

Expropriation, Nationality, and Diplomacy

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Abstract

Expropriation of foreign-owned property continues to be part of the modern economy. Under what conditions do governments have the ability to expropriate foreign direct investment (FDI) in a globalizing world? I argue that governments have more permissive space to expropriate when host to a greater diversity of nationalities of foreign firms. One means of observing this dynamic is through diplomatic advocacy, because diplomats scale back their efforts when FDI national diversity weakens diplomatic leverage. This paper uses case studies of European and American investors in Argentina, Ukraine, Russia, and Romania to link variation in expropriation to FDI national diversity via diplomacy. If we take FDI national diversity as a marker of global integration, more integrated governments are – counterintuitively – more likely to expropriate.

Foreign direct investors operate within another state's jurisdiction, which means that their property rights are ensured by a foreign government's promise of restraint. Nationalization, regulatory taking, and incremental expropriation are government violations of its explicit and implicit promises to honor foreign owners' property rights.¹ Some analysts predicted the demise of expropriation in the early 1990s, but it remains prominent around the developing world.² For example, from 1990 through 2012 foreign firms publicly sued at least 94 host states at least 475 times for unlawful interference with their property.³ The rapid increase of FDI into the developing world demonstrates that far from all property is expropriated. Nevertheless, foreign firms have accused the overwhelming majority of emerging economy governments at one time or another of violating their property rights.⁴ This is despite the fact that many see expropriation as out of bounds in a globalizing world, in which governments are expected to reassure foreign firms and, at a minimum, respect the contracts they make with foreign firms lest foreign capital flee.⁵

Indeed, when a firm faces the threat of expropriation by a host government, one of its options is to flee. But capital flight can be costly. Instead, a firm can choose a diplomatic option. Diplomatic advocacy by a foreign firm's home country has long aided firms in efforts to reestablish the integrity of their property rights. In particular, home government actors can create issue linkages between firms' property and other aspects of the bilateral relationship, such as aid

¹ I use the term "expropriation" covers incidents in which, from a foreign firm's point of view, the host government acquires value from, takes value away from, or takes equity in a foreign-owned investment without due compensation. For similar definitions see Kobrin 1982, Lipson 1985.

² Minor 1994; Hajzler 2012.

³ United Nations Conference on Trade and Development (UNCTAD) Database of Treaty-based Investor-State Dispute Settlement Cases (pending and concluded). International Arrangements Section, Division on Investment, Technology, and Enterprise Development. Accessed January 2012. Author's updates, public records.

⁴ Foreign firms' views on a government action are expected to be the trigger for capital flight and other costly actions toward the host government. Therefore, although blame in contract disputes is hotly contested, this paper tends to adopt foreign firms' views on government actions.

⁵ E.g. Shleifer and Vishny 2002; Rodrik 2007, 2011; Strange 1996.

and trade policy. These actions raise the costs of expropriation to a host government. Yet home country diplomats are not always successful advocates for their nationals' property rights, and the intensity of their efforts varies. This paper uses diplomatic advocacy to illustrate conditions under which governments expropriate foreign investors.

A home government fights for its own firms, but home governments are uninterested in expending political capital on behalf of firms from other countries. Home governments' reactions to other nationalities' disputes are observationally equivalent to indifference. Taking this premise that home countries care about their own, I derive a counterintuitive implication for a government's treatment of the FDI it hosts. The greater the diversity of nationalities of foreign investors present in the host country, the less impact deteriorating relations with one country will have on the host government's overall access to capital. All else equal, national diversity among foreign investors generates permissive space for host governments to expropriate some foreign investors.⁶

To demonstrate the effect of FDI national diversity on expropriation, I describe the dynamics of diplomatic advocacy in case studies from Ukraine, Russia, and Romania (1998-2011). Limiting analysis to a particular world region, with a relatively common pool of potential foreign investors, helps to maintain consistent comparisons among investor-state relations. Additionally, these countries have short histories of rule of law, implying that diplomatic pressure to respect property rights should be all the more salient.⁷ Variation in diplomatic success in protecting property rights thus constitutes a puzzle. Case studies are supported by more than one-hundred interviews with firm executives, diplomats, and government officials.⁸ I first use American experience in Ukraine to link change in FDI national diversity to change in

⁶ Mosley (2000) calls permissive space "room to move."

⁷ Li and Resnick 2003, Jensen et al 2012.

⁸ See Appendix 1 for descriptive statistics on interviews.

foreign investors' property rights protections. Second, I explain different outcomes associated with the same state-owned Norwegian firm in the context of high FDI national diversity in Russia and low FDI national diversity in Ukraine. Third, I demonstrate that both Austrian diplomats and American diplomats are unsuccessful when lobbying on behalf of their aggrieved firms under high FDI national diversity in Romania. See Table 1.

Exploiting variation in FDI national diversity in these ways allows me to provide evidence against three alternative explanations for variation in diplomatic success in deterring expropriation: bigger investments (from wealthy countries) lead to more effective diplomacy; home state ownership leads to more effective diplomacy; and home and/or host state membership in the European Union (EU) leads to more effective diplomacy. See Table 2. While these alternatives offer poor explanations for variation in expropriation, I find that the diversity of FDI nationalities in the host country does much to explain the permissive space that sometimes allows developing country governments to expropriate foreign firms, even in an era of economic globalization.

The paper is organized as follows. The next section presents the FDI national diversity theory and draws on investor-state conflict in Argentina to illustrate it. I then lay out the research design and contrast the theory with three alternative hypotheses. The case studies follow. Finally, I emphasize the continued importance of home governments in an economically integrated world. What is more, this research demonstrates that deeper global integration via exposure to a greater national diversity of foreign firms can undermine government commitments to property rights and rule of law.

How Diplomats Advocate for Firms

Home country diplomats link firms' property rights to other issues in the bilateral relationship by threatening bilateral trade relations, foreign aid distribution, or voting at international economic organizations in retaliation for expropriation.⁹ Oye calls this kind of issue linkage "bracketing" – when diplomats make threats that inaction on one issue will trigger punishments in another issue area, which in this case compounds the costs of lost bilateral capital access.¹⁰ In general, by lengthening the shadow of the future, a home government attempts to elicit cooperation from a host government and increase the credibility of the host's commitments to its nationals' property rights. There has been some debate as to whether "gunboats" have come to foreign firms' aid in the past.¹¹ At present, home government efforts on behalf of their national firms abroad have not been militaristic.¹² But governments certainly use issue linkage to fight for their investors.¹³ In one example, the Indian government in 2012 withheld US\$25 million in aid to the Maldives when the Maldivian government nationalized (without compensation) the Indian-owned central airport in the country.¹⁴

Home country efforts in Argentina demonstrate the breadth of issue linkages used in the fight against expropriation today. Since its 2002 default and financial crisis, Argentina has grown infamous for violating the property rights of foreign investors.¹⁵ French Ministers warned that France would "defend the interests of French companies" and threatened to link their firms' fate

⁹ At the turn of the twentieth century, governments host to FDI tried with the Calvo Doctrine to forbid home governments from interfering on behalf of their nationals' firms abroad, but the Doctrine has never made it into international law.

¹⁰ Oye 1992. See also Lohmann 1997. In a similar vein, Dreher et al (2009) find evidence of governments trading UN Security Council votes for IMF loans.

¹¹ Tomz 2007, Lipson 1985, Wells and Ahmad 2007. But see Mitchener and Weidenmier 2005.

¹² Unhappy investors, on the other hand, have been militaristic: US bondholders held an Argentinian naval vessel hostage in a Ghanaian port in an attempt to recover damages from Argentina. "Argentina takes ship dispute with Ghana to UN court," *BBC News: Latin America and Caribbean*, 14 November 2012.

¹³ For examples of issue linkage from Indonesia see Wells and Ahmad 2007.

¹⁴ "GMR Row: India Freezes Aid to Maldives, Ties Under Stress." *IBN Live*, 3 December 2012.

¹⁵ Blustein 2005.

to France's support for Argentine tariff adjustment and France's votes at the IMF and the World Bank.¹⁶ However, France has not publicly followed through on these threats, despite the fact that several French firms are suing Argentina. In 2012, President Obama suspended US trade benefits under the Generalized System of Preferences (GSP) for Argentina in retaliation for Argentina's non-payment of US\$300 million to two expropriated American firms.¹⁷ But the US took six years from the original court award to impose sanctions on Argentina, despite consistent lobbying from the US business community. In a well-publicized expropriation, Argentina nationalized the dominant Spanish energy firm in the country in 2012. In retaliation, Spain threatened actions on "diplomacy, trade, industry, and energy," and the country quickly halted imports of biodiesel that had earned Argentinian exporters EUR750 million the previous year.¹⁸ Yet Spain re-allowed imports late in the year, despite the absence of restitution.¹⁹ Spain also promised that the European Union would undertake "very clear interventions" on Spain's behalf with regard to the expropriated energy firm, but the EU issued only a non-binding resolution.²⁰ An anonymous EU official summed up the EU's inaction: "This is a matter of investment and expropriation which is dealt with by the bilateral treaty."²¹ Just months after nationalizing the Spanish investment, Argentina and the nationalized energy firm held a roadshow searching for

¹⁶ Olleta 2007.

¹⁷ To be eligible for GSP a country has to be free of expropriation claims. Additionally, the 2000 African Growth and Opportunity Act (HR 1432) allows the government to withhold benefits from countries facing outstanding American expropriation claims. Wells 2005: 442.

¹⁸ "YPF oil: Spain threatens retaliation against Argentina." *BBC News*, 18 April 2012.

¹⁹ Argentina had issued a WTO complaint over the biodiesel embargo, which it dropped when the embargo ended. Jennifer M. Freedman. "Argentina Suspends WTO Complaint after Spain Ends Biofuels Curbs." *Bloomberg*, 25 January 2013.

²⁰ Spain called for international organizations like the World Bank, IMF, and WTO to push Argentina "to return [to] the path of international rule of law," but those organizations have not taken action. Quoted in "YPF oil."

²¹ Quoted in "YPF oil." The EU, as well as Latin American countries and the US, have in 2012 taken joint action against Argentinian tariffs. Tariffs affect firms of all nationalities and are conducive to cross-national cooperation, in contrast to expropriation which I contend is perceived as a nationality-delimited issue.

strategic investors from the UK and soon received commitments from American, Norwegian, and Chinese firms.²²

France, the US, and Spain have each acted bilaterally and leveraged issue linkages in their public responses to their nationals' expropriation. However, all three home governments have been somewhat ambivalent in their follow-through on threats. I contend that the FDI nationality landscape has engendered this ambivalence and facilitated the Argentine government's expropriation of several foreign firms. As one of the most attractive South American markets (despite its macroeconomic troubles), Argentina has been host to very high FDI national diversity. Figure 1 depicts this diversity by using an inverse Herfindahl-Hirschman Index (HHI).²³ The values can be interpreted as the effective number of OECD nationalities of investors present in the country, weighted by the size of their cumulative national investment.²⁴ Across 74 developing countries, the HHI from 1990-2008 averaged between 2-3 effective OECD nationalities, making Argentina among the most diverse investor environments.²⁵ Figure 1 also charts FDI stock in Argentina over this period, which, although dropping in direct response to Argentina's economic crisis, regrew quickly in the next years. With a diversity of investors present and more FDI entering, Argentina has been able to expropriate some firms while still maintaining (albeit not maximizing) capital access. The next section explains why diplomatic efforts are more likely to fail in an environment of FDI national diversity.

²² Andrew Trotman. "Argentina seeks UK funds for expropriated oil group YPF." *The Telegraph* 14 September 2012. "YPF says it is talks with Statoil." *Market Watch: The Wall Street Journal*, 10 December 2012.

²³ See Figure 1 for calculation.

²⁴ Source: OECD. Unfortunately, the measure does not include new "South" sending countries, as robust data is unavailable. However, omitting FDI originating in other home countries causes me to underestimate FDI national diversity, based on the plausible assumption that a small number of South investors do not account for such a large proportion of host country FDI stock as to overwhelm the distribution of OECD investors.

²⁵ The highest average OECD FDI national diversity is Turkey, with 6.8 effective nationalities from 1990-2008.

Diplomacy and FDI National Diversity

Foreign firms entering emerging markets take measures to protect their investments from political risks. When new risks arise, foreign firms are interested in “recuperation mechanisms” that recover previous levels of property rights protections.²⁶ FDI exit or diversion is the recuperation mechanism that exerts direct pressure on a host government’s access to foreign capital.²⁷ However, from the foreign firm’s point of view, exit is an expensive option of last resort. Firms choosing to exit or divert capital in response to changed risks must leave behind sunk capital and incur transition costs. Instead, exercised alongside or in lieu of exit, “voice” can be a cheap and effective option for foreign firms to recoup property rights protections. As Hirschman expressed it, voice occurs when actors articulate their interests in order to get, in this case, a government to return to its previous performance.²⁸ Diplomats are ready-made actors with the organizational capacity to advocate directly with host government officials. With diplomats’ voice on hand, the consequences of expropriation are more visible and immediately threatening to a host government’s interest in maintaining good relations with the home government. Of course, national diplomats represent national governments. Diplomats have the capacity to fight for firms from their home country but little interest in advocating on behalf of non-national firms – even, as in Argentina, when investor disputes might be related. Structurally, firms do not have built-in access to another home country’s diplomats. In terms of incentives, non-national firms could be competitors of national firms, and non-national firms are not involved in voting or campaign contributions at home. A firm’s access to this important form of “voice” is delimited by nationality.

²⁶ Hirschman 1970.

²⁷ The author explores this mechanism in a companion paper (Forthcoming).

²⁸ Ibid.

However, the level of effort put forth by home country diplomats on behalf of their firms is endogenous to the likelihood that efforts to deter expropriation will be successful. This is where the landscape of foreign investors in the host country comes into play. Diplomats have more power and leverage to deter expropriation when there are fewer other national groups to which a host government can turn for FDI and solid diplomatic relations. In contrast, when foreign investor nationalities are more diverse, the deterrent effect of one nationality's voice is muffled. In this case, home government actors are more likely to find that it is better to downplay or pull back diplomacy than demonstrate that their efforts are insufficient to sway host government officials. As a result, we should observe less willing and effective diplomacy around expropriation when the diversity of FDI nationalities is high. This is one implication of the hypothesis under consideration here: *the greater the diversity of FDI nationalities in a host country, the more likely the host government is to expropriate foreign firms.*

The idea that multinational corporations have a nationality is controversial.²⁹ Multinational corporations are often characterized as entities that exert power on their own, undirected by home country governments. In stark contrast to these views portraying multinational firms as trans- or meta-national, I show how powerful a foreign firm's nationality can be. One source of nationality's power is in home governments' continued ability to project power on their firms' behalf.

If nationality matters for multinational firms, what about firms that have roots in multiple home countries? Mergers and acquisitions leave some multinationals with more than one set of national ties, and sometimes firms invest in third countries via second country subsidiaries. Whether "true" multinationals can access multiple sources of diplomacy, or whether this encourages free riding by some of the firm's home countries, is not *ex ante* clear. Diplomatic

²⁹ Ohmae 1999, Stopford 1998, Kobrin 2001, Strange 1996. But see Doremus et al, 1999.

support from multiple home countries has occurred: for example, ArcelorMittal in Ukraine has ownership from France, Germany, the UK, and Luxembourg and has received public support from all four governments.³⁰ If claims on multiple home countries diminish the likelihood of advocacy, then we would expect little diplomacy regardless of FDI national diversity. But, national diplomats continue to advocate for their firms and sometimes successfully deter expropriation. Nationality matters even in a world of complicated multinational ownership structures.

Research Design and Alternative Hypotheses

To demonstrate that FDI national diversity increases the likelihood of expropriation, I use case studies that leverage both over-time and cross-country variation. Cases are drawn from foreign firms' relations with host governments in Ukraine, Russia, and Romania. Choosing three countries similar with respect to geography and history helps to establish a baseline type of potential foreign investor under consideration, as these are standard, positively signed determinants of FDI. From 1998 to 2008 these three countries had roughly similar exposure to FDI as a percentage of GDP, with an average of 2.1 percent in Russia, 3.8 percent in Ukraine, and 5.1 percent in Romania. I use several cases of non-resource firms to demonstrate variation in expropriation outside of industries traditionally thought to be subject to higher expropriation risks.³¹

As countries in transition, governments in these states are uniquely scrutinized for their adherence to market principles like property rights protections.³² From this point of view, expropriation is surprising in these locations. On the other hand, post-communist transition

³⁰ Wellhausen (Forthcoming).

³¹ This literature traces back to Vernon 1971.

³² Roland 2004.

countries have very little experience with today's notions of rule of law, due to their short histories as market economies and (weak) democracies.³³ This logic would tend to suggest that these countries would be likely to expropriate. From either perspective, variation in expropriation is a puzzle. Finally, all the home-host country pairs discussed in the cases have Bilateral Investment Treaties (BITs) in place. BITs are instruments that generally allow investors to sue host governments directly, without the approval of their home government. Some posit that one result of BITs is that home country governments stay out of investor-state disputes.³⁴ However, the continued diplomatic advocacy discussed here, not to mention in cases around the world, goes to belie that expectation.

Most importantly, these three countries demonstrate considerable variation on the explanatory variable: FDI national diversity. Figure 2 displays an inverse HHI that captures the effective number of OECD home countries present in Ukraine, Russia, and Romania each year.³⁵ Ukraine's FDI national diversity was low in the early 1990s, increased to the mid-2000s, and then sharply dropped in the late 2000s. In both Romania and Russia, FDI national diversity began low but quickly rose to be among the most diverse emerging economies in the world. Figure 2 labels the home-host country combinations used in the case studies, which are taken at moments of high and low FDI national diversity within and across Ukraine, Russia, and Romania. See also Table 1. Four cases resulted in expropriation while two others resulted in restitution and deterrence.

Table 2 lists three key alternative hypotheses and the cases that present evidence against them. The first alternative hypothesis is that *the diplomats of nationalities with dominant shares of FDI in the host country should be effective in deterring expropriation*, which would follow if

³³ Kornai 1992, Bandelj 2008.

³⁴ E.g., UNCTAD 2010, Van Harten 2005.

³⁵ See Figure 1 for calculation.

the nationality with the most leverage is the one with the most capital committed. This hypothesis is not mutually exclusive with the paper's focus on FDI national diversity. However, I demonstrate that the largest FDI nationality can be a target of expropriation and that small nationalities can be able to achieve restitution. I do this by tracing the experience of American firms in Ukraine – dominant but expropriated in the late 1990s, and not well represented but provided restitution in the late 2000s.

Second, variation in expropriation may be explained by variation in firm access to diplomatic support. In a strong test of this contention, *state-owned firms should have consistent access to diplomatic support that effectively deters expropriation*, as home governments as firm owners should be primed to prioritize their firms' property. However, I demonstrate that the same Norwegian state-owned firm had access to successful diplomatic lobbying in Ukraine, in an environment of low FDI national diversity, but did not have access to diplomatic lobbying in Russia, where FDI national diversity was considerably higher.

A third alternative is to focus not on the efforts of national diplomats but on the possible effects of supra-national advocacy. In particular, *home and/or host country membership in the European Union should explain variation in expropriation*. One may expect that firms from EU member states benefit from EU-level diplomacy and coordinated action across member state diplomats.³⁶ Additionally, one may expect that EU member states would not engage in expropriation, as the EU would not sanction such actions. I focus on the experiences of Austrian firms in Romania to show that EU-level diplomacy has been at best weak around investor disputes. Indeed, in an interview at the Ukrainian affiliate of a firm from a Western European

³⁶ Cases occur both before and shortly after the EU Treaty of Lisbon was negotiated (2007) and came into force (2009), which gives the EU competence in the area of foreign investment. The FDI national diversity theory predicts that, even under the Lisbon Treaty, national diplomats will retain interests in their nationals' disputes and the willingness to follow through with issue linkage under conducive conditions. As the EU continues to strengthen its activities in investment protection, a full test of the Lisbon Treaty's effects is left to future research.

home country, the CEO lamented this fact, wishing that there was an EU “embassy” to represent his firm in its disputes with the government.³⁷ Second, I use American actors’ experiences to demonstrate that the EU has supported expropriation, despite the fact that most EU member states are traditional FDI-sending countries.

These cases are drawn from 133 interviews I conducted from 2009-2011 in Ukraine and Romania, with supplementary interviews in Moldova, Germany, and the United States. Respondents included local heads of multinational affiliates, law firms, and foreign investor associations from twelve different home countries. Additional respondents were government officials, former diplomats, elected politicians, and representatives from international organizations interested in foreign investment and the rule of law like the IMF. Appendix 1 provides a summary of respondents. The purpose of these interviews was to establish investors’ experiences around the maintenance of property rights and reconstruct the narratives around investor-state disputes. I supplement interview evidence with primary source materials.

Americans in Ukraine: Expropriation and Restitution

With the unexpected break-up of the Soviet Union, US and European investors benefitted from a wide array of home country programs encouraging investment in Ukraine and the region. FDI national diversity increased as foreign firms invested in Ukraine’s traditional strengths in agriculture and heavy industry as well as in manufacturing, finance, and retail.³⁸ American firms accounted for the largest proportion of Ukraine’s FDI stock throughout the 1990s, but by 2003, a variety of OECD and some regional investors were responsible for Ukraine’s increasing FDI nationality mix (see Figure 2). Ukraine benefitted from the movement eastward in search of low-

³⁷ Interview, manufacturing firm, Ukraine.

³⁸ Interviews, various, Ukraine. WIIW Database on Foreign Direct Investment in Central, East, and Southeast Europe (2009).

cost inputs as the EU expanded, receiving FDI from Western and Central European firms. Russian investment also increased rapidly. In an interview, one Ukrainian politician summarized the growing diversity of investor nationalities in this period by pointing to South Korean firms' investment into auto parts manufacturing in the late 1990s. This investment captured his feeling that Ukraine was truly integrating with the wider world economy, despite its status as a laggard in political and economic transition.³⁹

Ukraine's FDI nationalities became more homogenous beginning with an extremely large investment into Ukraine: the 2005 sale of Ukraine's major steel mill, Kryvorizhstal, for US\$4.8 billion. This FDI infusion and the Orange Revolution that brought it about sparked the interest of major Western European multinationals, accounting for the FDI boom in steel as well as consumer products, agriculture, and banking from 2005 to 2008.⁴⁰ As a result, a large proportion of Ukraine's FDI became concentrated in the hands of German, British, and French investors, which lowered the FDI nationality mix even as Ukraine's FDI stock grew rapidly (see again Figure 2).

In this context, American efforts to deter expropriation from 1997 to 2004 failed. Once dominant American-origin FDI was in seventh place among OECD investors by 2008. Nevertheless, when Ukraine became reliant on fewer, more concentrated national groups for capital access in the late 2000s, American firms across a variety of industries called on US diplomatic support and succeeded in restoring a ten-year-old broken contract. American diplomatic efforts in Ukraine provide evidence of the weakness of diplomacy in times of high FDI national diversity and better diplomatic leverage in an environment of low FDI national diversity.

³⁹ Interview, Ukrainian Member of Parliament, Ukraine.

⁴⁰ Wilson 2005.

In 1997, the US State Department assembled a list of twelve firms, including small investors and major multinationals like Cargill, which complained of the systematic targeting of American investors by the Ukrainian government. In 1997, Congress made some US\$80 million in aid to Ukraine conditional on “significant progress toward resolution” of the twelve disputes.⁴¹ Though Ukraine’s government did nothing, the US distributed full aid; the threat, non-action, and aid distribution repeated in 1998.

Ukraine had little reason to believe that continued violation of American firms’ property rights would threaten its broader access to FDI. No other home governments publicly supported the American position or threatened to withhold aid.⁴² A key American businessman testified before Congress in 2000 that: “It is common practice for [the Ukrainian government] to be told by the Europeans...[that] contracts better go to German or French companies, not American companies.”⁴³ Far from worrying they would face the same problems as American firms, European-origin firms and their diplomats enjoyed convivial government relations and, by extension, better property rights sanctity. The Ukrainian government was free to attribute the twelve broken American contracts to the firms’ naive involvement with “God knows whom” in the gray economy; this framing went unchallenged by the US.⁴⁴

One of the American firms involved had a joint venture with the Ukrainian Defense Ministry to recycle Soviet ammunition. The Defense Ministry reneged on its contracted deliveries, and the American firm exited in 1999 and received US\$17.7 million from its political

⁴¹ This threat is reminiscent of the “Hickenlooper Amendment” of 1962, which required the US to suspend aid to countries expropriating US property without just compensation.

⁴² Similarly, US actors did not coordinate with British firms complaining of expropriation at the time.

⁴³ “Treatment of US Business in Eastern and Central Europe.” Testimony by Kempton Jenkins, President of the Ukraine-US Business Council. Hearing before the Subcommittee on European Affairs of the Committee on Foreign Relations, United States Senate (106th Congress, Second session): 28 June 2000.

⁴⁴ “US Presses Investor Disputes.” Kyiv Post: 11 February 1999.

and expropriation risk insurer, the US Overseas Private Investment Corporation (OPIC).⁴⁵ OPIC, a US government agency that is a foreign investor in itself, offers financing, investment funds, and political risk insurance for American firms in emerging markets. OPIC expected no problem with the Ukrainian government's contractually required reimbursement: US\$17.7 million was a relatively small sum; OPIC had already made or facilitated over US\$200 million in investments in Ukraine and stood ready to do more; and OPIC did not require Ukraine to make a specific admission of guilt in the matter.⁴⁶ Nevertheless, Ukraine did not pay and OPIC exited. Estimates are that Ukraine lost millions of dollars in American FDI over the following years due to OPIC's absence.

At the time, American actors paid little attention to OPIC's dispute. OPIC was not mentioned in Congressional testimony on the treatment of American investors in Ukraine in 2000, nor was the broken contract a priority at the US Embassy. OPIC negotiated its own provisional settlement in late 2004, but January 2005 ushered in the opposition Yushchenko government that emerged from the extraordinary Orange Revolution. In this major moment of turmoil, the pro-reform Yushchenko government reneged on the OPIC settlement. Yet Yushchenko's Orange government did more than miss the deadline – it did not reinstate OPIC during its eight months in power. OPIC canceled its provisional operations in Ukraine. After 2005, Ukrainian politics rapidly deteriorated, fistfights became common in the legislature, and the government's general political outlook turned eastward. But new American FDI would help Ukraine reduce its reliance on the now-dominant groups of Western European-origin firms, as well as a growing set of Russian-origin firms. Continued American FDI diversion would further concentrate FDI nationalities and, as predicted here, constrain the government's ability to

⁴⁵ "Rift threatens to blow up ammunitions joint venture," *Kyiv Post*: 30 October 1998.

⁴⁶ Interviews, Washington, D.C. (3) and Cambridge, Massachusetts.

prioritize other concerns over commitments made to foreign firms. Even as the Ukrainian government turned its attention eastward, this environment strengthened American bargaining power. An American investor association and American diplomats pressured the Ukrainian government to reinstate OPIC in 2009.

The US-Ukraine Business Council (USUBC) and American diplomats discussed OPIC repeatedly with Ukrainian officials from 2005 to 2009, by which time the USUBC represented over 100 firms.⁴⁷ In contrast to the fizzled efforts in the late 1990s, American efforts brought a key Ukrainian politician, the Vice Prime Minister, on board to shepherd OPIC reinstatement through the government. American diplomats drew on large American firms like Microsoft and DHL to make the issue of an old broken contract salient to a Ukrainian government that was not responsible for either the original breach or the breach of the provisional settlement in 2005.⁴⁸ Diplomats' main task was to assuage the Ukrainian government's concerns that OPIC restitution would have a negative effect on non-American foreign investment. A Memorandum of Understanding in 2008 addressed this point, resolving that restitution "should not be considered as constituting any admission on behalf of the Ukrainian side of any commitment, debt, complaint, or other claim of any company."⁴⁹ US Vice President Biden lauded progress during a visit to Ukraine, saying that bringing OPIC back would "make it easier for American companies to reinvest in Ukraine, and invest in the first place."⁵⁰ Once the final resolution was signed in 2009, OPIC immediately restored operations.

⁴⁷ Interviews (3), Washington, D.C.

⁴⁸ Large multinationals' participation is the more notable because they have little need for OPIC services: large firms are often priced out of political risk insurance and can acquire cheap financing from their parent company. Instead, these firms framed their advocacy in terms of reestablishing respect for American-owned property. Interviews, multinational representatives and investor organizations, Washington, D.C. and Ukraine.

⁴⁹ "Bogdan Danylyshyn and William Taylor sign Memorandum," Ukrainian Ministry of Economy, Minister's Press office: 11 November 2008.

⁵⁰ Statement by Vice President Biden after meeting with President Viktor Yushchenko of Ukraine. The White House, Office of the Vice President: 21 July 2009.

In contrast to the late 1990s, Ukrainian officials agreed to facilitate OPIC's entry and restore American actors' sense of their property rights protections.⁵¹ The changed follow-through on the part of diplomats correlates with the change in FDI national diversity. This is despite the fact that American investors had represented the largest portion of FDI in Ukraine in the late 1990s and was one of the smaller OECD investors in the late 2000s.

Norwegians and Expropriation in Russia, Deterrence in Ukraine

Figure 1 shows that Russia's FDI nationality mix in the late 2000s was considerably higher than Ukraine's. As a large economy with a significant endowment of natural resources, Russia possesses the structural features expected to give its government leverage over foreign firms at the time of investment and after contracts have been struck.⁵² Throughout the 2000s, Russia's political actors proved very willing to engage in high-profile conflicts with foreign firms; for example, Russia's expropriations of foreign oil and gas firms BP and Royal Dutch Shell gained international prominence. Nevertheless, the continued entry of investors from many national origins into Russia goes to show that some investors weigh the potential benefits of investment above the increased likelihood of property rights violations that these factors suggest.

One may expect a home government to stand behind its "national champion" investing in a risky location like Russia – especially when the home government has ownership in the firm. Indeed, the Norwegian government intervened in Russia on behalf of its state-owned telecommunications firm, Telenor, in 2000 and 2004, first to deter the Russian Communications Ministry from taking back allocated frequencies, and second to lower Telenor's suddenly high

⁵¹ Norwegian (see below) and French firms also deterred expropriation from 2005 to 2008.

⁵² Vernon 1971, Rudra and Jensen 2011.

tax burden.⁵³ In the second half of the 2000s, however, Telenor lost several legal cases that were brought by shadowy shareholders and heard in obscure Siberian towns in what were seen by international observers as politically driven rulings. Once these decisions began coming down against Telenor, Norway's government stepped back. In 2006, the Norwegian Trade and Industry Minister said his government would not interfere and that "there should be no concern that [the conflict behind the suits] would scare away Norwegian investment in Russia."⁵⁴ With this statement, the Norwegian government explicitly downplayed the bilateral implications of Russian actions against Telenor and rolled back diplomatic advocacy. By 2010, Telenor's accrued fines in Russia totaled US\$1.7 billion. The Russian government froze Telenor's assets, effectively halting its ability to operate in Russia.

Similarly questionable legal procedures had resulted in expropriation in Russia before, but no public comment came from Sweden, Finland, or the Swedish-Finnish telecommunications firm TeliaSonera, which too had faced an analogous dispute in Russia.⁵⁵ Perhaps these home countries kept quiet to gain competitive advantages or to avoid retribution. In any case, in an environment in which entry and reinvestment by a variety of national groups was the norm, the Norwegian government explicitly stepped back from using its nationals' FDI in Russia as leverage in the Telenor conflict. The Russian government had little incentive to change its stance toward Telenor's operations and followed through with expropriation.

The same Norwegian state-owned firm's experience in Ukraine was markedly different. From 2005 to 2009, Telenor was embroiled in a commercial dispute (related to the dispute in Russia) that spilled over into its relations with the Ukrainian government. Ukraine faced

⁵³ "Norwegian Telenor offered ultimatum to VimpelCom." *The Russian Business Monitor*. 1 April 2005.

⁵⁴ "Norway, Russia don't plan to interfere in Telenor, Alfa Conflict." *Ukraine Business Daily*. 16 March 2006.

⁵⁵ TeliaSonera had a 44 percent stake in a Russian mobile firm (Megafon) and had been involved in its own shareholder dispute with the Russian firm at the heart of the Telenor dispute (Alfa Group).

significant pressure to breach its commitments to Telenor, not only from domestic sources but also from Russian business and political actors aiming to gain by Telenor's downfall. But with fewer other national investor groups to draw on in this period, the Ukrainian government was sensitive to retaining Norwegian investment. In fact, preserving Norwegian investment in Ukraine was necessary to keep the mobile telecommunications industry from being wholly Russian-owned, an outcome opposed by virtually all political players in Ukraine. While the Ukrainian government at times wavered in its treatment of Telenor, it ultimately did not break its commitment to the firm's fundamental ability to operate and own property in the country. For example, in 2006, Members of Parliament argued that three appeals court judges had "deliberately pass[ed] an illegal sentence or ruling" in favor of Telenor.⁵⁶ The Ukrainian MPs, sympathetic to Russian interests in the dispute, used domestic targets to score political points. The result was a prosecution of the three judges – and not of Telenor.

Norwegian investors enjoyed a privileged place in Ukraine, praised by the Ukrainian President, for example.⁵⁷ But as the Telenor dispute progressed, that esteem deteriorated. In 2007, signs appeared on Kyiv streets and outside Telenor's offices that read "Norwegians! Respect Ukrainian Laws!!" and "Norwegians, go home!"⁵⁸ A document from the Russian firm leaked to the press – "Logical Rationale for the Information Campaign under the Kyivstar Contract" – that read in part: "in order to break the existing stereotype whereby Western business and, in particular, Norwegian business always plays fair, an information wave of negative publicity should be started."⁵⁹ Attacks were not framed against Telenor in particular, but against

⁵⁶ "Prosecutor General's Office opens criminal case." *Ukraine Business Weekly*. 10 October 2006.

⁵⁷ "Kuchma orders to open Ukrainian embassy in Norway in near future." *Ukraine Business Report*. 30 January 2004.

⁵⁸ "How the Kremlin thawed a telecoms freeze in Siberia." *The Evening Standard (London)*: 17 November 2008: 29.

⁵⁹ Kramer, Andrew. "Russian Company accused of buying press coverage." *The New York Times*, 14 March 2007. In fact, firms buying press coverage has not been uncommon in countries of the former Soviet Union.

Norwegians as a national group. These efforts aimed at isolating Norwegians from other nationalities so as to differentiate the legitimacy and importance of their property rights from those of others. In other words, Telenor's detractors thought that the nationality of capital could matter to the public and, in turn, to political perceptions of FDI. Indeed, while diplomats from other home countries were personally outraged by this anti-Norwegian sentiment in interviews, they nevertheless saw no reason to publicly coalesce with Telenor or Norwegians.⁶⁰ Once Norwegians' implicitly shared risks were made explicit, Norwegian diplomats redoubled their efforts to shield Telenor. For example, the Norwegian government and Telenor publicly petitioned the Ukrainian government to investigate the "objectivity, impartiality, and independence of judges" regarding their "interference with good corporate governance and business morals."⁶¹

In contrast to the situation in Russia, the Ukrainian government never froze Telenor's assets, and the government made some efforts to rectify decisions against Telenor made in the judicial system.⁶² In fact, despite the intense years of conflict in 2006 and 2007, Telenor's profits in Ukraine in 2007 were US\$316 million, a year-on-year increase in profitability of 54 percent.⁶³ Like the Americans advocating on OPIC's behalf, Norwegians were not the largest or most prominent national investor group in Ukraine. But, the Ukrainian government explicitly sought

⁶⁰ Interviews, American, French, British, and Swedish actors, Ukraine.

⁶¹ "Telenor asks authorities to investigate outcome of 11 rulings of Ukrainian courts." *The Ukrainian Times*, 14 February 2007.

⁶² One interpretation of the outcome of Telenor's conflict could be that the Ukrainian government did breach a foreign firm's property rights: those of the Russian firm. Because international courts validated Telenor's claims in this case, relating the case from Telenor's point of view aligns with the most objective understanding of the Ukrainian government's actions. That the Ukrainian government showed restraint toward Telenor's contract goes to show that a firm from a major investor home country like Russia may not have sufficient leverage to negate a small national investor group's property rights.

⁶³ "Ukraine: Telenor profit exceeds US\$316mn." *Emersk Ukraine News* (via Sostav.ua): 25 July 2008.

to maintain what national diversity Ukraine had among its foreign investors in telecommunications.⁶⁴

Maintaining access to capital from multiple home countries has been so important to the Ukrainian government that it exposed the country to a strange scandal in 2012. A Spanish-speaking man negotiated a US\$1.1 billion investment into natural gas on the Black Sea, which would generate independence from “foreign” – meaning Russian – ownership of oil and gas.⁶⁵ However, it shortly appeared that Gas Natural Fenosa, the firm the negotiator supposedly represented, had never heard of him.⁶⁶ This means that oil and gas remained dominated by Russian interests – and the Russian government has in the 2000s shown little restraint in diplomatic advocacy on its nationals’ behalf.⁶⁷

Contrasts between FDI national diversity in Russia and Ukraine do more to explain the variation in expropriation than does the ownership of Telenor. While some firms may indeed have more ready access to diplomats by virtue of characteristics like ownership or national prominence, whether or not that access deters expropriation is shaped by the environment of foreign investor nationalities in the host country.

Austrians and Americans in Romania: Expropriation in the EU

The first FDI to enter democratic Romania came from Germany, Italy, and France. New entrants from these countries followed a pattern: large firms invested, like France’s Renault, and

⁶⁴ Importantly, Telenor’s Ukrainian conflict ended during the worldwide financial crisis, when FDI into emerging economies was on the wane, but Ukraine hosted more FDI than ever before.

⁶⁵ The deal’s Ukrainian “boasted” that the day of the signing “can be called the Day of Ukraine’s energy independence.” “‘Phantom’ Gas Deal Embarrasses Ukraine Government.” *Gulf News*, 3 December 2012.

⁶⁶ Kramer, Andrew E. “In Ukraine, Mystery Man Fakes a Natural Gas Deal.” *The New York Times*, 29 November 2012.

⁶⁷ Abdelal 2010.

their home country banks came next, like France's Societe Generale.⁶⁸ More and more OECD-origin investors added to the mix as the 1990s progressed and Romania privatized more and more large assets to foreign interests. Firms from neighboring Hungary and Poland had already begun to invest in Romania in the years leading up to its EU entry. By 2005, more FDI began to flow into new, greenfield investments than into privatizations of state-owned property.⁶⁹ As Figure 1 shows, all of this activity has made Romania's FDI national diversity high both before and after its accession to the EU in 2007. The Romanian government recognizes this. For example, Romania's investment promotion agency highlights 33 successful large projects in Romania completed in the 2000s that come from thirteen different home countries: France, Spain, Austria, Italy, Germany, Japan, the US, Portugal, Greece, China, Tunisia, Sweden, and Belgium.⁷⁰

Counterintuitively, the Romanian government has repeatedly compromised the rights of foreign firms – from the EU and otherwise – both before and after EU accession. In fact, Romania has received more or less explicit EU approval for several of its actions.⁷¹ In the case of Austrian and American investors, national diplomacy has been unsuccessful in deterring alterations to their property rights.⁷²

Austrians and US\$20 Oil

The Romanian government incrementally expropriated the Austrian oil and gas firm OMV, forcing a costly renegotiation of OMV's contract that was linked to a substantial decrease

⁶⁸ Interviews (3), foreign firms in financial and business services, Romania.

⁶⁹ Interview, Romanian government official, Romania.

⁷⁰ Romania Trade & Invest. <http://www.romtradeinvest.ro/>. Accessed March 2012.

⁷¹ In addition to the American case discussed here, the EU has effectively approved of the government's violation of its agreement with a Canadian mining firm (RMGC). Romania has also argued in international lawsuits that its expropriatory actions were necessary to align policy with EU standards. See Wellhausen (forthcoming).

⁷² Another prominent, analogous case in Romania concerns Canadian investors (in particular, Rosia Montana Gold Corporation).

in its share price – not to mention arrests of financial analysts associated with the investment. In 2004, Romania’s government negotiated the privatization of a 51 percent stake in the Romanian state oil firm to OMV for US\$1.8 billion. But this price was based on long-term world oil price estimates of US\$20-30 per barrel. As the oil price and OMV’s profits went up, the subsequent Romanian government and the Romanian people felt cheated, with one politician calling the previous government’s actions an “amazing theft.”⁷³ Nevertheless, the privatization contract was strict: the Romanian state could not increase royalties, add taxes on production, or change the contract’s foundational assumption of low oil prices, for example.⁷⁴

In 2006, two officials from the previous government were arrested on suspicion of treason for passing information on the state oil firm to OMV during the privatization negotiations. Employees of Credit Suisse First Boston, which had brokered the deal, were also arrested as part of an “organized crime ring.”⁷⁵ In the face of this persecution, OMV agreed in 2007 to contribute to a social fund to subsidize individual consumer prices. This was despite the fact that OMV’s stock lost 4.7 percent in a matter of days when the OMV CEO first discussed such a “solidarity fund” with the Romanian President a year earlier.⁷⁶

The Austrian Ambassador to Romania supported OMV, publicly pointing out that 4,500 Austrian companies had invested EUR12 billion in Romania, in banking, real estate, insurance, construction materials, IT, and oil and gas.⁷⁷ His reference to the broad contributions Austrian firms had made to the Romanian economy, analogous to Norwegian diplomatic efforts in

⁷³ “Official: Romania’s Petrom Sale, Relinquishing Oil Reserves - “Amazing Theft,” *Mediafax News Brief Service*, 18 August 2006. “Romanian president seen under public pressure to review energy privatization,” *BBC Monitoring European*: 17 November 2006. For a good reference on questionable privatizations in the region, see Schwartz 2006.

⁷⁴ “Romanian scandals to delay further sales,” *Platts Energy in East Europe*: 8 December 2006.

⁷⁵ *Ibid.*

⁷⁶ “Romania’s President Met With CEO Of Austrian Oil Co OMV,” *Mediafax News Brief Service*: 20 November 2006. “Romanian Govt Drops Examination Of Energy Privatizations,” *Dow Jones Commodities Service*: 16 January 2007.

⁷⁷ “OMV Expects Romania To Honor Petrom-Contract, Not Raise Fees,” *Dow Jones International News*: 25 October 2007. “Austria becoming big investor in Romania,” *Austria Today*: 31 October 2007.

Ukraine, shows that the Austrian government tied its country's broader integration with Romania to the threat to OMV. However, as predicted, Austrian efforts there found no cross-national support from diplomats of other nationalities. EU representatives remained silent on the issue, and other EU countries like Germany and Italy had energy firms that were seen as ready to replace OMV.⁷⁸ American and Canadian interests that were each facing expropriation around the same time did not publicly link their situations to that of OMV (or to each other). With Austrian interests isolated, OMV remained in the cross hairs of political battles between shifting Romanian political coalitions. Romania was able to force a costly contract renegotiation in an incidence of incremental expropriation while also criminally prosecuting financial analysts in an environment of high FDI national diversity.

Americans and Transylvanian Highways

The American firm Bechtel Group faced trouble from the beginning over its contract to build a Transylvanian highway.⁷⁹ When Bechtel was awarded its contract, a "furious" European Union had just funded a road running almost parallel, and, as a result, the EU did not allow Romania to use any of its EU infrastructure funds to pay for the project.⁸⁰ The Romanian government forced renegotiation of the contract several times after it was originally signed in 2003. In 2011, Romania officially broke the contract and Bechtel agreed to give up its right to compensation. In an environment with highly diverse FDI nationalities, the Romanian

⁷⁸ Ibid.

⁷⁹ Technically, Bechtel was in Romania on a concession, which does not always qualify as FDI in a statistical sense. However, as a foreign firm operating in a host country, with the potential to send signals on expropriation to other foreign firms, the case is relevant to theory testing.

⁸⁰ John W. Miller. "Focus: EU Eyes Public Contracts as Romania's Roads Boom." *Dow Jones Capital Markets Report*: 26 June 2006. "Special Report: Romania's Roads to Nowhere," *Reuters News*: 26 May 2011.

government broke a written contract that one official had lamented was “virtually unbreakable” – without obvious costly actions from American interests and without EU penalties.⁸¹

The Prime Minister of the government subsequent to that responsible for the contract declared that Romania would not agree to special treatment for Bechtel, “even if they are an American company.”⁸² At first, the US Ambassador kept a positive public attitude and remained “confident that the Romanian government and Bechtel will find a way.”⁸³ In 2011, the new US Ambassador changed tactics when he told top Romanian officials that the broken contract “is also about a big Turkish company, it is not only about Romania and an American company.”⁸⁴ By emphasizing the Turkish subcontractor’s participation in the project, the US Ambassador tried to unite foreign firms’ experiences across national lines. This attempt to link Turkish and American investors experiences is telling of the weak leverage American interests alone had over the Romanian government’s actions. Predictably, the effort to amass a cross-national coalition failed. Neither the Turkish Ambassador nor other Turkish actors took a public position on the Bechtel dispute. Ultimately, far from condemning the broken contract, the US Ambassador “praised the breakthrough.” The Romanian President said the outcome was possible “thanks to the support of the US Embassy.”⁸⁵ Bechtel and what American support system they had responded to the dire situation and cut their losses.

Despite being Austrian, OMV had no supra-national advocacy on which to draw. Despite being an EU member state, Romania has infringed on foreign firms’ property rights while enjoying EU support as in the case of Bechtel. Ultimately, national governments retain interests

⁸¹ “Special Report: Romania’s Roads to Nowhere,” *Reuters News*: 26 May 2011.

⁸² “Bechtel holds Romania’s Transylvania highway back, Not Funding – Romanian PM,” *Mediafax News Service*: 21 October 2008.

⁸³ “US Ambassador says expropriations, poor financing hinder construction of Romania’s Transylvania highway,” *Mediafax News Brief Service*: 24 October 2010.

⁸⁴ “US Ambassador Gitenstein says confident Bechtel contract arrears issue to be resolved,” *Rompres*: 2 June 2011.

⁸⁵ “Romania to make outstanding payments worth 90 mln euros to Bechtel in two tranches,” *Rompres*: 4 August 2011.

in the viability of their national firms, while the EU maintains priorities that take precedence over what foreign firms see as violations of their property rights.

Expropriation, Nationality, and Diplomacy

Home governments regularly expend political capital to avoid expropriation or achieve restitution for their firms that have invested abroad, despite the thought that contemporary international law has helped to “depoliticize” investor-state disputes.⁸⁶ Indeed, investor-state dispute resolution through BITs is often contrasted with dispute resolution at the World Trade Organization (WTO), in which home governments must bring cases on behalf of their aggrieved firms. Yet the continued involvement of home governments in investor-state disputes suggests that politics plays a role even when firms have the right to bring their own legal cases. Politicized investor disputes reflect Krasner’s worldview in which national actors retain sovereign power, and the ability to exercise that power, even under conditions of economic globalization.⁸⁷

The case studies presented here counter three competing hypotheses. The power of the home country, in terms of the amount of capital invested in the host country (or a firm’s American nationality), does not clearly correlate with the host government decision to expropriate. State ownership of assets does not imply that diplomats will effectively protect against expropriation. And the EU, an international institution relevant to both capital-sending and capital-receiving countries, has not provided the lobbying power or direct sanctioning of host governments necessary to deter expropriation wholesale. Using investments in a variety of industries, and a variety of forms of government violations of foreign firms’ property rights, the

⁸⁶ E.g., UNCTAD 2010, Van Harten 2005.

⁸⁷ Krasner 1999.

case studies presented here demonstrate that the diversity of FDI nationalities has power in explaining the government's propensity to expropriate.

Many see multinational corporations as “meta-national” – stateless firms unencumbered by their home country nationality. Yet foreign firms can benefit from advocacy by their home country diplomats. However, these benefits are conditional on the landscape of FDI nationalities. When many home countries are represented in an economy, national diversity becomes a liability to diplomats' leverage while opening permissive space for host governments to act against some firms. In other words, the vulnerability of a foreign firm's property and the strength of a diplomat's advocacy depend on the set of foreign firms present in the host country. If we understand the national diversity of foreign firms as one measure of economic integration, the theory and evidence here suggest that deeper integration can mitigate home governments' power, even as home governments maintain interests in fighting for their nationals' rights.

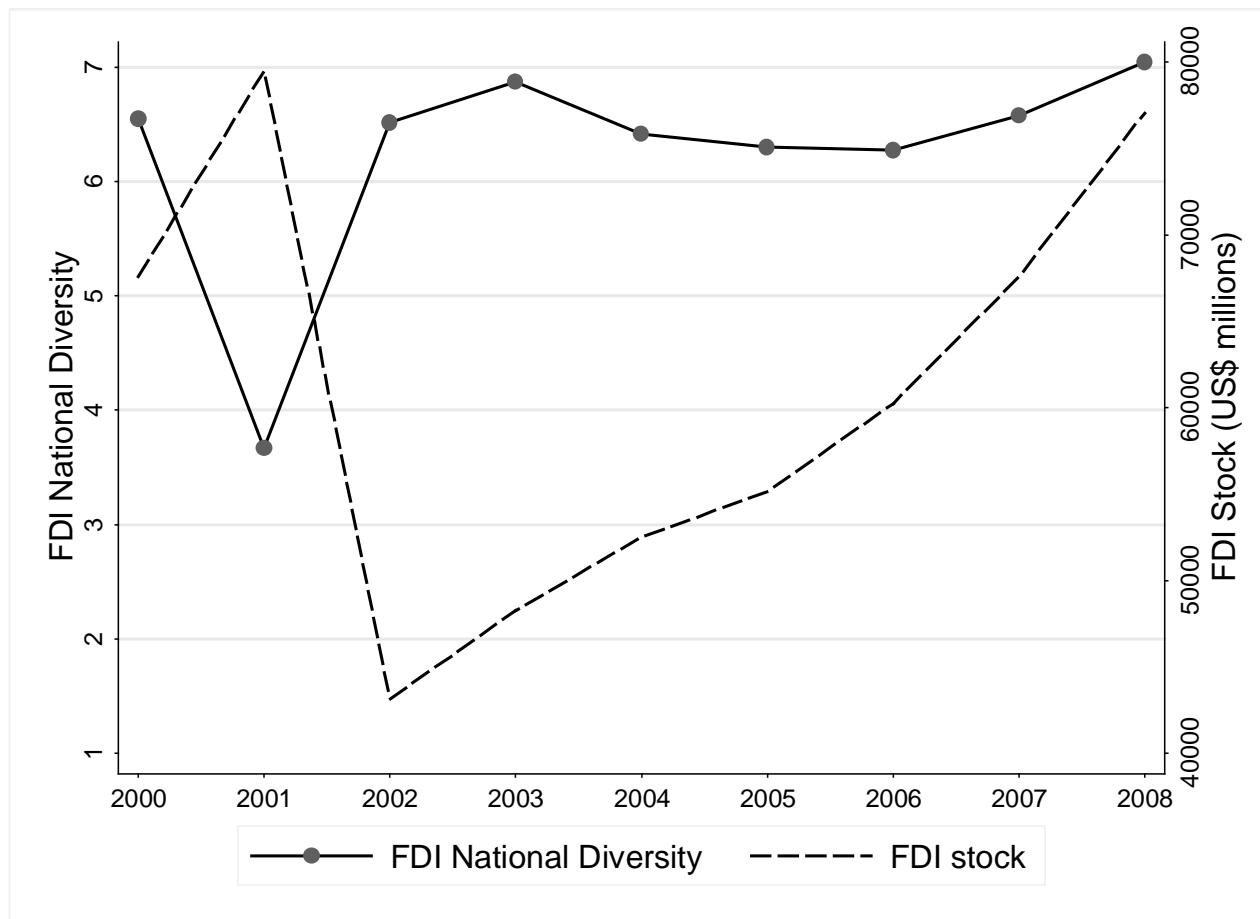
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Figures and Tables

Figure 1. Argentina's FDI National Diversity and FDI Stock (2000-2008)



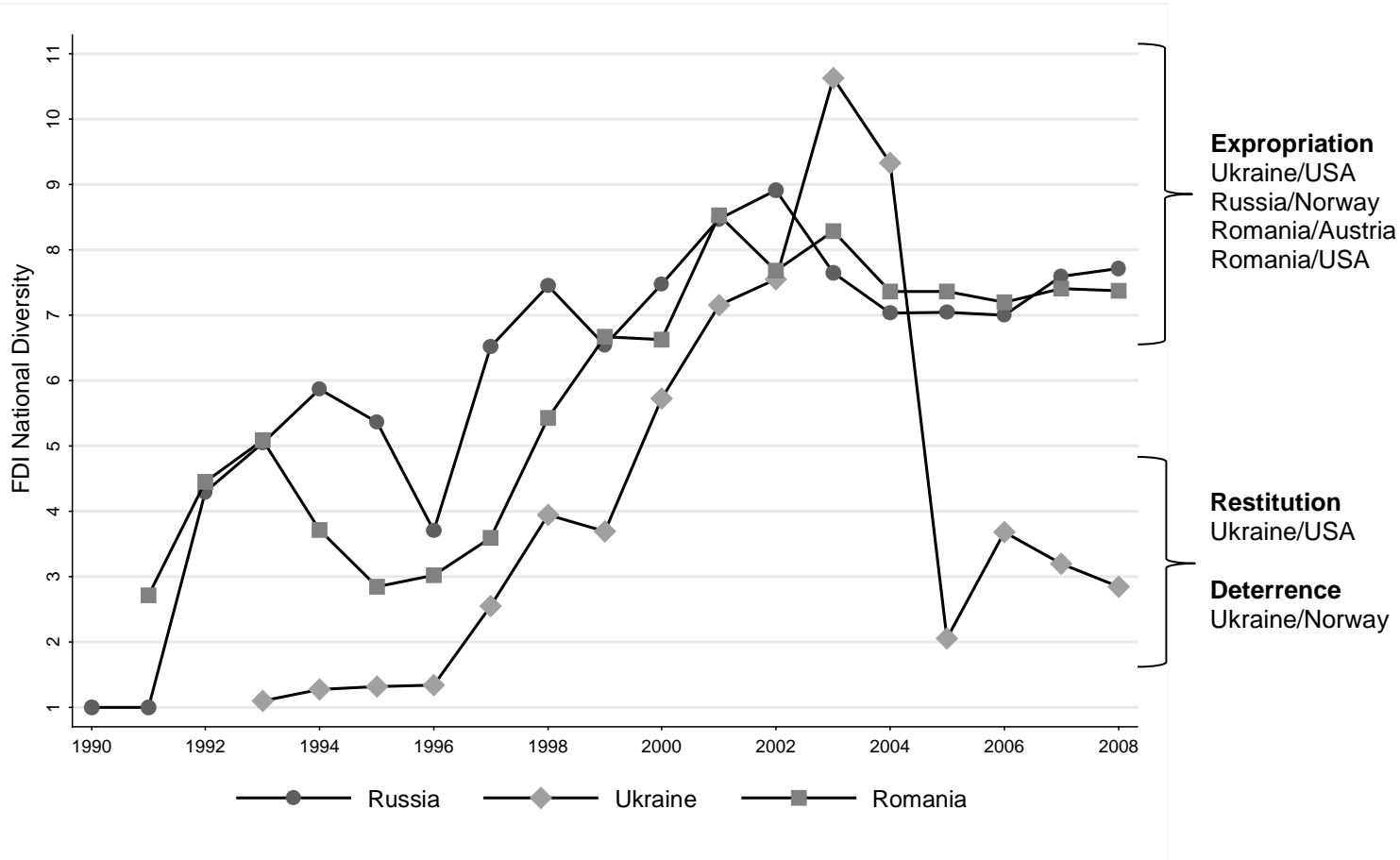
FDI national diversity is calculated using an Inverse Herfindahl-Hirschman Index:

$$HHI_{it} = 1 / (s_{1t}^2 + s_{2t}^2 + s_{3t}^2 + \dots + s_{nt}^2)$$

where s_{nt} is OECD nationality n 's share of the annual FDI stock in country i in year t . The resulting value is the effective number of OECD nationalities in the host economy.

Sources: National Institute of Statistics and Census of Argentina, World Bank WDI

Figure 2. FDI National Diversity in Ukraine, Russia, and Romania (with Cases Noted)



National diversity of FDI stock as calculated in Figure 1.

Source: OECD

Table 1. Case Summaries

FDI National Diversity	Host	Home	Outcome
High	Ukraine	USA	Expropriation
	Russia	Norway	Expropriation
	Romania	Austria	Expropriation
	Romania	USA	Expropriation
Low	Ukraine	USA	Restitution
	Ukraine	Norway	Deterrence

Table 2. Alternative Hypotheses

Case	Alternative Hypothesis
Americans in Ukraine	Diplomats from home countries with large FDI shares can deter expropriation.
Norwegians in Russia Norwegians in Ukraine	State-owned firms benefit from diplomacy that deters expropriation.
Austrians in Romania Americans in Romania	The European Union plays a key role in deterring expropriation.

Appendix 1. Interview Subject Breakdown (2009-2011)

Home country	Industry	Count	Home country	Field	Count
Austria	finance	1	Argentina	government	1
Canada	investor organization	1	Austria	government	1
Canada	legal	1	Czech Republic	government	1
Canada	natural resources	2	European Union	government	2
Denmark	manufacturing	2	Ghana	government	1
France	finance	3	Moldova	government	4
France	manufacturing	1	Poland	government	3
France	natural resources	1	Romania	government	2
Germany	finance	2	Switzerland	government	1
Germany	manufacturing	1	Ukraine	government	4
Germany	natural resources	1	US	government	5
Germany	services	1	.	international organization	6
Israel	investor organization	3	Romania	think tank	2
Moldova	investor organization	1	Slovak Republic	think tank	1
Moldova	services	7	Venezuela	think tank	1
Norway	infrastructure	1	Ukraine	think tank	5
Romania	services	4		<i>Total other</i>	40
Russia	finance	3			
Russia	manufacturing	9			
Russia	services	1			
Sweden	manufacturing	1			
UK	infrastructure	1			
UK	legal	1			
UK	manufacturing	1			
UK	services	3			
Ukraine	finance	1			
Ukraine	legal	4			
Ukraine	services	2			
US	agriculture	1			
US	finance	5			
US	infrastructure	1			
US	investor organization	8			
US	legal	2			
US	manufacturing	5			
US	natural resources	3			
US	services	5			
(Europe)	investor organization	3			
	<i>Total investors</i>	93			