for ten years following any legal changes.

In the more recent Law "On State Support for Investment Projects with Significant Investments," this concept was developed through the introduction of special investment agreements valid for up to 15 years (Verkhovna Rada of Ukraine, 2020). Adopted in 2020, this law became a major pre-war initiative aimed at establishing a stable and predictable legal framework for foreign investment. It provides for the conclusion of a special investment agreement between the investor and the state, which guarantees the stability of conditions, including the immutability of legislation, the possibility of compensation for damages caused by state actions, and a broad package of support instruments. Benefits are granted to investors committing over 12 million euros in specified sectors, creating at least 10 high-wage jobs, and implementing projects within five years. Support measures include a five-year exemption from corporate income tax, reimbursement of VAT and import duties for new equipment, compensation of infrastructure costs, and priority allocation of land plots. The total amount of state support may reach up to 30% of the investment value. The introduction of this mechanism marked a significant step toward enhancing policy predictability and building long-term trust among foreign investors.

A key tool for attracting foreign capital has been the government's strategic marketing aimed at building a positive investment image of Ukraine. This involves not just isolated communication actions, but a coordinated policy encompassing both central institutions (the Presidential Advisory Council, UkraineInvest, the Business Ombudsman) and regional agencies.

Since the onset of war and Ukraine's rising international visibility, investment marketing has shifted from passive communication to actively redefining the country's image – from a risk zone to an opportunity space. Despite martial law, this work has not stopped but adapted to new conditions, factoring in security, logistics, and investor demands for transparency and guarantees. In the post-war context, investment marketing must support not only communication but also economic goals by promoting priority sectors and preparing targeted proposals with reputational support. In 2022, the Advantage Ukraine platform was launched to showcase key-sector projects (Ministry of Economy of Ukraine, 2022), while UkraineInvest backed over 20 initiatives worth more than USD 400 million and hosted international events (UkraineInvest, 2023). Investment promotion

policy in Ukraine goes beyond communication; it is a strategic effort to position the country as a land of opportunity. It relies on an extensive institutional infrastructure (including UkraineInvest, the Business Ombudsman Council, and regional agencies), modern presentation tools (such as Advantage Ukraine), diplomatic outreach, and national branding.

3. Experience of FEZs and TPRs: Lessons and Limitations

In 1998–1999, Ukraine actively introduced various forms of special legal regimes of economic activity (SLREDs), particularly free economic zones (FEZs) and territories of priority development (TPRs), which offered tax and customs incentives, simplified permitting procedures, and institutional support. By the early 2000s, 11 FEZs had been established, including Azov, Donetsk, Slavutych, Zakarpattia, Yavoriv, Truskavets, Kovel, Mykolaiv, Porto-Franco, Port Krym, and Reni. In parallel, TPRs operated in nine regions such as Crimea, Zakarpattia, Donbas, Volyn, Zhytomyr, Chernihiv, Kharkiv, and Shostka. A major concern among researchers, policymakers, and civil society was the transformation of SPREDs from development instruments into mechanisms for preferential access. Decisions to establish zones or grant benefits were often made informally – through personal ties between public officials and businesses – creating unequal access to public support and raising corruption risks (Kindzerskyi, 2016). Another critical issue was fiscal imbalance: the scale of tax and customs incentives granted far exceeded actual budget revenues. For example, in 2004, preferences granted to FEZ and TPR participants totaled 4.7 billion UAH, whereas actual payments to the budget amounted to only 1.2 billion UAH (Tkach, 2016).

Between 2005 and 2015, the abolition of fiscal incentives led to a large-scale rollback of FEZs, TPRs, and technology parks. The number of participants and projects plummeted, tax incentives were eliminated, and the regimes lost their economic appeal. Out of over a hundred established SLREDs, only a few remained operational. After 2015, the state effectively abandoned institutional interest in these instruments: statistical tracking and performance monitoring of FEZs and TPRs ceased. As a result, the first generation of special legal regimes was effectively deactivated, and current hopes for institutional renewal are focused on industrial parks.

Beyond the issue of the regimes' performance, the decision-making process that led to the withdrawal of fiscal benefits itself became a clear example of inconsistent and unpredictable state policy regarding the stability of the legal environment and investment conditions. Yet it is investor trust – trust in the state, its institutions, and the country as an investment

destination – that should lie at the heart of public policy. Rather than constant legal reforms, policy should focus on stability, effective law enforcement, and real protection of investor rights. Over the past decade, mistrust in the judicial system, corruption, and opaque taxation – not the legal provisions themselves – have been the key barriers. According to a 2019 survey by the American Chamber of Commerce, business priorities included judicial reform (85%), anti-corruption efforts (54%), and tax transparency (34%) (American Chamber of Commerce in Ukraine, 2019). Even during wartime, these challenges remain pressing. In December 2023, despite emerging priorities such as demining and logistics recovery (American Chamber of Commerce in Ukraine, 2023), judicial reform continued to top the business agenda as a critical safeguard in force majeure conditions. A January 2025 survey confirmed this trend: judicial system reform was identified as the top concern (29%), followed by anti-corruption measures (26%) and tax transparency (15%) (American Chamber of Commerce in Ukraine, 2025).

Thus, the main obstacle lies not in the content of investment legislation, but in the lack of trust in its practical implementation. This trust deficit is further exacerbated by overall regulatory instability. Even before the full-scale war, Ukraine's investment freedom index remained critically low – only 35 points compared to 55 in Moldova and 30 in Russia and Belarus (Heritage Foundation, 2024). Therefore, a key priority of state investment policy should not be limited to removing wartime restrictions, but must also ensure the stability and predictability of the legal environment. It is essential that the "rules of the game" remain consistent, and any changes be exceptional and well-justified. Equally important is not only the formal, but also the effective protection of investors' rights – in everyday legal practice, not just on paper. Investor trust in the state as a partner hinges on confidence that commitments will be honored, that the investment regime remains stable, and that protection mechanisms are both functional and accessible. Such legal consistency and practical reliability should become the foundation of a renewed investment promotion policy in Ukraine. Legal stability and strategic communication are the two key vectors shaping investor trust. Their synergy can form the core of a recovery model that is not only reconstructive, but also transformative in nature.

As for the limited effectiveness of free economic zones (FEZs) and territories of priority development (TPDs), which ultimately led to the termination of this policy in 2005, the prevailing consensus among Ukrainian scholars over the past two decades attributes this failure not to the inherent unsuitability of these instruments for the Ukrainian context. FEZs were originally intended to promote technological advancement and structural modernization of regions.

Although some implementation aspects – such as the sectoral allocation of capital – raised concerns, the majority of investments were directed toward national policy priorities. For instance, in 2010, over 67% of foreign capital in FEZs was allocated to electronics, transport engineering, healthcare infrastructure, and transport and communications more broadly (State Statistics Committee of Ukraine, 2011). This distribution reflected a high level of socio-economic relevance and carried the potential for significant multiplier effects.

The limited effectiveness of FEZs and TPDs can be largely attributed to a combination of conceptual, legal, institutional, and operational shortcomings that significantly constrained their potential as tools for attracting foreign investment and promoting regional development. One of the core problems was the absence of an integrated vision for these zones as components of broader regional or sectoral strategies. Instead of being systematically embedded into national development plans, FEZs and TPDs were created as isolated territorial initiatives with arbitrary tax configurations and no unified regulatory framework. Furthermore, the state failed to invest in basic infrastructure, severely undermining the zones' attractiveness. As noted by Geets and Semynozhenko (2006), public funding for preparing the territories was practically nonexistent at the time of launch. The Law of Ukraine "On General Principles of Creation and Operation of Special (Free) Economic Zones" (Verkhovna Rada of Ukraine, 1992) outlined only broad principles, without setting performance indicators, control mechanisms, or project justification criteria. The governance structure was fragmented, lacking a unified accountability model, and the law explicitly excluded state responsibility for the actions of zone administrations and vice versa – creating an environment prone to regulatory impunity.

Another structural limitation was legal fragmentation: each FEZ was governed by its own individual regulatory framework, resulting in unequal conditions and administrative complexity. In the case of TPDs, no framework law was ever adopted, which enabled the granting of benefits without uniform criteria or requirements. These factors – weak regulatory foundations, lack of accountability, absence of harmonized standards and performance metrics – largely explain why the expected outcomes of FEZ and TPD implementation were never fully realized. The absence of standardized procedures for evaluating, selecting, and monitoring investment projects led to highly uneven results across different zones. By the end of 2010, for instance, the FEZ "Slavutych" had absorbed three times more investment than planned, while the FEZ "Reni" reached only 43% of its target (State Statistics Committee of Ukraine, 2011). Disparities were even more pronounced

among TPDs: in Mariupol and Donetsk, the execution of investment commitments did not exceed 23%, whereas in Artemivsk, projects exceeded forecasts by a factor of four. These inconsistencies reflect poor coordination, lack of unified implementation approaches, and weak project oversight.

A major barrier to the sustainable operation of FEZs and TPDs was regulatory instability. In 1999, the government imposed a moratorium on the creation of new special zones (Cabinet of Ministers of Ukraine, 1999), and in 2004, it further restricted the registration of new investment projects within existing zones (Verkhovna Rada of Ukraine, 2003). The culmination was the complete repeal of tax and customs privileges in March 2005 under Law No. 2505-IV (Verkhovna Rada of Ukraine, 2005), regardless of the implementation stage of ongoing projects. The lack of a transitional period, disregard for previously legislated stability guarantees (Main Scientific and Expert Department of the VRU, 2005), and the rushed adoption of changes without proper justification led to a sharp decline in investor trust and ultimately dismantled the incentive mechanism.

4. Industrial Parks as a New Instrument of Investment Policy

The next iteration of special legal regimes for economic activity aimed at attracting foreign investment came in the form of industrial parks. The framework Law of Ukraine "On Industrial Parks" was adopted in 2012 (Verkhovna Rada of Ukraine, 2012), initiating a new model of selective investment incentives. In shaping the legal foundation of industrial parks, a number of shortcomings that had limited the effectiveness of earlier SEZs and TPDs were addressed. One of the most important changes was that the initial version of the law did not include fiscal incentives as the main tool. Instead, government support for infrastructure development was prioritized – an approach that avoided direct budgetary losses while enhancing the attractiveness of investment sites. The law also clearly regulated the procedural aspects of park creation, sectoral specialization, and the requirements for initiating and managing entities. This helped to limit opportunities for abuse and corruption, which had been a major criticism of the earlier SEZ and TPD regimes.

One of the most effective institutional decisions was to delegate the initiative for establishing industrial parks to the local level – business entities and municipal authorities. This approach ensured closer alignment between industrial park projects and regional development needs, as well as better consistency with the economic potential of localities.

However, amendments to Ukraine's Tax and Customs Codes in 2022 significantly expanded the incentive

toolkit for industrial park participants. Specifically, corporate income tax and VAT exemptions were introduced, bringing the fiscal model of industrial parks closer to the earlier SEZ and TPD regimes. While this increases the appeal to investors, it also reintroduces risks observed in previous iterations – such as misuse of preferences, budgetary losses, and erosion of trust due to legal instability. Although many of the new incentives remain deferred – some only take effect after 10 years of continuous operation, while others are temporarily suspended due to martial law – these risks may become fully relevant in the medium term.

This underscores the need to proactively apply the institutional lessons from earlier investment promotion regimes, particularly from the SEZ and TPD experience, to improve the governance of industrial parks. A forward-looking stance can help mitigate potential risks and enhance the role of industrial parks as a reliable vehicle for attracting quality foreign capital in the post-war period.

5. Conclusions

The analysis of the evolution of Ukraine's foreign investment promotion policy reveals a transition over the past three decades from fragmented, reactive measures to a more complex – though still incomplete – system of legal, administrative, and institutional mechanisms. The fundamental guarantees established in the 1990s provided essential starting conditions but

remained only partially effective in practice due to the absence of a coherent long-term strategy.

The experience of the first generation of special legal regimes – SEZs and TPDs – exposed a set of systemic weaknesses that prevented these regimes from becoming effective tools for structural transformation. These included conceptual ambiguity, fragmented legal frameworks, weak institutional capacity, lack of unified management and accountability, and regulatory instability that undermined investor trust. These lessons should guide the development of a modern investment policy.

In light of the post-war recovery agenda, Ukraine's investment promotion strategy must focus on three interconnected pillars: ensuring a predictable national legal framework, as exemplified by the Law on Projects with Significant Investments; selectively applying next-generation special regimes – particularly industrial parks – while integrating past lessons; and institutionalizing strategic investment marketing to position Ukraine's economic potential globally.

In the post-war context, the priority should be enhancing policy effectiveness by guaranteeing regulatory stability, legal enforceability, coherence of decisions, and renewed investor confidence. The new investment promotion model must rest on institutional reliability, consistent and transparent rules of the game, and coordinated application of legal, administrative, and communication tools. Such a model should match the scale of Ukraine's post-war economic transformation challenge.

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