
EMBARGO :

NOT FOR PUBLICATION BEFORE 1300 HOURS GMT TUESDAY 12 JANUARY 1993

GATT/1562
7 January 1993

POLAND - ON THE ROAD TO A MARKET ECONOMY

Since the launch of a radical political and economic reform programme at the end of 1989, Poland has gone a long way to eliminating major economic imbalances and establishing the basic institutions of a market economy, says the GATT Secretariat's report on Poland's trade policies and practices. Parliamentary democracy has been established and the economic reforms have included substantial trade liberalization and a reorientation of the country's foreign trade relations, with the European Communities at its centre.

The report points out, however, that the social costs involved in the deep recession that accompanied the initial stages of the transition could have created doubt concerning the sustainability of the reforms and led to pressure for greater protection. The import liberalization programme, which played a major rôle in the stabilization of the Polish economy, was brought into question by early 1991. From August 1991, protection was increased by eliminating most tariff suspensions and introducing new duties; in the same year the coverage of import licensing was increased. At present, the Polish Government is also actively considering the introduction of an import levy system to protect domestic agriculture.

"Available evidence from the last three years suggests that the Polish authorities may have underestimated the shock which rapid market-opening, unsupported by other adjustment measures, was likely to give to the economy," says the report. "The question must be asked whether the move

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toward more protection should be interpreted as a long-term move or as a temporary shift to give breathing space for adjustment for some sectors."

The report also highlights the conclusion of an Association Agreement with the EC as a turning point in Poland's foreign economic relations which can provide a stable point of orientation for the country in its long and difficult transformation process.

"However," warns the report, "in present circumstances the foreseeable trade impact of the free trade area to be established within ten years is a matter of concern. The process of trade liberalization is slowest or limited in sectors where Poland seems to have some comparative advantage, such as textiles and clothing, steel and agriculture. Due to the relatively low level of Community tariffs on manufactured goods, and the GSP treatment already enjoyed by Polish exporters, it appears that Poland's main exports may not gain significant advantage from the Agreement in the short term. On the other hand, however, EC exporters can easily take advantage of reductions in much higher Polish tariffs."

The report further states that, for third countries, because of Poland's relatively high and escalating m.f.n. tariffs, the free trade area is expected to result in a diversion of access to the Polish market. "Due to high tariff differentials, Polish importers will be under economic pressure to buy EC products and technology, which may be less efficient than those from other sources, to the detriment of Poland's resource allocation."

Notes to Editors

1. The GATT Secretariat's report, together with a report prepared by the Polish Government, will be discussed by the GATT Council on 11-12 January 1993 under the Trade Policy Review Mechanism (TPRM). The TPRM enables the Council to conduct a collective evaluation of the full range of trade policies and practices of each GATT member at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.
2. The current reports cover all aspects of Poland's trade policies, including domestic laws and regulations; the institutional framework; bilateral, regional and other preferential agreements; the wider economic needs; and the external environment. Attached are summary extracts from these reports. Full reports are available for journalists from the GATT Secretariat on request.
3. A record of the Council's discussions and of the Chairman's summing-up, together with these two reports, will be published in Spring 1993 as the complete trade policy review of Poland and will be available from the GATT Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21.

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4. Since December 1989, the following reviews have been completed: Argentina (1992), Australia (1989), Austria (1992), Bangladesh (1992), Brazil (1992), Canada (1990 and 1992), Chile (1991), Colombia (1990), Egypt (1992), the European Communities (1991), Finland (1992), Ghana (1992), Hong Kong (1990), Hungary (1991), Indonesia (1991), Japan (1990 and 1992), Korea, Rep. of (1992), Morocco (1989), New Zealand (1990), Nigeria (1991), Norway (1991), Romania (1992), Singapore (1992), Sweden (1990), Switzerland (1991), Thailand (1991), the United States (1989 and 1992), and Uruguay (1992).

TRADE POLICY REVIEW
POLAND

Report by the GATT Secretariat - Summary Observations

Fundamental political and economic changes have taken place in Poland since Solidarity's victory in the elections of summer 1989. Parliamentary democracy has been established and Poland has embarked upon a radical economic reform programme aimed at transformation into a market economy. The reforms have included substantial trade liberalization and a reorientation of the country's foreign trade relations, with the European Communities at its centre.

In the first three years of reform, Poland has gone a long way to eliminating major economic imbalances and establishing the basic institutions of a market economy. However, the social costs involved in the deep recession that accompanied the initial stages of the transition created doubt concerning the sustainability of the reforms and led to pressure for greater protection. Indications of improving economic performance during 1992, including a growing rôle for the private sector, suggest that Poland may have the political and social scope to continue the process of structural adjustment and trade liberalization and the support of a favourable international environment will be essential in this regard.

Poland's Road to a Market Economy

From the Second World War onwards, Poland's economy was based on a centrally-planned system, membership of the Council for Mutual Economic Assistance (CMEA), rapid industrialization and administrative direction of foreign trade. The Polish economy became largely isolated from international markets, with a disproportionately large and diversified industrial sector dominated by State-owned enterprises operating at low levels of efficiency.

In the first half of the 1970s, Poland sought to modernize its industry with substantial investments financed by western credits. However, the lack of fundamental economic reform during this period resulted in a serious balance-of-payments and foreign debt crisis, economic austerity and social disturbance.

Economic reform during the 1980s loosened the framework of central planning and injected some market elements into economic management. However, widespread price controls, monopolistic State-owned enterprises, and administrative restrictions on foreign trade continued to limit the influence of foreign competition. By the end of the 1980s, hyperinflation, the dollarization of the economy, an increasing budget deficit, balance-of-payments problems and shortages of basic goods, contributed to a deep political and economic crisis.

The newly elected Solidarity led Government introduced, from 1 January 1990, a radical stabilization programme aimed at transformation into a full

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market economy. The main elements of the programme included complete liberalization of prices; sharp cuts in subsidies and spending; a restrictive monetary policy to curb inflation; incomes policy based on a tax on wage and salary increases above an established coefficient; internal convertibility of the zloty, following substantial devaluation; autonomous liberalization of foreign trade; and plans for wide ranging privatization, reform of the financial system and establishment of a capital market. Central planning was eliminated.

As a result of the implementation of the programme, inflation has been reduced substantially; domestic prices have moved into line with world prices; the supply of goods has greatly improved, partly due to the liberalization of imports; and competition has strengthened. Despite slow progress in privatization of large-scale industrial units, private entrepreneurship has expanded rapidly. At the end of 1991, the private sector, including agriculture, employed about 56 per cent of the workforce; approximately 29 per cent of industrial production originated in the private sector, as against 17 per cent in 1990; and some 80 per cent of retail trade and of construction was in private hands.

In the first two years of the reform, the Polish economy suffered a deep contraction. GDP declined by almost 20 per cent overall. Industrial production fell by some 45 per cent because of low domestic demand, inability or reluctance of State-owned enterprises (still operating under pre-reform regulations) to adjust, competition from imports and the collapse of CMEA trade. Provisional data for 1992, however, suggest that the economy may be beginning to emerge from the deepest phase of the recession; the fall in real GDP (about 2 per cent) is expected to be much smaller than in 1991.

Poland in World Trade

Poland, a medium-sized economy, is heavily reliant on foreign trade; merchandise exports and imports account for about 44 per cent of GDP. Reflecting the isolationist nature of the economy during the central planning period, Poland's share in world trade has declined substantially since the mid-1970s; from 1.1 per cent in 1975 to 0.4 per cent in 1991.

For almost four decades, more than half of Poland's foreign trade was conducted with CMEA countries, on the basis of intergovernmental agreements with bilateral export-import lists and prices fixed by the Governments, mainly in transferable rubles. The Soviet Union became Poland's largest trading partner.

Poland's CMEA trade was highly concentrated in electro-engineering products, fuels, chemicals, manufactures and food, while in imports, in addition to electro-engineering, fuels and raw materials dominated. Over half of Poland's exports to market economy countries in the pre-reform period were of fuels, raw materials and food.

Liberalization of the trade régime in 1990 marked a clear turning point in the country's trade relations, with a major reorientation toward

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market economies. The change was accentuated in 1991 by the abolition of the CMEA and the virtual collapse of trade with the Soviet Union and other ex-CMEA countries. The trade share of CMEA countries fell rapidly from some 45 per cent in the mid-1980s to 18 per cent in 1991. At the same time, the share of the EC grew from less than 30 per cent to 56 per cent in exports and 50 per cent in imports.

Data for 1991 show major changes in trade patterns with former CMEA countries. The share of electro-engineering products was halved, while that of fuels, especially in imports, increased considerably. The commodity structure of Poland's trade with market economies has not changed significantly since 1990. However, in end-use terms, there has been a significant shift in the pattern of total imports. Reflecting mainly the decline in production, the share of consumer goods increased from 18 to 30 per cent, while that of intermediate goods declined somewhat. About 35 per cent of Polish exports are raw material intensive, and the proportion of capital-intensive exports is also high; by contrast, the share of labour-intensive products, where Poland seems to enjoy a competitive edge over OECD countries, is only 19 per cent.

Although most of Poland's trade with former CMEA countries is now conducted in convertible currencies, a substantial share of trade with the successor countries of the Soviet Union is still conducted under specific rules, mainly in the form of countertrade.

In 1990, the value of exports settled in convertible currencies increased by 37 per cent as a combined result of low domestic demand, shift from CMEA markets to market economies, the substantial devaluation of the zloty at the beginning of the year and improvements in Poland's trade policy situation in western markets. Convertible currency imports rose by 18 per cent in value. In the same year, trade settled in non-convertible currencies declined by some 24 per cent.

In 1991 all Poland's trade was, in principle, conducted in convertible currencies. Total exports declined by 9 per cent in U.S. dollar value, while imports increased by 23 per cent, partly reflecting the substantial appreciation of the Polish currency compared to the beginning of the reform period. In 1990, Poland achieved substantial trade and current account surpluses; in 1991, both the trade and the current account showed deficits. In the first half of 1992, exports expanded by 13 per cent over the same period of 1991, while imports decreased by 8 per cent.

Institutional Framework

Since late 1989, the Republic of Poland has been a Parliamentary democracy. Parliament is responsible for adopting trade policy legislation; the implementation of trade policy is the responsibility of the central Government. Within the administration, matters concerning international trade fall mainly under the responsibility of the Ministry of Foreign Economic Relations.

Twenty-eight parties are represented in Parliament (the Sejm). Formation of Governments and agreement on policies is thus a difficult process. In the last three years, Poland has had five Prime Ministers.

In addition to Parliamentary control, the Administration is supervised by the Constitutional Court, the State Tribunal, the National Administrative Court, the Ombudsman and the Central Auditing Authority. The National Administrative Court supervises the legality of all administrative decisions, including those related to trade. This new situation contrasts sharply with the discretionary powers given under the previous régime to the Administration and the interference of the party in economic affairs.

Poland's fundamental rules on foreign trade are laid down in the Law on Economic Activity of 1988 and the Customs Law of 1989. Implementing regulations are issued by the Minister of Foreign Economic Relations. Customs duties are set by the Council of Ministers. Other important reform-related new laws include the Law on Privatization of State-Owned Enterprises of 1990, the Antimonopoly Law and the Law on Companies with Foreign Participation of 1991. Many new laws remain to be finalized; the tax system is to be modernized, the standards régime is to be reshaped, a draft law on intellectual property protection was recently introduced and the principles and methods of privatization are to be improved.

Under the Association Agreement concluded with the European Communities, the Communities will give Poland technical assistance to bring its laws into compatibility with EC legislation. Poland has already introduced the EC's Combined Nomenclature (CN) and the Single Administrative Document (SAD) system, used by EC and EFTA countries and it is revising its standards to make them compatible with EC norms.

Representatives of business associations are generally consulted on economic and trade policy issues of concern to them. However, the present system of interest representation in Poland cannot be considered as settled, because of the rapid changes taking place in the economic and business structure of the country. The scope for bargaining between the Administration and large State-owned enterprises has narrowed substantially. There is, however, evidence that powerful pressure groups are still at work in favour of large State enterprises advocating, inter alia, more protection against imports, while foreign investors also try to exert pressure on the Government for more protection for their products.

As a result of Poland's political and economic reform, the formulation and implementation of trade policies have become both de jure and de facto much more transparent. The powers of political parties and the State are clearly separated and trade policy decisions are taken by the Government within the framework established by law. The discretion of the Administration in trade-related matters has decreased substantially. However, in the area of State-owned enterprises and State banking, former lobbying and decision-making patterns have survived to the detriment of efficiency.

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In Poland, there are no formal independent bodies which review trade and industrial policies. However, the Polish Chamber of Commerce and various academic institutions regularly survey economic developments.

Trade Policy Features and Trends

Poland in the GATT

Poland acceded to the General Agreement in 1967 as a centrally planned economy on specific terms. As Poland did not have an effective tariff system at that time, its main concession in gaining contracting party status was a commitment to increase the total value of its imports from contracting parties by an average of 7 per cent per annum. Other specific elements of Poland's Protocol of Accession included a safeguard clause applicable selectively against Polish exports and the establishment of a Working Party for regular consultations with Poland.

The terms of the Polish Protocol of Accession proved unworkable over time. In 1977 and the following years, Poland did not fulfil its import obligations, and the Polish Working Party has not met since 1978. In February 1990, a Working Party was established to examine the request of Poland to renegotiate its Protocol of Accession.

Poland is party to the Tokyo Round Agreements on Anti-Dumping Measures, Customs Valuation, Import Licensing and the Dairy and Bovine Meat Arrangements. It has signed the Subsidies and Countervailing Duties Code subject to ratification.

Recent evolution

Prior to the economic reform of 1990, Poland's trade policy was determined by its system of central planning and participation in the CMEA. The economy was heavily protected from international market signals. Differing rules and institutions governed the domestic market, CMEA relations and relations with market economies. Foreign trade was administratively controlled and subordinated to the plan. Market relations played a minor, though increasing rôle.

The changed political structure from 1989 paved the way for a return to market-based principles and institutions. In the stabilization of the Polish economy, import liberalization played a major rôle. Elimination of most import licences, together with substantial tariff suspensions covering over 50 per cent of tariff lines, introduced increased competition with domestic producers.

Until 1992, Poland's trade with market economy countries, with the exception of Finland, was conducted on an m.f.n. basis. A free trade agreement with Finland was signed in 1976. Since December 1991, the basis of Poland's trade relations has changed significantly, with the signature of an Association Agreement, and subsequent entry into force of an Interim Agreement, with the EC: this Agreement will lead to a free trade area

within 10 years. Free trade agreements are also under negotiation with EFTA countries, Hungary and the Czech and Slovak Federal Republic.

Type and incidence of trade policy instruments

Under the reform of Poland's trading system in 1989, the State monopoly and administrative management of foreign trade was abolished and the system was largely liberalized, with the customs tariff becoming the main trade policy instrument. All economic units acquired the right to carry out foreign trade activities. As a result, at the beginning of 1990, Poland had one of the more liberal trade régimes in Europe.

The coverage of import and export licensing has been reduced drastically compared to the pre-reform period. Although, in 1991, some items were added to the list, the number of products subject to import licensing is fairly limited, including some alcoholic beverages, cigarettes, dairy products, natural gas, oil, engine fuels and some sensitive "dual application" products. Import prohibitions are also limited and are used, according to Polish authorities, mainly for non-economic reasons relating to products such as some alcohols, cars with two stroke engines or old cars.

Import quotas are applied for certain alcoholic beverages, cigarettes and petrol products. The criteria for their allocation are not clear; Poland auctions neither import quotas nor import licenses and there may be room for discretion in their distribution. As a result, importers rather than the State budget receive the associated economic rents.

Poland's tariffs, classified under the European Communities' Combined Nomenclature, are mainly ad valorem. The Polish customs tariff specifies m.f.n. rates only. Imports from least-developed countries are duty-free, while duties under Poland's GSP scheme are 70 per cent of the m.f.n. rates. Imports from former CMEA sources bear m.f.n. rates.

Until August 1991, many tariffs were suspended; the average applied tariff was only 5.5 per cent. Following the withdrawal of most tariff suspensions and changes of rates at that time, the unweighted average m.f.n. rate rose to 18.4 per cent. Tariff escalation, which is now integral to the system, occurs on most industrial products, with raw materials generally subject to 5 per cent duty; most semi-finished and finished products to 10-15 per cent; industrial consumer goods bearing a 20 per cent tariff and rates of 25, 35 and 40 per cent applicable to agricultural products and textiles. With effect from 1 January 1992, tariffs on passenger cars, trucks and buses were further increased to 35 per cent, while import duties on crude oil and natural gas were eliminated. Under the Interim Agreement with the European Communities, duty-free treatment has been extended to about 27 per cent of Poland's imports from the EC since 1 March 1992. To prevent distortions in import sourcing, the Polish Government intends to reduce tariff rates substantially on an m.f.n. basis, starting in 1995.

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In October 1992, Poland introduced duty free tariff quotas for some wheats and barley. It is expected that, under the EC-Polish interim Agreement, a duty-free tariff quota of 30,000 cars will be established.

The introduction of variable import levies on some agricultural products was announced in October 1992. The levy system and its product coverage is still under consideration.

Poland does not have any bound tariff rates. It is Poland's intention to bind practically all tariff rates in the industrial sector. Poland is engaged in tariff negotiations with its trade partners in the context of the renegotiation of its GATT Protocol of Accession.

Beneficiary countries under the Polish GSP scheme are limited to non-European countries with a lower per capita GDP than Poland. "Sensitive" agricultural products, phosphate ores, tractors, motor vehicles, textiles, consumer electronics, alcohols, tobacco products, and a number of luxury items are not subject to GSP treatment.

Domestically-produced and imported goods and services are subject to a turnover tax, whose rate differs for domestic and imported items because of differences in the base of calculation, such that similar effective tax levels are applied on like domestic and imported items. However, the differences in treatment of domestic and imported goods are not transparent. Poland intends to introduce a value-added tax in 1993, to replace the present turnover tax.

Exporters of processed goods are eligible for refunds of turnover taxes and customs duties charged on all imported inputs incorporated in the exported goods.

At present, around 70 per cent of Poland's industrial production remains in the hands of State-owned enterprises, still operating under rules dating from the pre-reform period. According to the authorities, Poland does not have any State-trading enterprises in the sense of Article XVII of the GATT and State-owned enterprises make their decisions solely on the basis of commercial considerations. However, the Agricultural Marketing Agency has certain features of a state-trading entity. Poland is considering the notification of the Agency under Article XVII.

Poland's trade relations with countries of the former CMEA, including the successor States of the Soviet Union, contain some countertrade elements, with indicative lists in the Russian-Polish Trade Agreement, and product-specific barter and clearing arrangements. Taking into account the shortage of convertible currency, the high level of State involvement in trade in some of the countries concerned and the wish to prevent further decline in trade turnover, countertrade is expected to continue playing an important rôle in the years to come.

The Polish standards system, established under the previous economic régime, is being overhauled in line with EC practices.

Poland maintains no specific rules for Government procurement. However, some tied budgetary allocations favouring domestic products exist for military expenditures. Poland intends to sign the Government Procurement Code.

Poland does not impose export duties or specific export charges. However, in order to prevent excessive exports of goods in domestic short supply - mainly energy products - a temporary turnover tax is imposed on certain exports. Otherwise, Poland uses export licenses or other administrative export regulations sparingly, mainly to implement export restraint agreements, or control the exports of sensitive products.

Poland's exports of sheep meat, textiles and clothing, and steel are subject to export restraint agreements in certain markets. A large number of anti-dumping actions have been initiated against Polish exports in the EC and Canada where, despite its comprehensive market-oriented reform, Poland is still treated as a "State-trading" country.

Poland grants no direct or indirect subsidies to exporters. The only financial measure related to exports is a refund or exemption of indirect taxes and customs duties on imported inputs incorporated into exported goods. Poland gives export credits or credit guarantees only in limited cases involving developing countries. The export insurance and guarantee system is still in an elementary stage. In 1991, US\$6 million were allocated from the State Budget for export promotion.

Temporary measures

As an integral part of the establishment of a trade régime based on market principles, Poland has adopted new regulations on anti-dumping and countervailing measures and on safeguard actions. No definitive action has been taken under these rules; in 1991 two anti-dumping investigations were started, but were terminated for lack of evidence. Poland has never justified import restrictions for balance-of-payments reasons.

New initiatives

At the outset, Poland's economic reforms were guided by the clear wish to reduce the rôle of the State in the economy and to ensure that economic units base their behaviour on market signals. Accordingly, the Government enforced no specific sectoral policies and took the view that restructuring of enterprises had to be a self-regulating process. Recently, however, the reliance on automatic mechanisms seems to have declined in favour of more active State intervention.

Under its Economic Policy Guidelines for 1993, the Government intends to focus its restructuring policy on two major group of industries: firstly, less efficient sectors whose capacity is to be trimmed down (such as the defence industry, energy, fuels, metallurgy, shipbuilding, pulp and paper and chemicals); secondly, manufacturing sectors regarded as having good prospects for development (such as petrochemicals, electronics,

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pharmaceuticals, agricultural supplies, light industries and equipment for environmental protection).

Poland's import policies have changed considerably since the beginning of the transition process. Initially, Poland liberalized virtually all of its trade. Imports, as carriers of world market signals, played a major rôle in adjustment; State intervention in foreign trade was restricted mainly to tariffs (which were low and relatively uniform in application) and exchange rate policy. At the same time, some Polish exports, particularly certain agricultural products, faced - and continue to face - competition with highly subsidized items on world markets.

The import liberalization programme was brought into question by early 1991, in reaction to the social costs involved in the deep recession of 1990. From August 1991, protection was increased by eliminating most tariff suspensions and introducing new duties; in the same year the coverage of import licensing was increased. At present, the Polish Government is also actively considering the introduction of an import levy system to protect domestic agriculture.

Available evidence from the last three years suggests that the Polish authorities may have underestimated the shock which rapid market-opening, unsupported by other adjustment measures, was likely to give to the economy. The question must be asked whether the move toward more protection should be interpreted as a long-term move by Poland toward protectionist trade policies or as a temporary increase in protection for some sectors to give breathing space for adjustment. In this context, it is to be noted that the longer protective measures are used, the heavier the burden for the whole economy.

Trade Policies and Foreign Trading Partners

Through comprehensive political and economic reform, Poland has made decisive steps toward closer integration in the world economy and the multilateral trading system since 1989. Trade restrictions are used sparingly, despite recent moves to greater protection.

In order to create a well-functioning market economy, Poland needs to accelerate the privatization process, to improve its regulations on State-owned enterprises and to further develop weak elements in its economic institutional framework. Such changes should be supported by the modernization of the tax system, strengthening of the financial sector, a clear stand regarding the rôle of State intervention in the adjustment process, and further development of clear rules in such areas as government procurement. Greater stability and minimal changes in the trade régime, once fully established, would contribute to a climate of confidence.

The conclusion of an Association Agreement with the EC represents a turning point in Poland's foreign economic orientation. Poland's closer economic relations with the EC are justified by the country's traditions and geographical location. A closer relationship with the EC can provide a

stable point of orientation for Poland in its long and difficult transformation process.

However, in present circumstances, the foreseeable trade impact of the free trade area to be established within 10 years is a matter of concern. The process of trade liberalization is slowest or limited in sectors where Poland seems to have some comparative advantage, such as textiles and clothing, steel, and agriculture. Due to the relatively low level of Community tariffs on manufactured goods, and the GSP treatment already enjoyed by Polish exporters, it appears that Poland's main exports may not gain significant advantage from the Agreement in the short term. On the other hand, however, EC exporters can easily take advantage of reductions in much higher Polish tariffs.

For third countries, because of Poland's relatively high and escalating m.f.n. tariffs, the free trade area is expected to result in a diversion of access to the Polish market. Due to high tariff differentials, Polish importers will be under economic pressure to buy EC products and technology, which may be less efficient than those from other sources, to the detriment of Poland's resource allocation.

Poland's reforms have paved the way for its full integration into the GATT system. It is the responsibility of the international community to create a favourable external economic and trade environment which can help Poland and other countries in transition in their reform process. In this context, the successful termination of the Uruguay Round would play a critical role in their integration into the world economy and in ensuring that their regional ties are underpinned by an effective and open multilateral system of trading rules and disciplines.

TRADE POLICY REVIEW
POLAND

Report by the Government of Poland - Summary Extracts

Trade Policies and Practices

In 1990 Poland abandoned a discredited economic system, based on central planning and on the ubiquitous and omnipotent presence of the State in ownership, production and trade. The country adopted a radically new policy direction aimed at a quick absorption of the contemporary model of market-based development, well integrated into the world economy.

Foreign trade has been assigned a vital rôle to play in the transformation to a new system. A radically new trade policy pattern has emerged, based on three fundamental principles: the elimination of the State monopoly of foreign trade; unrestricted convertibility of the Polish zloty for current account operations; and the removal of nearly all quantitative restrictions on exports and imports. These three elements of the policy framework, fully implemented by now, had placed the foreign trade sector among the pace-setters of the overall liberalization of the economy.

Description of the trading system

Since 1990 nearly all import restrictions have been abolished. No licenses are required except for such products as radioactive materials, military equipment, COCOM-controlled goods and technologies, fuels, wine, beer and a few other items. Quantitative restrictions are imposed on imports of alcohols and some types of automobiles. The old foreign trade system based itself on a group of about 70 State-owned firms which in fact had monopoly rights to run foreign trade operations. Each of them specialized in certain commodity groups or product lines and served as a bridge, but also as a barrier, between the domestic producers and consumers and the world economy.

Now there are about 100,000 operators active in exporting and importing goods and services. In 1991 about 20 per cent of hard currency exports and about 50 per cent of hard currency imports were attributed to the private sector. The share of private traders in the total turnover is growing rapidly. Foreign and domestic commerce are those branches of the economy, where the private sector has experienced a particularly rapid expansion in the last few years.

Most of the old foreign trade firms (now usually converted into limited liability companies controlled by the Treasury) still exist, but their status per se no longer gives them a competitive edge over other players active in the trade field. Over 10 of these major trade enterprises have been effectively privatized and close to 40 are now in various stages of the privatization process.

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The liberalization of Poland's foreign trade could not have been possible without a free access to foreign exchange. All forms of central allocation of foreign currencies, typical for centrally planned economies, have been terminated. Ever since its initiation on 1 January 1990, the new system of free access to foreign exchange, the first of this scope to be introduced in Central/Eastern Europe, has operated smoothly and at no point in time has its existence or integrity been endangered.

The Trade Policy Framework

Trade policy formulation and review

The formulation and implementation of foreign trade policies are entrusted to the Minister for Foreign Economic Relations acting on behalf of the Government. His major responsibilities include: formulation of trade policy objectives; administration of regulatory instruments related to foreign trade (customs tariffs, import and export licensing, quotas and other non-tariff measures other than border taxes); negotiations and implementation of bilateral and multilateral trade agreements; monitoring of developments in foreign trade. He supervises the customs administration and sanitary inspection at the border, initiates and conducts anti-dumping and countervailing duty investigations and may initiate safeguard actions. He also represents the Treasury on the governing bodies of State-owned trade companies and banks. Some of these responsibilities (particularly those which imply a revision of customs tariffs and other border measures) require approval of the Council of Ministers.

The formulation and implementation of trade legislation is subject to powers of review, exercised by the Parliament. Legal consistency of acts of Parliament with the Constitution is protected by the Constitutional Court, while the legality of acts of Government is safeguarded by the Tribunal of State. All actions and decisions related to the administration of law, including matters concerning trade, may be raised before the Administrative Court.

Relationship with the GATT

Poland acceded to the General Agreement on Tariffs and Trade in 1967. The Protocol of Accession contains a number of specific provisions which were formulated at that time in consideration of the then existing centrally-planned economic system. In particular, these specific provisions: established Poland's obligation to increase the total value of its imports from GATT contracting parties at a specified annual rate; authorized a continuation of the existing discriminatory prohibitions and restrictions on imports from Poland, described as inconsistent with Article XIII of the General Agreement; established specific rules regarding anti-dumping procedures on imports from Poland and selective safeguards to be applied by other contracting parties against imports from Poland; established procedures for annual reviews.

The collapse of the centrally planned economic régime and the effective introduction of the market system, have highlighted the

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irrelevance of the original terms of Poland's entry into the GATT to the new economic and political realities of the country. Consequently, in January 1990, just after the initiation of the radical economic transformation programme, Poland requested a renegotiation of its GATT Protocol of Accession. A Working Party was established for this purpose in February 1990 and its work is now in progress. Poland's stated objective is to base its GATT membership on such rights and obligations which are commensurate with the market-oriented nature of its economic and trading system and which would not deviate from the usual standards of membership, as applied to other GATT contracting parties.

Since its accession to the General Agreement Poland has actively participated in the activities of the GATT, within the limits imposed by the specific terms of its accession and, most importantly, by the constraints resulting from the previous economic and trade régime. Poland accepted the following GATT Protocols, Agreements and Arrangements: Geneva 1979 Protocol, Anti-Dumping Code, Agreement on Import Licensing, Dairy Arrangement and Bovine Meat Arrangement as well as Multifibre Agreement and its consecutive extensions. It also signed the Subsidies Code and Customs Valuation Code and has observer status in the remaining MTN bodies.

The involvement in the GATT system has been and is being regarded by Poland as an integral element of the overall relationship with the external economic environment. It is recognized as an important ingredient in the process of adjusting the economy to the generally accepted norms and practices of the international commerce. Moreover, it is regarded as a ranking factor helping to discipline and consolidate the difficult domestic process of transformation from the State-controlled system to a predominantly private economy.

Regional and bilateral trading arrangements

The Association Agreement with the European Community

The Europe Agreement on Association between the European Communities and their member States and the Republic of Poland was signed in December 1991, approved by the Parliament of Poland in July 1992 and ratified by the President. The Agreement is wide ranging in its coverage, including movement of goods, labour and capital, competition policy and the right of establishment. It sets out a schedule for creating a free trade area between Poland and the EC within 10 years and recognizes that Poland aims at obtaining full membership in the Community.

Provisions related to trade in goods and services had become effective by Interim Arrangement on 1 March 1992. These provisions aim at a greater liberalization of international commerce, based on principles, instruments and objectives of the multilateral trading system. At the same time they recognize the essential facts of transition to a free-enterprise economy, with their implications for Poland's trade policy instruments.

The Agreement provides that on its entry into force the signatories shall abolish almost all quota restrictions in their imports and shall

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embark upon a process of tariff liberalization, which - in accordance with the Agreement - will be asymmetrical. This means that in the first five-year period, tariff reductions applied by the European Communities on imports from Poland are to be implemented faster than the tariff cuts in Polish imports from the Communities. The Agreement contains safeguard provisions, which specify the conditions and procedures for the introduction or re-imposition of import restrictions.

Poland may apply, unilaterally and for limited periods, increased tariff rates on imports from the Community, if such imports pose a threat to Poland's infant industries or to the restructuring process, or if they cause considerable social hardships. As mentioned above, agricultural trade is only partly covered by the free-trade area provisions of the Agreement. In particular, the main instrument of agricultural protection in the EC, notably variable import levies, remains in force. Most agricultural products are subject to levy and duty concessions, but within the limits of the annual tariff quotas. Some products are subject to minimum import prices. Agricultural products excluded from liberalization are in many cases those in which Poland has a comparative advantage.

Another greatly significant aspect of the Agreement is that the actual and future legislation in Poland will need to be adjusted to that of the Community. In total, 7,000 legal acts and regulations will have to be reviewed within 10 years of the association. As regards competition policy, the necessary rules are to be adopted within three years.

Relations with the European Free Trade Association

In December 1992 Poland and EFTA members concluded the Free Trade Agreement which parallels in many ways the Association Agreement with the EC. Also in this case there is to be an asymmetry in the implementation schedule of trade liberalization, in favour of Poland. Another similarity consists in safeguard clauses which are to be designed with a view to facilitating the process of economic restructuring in Poland. Still another common feature is the emphasis on the mutual liberalization of trade and rules of competition in accordance with the provisions of the GATT system. The major difference consists in the coverage of agriculture. Because of the nature of EFTA, the Free Trade Agreement deals only with processed agricultural products, while all other issues related to trade in agriculture fall within the framework of bilateral market access arrangements between the interested parties.

As soon as the Agreement enters into force, its signatories will eliminate tariffs, with certain exceptions. Poland will begin reducing tariffs and quantitative restrictions gradually after 1 January 1995.

Relations with former CMEA countries

Following the collapse of the institutional structures of the CMEA, this trading system ceased to exist since the beginning of 1991. The former members of the CMEA had agreed bilaterally to base their future trade on convertible currencies and on freely negotiated prices, with

individual traders and firms, rather than governments, acting as the principal participants of the market. The fact that some of those partners have shared the experience of GATT membership has certainly been helpful in facilitating the adjustment, although it is true that Poland's trade with all such partners in the area decreased substantially. A new boost to the regional trade is expected from the Central European Free Trade Area arrangement concluded between the Czech Republic, Hungary, Slovakia and Poland late in 1992.

A different development had occurred in the trading relationship with the Soviet Union and its successor States, where all major adverse factors had converged, resulting in a dramatic disruption of the established trade patterns. Traditionally the Soviet Union used to be Poland's most important trading partner, with the annual turnover approximating one-third of the total value of Polish foreign trade. In order to keep the traditional export links and protect jobs in industries previously oriented towards the Soviet market, Poland has signed trade agreements with the former republics and successor States of the USSR.

Relations with the United States

In March 1990 Poland and the United States signed a Treaty on Business and Economic Relations. The Treaty is the first such comprehensive agreement concluded by the United States with a newly democratic country of Central/Eastern Europe. It is intended to encourage trade relations and facilitate U.S. investment by providing internationally recognized protection and standards. The Treaty is an important and vital step in enhancing the attractiveness of investment and business environment in Poland. It assures U.S. investors in Poland the same treatment as that enjoyed by Polish nationals or investors from third countries, whichever is more favourable.

Trade Policy Measures

Access to foreign trade activities is in principle unrestricted and free for all legal and natural persons. No authorization in the form of trading permits are required as a pre-condition for engaging in foreign trade, except for a few products, most notably military supplies and certain alcoholic beverages.

Import and export restrictions are applied in respect of a very limited number of products and usually take the form of licensing requirements. Quantitative measures cover only high-strength alcoholic beverages, very few individual agricultural items and certain types of automotive equipment.

In 1988 Poland based its tariff nomenclature on the Harmonized System (HS), effective as of January 1989, now applied in its CN 8-digit form.

The average customs incidence of the Polish tariff system is about 15 per cent. Most rates of customs duties are from 0 or 5 per cent for raw materials, 10 per cent for semi-finished goods, 15 per cent for machinery

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and equipment, 20 per cent for industrial consumer goods, 30 per cent for agricultural products, electronic equipment and cosmetics and up to 45 per cent for tobacco and alcohols. Imported goods may also be subject to internal taxes if such taxes apply to the like domestic products, the effective tax burden being the same in both cases.

None of the tariff lines are bound in the GATT. This results from the unique nature of Poland's GATT schedule (see above). Poland is interested in ameliorating this situation and in binding the tariff in the framework of the renegotiation of its terms of accession to the GATT system and for the purpose of market access commitments of the Uruguay Round.

Poland has signed the Customs Valuation Code of the Tokyo Round. In its customs administration it abides by the provisions of the Code, as reflected in the Customs Law of 1989 as amended.

The application of customs tariff as the principal border measure, has coincided, in the last few years, with the policies aimed both at controlling inflation and severe recession and at encouraging effective restructuring of the economy. Under such circumstances the authorities were confronted with a need to use customs tariff in a flexible manner, which implied occasional recourse to partial and time-bound suspensions in the collection of customs duties. The suspensions have been used particularly with regard to essential consumer goods, semi-manufactures and other industrial inputs, spare parts and pharmaceuticals. In each case their application is erga omnes without any differentiation as to the sources and/or conditions of importation.

Poland applies the GSP treatment to imports from non-European developing countries, if such goods are purchased and shipped directly from the eligible supplier country as documented by the certificate of origin. Zero duty rates are applicable to goods imported from 42 least developed countries. Customs duty rates for imports from the remaining 54 GSP beneficiaries are reduced by 30 per cent of the basic duty rate. Tropical products imported from these countries are admitted duty-free. Exclusions from the scheme of preferences cover certain sensitive agricultural goods, textiles, consumer electronics, tobacco, cosmetics, automobiles and jewelry. The GSP treatment may be extended to countries with a per capita Gross Domestic Product lower than Poland's.

Poland is also a GSP beneficiary in its exports to the United States, Canada, Japan, Austria, Australia and New Zealand. The aim of this treatment by the countries granting the GSP is to assist the structural adjustment of Poland's industry in the process of transformation to a fully-fledged market economy.

The Customs Law provides for the possibility of establishing Duty-Free Zones (DFZ) and Duty-Free Depots (DFD). In total, 16 DFZs have been established, of which only two are operational. There are several thousands of DFDs.

About 30 per cent of the central government expenditures and 40 per cent of those of the local administration are used in Poland to purchase goods and services. A Government Procurement Act is now being drafted with a view to adopting market-economy standards in this field, and assuring compatibility of the relevant legal provisions with the regulations existing in the EEC and EFTA States. Poland is not yet a signatory of the GATT Government Procurement Code but intends to accede to it in the near future.

Barter and countertrade are allowed, subject to licensing requirements. All trading entities, regardless of their ownership status, may engage in such operations. In 1990-1991 countertrade transactions involved traders from about 15 countries, particularly from the USSR and its successor States and from some other former CMEA partners. The existence of countertrade in these relations is not specifically encouraged by the Government.

Poland is a signatory of the Anti-Dumping Code. The Polish anti-dumping legislation is based on Article VI of the General Agreement and is incorporated into the Customs Law of 1989 as amended. Until now only two anti-dumping investigations have been initiated. Both ended with no-injury determinations.

In 1991 Poland signed the Subsidies Code, subject to ratification. So far, there are no specific procedures regarding countervailing actions in Polish legislation and no such action has been initiated.

Safeguard actions may be taken if a product is being imported in such quantities or under such conditions as to cause serious injury to domestic producers of like or directly competitive products. The Association Agreement between Poland and the EC allows to take safeguard action also when imports cause serious disturbances in any sector of the economy or difficulties which could bring about a serious deterioration in the economic situation of a region.

Since January 1990, when the internal convertibility was introduced, no direct or indirect export subsidies are granted. Moreover, there are no income or price supports or preferential credits aimed at increasing exports. The only financial measure related to exports are duty drawbacks and turnover tax refunds. After the introduction of the value-added tax system (VAT), expected in 1993, the refunds will be replaced by reimbursement of the VAT collected during the processing of exported goods.

All products and services traded in the domestic market are subject to a turnover tax, irrespective of whether they are domestically produced or imported. Exports are exempted from this charge except for two refinery products and hides.

Almost all Government-operated export promotion programmes existing before 1990 have been terminated. The initiative in this field is now predominantly in the hands of individual exporters and non-Government business organizations, especially the Polish Chamber of Commerce and its

regional affiliations. In 1991 the Minister of Foreign Economic Relations established the Export Credit Insurance Corporation (KUKI), financed from Polish public sources, with some assistance coming also from various international financial institutions. Activities of the Corporation are yet to be fully developed.

Background of Trade Policies

Privatization

The reform process in Poland is based on the unchallenged recognition that a fast privatization of State ownership in production and services is indispensable for any meaningful restructuring of the economy. State-owned enterprises, which numbered about 8,500 at the beginning of the reform, are still dominant in industry, utilities and non-commercial services. Domestic trade, which used to be in the same position, has been transformed within three years, into a predominantly private sector. The same is true for the construction industry. Also in foreign trade, private traders handled 22 per cent of exports and about 50 per cent of imports in 1991 and this trend had progressed vigorously in 1992.

By mid-1992 the privatization process had been completed for 1,714 State enterprises, that is for some 21 per cent of their total number. The Government had publicly stated its intention to turn at least half of all industrial assets into private hands before the end of 1994.

By October 1992, out of the total of about 70 State-controlled foreign trade organizations and companies, 11 have been fully privatized, six were in the final stages of the process and six others in a medium phase, 11 had filed their pre-privatization status reports and four had initiated liquidation procedures, which will allow their assets to be sold or incorporated.

Exchange rate policy

In January 1990, the zloty was made internally convertible and allowed to be freely traded against foreign currencies in the domestic market, both public and private. All previously existing forms of Government-controlled allocation of currency resources for import financing had been abolished. Under the present system, foreign exchange is available to all importers without restriction as to the value and sourcing of their imports. Controls are maintained with regard to capital transactions involving Polish natural and legal persons.

Foreign investment

Matters related to foreign investment in Poland are regulated by the Law on Companies with Foreign Participation of 1991. Under the Law, foreign investors may buy stock of existing Polish companies, enter into joint ventures with Polish partners or establish wholly-owned companies. No prior authorizations or other forms of administrative permits are required for undertaking such activity in nearly all economic sectors.

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By mid-1992 there were about 7,600 companies with foreign equity of which almost 50 per cent in manufacturing, 7 per cent in construction and 19 per cent in trade and commerce. The total value of foreign capital directly invested in such equity was estimated at over 700 million dollars at the end of 1991. It is expected that this figure had increased significantly by the end of 1992.

Major Trends in Imports and Exports

In the last few years the geographical pattern of Polish foreign trade has changed very substantially in favour of developed market economies, EEC in particular. The share of trade with former CMEA countries fell below 17 per cent in 1991, as against 35 per cent in 1989, while the relative position of the European Communities changed from 32 per cent to almost 56 per cent.

The geographical reorientation of Poland's foreign trade has been accompanied by substantial changes in its commodity pattern. Engineering products have remained the principal product category in Poland's foreign trade, but their share in exports has diminished considerably. This is primarily due to a nearly 60 per cent drop in exports of capital goods to former CMEA countries. This unfavourable trend has been partially offset by increased deliveries of metallurgical as well as wood and paper industry products to the EC market. On the other hand, deep cuts in imports of fuels and metallurgical products (mainly from former CMEA countries) have been counterbalanced by increased imports in the remaining sectors, with consumer products showing the highest growth rate (260 per cent in the first half of 1991).

The adjustment of production pattern and, consequently, commodity structure of Poland's foreign trade to the new economic environment has begun but this process is likely to take a much longer time.