

COMMUNICATION FROM POLAND

Review of Article II Exemptions

Replies to Questions Posed on Poland's MFN Exemptions in the Course of the
Review of MFN Exemptions

Addendum

The attached communication has been received from the delegation of Poland with the request that it be circulated to Members of the Council for Trade in Services.

A. ANSWER TO THE QUESTION SUBMITTED BY JAPAN NO. 529:

1. Only half of the 85 bilateral agreements concerning air transport services contain the said reciprocal provisions on selling and marketing of air transport services (a list of these agreements is contained in Annex 1). None of the bilateral agreements contain provisions on computer reservation system (CRS) services.

B. ANSWER TO THE QUESTION SUBMITTED BY JAPAN NO. 530:

2. *Preferential market treatment* consists in the following. Under a bilateral air services agreement a specific air carrier is designated to provide - on the reciprocity basis and in compliance with Poland's domestic regulation - air transportation services in Poland. The selling of the services can be done either by the carrier office or by other agents. No other preferences are granted to the designated air carrier.

C. ANSWER TO THE QUESTION SUBMITTED BY JAPAN NO. 655:

3. A list of bilateral transport agreements by country and transport sector is attached to this document in the Annex 1.

D. ANSWER TO THE QUESTION SUBMITTED BY JAPAN NO. 656:

4. In the given case an MFN exemption concerns the compulsory arbitration of investment disputes between the Polish State and foreign investor of a country with which Poland has concluded a bilateral agreement on the promotion and protection of foreign investment. Poland is not liable to compulsory investment dispute arbitration with foreign investors from other countries. The idea of such agreements is that their scope be as general as possible. Foreign investments do happen in the transport services sector in the form of commercial presence of a foreign service supplier who establishes for example a transportation company with a foreign capital participation. Hence, there

are no specific reasons for why it should be excluded from the purview of foreign investment agreements.

E. ANSWER TO THE QUESTION SUBMITTED BY JAPAN NO. 657:

5. *Air transport.* Transportation quotas do not occur in air transport *expressis verbis*. However, the bilateral air services agreements contain provisions on capacity share and flight frequency, which multiplied by each other result in a quota.

6. *Inland waterway transport.* There are no transportation quotas applied in the inland waterway sector.

7. *Maritime transport.* There are no transportation quotas applied in the maritime sector.

8. *Railway transport.* There are no effective transportation quotas in the railway transport.

9. *Road transport.* Transportation quotas, meant as the total number of entry permits granted to foreign commercial vehicles, are applied on the basis of provisions contained in the international, bilateral and transit road transport agreements. No transportation quotas are applied in cabotage (transportation within Poland), where market access is reserved for Polish nationals and Polish companies. There are currently two systems applied: (a) multilateral and (b) bilateral. In both cases limitations on market access are necessary for the protection and adequate maintenance of road infrastructure.

10. Multilateral quota is negotiated and fixed within the European Conference of Ministers of Transport (ECMT)¹ only for international goods transport. This system takes especially into account environment and safety standards of lorries, establishing a conversion rate between permits issued for particular vehicle categories (for example a permit issued for a so-called traditional lorry equals 3 permits issued for a vehicle meeting higher environment and safety standards).² There are also special quotas allowed for some ECMT Member-States for humanitarian reasons (these countries are at present: Albania, Bosnia-Herzegovina and Moldavia). The specific rules for the ECMT multilateral quota have been laid down in the ECMT Resolution of May 2000 on the Development of the Multilateral Quota.

11. According to the above mentioned ECMT resolution, the ECMT Member-States may apply bilateral regime of permits (with or without quota) without prejudice to the conditions governing the ECMT multilateral quota. Bilateral quotas are fixed - on the reciprocity basis - under 44 bilateral agreements and concern international goods transport. In case of Austria, Croatia, the Czech Republic, Italy, Latvia, the Russian Federation, the Slovak Republic and Slovenia transportation quotas have been fixed also for international passenger transport. Bilateral transportation quotas do not concern the cabotage market, access to which is restricted to Polish operators. There are no transportation quotas in bilateral traffic for operators from Finland (since 1998), Luxembourg (since 1999), the Czech Republic (since 2000), the Slovak Republic (since 2000) and Slovenia (since 2000). For the last three there are also no transportation quotas in transit traffic (since 2000).

¹ Poland is a Member-State since 1991.

² The following vehicle categories are distinguished: EURO-0 (traditional or black lorry), EURO-1 (green lorry), EURO-2 (green and safe lorry) and EURO-3 (greener and safe lorry). Another category, EURO-4, is to be introduced in 2005.

Annex 1

List of bilateral agreements by country and transport sector concluded by Poland as of July 2000.

Country	TRANSPORT SECTOR				
	Air	Maritime	Railways	Road	Waterways
Afghanistan	1962				
Albania	1957	1992		1990	
Algeria	1965	1975			
Angola	1976				
Armenia	1998				
Austria	1956			1966, ³ 1993, ⁴ 1997 ⁵	
Azerbaijan	1997				
Bahrain	1997				
Belgium	1956			1968	
Belarus	1993	1992	1992	1992	
Burma	1977				
Brazil		1976			
Bulgaria	1949	1972		1972	
Benin	1988				
Cambodia	1987				
Canada	1976				
China	1986	1996			
Côte d'Ivoire	1984				
Croatia	1966			1994	
Cuba	1974	1984			
Cyprus	1971	1984		1981	
The Czech Republic	1969		1971	1970	1956
Denmark	1961	1924		1972	
Egypt	1956	1977			
Equatorial Guinea		1992			
Estonia	1993			1992	
Ethiopia	1977				
The European Community					2000 ⁶
Finland	1963			1969	
France	1960	1973		1968	
Former Yugoslav Republic Of Macedonia				1998	
Germany	1975	1995	1971	1969 ⁷	1991
Greece	1963	1975		1977	
Hungary	1976	1993		1965	
Iceland		1924			
India	1977	1960			
Indonesia	1991				
Iran	1999			1976	
Iraq	1961			1984	
Ireland	1977				
Israel	1990				
Italy	1975	1974		1968	

³ Bus transportation services.

⁴ Freight transportation services.

⁵ Non-scheduled passenger transportation services.

⁶ Passenger transport services.

⁷ Essentially amended in 1991.

Country	TRANSPORT SECTOR				
	Air	Maritime	Railways	Road	Waterways
Japan	1994	1978			
Jordan	1993			1978	
Kazakhstan	1997			1997	
Kenya	1988				
Kuwait	1977				
Laos	1976				
Latvia	1992	1999		1992	
Lebanon	1976				
Lithuania	1992	1995	1992	1992	
Luxembourg	1969			1989	1994
Macedonia				1998	
Madagascar	1978				
Malaysia	1975				
Malta	1985				
Morocco	1969			1993	
Mexico	1990				
Moldavia	1995			1997	
Mongolia	1989				
The Netherlands	1960	1971		1969	1992
North Korea	1978				
Norway	1961			1970	
Pakistan	1970	1975			
The Philippines	1993				
Portugal	1975	1976		1986	
Qatar	1998				
Romania	1977			1968	
The Russian Federation	1968		1972	1966 ⁸	
Senegal	1969				
Singapore	1979				
The Slovak Republic	1994		1994	1998	
Slovenia	1995			1996	
South Africa	1993				
South Korea	1991				
Spain	1973			1978	
Sri Lanka	1982	1986			
Sweden	1956			1968	
Switzerland	1961			1975	
The Sudan	1980				
Syria	1962			1978	
Thailand	1976				
Tunisia	1969			1980	
Turkey	1967			1977 ⁹	
Ukraine	1994		1993	1992	
The United Arab Emirates	1994				
The United Kingdom	1960			1975	
The United States of America	1988				
Uzbekistan	1995				
Vietnam	1976	1995			
Yugoslavia	1955			1969	

⁸ In force until the 1996 Agreement enters into force.

⁹ Essentially amended in 1994.