

# WORLD TRADE ORGANIZATION

RESTRICTED

**S/WPGR/W/16/Add.4**

2 March 2000

(00-0816)

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**Working Party on GATS Rules**

Original: English

## **COMMUNICATION FROM THE REPUBLIC OF POLAND**

### Response to the Questions Relevant to the Information Exchange Required Under the Subsidies Negotiating Mandate

#### Addendum

The following communication is being circulated at the request of the delegation of the Republic of Poland to Members of the Working Party on GATS Rules.

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All data concerning the amounts of subsidies contained herein is given in New Polish Zlotys (PLN)<sup>1</sup>.

The responses cover subsidies applied in the services sector in Poland in the period of 1997 – 1998.

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<sup>1</sup> The average exchange rate between New Polish Zloty and US Dollar was:

1 PLN = 0.308 USD in 1997,

1 PLN = 0.286 USD in 1998.

## **I. LOAN FROM EFSAL FUNDS**

### **1. Characteristics of the programme**

Support of businesses involved in restructuring or liquidation processes, especially those located in the regions particularly endangered with unemployment, through:

1. Provision of resources (loans) for restructuring investments and for "hedging" purposes (grant for allowances for personnel dismissed due to group reductions, pension and retirement allowances, remuneration for unused annual leaves, compensations for shortened notice of termination).
2. Support of buyout by the Industrial Development Agency (IDA) the outstanding debts from banks provided that the bank is not involved in conciliatory proceedings pursuant to the law of 3 February 1993 concerning financial restructuring on enterprises and banks and changing some laws (Journal of Laws No. 18, item of 1996, No. 52, item 235, No. 106, item 496, No. 118, item 561 of 1997, No. 98, item 603, No. 141, item 943) and buyout of the claims of the debtor's providers (the amount of the debts bought out by the IDA must represent 10 per cent of the total amount of the debtors liabilities, however can not be less than PLN 100 000 – or the sum of these liabilities represents 20 per cent of the total amount of the debtor's liabilities).

The following entities are eligible for the assistance, which can be granted only once:

- state owned enterprises;
- companies which stock is owned by the Treasury;
- companies which stock is owned by the Treasury and the employees (farmers, fishermen);
- companies which stock is owned by the Treasury and other organisational units and natural persons, where the liabilities were converted into stocks (shares) pursuant to conciliatory agreements reached with the banks according to the procedures determined by the law of 13 February 1993 concerning financial restructuring on enterprises and banks and changing some laws – for the "hedging" purposes only;
- companies which stocks have been contributed as a share in Sugar Partnerships, as long as their stock is held by the Treasury, Sugar Partnerships, employees and sugar beets producers, or when the Treasury is the only shareholder.

The entities requesting the EFSAL assistance must submit an application that *inter alia* includes information concerning their current economic and financial standing as well as their financial standing during the preceding years, forecasts for the coming years, the programme of short, medium and long term actions, SWOT analysis and:

- restructuring or liquidation programme;
- a copy of the application submitted to the relevant minister concerning transformation of their enterprise into a company whose stock is held exclusively by the Treasury, and in case of companies - information of the forecasted date of making the stocks of the Treasury publicly available;

- information concerning the legal status of the real estate: buildings and land;
- opinions of: financing bank, Tax Office;
- standpoint of the principal borrowers concerning the debts restructuring;
- information on the effects of the actions aimed at obtaining financial resources from other sources;
- the programme for making the unnecessary assets productive;
- proposals related to restructuring, employment and wages freeze agreed with the trade unions.

The conditions of the loans awarded within the Ist Tranche were more advantageous compared to commercial loans – the interests rate from 1/3 to 0.8 of the refinanced credit rate (mostly 0.5), the maturity periods were from 2 to 6 years, and the repayment grace period was in most cases 1 year, the principal repayment – quarterly and the interests monthly. According to the recommendations of the World Bank, the loans awarded within the IInd Tranche are less advantageous (the interests rate may not be lower than the WIBOR rate).

The decision concerning allocation of the resources is made by the Minister of Finance (up to PLN 2 million in case of a loan and up to PLN 0.5 million in case of a grant). The assistance that exceeds these amounts is allocated by the decision of the Council of Ministers.

## **2. Policy objectives of the programme**

Support of enterprise restructuring and provision of "hedging" in case of the liquidation, when it is impossible to obtain resources for these purposes from other sources.

## **3. Availability of the programme to the services sector vs. goods sector**

No special rules.

## **4. Form of the subsidy**

Grant (exclusively for the "hedging" purposes) and investment loan.

## **5. Sectors eligible under the subsidy**

Among services sector : typography, transport, construction, heating supply.

## **6. Eligibility criteria**

See point 1.

## **7. Calculation of the subsidy**

No fixed rules. The amount of the subsidy depends on the proposed restructuring or liquidation programme described in the application for the support from EFSAL funds.

## **8. Time Limits**

The agreement between the International Bank for Reconstruction and Development and the government of Poland assumed extending of adaptation loans for the enterprises and financial sector in three tranches:

Ist Tranche – USD 125 million;

IInd Tranche – USD 100 million;

IIIrd Tranche – USD 125 million.

The Ist tranche (being an equivalent of USD 125 million) amounting to PLN 282.4 million – was made available in 1994. The IInd tranche (being an equivalent of USD 100 million) amounting to PLN 261.9 million – was received by the Treasury in April 1995.

Approximately 86 per cent of the EFSAL funds was consumed by the end of 1998.

The Polish Side has resigned from applying for the IIIrd tranche of EFSAL resources.

## **9. Disciplines assumed under the regional agreements**

Pursuant to Art. 63 of the Europe Agreement establishing an association between Poland and the EC, any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is incompatible with the proper functioning of the Agreement, insofar as it may affect trade between the Community and Poland. However during the first five years after the entry into force of this Agreement, Poland shall be regarded as an area where standard of living is abnormally low or where there is serious underemployment and any public aid granted to promote the economic development may be considered to be compatible with the EU common market. The Association Council shall, taking into account the economic situation of Poland, decide whether that period should be extended by further periods of five years.

## **10. Amount of assistance granted**

In 1997 the total assistance provided amounted to PLN 75.5 million, including: grants – PLN 12.8 million, and loans – PLN 62.6 million. Within that, support for service sectors constituted:

- transport – PLN 7.2 million in loans
- typography – PLN 1.9 million in loans
- construction – PLN 1.4 million in grants, PLN 4.0 million in loans

In 1998 the total assistance provided amounted to PLN 53.6 million, including: grants – PLN 14.7 million, and loans – PLN 38.8 million. Within that, support for service sectors constituted:

- transport – PLN 3.0 million in grants, PLN 8.4million in loans
- construction – PLN 0.2 million in grants, PLN 2.0 million in loans
- heating supply – PLN 2.0 million in loans

## **11. Effects on trade**

The programme does not directly impact the foreign trade.

## **II. DIRECT GRANTS FOR EXTRA CHARGES TO PRODUCTS AND SERVICES**

### **1. Characteristics of the programme**

#### **I. Grants for the meals sold in milk bars**

The businesses conducting the activities included in the scope of the regulation receive grants within the limits determined by the budget law. The businesses may obtain grants for the meals sold in milk bars after fulfilment of the criteria:

- They run milk bars, defined as self-service, non-alcoholic, catering enterprises for public, which sell meals produced of milk, dairy and vegetable products used to prepare regular meals.
- The above-mentioned milk bars apply margin not exceeding 25 per cent of the value of used food products.
- They maintain quantitative-qualitative ledgers of the food products used for preparing the meals in the milk bars.

#### **II. Grants for railway passenger domestic transport**

Direct grants for railway passenger transport were awarded for the transport: within urban agglomeration, regional (local), inter-regional (long distance) by means of regular passenger trains, speeded-up trains, excluding passenger transport by means of express, Inter-City, Euro-City and Euronight (hotel) trains in domestic and international communication. The regulation of the Minister of Finance promulgated annually, beside setting the level of the grant rates, determines the scope of subsidies for railway transport and sets the conditions to be met by the carriers in order to obtain grants for transport services they provide. In 1997 these issues were regulated by the Minister's of Finance regulation of 31 July 1997 on setting the rates of direct grants for passenger railway and bus transport (Journal of Laws No. 94, item 574).

In order to obtain the grants the carriers had to fulfill all the following conditions:

- Provide transport services in accordance with the trains schedule;
- Apply tariffs not exceeding the official prices determined by the Minister of Transport and Maritime Economy, and the tariffs or price-lists set by the carriers according to the provisions of the law of 15 November 1984 – Transport Law (Journal of Laws of 1995 No. 119, item 575 and of 1997 No. 23, item 117, No 96, item 591, No. 101, item 629, and No. 141, item 942).
- To accept as valid rights of some persons to enjoy free or reduced price tickets as provided by the law of 20 June 1992 concerning the rights to free and reduced price tickets for public transport (Journal of Laws No. 54, item 254, of 1994 No. 40, item 150, No. 80, item 368, No. 113, item 547 of 1995 r. No. 50, item 261 and of 1996 r. No. 100, item 460).
- To submit a list of the subsidised transport units to the Minister of Transport and Maritime Economy and obtain confirmation of including these units in the aggregated amount of the grant for the given fiscal year, in order to determine rate of the subsidy.

### III. Grants for passenger bus transport

Grants for bus passenger transport were awarded for the regular domestic inter-city transport. In order to obtain the grants the carriers had to fulfil all the following conditions:

- Provide transport services in accordance with the buses schedule agreed by all the carriers during the district schedule conferences;
- To apply official prices for regular domestic bus transport, as determined by the Minister of Transport and Maritime Economy in consultation with the Minister of Finance;
- To accept as valid the same persons rights to enjoy free or reduced price tickets according to the provisions of the law of 20 June 1992 concerning the rights to free and reduced price tickets for public transport;
- To submit a list of the subsidised transport units to the Minister of Transport and Maritime Economy, and those who organise transport within the Viovodship of Katowice to the Voivod of Katowice, and obtain confirmation of including these units in the aggregated amount of the grant for the given fiscal year, in order to determine rate of the subsidy.

### IV. Grants for publication of specialised school and university books

These grants are awarded for publishers of school and university books:

- for teaching specialised subjects in vocational schools;
- for schools of national minorities;
- for special schools;
- for university books.

The above-mentioned grants may be awarded for the publication of the books approved for use in schools, therefore fulfilling the education programme requirements. The Minister of National Education determines the list of the approved and recommended books for use in schools. The books subsidised by the grants are published in small number of copies, which increases the publication costs. Without the above-mentioned grants the publishing houses would be scarcely interested in publishing the books the demand for which is limited.

The Ministry of National Education evaluates the applications of publishers willing to obtain the above-mentioned grants. The specimen of the application form is included in the ordinance of the Minister of National Education of 27 August 1992. The grants are awarded to the publishers of the school and university books on the basis of rates for the printed sheet. The Minister of National Education annually determines the rates of grants for school and university books.

## **2. Policy objectives of the programme**

Lowering the prices of domestic passenger transport, meals sold in milk bars, specialised school and university books in order to provide increased accessibility of some services to specific social groups.

**3. Availability of the programme to the services sector vs. goods sector**

Programme applies to services sector only.

**4. Form of the subsidy**

Grants from the state budget.

**5. Sectors eligible under the subsidy**

See point 1.

**6. Eligibility criteria**

See point 1.

**7. Calculation of the subsidy**

See point 1.

**8. Time limits**

The value of the grants is set in the state budget every year.

**9. Disciplines assumed under the regional agreements**

Pursuant to Article 63 of the Europe Agreement establishing an association between Poland and the EC, any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is incompatible with the proper functioning of the Agreement, insofar as it may affect trade between the Community and Poland. However during the first five years after the entry into force of this Agreement, Poland shall be regarded as an area where standard of living is abnormally low or where there is serious underemployment and any public aid granted to promote the economic development may be considered to be compatible with the EU common market, The Association Council shall, taking into account the economic situation of Poland, decide whether that period should be extended by further periods of five years.

#### 10. Amount of assistance granted

In 1997 the grants under this scheme amounted to PLN 928.4 million and were awarded for:

	<u>In millions of PLN</u>
Meals sold in milk bars	13.9
Passenger domestic railway transport	710.0
Passenger inter-city bus transport, including grants for inter-city connections in the urban agglomeration of Katowice organised (delegated) by local governments, and municipal associations	193.4
Publication of specialised school and university books	11.0

In 1998 the grants under this scheme amounted to PLN 752.6 million and were awarded for:

	<u>In millions of PLN</u>
Meals sold in milk bars	17.0
Passenger domestic railway transport	560.0
Passenger inter-city bus transport, including grants for inter-city connections in the urban agglomeration of Katowice organised (delegated) by local governments, and municipal associations	164.0
Publication of specialised school and university books	11.6

#### 11. Effects on trade

Considering the purposes of the programme, there are no effects on the foreign trade.

### III. ASSISTANCE FOR RESTRUCTURING OF THE BANKING SECTOR

#### 1. Characteristics of the programme

- (i) Treasury bonds for increasing the capital of Bank Gospodarki Zywnosciowej S.A (BGZ) and regional banks and for restructuring of claims of the cooperative banks

Pursuant to the provisions of the law of 3 February 1993, the BGZ obtained the Treasury bonds amounting to PLN 1 622.4 million for increase of the bank's own capital. According to the conditions of the issue of the Treasury bonds the buy-out of the bonds (issued in 1994) will take place by the year 2009.

At the same time, within the issue of 1994 and pursuant to the provisions of the Minister's of Finance ordinance of 2 June 1995 concerning the proportion of the split of the Treasury bonds for restructuring of claims, between the regional banks and associated cooperative banks (Journal of

Laws No.64, item 330), part of the bonds amounting to PLN 45 million was earmarked for increasing the reserves of the regional banks established according to the provisions of the above-mentioned law of 24 June 1994. Since 1995 the bonds have been transferred to the successively emerging regional banks.

The Treasury bonds are also earmarked for restructuring of the claims of cooperative banks associated with the regional banks. Pursuant to the provisions of the law of 24 June 1994 and the provisions of the Minister's of Finance ordinance of 2 June 1996, the Treasury bonds of the value that on the day of the issue was over PLN 251 million were earmarked for that purpose.

According to the conditions of the Treasury bonds issue, the buy-out of the bonds (issued in 1994) will take place successively within the period 1996-2009.

(ii) The refundable assistance for cooperative banks implementing the repair programmes

According to the resolution adopted by the Parliament on 12 July 1995 concerning support of the repair processes carried out by cooperative banks, the amount of PLN 40 million was earmarked for refundable assistance to the cooperative banks taking over other cooperative banks being in crisis.

The National Bank of Poland in consultation with the Ministry of Finance provides this assistance within the limits of the earmarked funds by respective decrease of the portion of profits paid to the state budget.

(iii) Tax incentives for cooperative banks establishing regional banks

The provisions of the ordinance of the Minister of Finance concerning abstaining from income tax collection from some cooperative banks, granted additional financial support to the cooperative banks.

Moreover, by the virtue of the Minister's of Finance ordinance of 4 July 1996 (Polish Monitor No. 42, item 406) the collection of the taxes from BGZ S.A, regional banks and cooperative banks on income related to the Treasury bonds destined for restructuring of cooperative banking sector, was also abstained. The overall financial results of the above-mentioned ordinance are estimated to reach PLN 620.4 million by the year 2009.

**2. Policy objectives of the programme**

Restructuring of the banking sector.

**3. Availability of the programme to the service sectors vs. goods sectors**

Programme applies to service sector only.

**4. Form of the subsidy**

Grants, loans, tax incentives.

**5. Sectors eligible under the subsidy**

Banking sector.

**6. Eligibility criteria**

- (i) The process of reconstruction of the co-operative banking sector continued throughout the year of 1997 according to the provisions of the law of 24 June 1994 concerning restructuring of cooperative banks and Bank Gospodarki Żywnościowej (*Food Economy Bank*) and change of some other laws (Journal of Laws No. 80, item 369, of 1995 No. 142, item 704, of 1996 No. 106, item 496, and of 1997 No. 121, item 770, No. 140, item 939). The programme was aimed at creation of three-tier co-operative banking group that would include local cooperative banks, regional banks and national bank. The undertaken actions resulted with establishment of all 9 regional banks predicted by the law. In 1997, pursuant to the provisions of the above-mentioned law, the regional banks obtained the Treasury bonds totalling PLN 69.3 million (according to the bond's value on the day of the issue), including PLN 36.3 million earmarked for restructuring of the claims of the associated cooperative banks and PLN 33.0 million for increase of the capital reserves of the regional banks. Together – including the treasury bonds transferred to the banks in the period of 1995-1996 – the regional banks obtained the Treasury bonds totalling PLN 194.4 million, of which PLN 131.4 million was earmarked for claims restructuring and PLN 63.0 million for capital reserves increase.

- (ii) Refundable assistance for cooperative banks implementing the repair programmes

In 1997 within the limits of the earmarked funds, the National Bank of Poland in consultation with the Ministry of Finance provided the assistance totalling PLN 9.8 million to 5 cooperative banks.

In the period 1995-1997 such assistance totalling PLN 39.8 million was provided to 31 cooperative banks.

Moreover, according to the resolution adopted by the Parliament on 11 January 1996 concerning the assumptions of the financial policy for 1996, NBP has earmarked the amount of PLN 40 million for refundable assistance to support the banks taking over other cooperative banks being in crisis. In 1997, NBP in consultation with the Minister of Finance provided assistance totalling PLN 25.7 million to 15 banks out of the resources earmarked for this purpose and not consumed in 1996.

Altogether, from the resources earmarked for support of the cooperative banking sector and in connection with the resolution of 11 January 1996, the assistance totalling PLN 36.7 million was provided to 21 banks.

In attempt to further support the process of cooperative banks restructuring and implementing the Parliament resolution of 24 January 1997 concerning the assumptions for the financial policy for the year 1997, NBP has decided to earmark the next tranche of the assistance of PLN 20 million. Within the limits of these resources, in 1997 NBP in consultation with the Minister of Finance has provided the assistance amounting to PLN 9.6 million to 7 banks.

- (iii) Tax incentives for the cooperative banks

The ordinance of the Minister of Finance concerning abstaining from income tax collection from some cooperative banks (Polish Monitor No. 5, item 39), granted additional financial support to the cooperative banks. According to the provisions of the ordinance the abstaining regarded the following:

- 70 per cent of the income tax due for 1996 of the cooperative banks that establish new regional banks according to the provisions of the law of 24 June 1994 concerning restructuring of cooperative banks, BGZ and change of some other laws;

- the income tax due for the year 1997 from the remaining cooperative banks up to the equivalent of 70 per cent of the tax due for 1996.

The condition making possible to use this abatement was to transfer at least 80 per cent of the 1996 balance surplus to the undivided fund of cooperative banks' resources and transfer all the means obtained due to the abstained taxes.

The estimated outcome of implementation of the above-mentioned ordinance is for the 1996 budget – approximately PLN 50 million and for 1997 budget – about PLN 23 million.

The support actions undertaken in the period of 1994-1997 implemented *inter alia* in the form of tax abatements or Treasury bonds for restructuring, contributed to improvement of the financial standing of the cooperative banks.

It was reflected by increase of net equity, total receivables and improvement of the solvency ration of the cooperative banks as well as by decrease of the general losses of these banks.

#### **7. Calculation of the subsidy**

No fixed rules. The amount of the subsidy depends on the restructuring programme and is decided by the Minister of Finance acting in agreement with the National Bank of Poland (see also point 5).

#### **8. Time limits**

According to the conditions of the Treasury bonds issue, being the main component of the assistance provided within the scope of the above-mentioned programme, the buy-out of the bonds will be terminated in the year 2009.

#### **9. Disciplines assumed under the regional agreements**

Pursuant to Article 63 of the Europe Agreement establishing an association between Poland and the EC, any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is incompatible with the proper functioning of the Agreement, insofar as it may affect trade between the Community and Poland.

However during the first five years after the entry into force of this Agreement, Poland shall be regarded as an area where standard of living is abnormally low or where there is serious underemployment and any public aid granted to promote the economic development may be considered to be compatible with the EU common market. The Association Council shall, taking into account the economic situation of Poland, decide whether that period should be extended by further periods of five years.

#### **10. Amount of assistance granted**

In 1997 the assistance provided to the cooperative banking sector totalled approximately PLN 137.5 million, including the assistance provided in the form of:

- Treasury bonds earmarked for restructuring of the cooperative banks and newly established regional banks – PLN 69.3 million;
- loans extended by NBP – PLN 45.2 million; and
- tax incentives – PLN 23 million.

In 1998 no state aid granted for restructuring the banking sector.

**11. Effects on trade**

The programme does not directly impact the foreign trade.

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