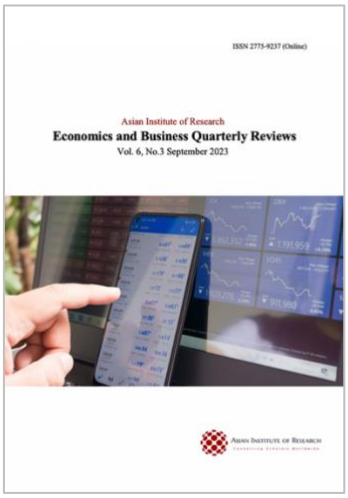

Economics and Business
Quarterly Reviews

Hunter, R. J. (Jr.), & Lozada, H. R. (2023). Foreign Direct Investment (FDI) in Poland 2023: An Update and Appraisal. *Economics and Business Quarterly Reviews*, 6(3), 125-143.

ISSN 2775-9237

DOI: 10.31014/aior.1992.06.03.525

The online version of this article can be found at:
https://www.asianinstituteofresearch.org/

Published by:
The Asian Institute of Research

The Asian Institute of Research
Economics and Business Quarterly Reviews
Vol.6, No.3, 2023: 125-143
ISSN 2775-9237

DOI: 10.31014/aior.1992.06.03.525

Foreign Direct Investment (FDI) in Poland 2023: An Update and Appraisal

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Abstract
This article is third in a yearly series relating to foreign direct investment in Poland which has remained an important part of Poland's transition from state central planning to a market economy. The context of the article is the current state of the Polish economy, which includes a discussion of inflation, unemployment, and an assessment of special economic zones in Poland supported by a variety of tax and investment incentives. The article focuses on the positive and negative aspects of foreign direct investment, with a detailed look at U.S. investment, and concludes with a discussion of recent limitations placed on foreign ownership in the Polish economy for investors outside of the European Union, the European Economic Area, and the OECD.

Keywords: Foreign Direct Investment, Inflation, Unemployment, Special Economic Zones, Limitation on Foreign Investment

1. An Overview of Foreign Direct Investment (adapted from Hunter & Lozada, 2022, pp. 93-94)

To place the discussion in its proper context over more than thirty years, Gorynia, Nowak, and Wolniak (2007, p. 132) noted that "Foreign direct investment (FDI) has played a pivotal role in the transformation of post-communist economies of Central and Eastern Europe (CEE) for more than a decade now. This is especially true for Poland which experienced a phenomenal growth of inward FDI."

Foreign direct investment, more commonly known as FDI, occurs with the purchase of "the physical assets or a significant amount of the ownership (stock) of a company in another country to gain a measure of management control" (Hunter & Ryan, 2012, p. 594). Ordinarily, FDI inflows into a host country are counted from a *10 percent stock ownership.* FDI may be distinguished from a more traditional type of investment termed *portfolio investment* (also called *passive investment*) because in a passive investment, the investor is not seeking effective *control* in a company, but only a return on investment. Examples of portfolio investment include the purchase of corporate debt securities, debentures, mutual funds, stocks, bonds, interest-bearing bank accounts, treasury bills, and promissory notes (see Chen, 2020a). Broszkiewicz (2018, p. 244) states that "It is important to compare the effects of the inflow of portfolio investments to the Polish market to foreign direct investment in order to specify what actions should be undertaken to increase the attractiveness of the Polish market for portfolio investment."

As an active form of investment, FDI may take the form of a merger-and-acquisition activity with an existing company or entity (often referred to as a "brownfield" activity) where the purchaser acquires an ongoing business operation (Hayes, 2021). FDI may also take the form of creating an entirely new investment—literally from the "ground up" (often referred to as a "greenfield" activity) (Chen, 2020b; adapted from Hunter & Ryan, 2012).

Poland has remained one of the most attractive destinations for foreign direct investment in Europe (Hunter & Ryan, 2001; Hunter, Shapiro, & Ryan, 2003; Hunter & Ryan 2013a; Invest in Poland, 2020). The Polish government has made it a top policy priority to expand the domestic economy by "supporting high-tech investments, increasing productivity and foreign trade, and supporting entrepreneurship, scientific research, and innovation through the use of domestic and EU funding" (U.S. Department of State, 2019).

Some of the main targets of FDI have been the individual properties or entire industries that were the subject of the program of Polish privatization (Hunter &Ryan, 2008), most notably during Poland's early transition from the socialist system of state-central planning and state-ownership (Rondinelli & Yurkiewicz, 1996; Cienski, 2019). The process of "mass privatization" [MPP] undertaken by the Polish government provided numerous opportunities for the introduction of foreign capital into the Polish economy (Hunter & Ryan, 2004; Hunter & Ryan, 2007; Hunter & Ryan, 2008; Hunter & Ryan, 2013b) by "achieving widely-understood management effectiveness" (Lis, Mazurkiewicz, & Zwierzechlewski, 2013, p. 42). The Polish government invited foreign investors to participate actively in most of the major privatization programs.

Puntillo and Ipsen (1996, p. 41) commented that Poland's program of mass privatization was:

> "designed to privatize en masse over 400 mid-to-large size Polish SOEs. In the mid-1995, Poland's MPP installed 15 specially designed national investment funds (NIFs) as core investors in each of the 400+ privatized firms. NIFs, which are like high-powered Western mutual funds, have hired consortia of Polish-foreign fund managers or advisors to help restructure the target operating companies over the next ten years. The stated goal of the MPP Law — and the key basis of fund managers' incentive compensation — is to increase shareholder value in the former SOEs through restructuring."

As Lis, Mazurkiewicz, and Zwierzechlewski (2013, p. 42) noted: "The process of privatization continued—apart from liberalization and stabilization—one of the major elements of the system transformation in Central and Eastern European countries." FDI activities were the most pronounced in the banking sector, where foreign-controlled banks hold today over 70% of banking assets (see Miani & Sagan, 2006; Santander, 2021). Major privatizations have largely been completed, and the focus today is on "consolidation and improvement of efficiency in entities still under state control" (Santander, 2021).

2. The Context: The Polish Economy

Why has Poland remained among the most attractive countries in Europe in terms of FDI? Poland has a large internal market of over 38 million consumers and provides easy access to the greater European Union market, which has 500 million consumers, as well as to the other countries of Central and Eastern Europe. ING (2023), stated:

> "Why is it worth investing in Poland? There can be many answers, but in three words: people, location and economy. Since 1989, Polish economy and society have undergone a huge transformation, decisively making efforts to align the quality of life with this in Western Europe. Since 1990, Polish GDP has increased 7-fold, and since 2010, Poles' purchasing power has risen by nearly 30% (from 21 thousand USD to 34 thousand USD). Membership in the European Union (since 2004) and NATO (since 1999) has allowed Poland to safely develop and adapt to the requirements of modern economy. With 38 million 353 thousand citizens, Poland is the largest country in the region of Central-Eastern Europe and 6th most populous in the European Union. As a result, investors perceive our country not only as an attractive place to locate

> production, but also as a significant market. In addition, EU membership gives them access to 500 million EU consumers."

In 2022, the Polish economy emerged strongly from the pandemic (Bukowski & Paczos, 2021) and grew an estimated 3.8%, with industrial output and retail sales expanding at a solid pace. However, in the fourth quarter of 2022, consumption in Poland decreased by 0.7 percent caused by high inflation and strong monetary tightening, raising at least a partial "red flag" for the future.

2.1. Main Sectors of the Polish Economy

Agriculture employs 9% of the active Polish population and contributes about 2.2% of GDP (World Bank, 2023). More than 60% of Poland's total land area is taken up by farming, and Poland is generally self-sufficient in terms of its food supply. Main crops include rye, potatoes, beetroot, wheat and dairy products. Poland also breeds pigs and sheep in livestock production. The main minerals produced are coal, sulfur, copper, lead, and zinc.

The industrial sector comprises 27.9% of GDP and employs 32% of the workforce. Poland's main industrial sectors are machine manufacturing, telecommunications, environment, transport, construction, industrial food processing, and certain component parts of IT. Steel had been in decline but has rebounded in recent years. There are currently 36 steel mills operating in Poland, employing nearly 30,000 Polish workers. Gajdzik (2021, p. 165) reported and "The steel industry in Poland is one of the key production industries in the national economy. The share of the steel industry is 3%, The value of annual sales production is approximately PLN40 billion (per year). The number of suppliers in Polish steel industry is 13.5 thousand (suppliers from country and abroad). Number of customers in Polish steel industry: 6.6 thousand (in 2018)." [At this writing one Polish zloty is approximately .25 US cents; one euro is 1.09 US dollar.]

Shipbuilding continues to be problematic. Market Hub (2022) notes that

> "During this year, at Polish seaports, the following numbers dropped: cargo turnover, passenger traffic and the number of ships calling at Polish seaports. The shipbuilding market in Poland in 2020 recorded drops. On an annual basis, at Polish seaports, the following indicators decreased in 2020: cargo turnover, passenger traffic and the number of ships calling at Polish seaports. As at the end of 2020, the maritime transport fleet had fewer ships than in the previous year. Compared to 2019, there was a decrease in cargo transported by the sea fleet by Polish carriers and a decrease in passenger transport in international transport."

Likewise, with reference to Poland's mining industry, Hockenos (2020) stated that in 1979, "420,00 mine workers extracted 201 million tons of lignite and black coal." Hockenos (2020) continued: "But now the shaky economics of coal and a concerted climate push by the European Union are forcing the nation's government to rethink its embrace of the dirtiest fossil fuel." In 2020, the number of employees in the mining of coal and lignite industry in Poland remained nearly unchanged at around 84,511 employees (see also Brauers & Oei, 2020).
The Polish automobile industry is mainly export-oriented and had been highly resistant to the effects of the 2008 economic crisis; however, this sector has been the worst-hit domestic sector in the coronavirus pandemic (also due to the chip shortages). Yet, RSM (2023) notes:

> "Poland's automotive industry is one of the most important manufacturing sectors in Poland, accounting for 11.1 % the total value of the country's production, and is second only to the food industry. In recent years Poland has attracted a substantial amount of foreign direct investment in the automotive manufacturing sector and, consequently, has become one of Central and Eastern Europe's major manufacturing hubs for cars, car parts and components. Automotive manufacturing has evolved into one of Poland's key industries in terms of production value, employment, capital expenditures and exports. Poland is the region's largest automotive market in terms of sales and services."

RSM reports the following relating to the Polish automotive sector:

- Industry income: ~ 34.9 billion EUR
- Total industry share: 11.1 %
- Number of employees: 240,500

- Average salary: 1152.92 EUR (monthly)
- Annual production: 642.5 thousand motor vehicles
- Export volume: 28.7 billion (+ 3.8% year-on-year)
- Total of FDI positions: 10.3 billion EUR

In recent years, Poland has attempted to diversify its manufacturing base, developing sectors such as electrical appliances and clothing production. According to the latest yearly data by Statistics Poland (2023), the value of *sold production* of industrial products increased by 23% on a year-to-year basis in 2021, with that of the gas sector, in particular, growing by 115%.

The service sector, represented by financial services, logistics, IT, and tourism, represents 56.9% of GDP, also employing about 59% of the active population. Poland recorded 14.7 million overnight stays — of which 2.3 million involving foreign tourists — an increase of 177.1% compared to the same period one year earlier. The banking sector is made up of 30 commercial banks (of which 8 are controlled by the State Treasury, accounting for 41.1% of the sector's total assets), 511 cooperative banks, and 37 branches of credit institutions (European Banking Federation (EBF), 2023; Korzeb & Niedziolka, 2020; Korzeb & Samaniego-Medina, 2019).

2.2. The Impact of Inflation

The major negative impacting the economy has been inflation. A gradual increase in inflation was experienced beginning in 2021, gaining significant "momentum" in 2022. Poland was one of the European Union countries that exhibited the highest harmonized index of consumer prices (HICP). One of the main factors behind this was the high prices of raw materials, commodities, and Russia's invasion of Ukraine. Statista (2023) reported that "Sanctions imposed on Russia disrupted supply chains and significantly worsened consumer and business sentiment."

Since June of 2021, Poland's consumer price index (CPI) steadily increased, reaching a record high of 17.9 percent in October 2022. By comparison, annual inflation in 2021 was 5.1 percent (Statista, 2023). In 2022, prices of goods and services increased by 14.4 percent year-over-year. In 2021, the average price increase for the EU countries was 9.2 percent. Inflation has its major impact reflected in higher transport and housing prices, including energy carriers. Housing prices increased by nearly 23 percent in December 2022, compared to a year earlier. Preliminary results indicated that Poland's annual inflation rate eased to 10.8 percent in July 2023 from 11.5 percent in the previous month and slightly below the market estimates of 11% (Budapest Business Journal, 2023). GUS, Poland's Central Statistical Office, reports the increase was "the softest reading since February 2022, mainly due to the slowdown in prices of food & non-alcoholic beverages (15.6 percent vs 17.8 percent in June) and a drop in cost of fuels for personal transport (-15.5 percent vs -18 percent). On the other hand, inflation picked up for housing & utilities (16.7 percent vs 14.6 percent). Monthly, consumer prices edged down by 0.2% after remaining unchanged in June" (Trading Economics, 2023c, citing the Central Statistical Office of Poland (GUS)). ING (2023) reports, however, that the recent

> "decline in Polish CPI inflation is set to continue, supported by a rapid unwinding of external supply chocks. And that should allow the central bank to cut rates by 50-75bp in 2023. However, the slow decline in core inflation compared with the rest of the region suggests that the second stage of disinflation will be difficult."

Polish households were most affected by the rise in food prices. In 2022, food products and non-alcoholic beverage prices increased by 15.4 percent yearly. Food prices rose nearly three percent during this period, with pork, a staple in the Polish economy, showing the most significant increase at 14.4 percent. On a year-on-year basis, the price of a basket of essential products in retail chains in 2022 increased by 18 percent on average

Rising grocery prices have translated into significant changes in consumer behavior for the average Pole. Four out of 10 consumers chose to buy fewer alcoholic beverages, clothing, footwear, or cosmetics. In contrast, 17 percent have given up buying electronics altogether. The "good news" is that ING (2023) reported that "Polish CPI inflation for July came in at 10.8% YoY, compared to 11.5% YoY the previous month" — including "seasonal falls in food prices, which subtracted 0.6pp from annual CPI inflation."

Despite rapidly rising prices, Poland has remained as one of the countries in Europe where the costs of essential products are much cheaper than in the European Union. By comparison, prices of food products in 2021 were 28 percent cheaper than the EU average, and Poles paid 48 percent less for communication services (see Kafkadesk, 2018, citing Eurostat).

Private consumption is expected to rebound in the second half of 2023, partly boosted by spending by Ukrainian refugees and by full recovery from the effects of the pandemic. The IMF is predicting that GDP will grow by +0.5%. In 2024, the easing of "supply bottlenecks" and supply chain issues should support exports, with growth forecasted at 3.1% (see generally Veselovska, 2020).

The measures taken by the Polish government to mitigate the impact of rising energy prices included lowering VAT rates, offering heating subsidies to Polish households in the form of cash, and establishing a "multi-annual support program" for energy-intensive industries. Despite a "multi-annual program of investment in defense" which will see an average increase of 3% of GDP per year — 4% alone in 2023/2024 (Strzelecki, 2023) — the IMF sees a lower budget deficit in 2023 to 3.7% of GDP. Poland's *debt-to-GDP ratio* is relatively low and was estimated at 48.7% in 2022 and is forecast to decrease further this year to 45.1%, before rising again in 2024 to 46.2% (Trading Economics, 2023d).

The unemployment rate has remained low in recent years (just above 3%), though around one in four employees are working under "temporary contracts," which is twice the EU average. The labor market has proved "resilient," although labor shortages could act as a significant "drag" on employment growth in the future. The overall unemployment rate stood at 2.8% in 2022 and is seen to increase only slightly to 3.2% in 2023, and 3.4% in 2024 (Trading Economics, 2023a).

3. The FDI Scorecard

According to UNCTAD's *2022 World Investment Report* (2022), FDI inflows to Poland reached a record-high level of USD24.8 billion in 2021, compared to USD13.8 billion one year earlier, and 83% above the pre-COVID level. Statista (2023) noted that "In 2011, FDI inwards flows amounted to approximately 16 billion U.S. dollars; by 2022 this had increased to approximately 29.2 billion U.S. dollars." Importantly, fully 94% of investors indicated their willingness to reinvest in Poland — a significant proof of their trust in Polish economy (Rodl & Partner, 2020).

For comparison purposes, according to the Polish Economic Institute, Poland was 14th globally and third in the EU in terms of the value of FDI inflows in 2021 (Lloyd's Bank, 2023). In the same year, the *total inward stock of foreign investments* stood at USD269.2 billion or +7.8% on a year-to-year basis. Data provided by *fDi Intelligence* indicate that in the period 2019-2021, foreign investors in Poland contributed to the creation of 339,000 jobs (FDI Intelligence, 2022).

Overall, greenfield investments FDI to Poland, where a parent company starts a new venture by constructing new operational facilities "from the ground up," has remained strong and have been increasing since 2015. Poland is a leader in the Central and East Europe (CEE) region in terms of the number of greenfield investments and ranks third overall in Europe.

The largest investor in Poland during 2021 in terms of capital investment was South Korea (USD1.9 billion), followed by the United States. (USD364 million) and Germany (USD 155 million). In terms of regional breakdowns, the Masovian voivodeship (the highest-level administrative division of Poland, corresponding to a province or state in many other countries) received 28% of inward FDI for 2021, followed by Lower Silesian (15%), and the Lesser Poland and Silesian voivodeships (10% each) (see Lyttle, 2022). The majority of FDI stocks are held by Germany (21.2%), France (10.8%), the Netherlands (10.4%), and the U.S. (9.7%), with investments directed mainly towards the manufacturing (31.3%), wholesale and retail (14.8%), financial and insurance activities (14.2%), and real estate sectors (10.4%).

3.1. U.S. Investment in Poland

In its executive summary to its report, "30 years of American investments in Poland," KPMG (2020) noted the following:

- "Companies from the United States are the second largest group of foreign investors in Poland. As the second most important source of investment capital in the Polish market, the U.S. accounts for 11% of the value of all foreign direct investment into the country.
- Total U.S. investments are equivalent to 4% of Polish GDP and constitute an important part of the Polish economy. U.S. investors operating in Poland have more than $54.5 billion (PLN 205 billion) of assets.
- The value of assets accumulated by companies with U.S. capital represents about 18% of all foreign companies' assets in Poland. Between 2010 and 2018, the value increased by as much as 67%. The assets are owned by corporations from both manufacturing and services, as well as funds integrating investment capital. More than half of American investment in Poland is in manufacturing Companies with American capital have a significantly higher share in investments in the industrial sector compared with other foreign investors in Poland, at 55% compared with 38%.
- The cumulative value of American investments in Poland is near $62.7 billion (PLN 236 billion). According to official statistics, the current value of American investments in Poland at the end of 2018 was estimated at $24.4 billion (PLN 92 billion). However, according to AmCham data, total investments that have come into Poland from the United States are worth as much as $62.7 billion (PLN 236 billion), taking into account investments made by U.S. companies that now belong to entities from other countries.
- Companies with U.S. capital employ about 267,000 people in Poland American companies are constantly creating new jobs in Poland, and their employment growth rate is much higher than the market average. Employment in knowledge-intensive sectors is growing particularly fast. According to AmCham research, there are more than 1,500 companies with U.S. capital operating in Poland, which in total employ some 267,000 employees; including indirect employment, the total rises to 309,000. Between 2010-2018, employment in companies with U.S. capital doubled. 6 30 years of American investments in Poland.
- Companies with American capital are succeeding in Poland American companies operating in Poland provide attractive, competitive products and services and are important suppliers to the domestic and foreign markets. In 2010-2018, these companies recorded an increase in sales by as much as 60%, reaching $60.3 billion (PLN 227 billion) in revenues. Recently, American investors have become significantly more active than other foreign companies in Poland: in 2010-2018 U.S. investments increased 1.5 times faster than other foreign investments.
- American investment is well distributed throughout the country The majority of companies with American capital are registered in Mazowieckie Voivodeship (60%). Warsaw dominates as the investment registration location. However, by value as much as 57% of American companies' investment is located outside the voivodeship, according to AmCham data. Other attractive regions for American business include Wielkopolskie, Pomorskie and Małopolskie Voivodeships.
- Poland-U.S. trade reached $21.6 billion (PLN 81 billion) in 2018 The American market is the 8th largest for sales of Polish industrial products, up from 17th 10 years ago. Poland's most important export to the United States is machinery and mechanical equipment; in this category, parts for turboprop and turbojet engines account for the largest share. The United States is the 5th-largest market for exports of Polish services, and more than 70% of service export value is accounted for by telecommunications, IT, technical, R&D and engineering services, i.e., knowledge intensive services. Such exports are estimated at about $3 billion (PLN 11 billion). Export of IT services, including software, has increased fivefold since 2010 and now accounts for 1/3 of total Polish services exports to the United States."

3.1.1. Major U.S. investors in Poland

Top 10 U.S. investors by asset value:
1. CVC CAPITAL PARTNERS
2. GOLDMAN SACHS GROUP, INC

3. GIORGI GLOBAL HOLDINGS, INC (CAN-PACK)
4. INTERNATIONAL PAPER CO
5. GENERAL ELECTRIC COMPANY
6. UNITED TECHNOLOGIES CORPORATIONS
7. DISCOVERY, INC
8. MARS, INC
9. PROCTER & GAMBLE CO
10. WHIRLPOOL CORP

Top 10 U.S. investors by employment:
1. AMAZON.COM, INC
2. UNITED TECHNOLOGIES CORPORATIONS
3. LEAR CORP
4. IBM CORP
5. MCDONALD' S CORPORATIONS
6. CITIGROUP
7. CVC CAPITAL PARTNERS
8. TENNECO, INC
9. GENERAL ELECTRIC COMPANY
10. WHIRLPOOL CORP

Top 10 U.S. investors by operating revenue:
1. PHILIP MORRIS INTERNATIONAL, INC
2. CVC CAPITAL PARTNERS
3. GENERAL ELECTRIC COMPANY
4. MARS, INC
5. UNITED TECHNOLOGIES CORPORATION
6. GIORGI GLOBAL HOLDINGS, INC (CAN-PACK)
7. INTERNATIONAL PAPER CO
8. WHIRLPOOL CORP 1
9. CARGILL, INC 1
10. GOLDMAN SACHS GROUP, INC

4. Poland's Special Economic Zones

In an effort to attract FDI, Poland originally established a number of *Special Economic Zones* and created the Polish Investment and Trade Agency (PAIH) to facilitate the entry of FDI into Poland, although the tax exemptions made available in the SEZs are "now available across the entire territory of Poland" (PAIH, 2023b) and not only in the established SEZs.

The Polish Council of Ministers set out the objectives of the SEZs in 1994. The original legislation set forth seven broad objectives to be achieved mainly through 100 percent income tax relief:

1. "The development of certain areas of economic activity;
2. "Development of new technical and technological solutions and their use in the national economy;
3. "Export development;
4. "To enhance the competitiveness of manufactured products and services;
5. "Fitting the existing assets of the industrial and economic infrastructure;
6. "Creation of new jobs;
7. "Management of unused natural resources while maintaining the principles of ecological balance" (Centre for Public Impact, 2018).

The Centre for Public Impact (2018) noted that "After the collapse of the Soviet Union, Poland enacted a broad transition towards a market economy, which left large parts of Poland unable to compete in the new liberal market regime." As a result of high and persistent unemployment in rural areas and the difficulties encountered in attempting to "counter the negative effects of economic transition," the government created Special Economic Zones (SEZs) in 1994. SEZs were seen as part of that "broad drive toward market liberalization, which was supported by the majority of Polish politicians and parties" (Pey, 1994). [See Appendix I for a list of current Polish SEZs].

These zones aimed to directly "tackle increasing regional unemployment and attract foreign direct investment into Poland via major corporate tax relief." By 2012, SEZs had generated over EUR20 billion in investments and created over 186,000 jobs (see Czyzowska & Zmija, 2022).

In order to spur economic development in targeted regions of Poland, the government developed an extensive regional policy aimed most especially at rural areas (Stanny, Komorowski, & Rosner, 2021) in order to "to accelerate the economic development of regions; manage post-industrial property and infrastructure; create new jobs; and attract foreign investors to Poland" (KPMG, 2009; see also Dorozynski, Swierkocki, & Dobrowolska, 2021). There are 14 different SEZs in operation, spanning over 25,000 hectares (nearly 68,000 acres) placed strategically throughout Poland (Nazarczuk, & Uminski, 2018).

The government structured the SEZs to be a tool that would be "based on a mix of financial support (tax incentives mainly targeted at investment expenditure), non-financial support (the regulatory environment is business-friendly), and investment in public infrastructure, which aims at attracting investors and businesses with a focus on specific sectors" (OECD, 2016).

The program was based on a combination of three components relating to taxation issues (Ambroziak, 2016; see also EY, 2020):

1. Complete *tax exemptions* for companies operating in SEZs for the first 10 years of the zone's activity, and no more than 50 percent taxes thereafter;
2. *Real estate tax exemptions;*
3. *Allowances* (business deductions) to cover investment costs (see Smetkowski, 2002).

The policy, however, could be seen as problematic in terms of Poland's interest in joining the European Union (EU) (Hunter, 2019). As a result, in order to comply with EU rules relating to state aid within the EU's "Single Market," the government made several alterations to the original policy: SEZs were established for a set period of time (usually 20 years), and the system had to be "renewed" via policy reforms in parliament on a semi-regular basis. Kislowska (2006) noted that "The core conflict between Polish and EU competition law was that the 1994 SEZ regime infringed EU limits on financial state aid. EU law clearly states that state aid cannot exceed 50 percent of the cost of the investment for large firms and 65 percent of the cost of investment for small and medium-sized enterprises. At the time, the firms that were investing in Polish SEZs had already or would have in the near future exceeded these limits."

Based on the EU's objection to the legislation, Poland agreed to amend the law on SEZs, and those modifications took effect on January 1, 2001. The government altered the SEZ policies during further reforms in the early 2000s to set the maximum corporate tax exemption at 50 percent (Kislowska, 2006).

Reflecting on the success achieved in the SEZs (see Dziedzik, 2017), in 2018, the Polish parliament enacted legislation essentially designed at turning "the entire territory of Poland into a special economic zone" (Grzezgorczyk, 2018). The legislation, which will expire by 2026, gives preference to investments in struggling and medium-sized towns in Poland and not just those which were part of the previously established SEZs.

Grzezgorczyk (2018) noted: "At the end of 2016 the companies operating in Polish SEZs had 2,263 permits to conduct business activity within that year. The Ministry of Development estimated that in 2017, 14 SEZs may have attracted EUR5 billion in investments with 16,000 jobs. At the same time, every fifth project is implemented by a small or medium-sized company."

The Polish Investment and Trade Agency (PAIH), which came into existence in 2017, was originally established in 1992 under the title of the Polish Agency for Foreign Trade (PAIZ). PAIH has played a major role in managing and promoting the SEZs both internally and externally. The success of the SEZ program "was first and foremost driven by the involvement of the external investors through FDI activities by parties who set up companies in these zones with the active participation of PAIH" (Zarycki, 2009).

In furtherance of meeting its core objectives, certain "investment incentives" (Slusarczyk, 2018; PAIH, 2023a) have been provided by the European Development Fund and the Multi-Annual Support Programme from the Polish government, designed to create new jobs and infrastructure in regional areas. In the years 2007 to 2013, Poland was granted EUR67.3 billion from EU *cohesion policy funds* (see Blom-hansen, 2005) for the purpose of constructing new infrastructure necessary to assuring the success of SEZs (see Serafin, 2012; Mendez, 2013), through "greenfield investments" where the government provides a piece of land with no existing infrastructure, and on which investors can then "build offices, roads and factories on their own initiative rather than occupying pre-existing buildings. This has been important for local development and enabling SEZ management to collaborate with local authorities."

Importantly, the management of SEZs has remained largely with the investors themselves, working with local SEZ management authorities, overseen by the PAIH. "Regulations applicable to a particular SEZ may specify the minimum investment value required or the number of employees that must be hired to benefit from the tax exemption" (Guagliano & Riela, 2005). Regulations may also be based on a region's own local requirements.
In support of its domestic economy, under the 2021-2027 EU budget, Poland will receive USD78.4 billion in cohesion funds, as well as approximately USD27 billion in grants and USD40 billion in loan access from the EU Recovery and Resilience Facility. Lloyd's Bank (2023) reports that "Overall, the Polish business climate is good and the country ranks 29th out of 82 countries in the Economist Business Environment ranking."

Foreign Direct Investment	2020	2021	2022
FDI Inward Flow *(million USD)*	15,195	29,580	29,462
FDI Stock *(million USD)*	256,008	270,719	269,840
Number of Greenfield Investments*	472	513	509
Value of Greenfield Investments (million USD)	23,644	23,168	17,793

5. Why Poland Appeals to Foreign Investors (adapted from PAIH, 2023c)

The following factors are seen as most important in Poland's sustained and successful effort at attracting FDI:

- **"Economic stability and a healthy economy,** with a **"**sound state of public finance and the opportunity for long-term investment planning, thanks to the country's economic stability and predictability." Poland is the only country in Europe to evade the financial crisis of the last decade. In terms of debt-to-GDP ratio, Poland's public finances remain in a much better state than the EU's average.
- **Investment potential:** In 2021 the Polish Investment and Trade Agency (PAIH) offered support to almost *96 foreign investment projects*.
- **Strategic location in the heart of Europe.**
- **An abundance of business opportunities**, due in part to the rapid modernization of infrastructure, including road and rail transportation as well as energy infrastructure.

- **Human capital and country statistics.** It can be argued that **"**Poland's greatest asset are its citizens, especially their ambitious nature, eagerness to learn, great work ethics, loyalty and entrepreneurial spirit."
- **An innovative country with an immense capacity for growth,** with a business environment that "supports start-ups and entrepreneurs, as well as aids the development of R&D activities."
- **Expertise across a variety of sectors** and a "diverse range of enterprises in the manufacturing, service and agricultural sectors." PAIH notes that "finding a partner in sectors such as, for example the, automotive, aviation, IT, food processing, electronics or finance is hardly a problem." In addition, "the flexibility of Polish entrepreneurs and their readiness to meet even the most rigorous quality and industry standards proves another significant advantage.""

PAIH supports both the foreign expansion of Polish business and the inflow of FDI into Poland (Crescenzi, Caltado, & Giua, 2021). As an indication of the success of these endeavors, it is worth noting that Poland has entered into 36 *bilateral investment treaties with parties outside the European Union* (UNCTAD, 2023). [See Appendix II for a list of bilateral investment treaties (BITs) currently in force.]

Regional aid is the most prevalent type of assistance offered to companies carrying out investment projects in Poland. It is granted only for "initial" or "new" investments, which are generally defined as investments related to setting-up of a new business, extension of activities, or related to products not previously produced. The level of aid a project is eligible to receive depends on the size of the company and where in Poland the project is to be located. Regional aid may consist of a corporate income tax (CIT) exemption in special economic zones government grants (support from domestic budget), and cash grants or loans from EU funds.

The Multi-Annual Support Programme – known as MASP — is a *regional aid* program (Credit Agricole, 2023) dedicated to supporting large investments in the so-called "priority sectors," which have been identified as automotive, electronics, aviation, biotechnology, communication services (IT centers, business processing outsourcing companies (BPOs)), telecommunications, and research and development (R&D), which focus on innovative new investments, energy efficiency projects, and production of energy from renewable sources. Assistance in the form of state aid can be granted for R&D projects that carry out fundamental research, industrial research, or experimental development research. Parties conducting activities in the area of research and development may be granted income tax relief as will (Zawalinska, Tran, & Ploszaj, 2018; Szopik-Depczynska, Cheba, & Wisniewska, 2020; EY, 2020).

5.1. Negative or "Weak Points"

There are, however, also several disadvantages that may be encountered by potential foreign investors. These include:

- Rigidity of the labor market, with Poland struggling to find qualified, educated, and well-trained workers in certain sectors (Wilczek, 2019);
- "Bottlenecks" in administrative procedures (Grzebyk, Pierscieniak, & Stec, 2021)(for example, Poland stands as the 120th country for the speed of starting a business according to the World Bank);
- Current account deficit (Trading Economics, 2023b), placing pressure on the state budget;
- The adoption of the euro initially planned for 2012, once again delayed, was further jeopardized by the financial crisis (European Commission, 2023; Euronews, 2023); and
- The relatively unstable political landscape which has slowed down the implementation of necessary reforms (generally, Hunter & Lozada, 2022; Cienski, 2023).

In addition, specifically with regard to FDI, recent measures undertaken by the Polish government to restrict certain types of foreign investments have come to the forefront.

6. Limitations on Foreign Direct Investment

Poland has recently placed limits on foreign ownership and foreign equity in a number of sectors in the economy. Polish law essentially adopts a "Golden Share" model (Sun; 2020; Dhir, 2022; Srivastav, 2023) and limits non-EU citizens to 49 percent *ownership* of a company's capital shares in the air transport, radio and television broadcasting, and airport and seaport operations sectors. *Licenses* and *concessions* for defense production and management of seaports are granted on the basis of national treatment for investors from OECD countries. The *Law on Freedom of Economic Activity* (2004) (LFEA) requires companies to obtain government concessions, licenses, or permits to conduct business in certain sectors, such as broadcasting, aviation, energy, weapons/military equipment, mining, and private security services.

In May of 2020, the Polish government approved a series of regulations aimed at making it difficult for investors from *outside* the European Union, the European Economic Area or EEA, and the Organization for Economic Cooperation and Development or OECD to take over low priced or distressed companies that Poland considers *strategic* to its economy (see Feliszewski & Brynska, 2020). The regulations were a part of a government rescue or "bailout" package worth more than PLN300 billion designed to assist Poland to survive the coronavirus pandemic and the resulting economic crisis. These new restrictions, passed in the form of amendments to the existing 2015 *Act on Control over Certain Investments*, entered into force as of July 24, 2020.

The new Polish regulations correspond with efforts to implement "sovereign control mechanisms" for FDI in relation to the COVID-19 pandemic. As a justification for the amendments to the Act, the government of Prime Minister Morawiecki cited the need to protect Polish companies against hostile takeovers in several sectors of the Polish economy that are *strategically important* for the national economy or to the functioning of the state. Regulations apply to entities included on a list prepared by the Council of Ministers.

New investment control limitations will apply if an entity from outside the European Union, EEA, or OECD intends to acquire significant participation, defined *inter alia* as no less than 20% of the total number of votes, value of contributions or share in profits (Wnukowski & Lasowska, 2023), or achieve a dominant position with respect to a Polish business which:

1. Is a **public company** – regardless of the business sector;

2. Holds property classified as **critical infrastructure**;

3. Conducts business activity in the **sectors considered under the legislation to be of "strategic importance"** for the economy and functioning of the state (e.g. energy generation, production, transport and storage of fuels, production of chemicals, fertilizers and chemical goods, telecommunications operations, transport, production of medical equipment, instruments and goods, production of medicinal and other pharmaceutical products, processing of meat, milk, cereals, fruit and vegetables) or provides cloud data storage or processing services; or

4. Develops or modifies certain kinds of **software** (e.g., used to control power plants, energy, fuel or heat supply systems, manage water supply or sewage treatment installations, operate voice or data transmission devices or data storage and processing devices, operate hospital systems or devices and systems used in selling medicinal products, handle passengers or cargo, or to operate food supply devices or systems) (see Sojka, 2020).

Currently, there are nine companies on the list: Emitel S.A. [TV and radio broadcasting and infrastructure provider], Grupa Azoty S.A. [Domestic fertilizer macheting, fertilizer and chemicals], HAWE Telekom sp. z o.o. [Telecommunication services], innogy Stoen Operator sp. z o.o. [Electric power generation], KGHM Polska Miedź S.A. [Multinational mining corporation], Polski Koncern Naftowy Orlen S.A. [Polish multinational oil refiner and petrol refiner], PKP Energetyka S.A. [Cross country electricity distributor to the Polish railway industry and other companies], Tauron Polska Energia S.A. [Energy holding company], and TK Telekom sp. z o.o. [Telecommunications operator].

6.1. Mandatory Notification of a Contemplated Transaction

The new regulations require that notice be given in advance (termed *ex ante*) of any actions as defined under the Amendments. Any foreign investment that meets the criteria noted above is required to notify the President of the UOKiK (Polish Office of Competition and Consumer Protection) *prior* to the execution of any agreement giving rise to an obligation acquiring significant participation or achieving a dominant position in a covered Polish company. With respect to an investment in a listed company, the notification must be filed *before* a tender offer for the sale or exchange of shares is announced. The notification is required to provide financial and other details regarding the potential buyer.

The Act also describes circumstances that are indicative of an "abuse or circumvention" intended to evade mandatory notification. Such circumstances include: "if the investor actually does not conduct business activity in its own name; or does not have a permanent establishment, office or staff in a member state of any of the aforesaid international organizations." In such cases of alleged "abuse or circumvention," the Polish regulatory authority may initiate a preliminary investigation on its own initiative at any time within five years following the date of acquisition of significant participation or achieving dominant position by the foreign investor.

The ability to initiate a preliminary investigation provides the Polish regulatory authority with a period of *30 business days* to issue a clearance for the transaction. In addition, the regulator will launch an additional investigation lasting up to *120 days* in order to more thoroughly review the planned transaction or require the potential foreign investor ("notifying entity") to provide any missing documentation and other information.

The regulatory authority may object to any transaction which poses "at least a potential threat to the public order or public security of the Republic of Poland, or public health in the Republic of Poland." An objection may also be raised if proper documentation is not forthcoming; if certain "clarifications" demanded by the authority in the course of the proceedings are not provided; if it proves impossible to establish whether the investor is a citizen of, or has its registered office in, an EU, EEA or OECD member state; or if the transaction may adversely affect any projects or programs that foster EU interests.

6.2. Sanctions for a Breach of Statutory Obligations

The acquisition of significant participation or achieving a dominant position in any covered entity without the required notification or contrary to the objections of the regulator is *prima facie* invalid by operation of law. Additionally, sanctions that may be imposed on the foreign investor which include a fine up to *PLN50 million* or imprisonment up to *five years* (or both). The same sanctions apply to the persons acting for or on behalf of the investor in an agency capacity.

In 2022. Poland extended controls on new foreign direct investments for another three years, until mid-2025 (Pietrzak & Kuc, 2022). As a justification for the extension of the controls, the government invoked the need to protect Polish companies against hostile takeovers in the midst of the current geopolitical crisis unfolding in Ukraine and its international effects.

The new Act, *Amending the Law on Goods and Services Tax and Certain Other Laws from 12 May 2022*, signed by Polish President Marek Duda, extends, the prior restrictions (see Kalotay & Sass, 2021) and amends the existing (i) *Act on Control over Certain Investments* from 2015; and (ii) the *Act on Subsidies to Interest on Banking Loans Granted to Businesses Affected by COVID 19 and on Simplified Composition Proceedings Related to COVID 19* from 2020. The changes, which became effective as of 1 July 2022, included a time extension of the Polish Covid-19 FDI regime by three more years, to 25 July 2025; and an amendment to the scope of the Polish Covid-19 FDI regime, extending the language from references to "Covid-19" to "Covid-19 and or an international situation disrupting the market or competition."

7. Some Concluding Comments

Hunter and Ryan (2013a, p. 14) commented that "From the start of the process of economic transformation in Poland in the fall of 1989, attracting FDI has been considered as a main policy objective of nearly all political parties and parliamentary configurations that have governed Poland and of all the individuals who have held the critical position of Minister of Finance in the Polish government."

However, as the nation approaches Parliamentary elections in October of 2023, the "Poland of 2023" may once again be seen to be at a crossroads, with inflation, although easing from highs in 2022, still being recorded at 10.8% in July (Budapest Business Journal, 2023). Because of skepticism or even hostility to further integration with the European Union (Szczerbiak, 2021) on issues relating to culture, politics, immigration (Connolly, 2023), the "rule of law" (Coakley, 2021; Casert, 2021), fears of a "democratic backsliding" (Bernhard, 2021) and religion, the economic progress that Poland has experienced may be in jeopardy, "muddled in mass of social paradoxes brought on by internal political machinations and interference by certain internal forces" (Hunter & Lozada, 2022, p. 107), including actions undertaken by the Polish Roman Catholic Church (Wanat, 2019; Burdeau, 2020; Higgins, 2023).

The next five years will determine whether Poland continues on its "glide path to success" or whether these paradoxes overwhelm Poland in ancient grudges, political feuds, conflicts with neighbors and EU member states, and ultimately into a series of unwise economic decisions that might jeopardize Poland's success in attracting foreign investment assuring its future success and progress.

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APPENDIX I: List of Special Economic Zone (SEZ) managing companies:

1. Special Economic Zone Kamienna Góra: Provinces: Dolnośląskie, Wielkopolskie;
2. Special Economic Zone Katowice: Provinces: Sląskie, Małopolskie, Opolskie;
3. Special Economic Zone Kostrzyn-Słubice: Provinces: Lubuskie, Zachodniopomorskie, Wielkopolskie;
4. Special Economic Zone Kraków: Provinces: Małopolskie, Podkarpackie;
5. Special Economic Zone Legnica: Provinces: Dolnośląskie, Powierzchnia;
6. Special Economic Zone Łódź: Provinces Lódzkie, Wielkopolskie, Mazowieckie:
7. Special Economic Zone Mielec: Provinces: Podkarpackie, Małopolskie, Lubelskie, Zachodniopomorskie;
8. Pomeranian Special Economic Zone: Provinces: Pomorskie, Kujawsko-pomorskie, Zachodniopomorskie, Wielkopolskie;
9. Special Economic Zone Słupsk: Provinces: Pomorskie, Zachodniopomorskie, Wielkopolskie:
10. Special Economic Zone Starachowice: Provinces: Swiętokrzyskie, Mazowieckie, Opolskie, Lódzkie, Lubelskie;
11. Special Economic Zone Suwałki: Provinces: Podlaskie, Warmińsko-mazurskie, Mazowieckie;
12. Special Economic Zone Tarnobrzeg: Provinces: Podkarpackie, Mazowieckie, Swiętokrzyskie, Lubelskie, Dolnośląskie;
13. Special Economic Zone Wałbrzych: Provinces: Dolnośląskie, Opolskie, Wielkopolskie, Lubuskie;
14. Warmia-Mazury Special Economic Zone: Provinces: Warmińsko-mazurskie, Mazowieckie.

APPENDIX II: List of Polish Bilateral Investment Treaties in Force (Outside of the EU):

Albania – 1993
Argentina – 1992
Australia – 1992
Azerbaijan – 1999
Bangladesh – 1999
Belarus – 1993
Canada – 1990
Chile – 2000
China – 1989
Egypt – 1998
Indonesia – 1993
Iran – 2001
Israel – 1992
Jordan – 1999
Kazakhstan – 1995
Malaysia – 1994
Moldova – 1995
Mongolia – 1996
Montenegro – 1997
Morocco – 1995
North Macedonia – 1997
Norway – 1990
Kuwait – 1993
Singapore – 1993
Slovenia – 2000
Switzerland – 1990
Thailand – 1993
Tunisia - 1993

Turkey – 1994
Ukraine – 1993
United Arab Republic (UAE) – 1994
United States – 1990
Uruguay – 1994
Viet Nam – 1994