

**NOTIFICATION UNDER ARTICLE 12.4 OF THE AGREEMENT ON  
SAFEGUARDS BEFORE TAKING A PROVISIONAL SAFEGUARD  
MEASURE REFERRED TO IN ARTICLE 6**

**NOTIFICATION PURSUANT TO ARTICLE 9,  
FOOTNOTE 2, OF THE AGREEMENT ON SAFEGUARDS**

POLAND

The following communication, dated 14 August 2002, has been received from the Permanent Mission of Poland.

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Pursuant to Article 12.4 of the Agreement on Safeguards and to the format of notifications under this Agreement as adopted by the Committee on Safeguards in document G/SG/N/6, Poland hereby submits a notification before taking a provisional safeguard measure regarding imports of certain steel products, under Article 6 of the Agreement.

**Notification under Article 12.4 of the Agreement on Safeguards before taking a provisional safeguard measure referred to in Article 6 of the Agreement on Safeguards**

**1. The product subject to the proposed provisional safeguard measure**

The list of steel products concerned is specified in Annex I to this notification.

**2. The proposed provisional safeguard measure**

The proposed provisional safeguard measure consists of additional duties to be paid on imports exceeding certain quantities. The level of additional duty was calculated on the basis of price undercutting and price underselling established by comparison of prices in imports and domestic prices (in case of price underselling target prices have been used). The quantity of imports free from additional duty (tariff quota) for each product category was established on the basis of average volume of imports during the period 1999–2001 plus 10–35 per cent depending on the product category. The tariff quotas for various categories of products are established separately for WTO members and other countries (non-WTO members) proportionally to their share in imports during the period of 1999–2001.

The quantities referred to and the additional duties, which will be applied to the various product categories, are set out in Annex I to this notification.

**3. The proposed introduction of the provisional safeguard measure**

The proposed provisional safeguard measure will enter into force on the day of publication of the decree of the Minister of Economy on imposition of provisional safeguard measure in the official journal "Dziennik Ustaw". The publication is expected on 19 August 2002.

**4. The expected duration of the provisional safeguard measure**

The provisional safeguard measure will be applied within 200 days from the date of its entering into force.

**5. Preliminary determination that increased imports have caused or are threatening to cause serious injury**

(a) Unforeseen developments

Since 1997 imports of steel products in question into the Polish customs territory have increased significantly. The rise of imports in 2001 has led to the worsening of the situation of the domestic producers of the like products. This situation is aggravated by the expected effects of the protective measures taken by major importers of steel during the first 6 months of 2002. The resulting restriction of access to protected markets created a threat of diverting significant quantities of steel products towards other markets.

This has increased the exposure of the Polish steel industry to influx of diverted quantities of steel products from other markets.

Pursuant to a Regulation on automatic registration of imports of certain steel products, introduced in April 2002, competent authorities have already issued import licenses accounting for more than 7 million tonnes, which is more than the volume of total imports of steel products for 2001. This figure is the best indication of the likely level of imports in the year to come unless some protective measures are put in place. It is also a confirmation of further diversion of trade flows in steel market.

(b) Increase in imports

On the basis of preliminary analysis competent Polish authorities have determined that during the period of investigation (1997–2001) imports of each category of products in question increased significantly, in absolute terms as well as in relation to domestic production and consumption. In 2001, when total imports of products concerned rose by nearly 40 per cent as compared to the preceding year, a sharp and sudden surge in imports was observed. Data on imports of each category concerned is specified in Annex II to this notification.

In general, the average prices of imports, as indicated in Annex II to this notification, were lower than the prices of the domestic like products.

The investigating authorities preliminarily determined that during the last year of the period of investigation there was a price underselling in each category of investigated products of the level indicated in Annex II.

(c) Serious injury and threat thereof

Based on preliminary analysis of the factors concerning the situation of domestic producers of the like and directly competitive products, as indicated in the Article 4.2 (a) of the Agreement on Safeguards, the investigating authorities have made a preliminary determination that in relation to each of the 10 product categories concerned, depending on the case, domestic producers have suffered or are threatened to suffer serious injury caused by significant increase of imports in question. Detailed information on factors concerning injury analysis for specific categories of steel products concerned is provided in Annex II to this notification.

(d) Causation

On the basis of available information the investigating authority has made a preliminary determination that there is clear evidence of a causal link between the recent growth of imports of the products under investigation and the injury or threat thereof caused to domestic producers of the products concerned. The investigating authorities have established that worsening situation of domestic producers of like or directly competitive products is directly attributable to the increase of imports and conditions under which imported products in question were offered on the Polish market.

(e) Other factors

To ensure that the threat of serious injury is not attributable to other factors than the increase in imports, the investigating authorities have carried out a preliminary analysis of other factors (e.g. international economic situation, increase of costs of production, fall of exports, restructuring process of domestic steel mills) that may have contributed to the serious injury suffered by the domestic producers. In the course of further investigation a detailed examination of all factors, which have, or may have contributed to the injury, will be conducted by the investigating authorities.

(f) Critical situation

The surge of imports of steel products into Polish customs territory in 2001 along with protective actions taken by major steel importers in 2002 and worsening situation of Polish domestic steel industry have led investigating authorities to the conclusion that delay in taking a safeguard measure would cause damage to the domestic industry which would be difficult to repair.

**6. Offer of consultations under Article 12.4**

Poland is ready to hold consultations on the provisional safeguard measure.

## Annex I

### Proposed provisional safeguard measures and products subject to this measure

	Product	PCN Code	Additional Duty (%)	Tariff quota for WTO members (t)	Tariff quota for non-WTO countries (t)
1	Pig iron and spiegeleisen in pigs	7201 10 110, 7201 10 190, 7201 10 300, 7201 10 900, 7201 20 000,	25	4520	24770
2	Non alloy hot rolled flat products of a width of 600 mm or more	7208 10 000, 7208 26 000, 7208 27 000, 7208 37 100, 7208 37 900, 7208 38 100, 7208 38 900, 7208 39 100, 7208 39 900, 7208 40 100, 7208 51 100, 7208 51 300, 7208 51 500, 7208 51 910, 7208 51 990, 7208 52 100, 7208 52 910, 7208 52 990, 7208 53 900, 7208 54 100,	25	222901	114852
3	Non alloy cold rolled flat products of a width of 600 mm or more	7209 16 900, 7209 17 900, 7209 18 910, 7209 26 900, 7209 27 900, 7209 28 900,	18	76798	25205
4	Non alloy galvanized flat products	7210 30 100, 7210 30 900, 7210 41 100, 7210 41 900, 7210 49 100, 7210 49 900, 7212 30 110, 7212 30 190, 7212 30 900,	23	97450	5628
5	Non alloy organic coated flat products	7210 70 390, 7210 70 900, 7212 40 910, 7212 40 930, 7212 40 980,	23	110331	42
6	Other non alloy hot rolled bars	7214 10 000, 7214 20 000, 7214 91 100, 7214 99 100, 7214 99 310, 7214 99 390, 7214 99 610, 7214 99 690, 7214 99 900, 7215 50 190, 7215 10 000,	20	55841	5487
7	Non alloy hot rolled sections	7216 31 110, 7216 31 190, 7216 31 990, 7216 32 110, 7216 32 190, 7216 32 910, 7216 33 100, 7216 33 900,	11	64436	444
8	Electrical sheets	7225 11 000, 7225 19 900, 7226 11 100, 7226 11 900, 7226 19 300, 7226 19 900,	18	9965	1511
9	Seamless tubes	7304 10 100, 7304 10 300, 7304 10 900, 7304 29 190, 7304 31 910, 7304 31 990, 7304 39 200, 7304 39 510, 7304 39 910, 7304 39 930, 7304 59 100,	20	22806	3917
10	Welded tubes of diameter 406,4 mm and less	7306 10 110, 7306 10 190, 7306 10 900, 7306 30 510, 7306 30 590, 7306 30 780, 7306 30 900,	20	22291	3359

## Annex II

### Data on imports of products covered by the proposed provisional safeguard measure and on injury caused to domestic industry

#### II. 1 Pig iron and spiegeleisen in pigs

	1997	1998	1999	2000	2001
<b>Consumption (tonnes)</b>	116,814	105,959	83,665	98,068	175,836
<b>Imports (tonnes)</b>	17,184	25,695	21,267	9,411	129,093
<b>Share of imports in consumption (%)</b>	14.7%	24.2%	25.4%	9.6%	73.4%
<b>Average unit prices in imports (PLN/tonne)</b>	511.4	501.6	471.6	637.3	492.3
<b>Domestic production (tonnes)</b>	176,983	172,523	115,238	192,468	82,141
<b>Capacity utilization (%)</b>	79%	77%	51.4%	85.9%	36.7%
<b>Domestic sales (tonnes)</b>	99,630	80,264	62,398	88,657	46,743
<b>Share of domestic sales in consumption (%)</b>	85.3%	75.8%	74.6%	90.4%	26.6%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	513.5	614.1	619.5	650	729.3
<b>Productivity (tonnes /1 employee)</b>	430	409	351	600	275
<b>Employment (1997 = 100%)</b>	100%	102%	79.6%	77.9%	72.6%
<b>Profits and losses (%)</b>	- 6.9%	2.1%	- 4.9%	5.2%	0.6%

Price underselling in 2001 – 35.9 %

## II. 2 Non alloy hot rolled flat products of a width of 600 mm or more

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	1,182,091	1,178,921	1,230,831	1,608,387	1,714,826
<b>Imports (tonnes)</b>	197,152	291,724	477,728	540,106	824,459
<b>Share of imports in consumption (%)</b>	16.7%	24.7%	38.8%	33.5%	48.07%
<b>Average unit prices in imports (PLN/tonne)</b>	1,088	1,203.4	1,003.6	1,271	1,106.6
<b>Domestic production (tonnes)</b>	2,511,834	2,190,314	2,029,293	2,499,617	2,031,471
<b>Capacity utilization (%)</b>	82.1%	71.9%	66.9%	83.1%	67.1%
<b>Domestic sales (tonnes)</b>	984,939	887,197	753,103	1,098,281	890,367
<b>Share of domestic sales in consumption (%)</b>	83.3%	75.3%	62.1%	68.2%	51.9%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	1,188.9	1,353.5	1,181.3	1,304	1,282.4
<b>Productivity (tonnes/1 employee)</b>	1064	1001	1080	1532	1283
<b>Employment (1997 = 100%)</b>	100%	92.7%	79.6%	69.1%	67.1%
<b>Profits and losses (%)</b>	13.6%	13.4%	- 0.9%	6.7%	- 3.6%

Price underselling in 2001 – 24.7 %

### II. 3 on alloy cold rolled flat products of a width of 600 mm or more

	1997	1998	1999	2000	2001
<b>Consumption (tonnes)</b>	732,887	631,942	646,622	674,272	549,513
<b>Imports (tonnes)</b>	102,121	111,411	184,710	168,112	203,514
<b>Share of imports in consumption (%)</b>	13.9%	17.6%	28.7%	24.9%	37%
<b>Average unit prices in imports (PLN/tonne)</b>	1,332.3	1,424.8	1,243.6	1,584.9	1,302.7
<b>Domestic production (tonnes)</b>	1,046,485	890,942	583,515	952,844	692,840
<b>Capacity utilization (%)</b>	77.5%	66%	61.7%	70.6%	51.3%
<b>Domestic sales (tonnes)</b>	630,766	520,531	461,912	506,160	345,999
<b>Share of domestic sales in consumption (%)</b>	86.1%	82.4%	71.4%	75.1%	63%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	120.1	1,333.7	1,283.3	1,461.8	1,317.2
<b>Productivity (tonnes/1 employee)</b>	1,010	858	730	772	589
<b>Employment (1997 = 100%)</b>	100%	100.3%	112.8%	119.1%	113.5%
<b>Profits and losses (%)</b>	2.1%	0.4%	- 3%	9.4%	- 11.9%

Price underselling in 2001 – 17.8 %

#### II. 4 Non alloy galvanized flat products

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	371,845	406,586	455,553	511,814	472,806
<b>Imports (tonnes)</b>	79,695	132,954	150,101	176,159	236,248
<b>Share of imports in consumption (%)</b>	21.4%	32.7%	32.9%	34.4%	50.0%
<b>Average unit prices in imports (PLN/tonne)</b>	1,935.9	2,190.2	2,094.1	2,191.1	1,961.9
<b>Domestic production (tonnes)</b>	408,106	377,280	404,537	468,780	313,856
<b>Capacity utilization (%)</b>	72.9%	67.4%	72.3%	75.4%	52.1%
<b>Domestic sales (tonnes)</b>	292,150	273,632	305,452	335,655	236,558
<b>Share of domestic sales in consumption (%)</b>	78.6%	67.3%	67.1%	65.6%	50.0%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	1,695	1,967.7	1,840.1	2,018.4	1,858.7
<b>Productivity (tonnes / 1 employee)</b>	307	309	327	385	424
<b>Employment (1997 = 100%)</b>	100%	91.9%	93.0%	91.7%	55.7%
<b>Profits and losses (%)</b>	9.12%	18.91%	9.03%	12.11%	- 2.75%

Price underselling in 2001 – 10.7 %



## II. 5 Non alloy organic coated flat products

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	169,899	199,239	221,442	249,607	262,846
<b>Imports (tonnes)</b>	92,590	134,196	156,560	181,392	213,981
<b>Share of imports in consumption (%)</b>	54.5%	67.4%	70.7%	72.7%	81.4%
<b>Average unit prices in imports (PLN/tonne)</b>	3,102.9	3,285.7	3,318.6	3,401.4	2,962.2
<b>Domestic production (tonnes)</b>	84,592	73,267	68,667	72,940	53,032
<b>Capacity utilization (%)</b>	99.4%	86.2%	80.8%	85.8%	62.3%
<b>Domestic sales (tonnes)</b>	77,309	65,043	64,882	68,215	48,865
<b>Share of domestic sales in consumption (%)</b>	45.5%	32.6%	29.3%	27.3%	18.6%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	2,851.7	3,407.7	3,181.7	3,401.3	3,154.2
<b>Productivity (tonnes / 1 employee)</b>	68	62	81	113	119
<b>Employment (1997 = 100%)</b>	100%	94.4%	67.4%	51.5%	35.6%
<b>Profits and losses (%)</b>	16.1%	21.4%	17.8%	16.8%	9.8%

Price underselling in 2001 – 10.4 %

## II. 6 Other non alloy hot rolled bars

	1997	1998	1999	2000	2001
<b>Consumption (tonnes)</b>	641,487	668,240	874,607	931,825	809,119
<b>Imports (tonnes)</b>	13,752	45,358	89,027	100,357	116,990
<b>Share of imports in consumption (%)</b>	2.1%	6.8%	10.1%	10.7%	14.4%
<b>Average unit prices in imports (PLN/tonne)</b>	1,330.8	1,021.3	833.5	1,087.5	1,045.7
<b>Domestic production (tonnes)</b>	813,829	738,640	849,795	1,172,135	893,254
<b>Capacity utilization (%)</b>	79.8%	75%	61.7%	84.4%	64.2%
<b>Domestic sales (tonnes)</b>	627,735	622,882	785,580	831,468	692,219
<b>Share of domestic sales in consumption (%)</b>	97.9%	93.2%	89.8%	89.2%	85.5 %
<b>Average unit prices in domestic sales (PLN/tonne)</b>	531.9	439.7	948.5	1,021.9	1,045.7
<b>Productivity (tonnes/ 1 employee)</b>	280	337	1,376	557	480
<b>Employment (1997 = 100%)</b>	100%	75.4%	77.8%	72.4%	64%
<b>Profits and losses (%)</b>	9.8%	5.2%	3.8%	2.4%	1.3%

Price underselling in 2001 – 8 %

## II. 7 Non alloy hot rolled sections

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	234,170	267,371	261,494	297,415	275,932
<b>Imports (tonnes)</b>	13,726	19,838	68,322	79,599	140,438
<b>Share of imports in consumption (%)</b>	5.9%	7.4%	26.1%	26.7%	50.8%
<b>Average unit prices in imports (PLN/tonne)</b>	1,280	1,329.2	1,254.3	1,298.4	1,113.1
<b>Domestic production (tonnes)</b>	777,419	844,655	609,258	717,771	788,141
<b>Capacity utilization (%)</b>	101%	93.9%	86.8%	88.5%	88.2%
<b>Domestic sales (tonnes)</b>	220,444	247,533	193,172	217,816	135,494
<b>Share of domestic sales in consumption (%)</b>	94.1%	92.6%	73.8%	73.2%	49.1%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	1,056.3	1,215.8	1,193.7	1,255.4	1,246.2
<b>Productivity (tonnes / employee)</b>	1,076	1,009	1,455	1,580	1,661
<b>Employment (1997 = 100%)</b>	100%	115.8%	58%	62.8%	65.7%
<b>Profits and losses (%)</b>	25.7%	31%	23.6%	18.8%	16.3%

Price underselling in 2001r. – 5.5%

## II. 8 Electrical sheets

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	39,812	44,965	38,583	44,589	53,831
<b>Imports (tonnes)</b>	16,824	18,542	13,856	19,095	29,652
<b>Share of imports in consumption (%)</b>	42.3%	41.2%	35.9%	42.8%	55.1%
<b>Average unit prices in imports (PLN/tonne)</b>	2,109.9	2,199.2	2,464.9	2,946.9	2,878.3
<b>Domestic production (tonnes)</b>	45,109	46,925	40,289	58,459	61,985
<b>Capacity utilization (%)</b>	90%	94%	58%	84%	89%
<b>Domestic sales (tonnes)</b>	22,988	26,423	24,727	25,494	24,179
<b>Share of domestic sales in consumption (%)</b>	57.7%	58.8%	64.1%	57.2%	44.9%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	2,758.3	2,760.9	2,821	2,811.6	2,956.3
<b>Productivity (tonnes / 1 employee)</b>	78	88	84	122	129
<b>Employment (1997 = 100%)</b>	100%	92%	83%	82.4%	82.7%
<b>Profits and losses (%)</b>	0.7%	0.5%	0.2%	1.5%	0.1%

Price underselling in 2001 – 15.3 %

## II. 9 Seamless tubes

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	220,055	209,124	187,561	190,709	181,956
<b>Imports (tonnes)</b>	33,823	49,146	44,232	47,594	53,942
<b>Share of imports in consumption (%)</b>	15.4%	23.5%	23.6%	25%	29.6%
<b>Average unit prices in imports (PLN/tonne)</b>	2,905.6	2,880.3	2,808.3	2,698.8	2,344
<b>Domestic production (tonnes)</b>	235,893	208,204	189,681	190,760	184,705
<b>Capacity utilization (%)</b>	74.1%	64.9%	58.6%	58.6%	55.3%
<b>Domestic sales (tonnes)</b>	186,232	159,978	143,329	143,115	128,014
<b>Share of domestic sales in consumption (%)</b>	84.6%	76.5%	76.4%	75%	70.4%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	2,080.6	2,241.3	2,163.6	2,229.1	2,419.5
<b>Productivity tonnes / 1 employee)</b>	43	38	48	63	79
<b>Employment (1997 = 100%)</b>	100%	98.5%	70.7%	55%	42%
<b>Profits and losses (%)</b>	5.5%	1.8%	- 4.2%	- 8.1%	-4.4%

Price underselling in 2001 – 16.7 %

## II. 10 Welded tubes of diameter 406,4 mm and less

	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Consumption (tonnes)</b>	220,055	209,975	202,987	215,999	209,159
<b>Imports (tonnes)</b>	31,358	41,631	51,191	38,197	50,526
<b>Share of imports in consumption (%)</b>	14.3%	19.8%	25.2%	17.7%	24.2%
<b>Average unit prices in imports (PLN/tonne)</b>	2,471.6	2,435.5	1,910.4	2,267	1,888.9
<b>Domestic production (tonnes)</b>	260,103	206,555	223,642	267,953	240,337
<b>Capacity utilization (%)</b>	74.5%	70.4%	57.1%	68.1%	58.9%
<b>Domestic sales (tonnes)</b>	188,697	168,344	151,796	177,802	158,633
<b>Share of domestic sales in consumption (%)</b>	85.7%	80.2%	74.8%	82.3%	75.8%
<b>Average unit prices in domestic sales (PLN/tonne)</b>	1,415.1	1,563.2	1,488.1	1,636.6	1,581.3
<b>Productivity (tonnes/1 employee)</b>	228	377	305	358	358
<b>Employment (1997 = 100%)</b>	100%	48.1%	64.4%	65.6%	58.9%
<b>Profits and losses (%)</b>	- 20.7%	12.8%	- 14.3%	- 30.4%	- 20.1%

Price underselling in 2001 – 10 %

**Notification pursuant to Article 9, Footnote 2, of the Agreement on Safeguards**

**1. Specify the measure**

The provisional safeguard measure concerned is described in Polish notification under Article 12.4 of the Safeguard Agreement.

**2. Specify the product subject to the measure**

The measure applies to certain steel product indicated in Annex I to Polish notification under Article 12.4 of the Safeguard Agreement.

**3. Specify the developing countries to which the measure is not applied under Article 9.1 of the Agreement on Safeguards and the import shares of these countries individually and collectively**

The developing countries concerned are the following:

Angola	Guinea-Bissau	Niger
Bangladesh	Haiti	Nigeria
Belize	Honduras	Nicaragua
Benin	India	Pakistan
Bolivia	Indonesia	Panama
Botswana	Jamaica	Papua-New Guinea
Burkina Faso	Jordan	Paraguay
Burundi	Cameroon	Peru
China	Kenya	Central African Republic
Chad	Kyrgyz Republic	Rwanda
Democratic Republic of Congo	Columbia	Salvador
Dominica	Congo	Senegal
Dominican Republic	Costa Rica	Sierra Leone
Djibouti	Cuba	Sri Lanka
Egypt	Lesotho	St. Vincent and Grenadines
Ecuador	Madagascar	Swaziland
Fiji	Malawi	Surinam
Philippines	Maladies	Thailand
Gambia	Mali	Tanzania
Ghana	Morocco	Togo
Grenada	Mauritania	Tunisia
Georgia	Mauritius	Uganda
Guyana	Mongolia	Ivory Coast
Guatemala	Mozambique	Salomon Islands
Guinea	Myanmar	Zambia
	Namibia	Zimbabwe

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