

Розділ 4

Проблеми управління інноваційним розвитком

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COMPARATIVE ANALYSIS OF EU MEMBERSHIP CANDIDATE COUNTRIES LEGAL ECONOMIC FRAMEWORK (UKRAINE, GEORGIA, MOLDOVA)

The article represents the results of analytical review and comparative analysis of EU membership candidate countries legal economic framework for Ukraine, Georgia and Moldova. The aim of the research is to show opportunities and illuminate the gaps for timely fulfillment of obligation in framework of euro integration process. The choice of countries is determined by similarity of political, economic, and social conditions including, inter alia: 1) the aftermath of the global economic crisis; 2) political crisis; 3) threat to sovereignty and territorial integrity, including the risk of armed conflict (the unlawful annexation of the Crimea and Sevastopol and destabilization in the Eastern Ukraine; occupation of Abkhazia and South Ossetia in Georgia; and the Transnistria conflict in Moldova). The comparative analysis determined some similarities in positive shifts for all countries. In the article is underlined that first steps to be taken as a matter of priority toward implementing the sustainable development and green economy objectives should include the development of the Governmental Action Plan to support transition toward a green growth model; establishment of the governmental coordination and information centre; adoption of a unified system of sustainable development and green growth indicators; development and introduction of a smart system of economic incentives including tax exemptions, no-interest or low-interest loans for businesses introducing resource-saving technologies and environmental protection facilities (wastewater treatment facilities, waste recycling plants etc.); legislation of mechanisms facilitating the involvement of the public in resource management and decision-making.

Keywords: green economy, legislative practice, macroeconomic indicators, European Neighbourhood Policy, Association Agreement, European Union.

General framework of research. The search for appropriate economic models is becoming increasingly more important in a post-crisis world. Understanding the fact that the 2007-2008 financial crisis was caused by a combination of economic, environmental and social factors provided the impetus for formulating a Global Green New Deal by the UN Environmental Programme, which requires structural change across all levels of the state

policy. The European Union Green New Deal is reflected in the Europe 2020 Strategy that anticipates smart economic growth that is more resource efficient based on knowledge and innovation and inclusive. In the light of active integration processes driven by the Association Agreement, the implementation of the long-term sustainability and green economy objectives is not longer than an optional choice but a legally binding commitment made by Ukraine as a party to the Agreement [1]. Agreement introduces a fundamentally new format of relations between Ukraine and EU based on the principles of “political association and economic integration”, and provides strategic landmarks for systemic socio-economic reforms in Ukraine. Many national economists (B. Danylyshyn, O. Veklych, T. Halushkyna, V. Reutova, B. Stepanenko, A. Kharychkov, M. Khvesyk etc.) researched various aspects of applying the environmental policy mechanisms in the context of converging the national economy towards sustainability, including the green economy and green growth concepts. It should be noted that many of these scientists emphasize the significance of legal and regulatory mechanisms designed to ensure the sustainable development [2-4]. A few of the leading national specialists in legal science (V. Andreitsev, A. Hetman, V. Kostytskyi, S. Kravchenko, N. Malysheva, V. Muntian, and Yu. Shemshuchenko) in their works researched the development of the legal framework for environmental policy and approximation of the national environmental legislation toward the European standards. It is clear that implementing the green growth priorities is closely intertwined with the sustainability concept and requires mainstreaming environment into the national economic legislation. The members of the Ukrainian scientific community are inclined to compare various processes ongoing in the country and their consequences with similar practices and reforms taking place in the EU countries or in the Russian Federation and Kazakhstan [5-6]. At the same time, the Republic of Moldova and Georgia as two other EU Eastern Neighbours that have recently signed the EU Association Agreement also face a challenge of incorporating these priorities in their national legislations as part of the European integration process. The comparative review of experience gained by these countries in the area of legislative reform which are aimed to bring their legislations in line with the requirements of the New Green Deal has proved useful in identifying strategic and programme priorities, good practice examples and gaps in the legal framework underpinning the sustainable consumption and production systems.

Economic and political transformations taking place in Ukraine, Moldova and Georgia have many common features because they share a common legacy being a part of the Soviet economy and working together within the framework of the CIS. During the past decade their development has also been shaped by the European integration processes driven by the European Neighbourhood Policy (ENP) launched by EU in 2004. The intensity of these processes has increased dramatically after the signing the Association Agreement between the European Union and each of these countries.

The ENP implementation statistics published by the European Council [7] indicates that Ukraine, Moldova and Georgia have relatively similar values of key development indices (more detailed in “Economic aspects” underneath). According to the EC assessment, these countries are implementing the European integration reforms in similar political, economic, and social conditions including, inter alia: 1) the aftermath of the global economic crisis; 2) political crisis; 3) threat to sovereignty and territorial integrity including the risk of armed conflict (the unlawful annexation of the Crimea and Sevastopol and destabilization in the Eastern Ukraine; occupation of Abkhazia and South Ossetia in Georgia; and the Transnistria conflict in Moldova). Economic growth based on more efficient use of available scarce resources is the key to successful withstanding and overcoming these adverse factors. It implies that implementing the Association Agreement is closely linked with the transition toward a green economy.

General Description of Countries. Economic aspects. The picture emerging from the analysis of progress achieved by Ukraine, Moldova and Georgia is one that shows very similar level of compliance with the terms and conditions of the Association Agreement among the countries. This information and official statistics published in various documents indicate that all these countries are in very similar positions. In Georgia the rapid initial pace of its political, social and economic reforms has been followed by a slowdown, which can be partly attributed to their revolutionary nature and extremely high speed. In Moldova corruption and unresolved national conflicts are the key factors which continue to impede the progress of reforms and undermine their efficiency.

In Ukraine the national civil society is evolving intensively as reforms are starting to take shape in all areas of the societal life. At the same time, the military conflict and territorial annexation have led to the deterioration of the economic situation, human rights violations, harder working conditions for reporters etc., with all these factors affecting the overall assessment score and development of indicator values. The deterioration of the economic situation and decline of industrial production in Ukraine have been caused by the profound macroeconomic and structural problems.

The analysis of key macroeconomic indicators (Table 1) suggests that even despite the decline, the real GDP in Ukraine is higher than in Moldova.

Table 1 – Annual Key Indicators of Macroeconomic Development [7]

	2009	2010	2011	2012	2013	2014
<i>Real GDP growth rate, %</i>						
Georgia	-3,7	6,2	7,2	6,4	3,3	4,7
Moldova	-6,0	7,1	6,8	-0,7	9,4	2,0
Ukraine	-15,1	4,1	5,4	0,2	0,0	-7,1
<i>GDP per capita, euro</i>						
Georgia	1760	1978	2321	2740	2710	2712
Moldova	1092	1231	1461	1593	1689	1636
Ukraine	1892	2319	2661	3116	3119	2275
<i>Rate of inflation, %</i>						
Georgia	1,7	7,1	8,5	-0,9	-0,5	3,1
Moldova	0,0	7,4	7,6	4,6	4,6	4,6
Ukraine	15,9	9,4	8,0	0,6	-0,3	12,1
<i>Level of unemployment, %</i>						
Georgia	16,9	16,3	15,1	15,0	14,6	14,1
Moldova	6,4	7,4	6,7	5,6	5,1	6,0
Ukraine	8,8	8,1	7,9	7,5	7,2	9,2
<i>General government debt relative to GDP, %</i>						
Georgia		33,6	29,7	32,5	33,9	na*
Moldova		26,8	25,6	23,8	22,1	na
Ukraine		39,9	36,3	36,5	40,2	na
<i>Key Export and Import Partners</i>						
Georgia	EU 28	EU 28	EU 28	EU 28	EU 28	EU 28
Moldova	EU 28	EU 28	EU 28	EU 28	EU 28	EU 28
Ukraine	Russia	Russia	Russia	Russia	EU 28	EU 28

* – data is not available

It can be concluded that the European integration processes in the countries are taking place under similar baseline conditions. It is clear that the major trends observed in Ukraine including rising debt and higher inflation (the National Bank expects 7.5% decline in economy and 30% inflation in 2015) [8] along with the continuing military conflict in the east of the country, are likely to exacerbate the socio-economic situation even further, especially in 2015.

At the same time the systemic implementation of planned economic reforms and the absence of clear constraints which may limit the provision of financial support and assistance for the country (which are not in the case of Georgia and Moldova) may pave the way toward overcoming the crisis in a rapid manner and achieving modernization, thereby ensuring that Ukraine meets its commitments under the Association Agreement within a specified timeframe. It is also worth to note that Moldova and Georgia have already reoriented their export and import toward the European Union (among other partners), while Ukraine has been only starting to take steps in this direction since 2013 (Table 1). In January 2015, the export and import operations between Ukraine and Russia constituted 39,7% and 42,9%, respectively, compared to the 2014 level.

Overview of legal framework. A well-developed institutional mechanism comprising a suite of interrelated legal instruments designed to achieve a desired objective through regulation and control is crucial for ensuring the effective implementation of political commitment as to environmentally balanced economic development. A system of legal provisions governing relations among the members of the society constitutes the legal mechanism which forms an integral part of the institutional mechanism.

Those laws and regulations aimed to ensure the development of the green economy and sustainable production and consumption patterns are adopted in the three countries at two levels: by adopting framework policy documents and specific laws and regulations that define the legal regime of economic activity. The first group of laws includes national plans, programmes and strategies which define important strategic objectives and are aimed to provide a general framework for the society activities. The second group comprises laws and regulations designed to encourage the transition toward the environmentally balanced production and consumption patterns. It should be noted that apart from these two groups, the EU legislation also includes a group of laws and regulations that are aimed to ensure the public involvement in the environmental planning and policy making, e. g. the Directive 2003/4/EC on Public Access to Environmental Information and Directive 2003/35/EC Providing for Public Participation in Respect of the Drawing up of Certain Plans and Programmes Relating to the Environment and Amending with Regard to Public Participation and Access to Justice Council Directives 85/337/EEC and 96/61/EC.

Ukraine has a large group of strategic documents setting out the sustainable production and consumption objectives for Ukraine. First of all, it is Ukraine 2020 Sustainable Development Strategy approved by the Presidential Decree No. 5/2015 of 12.01.2015. The Strategy outlines four key areas for the country development which include ensuring the sustainable development of the country, implementing structural reforms and, as a result, improving living standards. Within and across these four areas, the Strategy identifies 62 reforms and development programmes, with the following of which it becomes possible to reach green dimension: the small and medium business development programme; tax reform; transport infrastructure, energy, agriculture and fisheries reform; land reform; housing and municipal utility sector reform; investment attraction programme; public procurement reform; and environmental protection programme.

This group also includes the following documents: the Law of Ukraine On the *Fundamental Principles (Strategy) of Ukraine's State Environmental Policy for the Period until 2020*, Cabinet of Ministers of Ukraine Resolution No.577-r of 25.05.2011 “On the Approval of the 2011-2015 National Environmental Action Plan, Cabinet of Ministers of Ukraine Resolution No.1130 of 12.09.2011 “On the Approval of the Domestic Production Development Programme”, Cabinet of Ministers of Ukraine Resolution No.1071-r of 24.07.2013 “On the Approval of the Energy Strategy of Ukraine for the Period until 2030”, Cabinet of Ministers of Ukraine Resolution No. 243 of 1.03.2010 “On the Approval of the

2010-2015 State Targeted Economic Programme for Energy Efficiency and Development of Renewable Energy/Alternative Fuel Sector”, Cabinet of Ministers of Ukraine Resolution No.2174-r of 20.10.2010 “On the Approval of the Transport Strategy of Ukraine for the Period until 2020”, Law of Ukraine “On the 2009-2014 State Housing and Municipal Utility Sector Reform and Development Programme”, Law of Ukraine “On the State Toxic Waste Management Programme”, and Law of Ukraine “On the 2011-2020 State Targeted Drinking Water of Ukraine Programme”.

According to the European Commission’s conclusion, Ukraine has a well-developed system of environmental laws and regulations and achieved significant progress in implementing its national environmental strategy since 2010 [7]. At the same time, Ukraine does not have green growth and sustainable production and consumption strategy as a stand-alone document. Various mechanisms and components of the sustainable development and green economy concept are reflected in a number of laws and regulations which are binding to varying degrees.

The Constitution of Georgia recognizes the implementation of the sustainable development objectives as a cornerstone principle of the national policy. The Law of Georgia “On the Environmental Protection” (1996) [9] requires that the sustainable development strategies must be developed and approved by the Government. Key documents setting out the sustainable development targets and green growth indicators include the Georgia 2020 Socio-Economic Development Strategy [10], 2012-2016 National Environmental Protection Programme [11], 2010-2017 State Regional Development Strategy of Georgia [12], and National Strategy for Reducing Chemical, Biological, Radiological and Nuclear Threats. Georgia has also developed the 2015-2020 Agricultural Sector Development Strategy [13]. These documents address various implementation aspects of the green development policy which include, inter alia, the development of the modern standard waste management system and efficient water resource management system; the coordination of efforts taken by various relevant ministries and local authorities to achieve the specified objectives is considered to be one of the main functions of the state governance system.

Key strategic documents setting out the sustainable development targets and green growth indicators in the Republic of Moldova include the Moldova 2020 National Development Strategy: Seven Solutions for Economic Growth and Poverty Reduction [14], 2013-2023 National Waste Management Strategy [15], National Regional Development Strategy, Republic of Moldova Climate Change Adaptation Strategy [16], 2008-2015 National Strategy for the Sustainable Development of the Agro-Industrial Sector [17], the Aarhus Convention National Implementation Action Plan for 2011-2015 [18], and 2013-2023 Moldova’s Environmental Strategy [19]. While there is no stand-alone programme for implementing the sustainable development and green economy principles in Moldova, the Moldova 2020 National Development Strategy emphasizes the need for shifting from the inertial growth model to the dynamic growth model based on the development of industrial sector and export of goods and services.

As can be seen from the above, all three countries have policies and strategies comprising provisions pertaining to the implementation of the long-term sustainable development and green economy objectives. It means that none of them have adopted a stand-alone dedicated strategy promoting green growth and sustainable production and consumption patterns; a suite of specific indicators for measuring the success of the green strategy is therefore lacking in each country.

A picture emerging from the review of the EU legislative practice suggests that a set of laws and regulations outlining the legal regime of economic activity and encouraging the environmentally balanced production and consumption patterns can be divided into the

following groups based on their regulatory objectives: 1) laws and regulations pertaining to the integration of the environmental policy into other sectoral policies; 2) pollution control laws and regulations (waste management, air quality, pollution prevention and control); and 3) resource efficiency laws and regulations (sustainable resource management, nature protection, climate change adaptation). The first group of laws and regulations underpins the implementation of the sustainable development and green economy objectives by shaping the environmentally conscious behaviour of producers and consumers. This group may include incentive instruments designed to support the implementation of the sustainable resource use policy through a system of environmental fees and charges, as well as environmental impact assessment procedures for the public- and private-sector projects.

Instruments supporting the implementation of the sustainable resource use policy in Ukraine include the environmental tax described in the Tax Code of Ukraine (Section VIII), resource use fees (Tax Code, Sections IX-XI) [20], and the 'green' tariff (Law of Ukraine "On the Electricity Sector") [21]. The national environmental taxation system is only taking shape with its structure and rates being widely and justly criticized in the scientific literature [5]. It should be noted that the Ukrainian system is quite complicated compared to that one in Georgia and Moldova. For example, all environmental taxes in Georgia have been abolished after the 2007 reform. According to the Tax Code of the Republic of Moldova [22], the national environmental tax system includes seven types of resource use fees.

As regards the laws and regulations pertaining to the assessment of environmental impacts associated with the public and private sector projects, Ukraine has not yet implemented relevant EU Directives (e.g., the Directives 2011/92/EC on the Assessment of the Effects of Certain Public and Private Projects on the Environment and 2001/42/EC on the Assessment of the Effects of Certain Plans and Programmes on the Environment). Moldova and Georgia have achieved greater progress in this area. For example, the Parliament of Moldova on 29.05.2014 adopted the Law "On the Environmental Impact Assessment" [23] where the impact assessment is considered to be a procedure conducted according to the Law in order to assess potential environmental impacts of the planned activity and formulate proposed mitigation measures designed to avoid and reduce adverse impacts. The planned activity should be banned if it fails to meet the requirements set out in the Law, which also specifies criteria for activities requiring EIA, assessment types and procedures. The Law of Georgia "On the Environmental Impact Permits" has been in force since 1.01.2008 [24]. Pursuant to Article 3 of the Law, an environmental impact permit is the right granted by the Ministry of Environment and Natural Resource for an indefinite period of time according to the procedure specified by the law to entities undertaking activities that are subjected to the environmental review process.

The European Commission in its review of the Ukrainian legislation pertaining to pollution control and efficient resource management, including the assessment of the level of convergence toward the EU legislation, noted that, despite a well developed legislative framework, the pace of reform slowed down by the beginning of 2015. It recommended for Ukraine to concentrate efforts on implementing those provisions of the Association Agreement that concern the preparation of waste management plans and waste avoidance programmes; incorporation of the official legal definition of the hydrographic zoning unit and basin management concept in the national legislation; assessment and management of flooding risks; municipal wastewater treatment; protection of water resources against nitrate pollution from agricultural sources; industrial waste management; and establishment of the greenhouse gas emission trading scheme at the community and country level [25]. A similar review of the Georgian legislation highlights achievements was made in the area of the food safety legislation including the adoption of the Veterinary and Phytosanitary Codes. At the same time, the progress of the environmental legislation reform remains relatively slow, being

limited to the preparation of the draft Law “On the Biological Diversity and adoption of the Waste Management Law by the Parliament”. A policy for preventing and mitigating the consequences of climate change has not been formulated and the issue of modernizing the water sector infrastructure still remains to be addressed [26]. As regards Moldova, it has achieved considerable progress in the technology regulation area: 2060 European standards were incorporated in the national system and 1090 national standards were brought in line with the European standards throughout 2014; the Ministry of Environment approved a new 2014-2028 Water Supply and Sanitation Strategy [27].

The EU legislation in the area of the public access to information comprises two Directives adopted in furtherance of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention): the Directive 2003/4/EC on Public Access to Environmental Information and Repealing Council Directive 90/313/EC and Directive 2003/35/EC Providing for Public Participation in Respect of the Drawing up of Certain Plans and Programmes Relating to the Environment and Amending with Regard to Public Participation and Access to Justice Council Directives 85/337/EEC and 96/61/EC. In Ukraine, this Convention was ratified on 06.07.1999. The list of environmental information types and rules for publishing this information through the Internet have been approved by the Order of the Ministry of Environment [28]. Relevant amendments have been made in the Laws of Ukraine “On the Regulation of Urban Planning Activities” [29], “On the Environmental Protection” [30], and “On the Local Self-Governance in Ukraine” [31]. However, a general mechanism for ensuring the public participation in decision making in environmental matters has not been defined. In Georgia, the General Administrative Code [32] only provides for the general right of access to information and the request for information procedure, while the issue of legal liability of those failing to comply with the information disclosure rules remains unaddressed. The Republic of Moldova Law “On the Transparency in the Decision Making Process” [33] aims to ensure the transparent decision making by the central and local authorities through consultations with stakeholders which can be held in the form of public debate, public hearing, public opinion poll, referendum, request for expert opinion, or ad hoc working group. However it should be noted that the mechanism and criteria for conducting these events remain unregulated; the participation of the public in decision making in matters of high societal significance is thereby impeded.

The review of the legislative practice in Ukraine, Moldova and Georgia indicates that these countries have adopted regulations, national strategies and plans encouraging the introduction of the green economy and sustainable production and consumption principles. At the same time, there is an obvious lack of comprehensive programmatic documents describing the green growth and sustainability strategy including a suite of success indicators; the regulatory framework governing the participation of local authorities and community members in the implementation of the green growth policies is weak, and so are the economic mechanisms and incentives encouraging the transition toward sustainable production and consumption patterns.

Conclusions and directions of further researches. Summarizing the above, the following positive shifts characterizing the progress achieved by the countries can be highlighted:

- all the countries demonstrate proactive efforts toward meeting their commitments under the Association Agreement;
- all the countries have policies, practices and programmes aiming to support the sustainable industrial and business development;
- the sustainable development and green economy issues are reflected in the official development strategies and considered to be a priority;
- the countries make active efforts to develop a system of specific indicators including those ones which can be used for measuring the efficiency of national policies;

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- the sustainable development objectives are incorporated in the local development agendas and environmental action plans;
- the countries take active part in the international programmes focusing on various aspects of sustainable development, introduction of best practices and technologies;
- all the countries have made and continue to make considerable efforts to disseminate information about sustainable development and green economy among various stakeholders (to facilitate this, the Aarhus Centre has been established in each country).

The first steps to be taken as a matter of priority toward implementing the sustainable development and green economy objectives should include the development of the Governmental Action Plan to support transition toward a green growth model; establishment of the governmental coordination and information centre; adoption of the unified system of sustainable development and green growth indicators; development and introduction of the smart system of economic incentives including tax exemptions, no-interest or low-interest loans for businesses introducing resource-saving technologies and environmental protection facilities (wastewater treatment facilities, waste recycling plants etc.); legislating mechanisms facilitating the involvement of the public in resource managing and decision making.

The green growth strategy is becoming increasingly more important for Ukraine because it might provide a basis for rebuilding the territories destroyed as the result of military conflict in the Eastern Ukraine where return to the previous socio-economic model is impossible.

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У статті представлено результати порівняльного аналізу виконання умов Угод про

Розділ 4 Проблеми управління інноваційним розвитком

Асоціацію країнами-претендентами з позицій правового супроводу та економічної можливості. Вибір країн для аналізу виходить з того, що євроінтеграційні реформи, які проводяться в Україні, Грузії та Молдові, відбуваються у схожих політичних, економічних, соціальних умовах. Проведене дослідження дозволило виокремити позитивні зрушення в поступі держав. Конкретизація результатів для України дозволила сформулювати конкретні рекомендації. Першочерговими кроками в реалізації довгострокових цілей сталого розвитку і "зеленої" економіки повинно бути розроблення Урядового плану дій щодо переходу до "зеленого" зростання ("зеленої" економіки); створення урядового координаційного й інформаційного центру, затвердження єдиної системи державних індикаторів сталого розвитку та успішності "зеленої" політики; розвинутої системи економічних стимулів, запровадження таких стимулів, як надання податкових пільг, безвідсоткових або за зниженими відсотками кредитів суб'єктам господарювання, що застосовують ресурсозберігаючі технології і створюють об'єкти природоохоронної інфраструктури (очисні споруди, сміттєпереробні комплекси тощо); законодавче закріплення механізмів участі громадськості в управлінні ресурсами та прийнятті рішень. У статті підкреслюється, що особливого значення стратегія "зеленого" зростання набуває для України, оскільки може стати основою відновлення зруйнованих територій на Сході України, де повернення до попередньої моделі соціально-економічного розвитку вбачається неможливим.

Ключові слова: "зелена" економіка, законодавчий механізм, макроекономічні індикатори, Політика Європейського Партнерства, Угода про Асоціацію, Європейський Союз.

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Сравнительный анализ экономико-правовых предпосылок членства в ЕС стран-кандидатов (Украина, Грузия, Молдова)

В статье представлены результаты сравнительного анализа выполнения условий соглашения об ассоциации странами-претендентами с позиций правового сопровождения и экономической возможности. Выбор стран для анализа исходит из того, что евроинтеграционные реформы проводятся в Украине, Грузии и Молдове в подобных политических, экономических, социальных условиях. Конкретизация результатов для Украины позволила сформулировать конкретные рекомендации. Первоочередными шагами в реализации долгосрочных целей устойчивого развития и "зеленой" экономики должны быть разработка Правительственного плана действий по переходу к "зеленому росту" ("зеленой" экономике), создание правительственного координационного и информационного центра, утверждение единой системы государственных индикаторов устойчивого развития и успешности "зеленой" политики; развитой системы экономических стимулов, введение таких стимулов, как предоставление налоговых льгот, беспроцентных или по сниженным процентам кредитов субъектам хозяйствования, которые применяют ресурсосберегающие технологии и создают объекты природоохранной инфраструктуры (очистные сооружения, мусороперерабатывающие комплексы и т.п.); законодательное закрепление механизмов участия общественности в управлении ресурсами и принятии решений. В статье подчеркивается, что особое значение стратегия "зеленого" роста приобретает для Украины, поскольку может стать ключевой основой восстановления разрушенных территорий на Востоке Украины, где возвращение к предыдущей модели социально-экономического развития оказывается невозможным.

Ключевые слова: "зеленая" экономика, законодательный механизм, макроекономические индикаторы, Политика Европейского Партнерства, Соглашение об ассоциации, Европейский Союз.

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