

WORLD TRADE ORGANIZATION

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STATE TRADING

Notification Pursuant to Article XVII:4(a) of the GATT 1994 and
Paragraph 1 of the Understanding on the Interpretation of Article XVII

POLAND

The following communication, dated 21 September 1995, has been received from the Permanent Mission of Poland.

I. Enumeration of state trading enterprises

The Government of Poland wishes to notify the functioning of the following enterprises, having some features of state trading entities within the meaning of GATT Article XVII:

1. Agricultural Market Agency (AMA: Agencja Rynku Rolnego);
2. Polish Oil and Gas Company (POGC: Polskie Górnictwo Naftowe i Gazownictwo);
3. Polish Power Grid Company (PPGC: Polskie Sieci Elektroenergetyczne).

1. AGRICULTURAL MARKETING AGENCY: AMA

II. Reasons and purpose for introducing and maintaining state trading enterprises

Agricultural Market Agency (AMA: Agencja Rynku Rolnego) is a public agency, which has some features of a state trading entity within the meaning of GATT Article XVII. The Agency, created in June 1990, is responsible for intervention in the domestic market for agricultural commodities in order to encourage more stable supply/demand relationships and consequently bring about greater stability and predictability of prices. In discharging its statutory functions, the Agency may engage in purchases, sales and stock management. It may also extend credit guarantees to domestic producers and processors of farm commodities.

AMA's principal activities are financed through annual budgetary authorizations granted by the Parliament. Notwithstanding the fact that the financing is relatively modest and that its inflation-adjusted value is declining, such Government funding is not available to other operators in the market. Therefore it appears to represent a special privilege within the meaning of Article XVII of the General Agreement and may thus qualify under the disciplines provided for in that Article. For this reason the Government of Poland has decided to submit the present notification.

The AMA was created on 7 June 1990 (Journal of Laws, 1990, No. 39, Item 223). In addition to its principal functions indicated above, AMA conducts market research and analysis and assists the Government in elaboration of policy guidelines for the agricultural sector.

The main purpose of AMA's activities is to limit excessive agricultural price fluctuations so as to provide domestic producers with more security in their decisions related to investment, production and marketing in the present free-market environment prevailing in Poland.

The principal commodities dealt with by the AMA are the following:

- wheat and rye;
- pork meat;
- butter and skimmed milk powder;
- sugar.

Occasional and relatively small-scale operations involve also potato starch.

III. Description of the functioning of the Agency

There are several forms of the AMA operations:

1. For example, in the case of cereals, the Agency acts to prevent domestic prices from falling below the minimum reference price. To this end, the AMA conducts purchases and sales of cereals by authorized state-owned and private agents. During the periods of increased domestic supply, when domestic price is falling below the intervention trigger price, the Agency undertakes purchases of cereals. Such stocks are subsequently released onto the market in the periods of upward price movements. A similar pattern is essentially followed as regards other principal commodities.
2. The Agency provides up to 45 per cent advance payments to a limited number of large wheat producers for keeping their crop off the market. These contracts are usually signed for 6-7 months.
3. The AMA also extends credit guarantees to those private and state-owned operators who are engaged in stock-building of selected agricultural products.

The state budget disbursements (in Polish zloty after denomination) for the whole activity of AMA totalled in:

1991: Zl 187.7 million (about US\$175 million at average 1991 exchange rates)
1992: Zl 175.6 million (about US\$128 million at average 1992 exchange rates)
1993: Zl 190.7 million (about US\$105 million at average 1993 exchange rates)
1994: Zl 259.0 million (about US\$115 million at average 1994 exchange rates)

and is estimated to reach in 1995 the level of Zl 241.3 million.

A decision whether to export or import is based on commodity market-equilibrium analysis. In 1991, due to good crops of cereals and resulting stock-building, part of the surpluses were exported abroad at prevailing world prices. In 1992/93, because of severe drought conditions in Poland, the AMA engaged in imports of cereals.

It should be stressed that AMA does not directly conduct foreign trade operations of its own. All such deals are made on its behalf by trading firms. Foreign trade operations undertaken on behalf of the Agency conform to standard commercial terms, conditions and practices, including price, profit margins, quality, availability, marketability and other regulations of commerce. Consequently, other traders remain free to export and import on competitive terms and under normal market conditions and their rights in this respect are not affected by AMA's activities. In none of the products traded does the Agency have monopolistic or exclusive position. This applies also to the administration of

quantitative trade measures, including access to preferential import quotas which are open for all registered companies on the first-come first-served basis.

IV. Statistical information

The main operations of the AMA in the period of 1990-1994 were concentrated in the following commodity markets:

Table 1

Main operations of the AMA in 1990-94

(Thousand tons)

Years	Commodities	Production	Total exports	AMA's exports	Total imports	AMA's imports
1990/91	Cereals	22,971	480	330	768	-
1991/92		27,772	1,885	970	330	-
1992/93		19,928	93	-	3,183	900
1993/94		23,368	38	-	804	
1994/95		21,734	21	-	1,500 ¹	100 ¹
1990	Sugar	1,971	343	224	11	-
1991		1,636	332	320	-	-
1992		1,468	139	35	46	-
1993		1,982	112	-	15	-
1994		1,444	184	-		-
1990	Potato starch	146	41.6	15	8.3	-
1991		59	51.8	43	4.0	-
1992		62	15.4	15	58.1	-
1993		76	12.1	6	37.3	-
1994		43 ¹	14.8	8	20.9	-
1990	Pork meat ²	1,841	49	-	32	-
1991		2,011	32	0.5	72	-
1992		2,069	20	-	44	-
1993		1,975	20	-	55	-
1994		1,747 ¹	33	-	115	-
1990	Butter	272	30.0	-	4.2	-
1991		192	5.4	-	4.9	4.1
1992		155	1.3	1.3	38.2	4.8
1993		146	18.5	4.7	19.7	-
1994		117	8.0	4.9	3.0	-
1990	Skimmed milk powder	174	71.5	-	-	-
1991		153	85.0	-	2.6	-
1992		139	122.8	10.5	2.4	-
1993		156	125.3	10.7	2.2	-
1994		113	97.0	21.5	3.7	-

1 Estimates.

2 Foreign trade includes offal and processed products.

2. POLISH OIL AND GAS COMPANY (POGC)

I. Reasons and purpose for introducing and maintaining state trading enterprises

The current organizational structure of the Polish Oil and Gas Company (POGC) as a public utility was established on 1 September 1982, by virtue of Article 6.1 of the State Enterprise Law of 25 September 1981, applicable to state owned entities having particular significance for the national economy.

POGC as a public utility was established by the Ministry of Industry and Trade with the following description of statutory activities: "... continuous, uninterrupted supply of gaseous fuels for industrial and public use, from domestic and foreign sources".

POGC operates within full production cycle, including feasibility studies of hydrocarbons' resources, exploration, field development and oil and gas production. With respect to natural gas POGC is also active in imports, transmission and distribution of gas to industrial and household consumers. The Company consists of 46 enterprises (including headquarters).

POGC, as an operator of the national energy sub-system, has played a crucial role in providing continuous gas supplies from domestic sources and imports to industrial, commercial and household consumers.

II. Description of functioning of enterprise

POGC imports high-methane natural gas from sources situated East of Poland, through the gas transmission system. So far, supplies are based on short-term agreements, most of them being one year contracts. First long-term agreement for twenty years is currently negotiated. POGC, as owner and operator of the Polish gas system, is the sole importer of high methane natural gas.

The POGC has also produced natural gas from domestic fields, in accordance with a licence issued by the Ministry of Environmental Protection and Natural Resources.

POGC, which owns the Polish gas network, distributes this fuel to clients in the entire territory of Poland. The Company reports on its activities to the Ministry of Industry and Trade. The wholesale prices of gas are regulated by the Ministry of Finance.

The Company helps to achieve some objectives within the domain of public social policy, such as for example subsidized regional gasification programmes.

III. Statistical information

Economic performance of POGC/year	1992	1993	1994
Total sales (Zl billion ¹)	18,009	23,377	27,377
- resulting from gaseous fuel sales (Zl billion)	14,529	19,534	24,716
Gas sales (million cubic metres)	8,809	8,578	8,783
Gas production (million cubic metres)	2,935	3,790	3,720
Gas imports (million cubic metres)	6,247	5,486	5,505

Economic performance of POGC/year	1992	1993	1994
- imports from Russian Federation	6,224	5,460	5,473
- imports from other countries	3	26	27
Gas exports (million cubic metres)	3	16	25
Number of gas consumers (thousand)	6,702	6,227	6,358
Number of towns supplied with gas	3,200	3,250	3,300

- 1 Average exchange rates of Polish zloty (before denomination) to one US\$ were as follows: 1992: 13,600 Zl/\$; 1993: 18,100 Zl/\$; 1994: 22,600 Zl/\$.

3. POLISH POWER GRID COMPANY (PPGC)

I. Reasons and purpose for introducing and maintaining state trading enterprises

The major responsibility of PPGC is to dispatch electric power within the national power system in order to ensure continuous supply and reliable service, while keeping the costs at a minimum level. This function involves improvements in the operation of the national power system in order to improve generation and transmission performance and to achieve international quality standards in electricity supplies to consumers.

PPGC is also responsible for forecasting and initiation of development of the national power system and for research activities. The major task consists of preparation of an integrated system development plan, which relates to supply and demand with due consideration to reduction of environmental risks associated with the power industry.

II. Description of functioning of enterprise

PPGC is responsible for electricity transmission via extra-high grid, to ensure for all customers equal conditions of access to the transmission system. This task includes operation, maintenance and development of the network in order to secure efficient and reliable operation of the national power system.

The company plays a major role in developing the electricity market in Poland. PPGC purchases electricity from generators and sells it to distribution companies. In addition PPGC imports and exports electricity.

Distributors may purchase electricity directly from industrial power plants and from small hydro power station plants. This segment of the market is fully liberalized and is effectively outside PPGC's control. Electricity generating facilities may also sell electricity directly to distributors for supplies to large local industrial customers.

Trade in electricity is subject to agreement between electricity producers, PPGC and distribution companies and is based on rules of the market.

The tariffs for end users are uniform for the whole country and are regulated by the Ministry of Finance. In recent years they have been increased several times (twice a year since 1993) to adjust them to actual factor cost and to inflation rates.

PPGC imports and exports electricity on the basis of spot, short-term and long-term contracts. Export prices correspond normally to free European energy prices and are free of any additional charges. The price of energy imported to Poland is subject to 5 per cent import duty, 5 per cent import surcharge and 7 per cent of value added tax (VAT).

Polish and foreign companies are free to engage in trade in electricity within the technical capacities of the existing power network. In addition to contractual exchange of energy PPGC may link up with energy systems across the board to participate in management of reserves, peak demand supplies, inter-system power transit services, auxiliary services etc.

The connection of the Polish power system to UCPTe which groups power systems of a majority of Western European countries is an important step towards future integration of Poland with the European Communities. The integration of power systems is one of the crucial objectives of the PPGC.

III. Statistical information

Economic performance of PPGC/year (all data in GWh)	1992	1993	1994	1st half of 1995
Foreign trade in electricity				
- Imports	168	125	0	0
- Exports	3,984	2,634	2,491	1,284
Gross production of electricity	132,703	133,663	135,187	69,927
- Industrial generators only	8,150	8,525	8,289	4,368
Direct sales by generators to the customers	-	433	1,033	555
Electricity bought by PPGC from generators	109,951	110,558	111,086	57,394
Electricity bought by distributors from PPGC	105,233	107,508	106,569	55,333
Electricity bought by distributors from other sources	2,357	2,018	2,152	1,055