

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

L/6862

14 June 1991

Limited Distribution

Original: English

RENEGOTIATION OF THE TERMS OF ACCESSION OF POLAND

Questions and Replies to the Memorandum on Foreign Trade Régime (L/6714)

In a communication dated 10 January 1990 circulated as L/6634, the Government of Poland requested to renegotiate the terms of Poland's Protocol for accession to the General Agreement. At its meeting on 20 February 1990, the Council set up a Working Party to examine Poland's application for accession. The terms of reference of the Working Party are reproduced in document L/6649. In GATT/AIR/3068 contracting parties were invited to submit questions in writing concerning the foreign trade régime of Poland. The questions submitted by contracting parties in connection with Poland's foreign trade régime and the replies thereto provided by the Polish authorities are given below.

Delegations wishing to raise additional questions concerning Poland's foreign trade régime might inform the delegation of that country (with a copy to the secretariat) of such questions in advance of the meeting of the Working Party, so that considered replies can be made available by Poland to members at the time of the Working Party meeting.

The Annexes mentioned in the replies will be submitted shortly and will be available for consultation in the secretariat (Office of the Special Adviser to the Director General, Room 2017, telephone 7395252).

PART I. GENERAL

Question I/1

At the GATT Council meeting where Poland first made the request to renegotiate its terms of accession to the GATT, contracting parties welcomed the changes in the country and undertook to examine the question with an open mind and in a positive spirit. The outcome would however depend on the examination in the Working Party. This view remains valid.

We have noted that it is the understanding of the Polish Government that, as a result of economic and political changes in the country, it can fully assume all GATT obligations and should be granted all GATT rights. The Polish request for renegotiation does not, however, explicitly spell out the existing provisions of the Protocol which should be modified or abandoned. Is it to be assumed that the Polish Government wishes to replace all existing specific provisions (in particular concerning quantitative restrictions, safeguard mechanism, import commitment and review mechanism) by a standard protocol as normally negotiated with market economy countries?

Reply I/1

The intention of the Polish Government is to replace all existing specific provisions of Poland's Protocol of Accession to the GATT (including import commitment and review mechanism, safeguard provisions and quantitative restrictions) by a standard protocol which would reflect the market character of the Polish economy and in particular of its foreign trade regime.

PART II. TRANSFORMATION OF POLISH ECONOMY TO MARKET ECONOMY

Question II/1

What is Poland's assessment so far of the transformation programme? What are the positive and negative experiences? Are there any major changes or corrections foreseen in the near future?

Reply II/1

So far the programme which was launched in January 1990 is being implemented according to the original schedule as agreed with the IMF, both in terms of time framework and performance.

The most positive experiences are as follows:

(a) Inflation (measured as cost of living index) has been reduced from close to 2000 per cent annually in 1989 to 249 per cent in 1990 and

29 per cent during the first four months of 1991, with 36 per cent forecast for the whole year 1991.

(b) Budget deficits have been radically reduced due to drastic cuts in general government expenditure, reduction of employment and spending in the public sector, elimination of most of the subsidy programs (including complete elimination of export-related subsidies both with regard to manufactures and agricultural goods) and increased tax disciplines.

(c) Internal convertibility between the Polish zloty and the internationally traded currencies has been achieved under conditions of an open exchange market operated both by public and private currency traders. A stable exchange rate is being maintained since the beginning of the implementation phase of the programme due to a positive balance of trade, improved external reserve position of the country and the remarkably high propensity of the public to convert substantial amounts of privately owned foreign exchange into the national currency.

(d) As a result of all these developments and of the positive real interest rate on bank deposits, the position of the Polish zloty has improved considerably in domestic transactions and savings.

(e) An overall market equilibrium has been achieved as a result of a virtually total price decontrol (with its implicit supply incentive) combined with a tight monetary and incomes policy.

(f) Within the framework of a general opening-up of the economy to the outside world (as described in more detail in Part III below) the dollar-denominated exports increased in current prices by 39 per cent in 1990 compared to 1989, leading to the record-high surplus of US\$ 3.8 billion and to the doubling of foreign exchange reserves to the level of US\$ 4.9 billion at the end of 1990. This trend has been generally continued early in 1991, with total exports growing by 31 per cent during the first four months and imports increasing by 24 per cent. Nevertheless a trade deficit up to US\$ 2 billion is expected for the whole of 1991 as a result of extremely liberal import policy and of the greatly diminished sales opportunities in the former CMEA market.

(g) All these developments have been progressing under conditions of a rapidly growing resurgence of private entrepreneurship in all economic sectors. The process has been particularly evident in domestic commerce, where the share of private businesses in the total retail sales increased from 5 per cent to 35 per cent within only one year. A similar development has occurred in the foreign trade sector where all previous restrictions on entry of new private and public firms have been eliminated. At the end of 1990 the total number of private businesses outside agriculture reached approximately 1.2 million, and the process of reprivatization of large state owned companies was effectively launched.

The major negative experiences are the following:

- (a) Deep recession, with industrial sales down by about 24 per cent in 1990, affecting all major industries.
- (b) Open unemployment, reaching some 1.4 million persons, i.e. about 7.3 per cent of the labour force by the end of April 1991 with the prospect of approaching 2 million at the end of 1991.
- (c) Relatively slow response of the industry to the challenges and opportunities of the market, both in terms of the structural transformation and operational behaviour. The latter feature is perhaps best exemplified by the preference for price increase rather than cost reductions, a phenomenon which obviously suggests that a truly competitive environment is only beginning to emerge.
- (d) Serious and rapidly growing adjustment problems in agriculture where the difficulties resulting from the structural nature of a small-scale peasant farming have been greatly compounded by the radical and rapid elimination of most of the previous subsidy programmes and by a liberal import policy, including products which are covered by massive domestic and export support measures outside Poland.
- (e) A still relatively high inflation.

Question II/2

The OECD report on developments in the economic, trade and financial situation of Central and Eastern European countries (1989-1990), notes that the main criticism that has been levelled at Polish economic policy is that radical transformations have occurred in relative prices and in demand policies while structures have not yet been sufficiently transformed to function to market rules. What comment can Poland make in response to this observation?

Reply II/2

As stated in reply to question II/1 above the structural adjustment process is still at its early stage. One should note, however, that the actual economic policies are aimed against conservative attitudes of large economic operators, who no longer enjoy the protective umbrella of the Government and are increasingly exposed to the realities of the market. Special Government agencies have been established to accelerate such developments through the enforcement of the anti-monopoly law and a gradual privatization of State-owned companies.

Question II/3

Regarding the liberation of prices from government control (paragraph 4(a)), we recognize that a degree of success has been

achieved to date but that elements do remain to be reformed before it will be possible to assess the successful outcome of the process. With respect to the statement in paragraph 4(a) that "only prices of fuels, energy and transport services temporarily remain under government control", is there a timetable for the phasing out of these controls? Or an estimate of their likely duration? If so, please provide.

Reply II/3

One of the most challenging aspects of the presently executed economic policies is the necessity to fight inflation and deregulate prices at the same time. Nevertheless, by now some 90 per cent of prices (measured by the overall transaction value) are market determined. Those which still continue to be Government-regulated cover the following items: housing rents, central heating and hot water supply to residential buildings, gas and electricity, inland transportation, medicines, public health services, alcoholic beverages made in Poland. The prices of all these items are being gradually upgraded to market levels with a prospect of a virtually total decontrol within 1-2 years.

Question II/4

Are there any price controls currently applied other than those listed in paragraph 4 (a), (i.e., other than for fuels, energy and transport services)? If so, what are they?

Reply II/4

Limits may be imposed with regard to price increases dictated by those producers who have been found to abuse their dominant position in the market, subject to an official investigation and determination by the Anti-Monopoly Authority.

Question II/5

Paragraph 4(a) states that, "generally, domestic prices have been brought into line with world prices". Does this statement imply that price control continues to apply to other sectors than the above-mentioned?

Reply II/5

The expression used in para. 4(a) means that there is no Government intervention in the price-forming process in Polish foreign trade. Imported goods are sold in Poland at prices representing actual purchase costs plus customs duty, other costs and normal commercial overheads, while Polish products are exported only when foreign prices and sales opportunities are more attractive than those available at home.

Question II/6

Regarding the statement in paragraph 4(c) that "budgetary financing of the non-material sphere was restricted", what is the Polish Government's operational definition of the "non-material sphere"?

Reply II/6

The non-material sphere mentioned in para.4(c) covers State and regional administration, education, public health service and cultural facilities.

Question II/7

Regarding paragraph 4(c), are the wage controls described still in place? If so, please describe the scope of these controls and plans for future regulations in this area.

Reply II/7

Wage controls have been continued in 1991 as an anti-inflationary measure. The control, which applies only to State-owned enterprises, is effected through a penal tax on wage increases larger than 60 per cent of the rise in consumer prices. The tax is paid from the net profit of the enterprise concerned. In 1991 private and newly privatized firms were relieved of this tax.

Question II/8

Regarding paragraph 4(d), for which goods and services are subsidies or support payments still available? Please supply details on type of product or service, amount of payment available, and criteria governing decisions on granting the payment.

Reply II/8

Subsidies may be applied to domestically consumed products and services for which official prices are still maintained (see reply under II/3 above). Direct subsidies to firms have been abandoned entirely.

Question II/9

Please update the information on the plans for changes to be made in the tax system in 1991.

Reply II/9

No major changes in the tax system are expected in 1991. Instead, intensive preparations are being made for the introduction of the value-added tax since the beginning of 1992. The TVA will apply

to the sales of virtually all goods and services, except exports. The basis rate is to amount to 18 per cent, with a reduced 5 per cent rate envisaged for processed food, pharmaceuticals, books and housing. A zero rate, meaning tax refund on earlier stages of processing, will be applied in 1992 to certain agricultural inputs, such as fertilizers, pesticides and industrially processed fodder. A uniform personal income tax will be introduced in 1992, based on a progressive schedule and applicable to all sources of income.

Question II/10

As implied in paragraph 6, economic reform could be hampered by monopolistic practices. Are certain state monopolies or other monopolistic practices going to be maintained or tolerated in some sectors of the economy in the future?

Reply II/10

The officially stated intention of the Polish Government is to restrict and eliminate all monopolistic practices, both in the public and private sectors. This objective is being pursued through the enforcement of the Anti-monopoly Law of 24 February 1990 containing standard, internationally recognized prohibitions of practices which restrict competition or otherwise abuse a dominant position in the market. The Law specifically stipulates that the State-owned enterprises which have such a dominant position may be "divided or closed down if they permanently inhibit competition or the conditions for its existence". These provisions have already been invoked on a number of occasions to deregulate domestic transportation and to break up several large industrial units. On the same legal basis the collection of customs duties was reduced or suspended in 1990 until mid-1991 for all those manufactured products which may compete against their domestically produced equivalents, in cases when a single Polish supplier controls at least 50 percent of the Polish market. The administration of the Law is entrusted to the Anti-Monopoly Authority, a cabinet-level institution which is responsible directly to the Prime Minister and consequently to the national legislature.

Question II/11

Are there any State or State-sanctioned monopolies on the production or trade of certain goods currently in existence in Poland, e.g., on tobacco products, alcoholic beverages, dairy products, meat, or bulk agricultural commodities?

Reply II/11

There are only two government-chartered monopoly organisations: the State Tobacco Monopoly and the State Spirits Monopoly. They are, however, restricted in exercising their formal position. The exclusive rights of the Tobacco Monopoly cover the domestic purchases of tobacco leaves and domestic production of tobacco products, while

the Spirits Monopoly is the sole organisation authorised to allocate domestic production of hard alcoholic beverages. Internal marketing and foreign trade in tobacco products and alcohol are not covered by the aforementioned monopoly rights.

No other products or prime commodities are similarly controlled by a monopoly type organisation.

Question II/12

What exactly is meant by the expression (in paragraph 6) "- opening up of the import option"?

Reply II/12

This expression was intended to mean that imports will be liberalised and encouraged to compete with domestic production in order to stimulate competitive environment.

Questions II/13, II/16 and II/17

II/13

Regarding paragraph 7, to what extent have "demonopolization" and privatization measures been implemented in each sector of the economy? Specifically, in each sector, what proportions of the output are accounted for by:

- State-owned enterprises?
- private enterprises?
- mixed State/private enterprises?

II/16

Regarding paragraphs 8 and 9, approximately what portion of Poland's (1) industrial output, (2) GDP, and (3) imports and exports is currently accounted for by State-owned firms and enterprises and what part by privately-owned entities? Please list the products or product categories that are produced by State-owned firms and enterprises.

II/17

Please describe Poland's medium- and long-term privatization plans. What industries will remain dominated by State-owned enterprises and firms? What rôle does Poland see for State-owned production enterprises, and in what products?

Replies II/13, II/16 and II/17

On 13 July 1990 the Law on Privatization of State Enterprises was adopted and the first, pilot group of industrial firms were privatized shortly thereafter by offering shares to private and institutional investors. An alternative approach consists in a liquidation of

State-owned companies which are then leased wholly or in part to its management and employees. Such programmes are expected to be extended to several hundreds of enterprises in 1991, and to cover more than 50 percent of all State-owned assets during the period of 1991-1993, of which 15 per cent in 1991 and around 20 percent in each of the two following years.

According to provisional data for 1990, the volume of industrial output sold in the private sector increased by 8.5 per cent, while the output marketed by the State and cooperative industries declined by 25 per cent on the previous year. The share of the private sector in the total sales of industrial output increased from 7.4 per cent in 1989 to 13.4 per cent in 1990. The corresponding figures for the construction industry are 29 per cent and 35 per cent respectively, all in constant prices. The share of private non-agricultural employment was 11.6 per cent in 1990 as against 8.8 per cent a year earlier, with the biggest relative increments recorded in commerce and in Polish-foreign joint ventures.

Question II/14

Please also provide the actual number of each type of enterprise in each sector. Is there a timetable for further demonopolization?

Reply II/14

By the end of 1990 there were 1.1 million of private production, trading and service firms. Slightly over half of the new establishments are involved in domestic and foreign trade. On the other hand, most of the heavy and raw materials industry still remains State-owned, since its privatization is inhibited by exceptionally high capital requirements. Nevertheless, even in these sectors the situation can hardly be termed monopolistic, as individual enterprises compete with each other without any administrative guidelines from the State authorities.

Questions II/15, V/2.1 and V/2.3

II/15

Could the Polish Government describe recent developments in the trade régime as a consequence of the breaking up of monopolies? How has the relationship between the Government State Trading Enterprises changed?

V/2.1

It is stated in paragraph 72 that, "there are 11 State-owned foreign trade organizations and 32 companies in which the Treasury is a shareholder". What proportion of Polish imports is handled by the State-owned foreign trade organizations (FTOs)? And by the joint State/private FTOs? What are the parallel figures for exports? Please break down both the import and export data by sectors of the economy, if available.

V/2.3

What portion of Poland's imports and exports (of State-owned firms and by private firms) are currently conducted or contracted for by (1) State-owned foreign trade organizations, (2) companies in which the Treasury is a shareholder, and (3) private entities or directly?

Replies II/15, V/2.1 and V/2.3

Large foreign trade companies with a predominant or significant participation of the Treasury still account for over three quarters of the total trade turnover. However, unlike in the past, they are operationally fully independent from the government and its institutions both in terms of management and personnel policy and in their commercial and other decisions. None of them (including companies trading in strategic commodities, arms and ammunitions) enjoys exclusive or privileged rights of any type. Nearly all of them have abandoned their traditional narrow specialization in one or a few product lines in favour of a much diversified product profile, which by itself tends to stimulate competitive behaviour. This evolution is expected to be further accelerated when most or all of the remaining Treasury shares in such companies will be offered for sale to the general public later this year.

According to the provisional data for the first quarter of 1991, the share of private sector in foreign trade has reached 12 percent of total exports and 37 percent of imports.

Question II/18

What rôle, other than basic ownership, does the Polish Government have in the funding, management, production, or sales of the remaining State-owned firms, foreign trade organizations, and enterprises? For example, does the Government of Poland get involved directly or indirectly in the appointment of managers, the payment of salaries, monitoring of operations, the wholesale or retail distribution of output, or the supply of raw materials?

Reply: II/18

The prerogatives of the public authorities represented by the so-called "founding organs" are restricted to the nominal exercise of the basic ownership and the rights resulting directly therefrom. The latter include: the right to dissolve the firm or enterprise if found to be no longer economically viable (subject to a consenting opinion of the management) and the right to nominate the chief executive officer from among candidates selected through a mandatory, open contest.

All operational decisions and activities are the sole responsibility of the enterprise itself including personnel and financial management, remuneration, current operations, distribution of output, product pricing, input supplies and investment.

Question II/19

In addition to wholly-owned State enterprises, please describe the scope and nature of Polish Government financial, managerial, and commercial involvement in other enterprises and firms at this time, e.g., partial ownership, joint-ventures, mixed State/private enterprises.

Reply II/19

The scope and nature of government's involvement as described above are essentially the same whether in wholly or in partially owned enterprises. In joint ventures involving both foreign capital and Polish government-controlled assets, even the limited prerogatives described in paragraph II/18 do not generally apply. According to the Commercial Code in force, the participation in decision-taking in such enterprises is in proportion to the percentage of shares held.

Questions II/20, V/2.8 and V/2.10

II/20

Please discuss which enterprises in Poland meet the definition of a State enterprise in Article XVII of the GATT. Please elaborate on why State-established and owned firms in Poland should, or should not, be considered to be State enterprises within the meaning of Article XVII.

V/2.8

Please provide lists of State Trading Enterprises in Poland and items which are subject to State trading.

V/2.10

What is Poland's view on the consistency of the Polish State Trading Enterprises with Article XVII of the General Agreement?

Replies II/20, V/2.8 and V/2.10

Poland's understanding of Article XVII has been that its objective is to ascertain that State established and owned enterprises or any other enterprises to which the State has granted exclusive or special privileges should not discriminate in trade. The emphasis seems to have been placed in XVII: 1(a) not on the type of ownership but rather on the modus operandi of such enterprises.

As has been explained in earlier replies and in L/6714 none of the State established enterprises enjoy special rights and privileges which would by themselves encourage discrimination between or against foreign countries, and therefore would be inconsistent with the fundamental provisions of Articles I and III of the General Agreement.

All such enterprises are making their decisions solely on the basis of commercial considerations.

Question II/21

Please describe how the Government of Poland would deal, on a temporary and on a more long-term basis, with a State-owned firm whose sales revenues did not cover its costs of production. How does this differ from the recourse of a private firm in similar circumstances?

Reply II/21

According to the Law on State-owned Enterprises as amended in 1990 each enterprise is entirely responsible for its financial management. If it cannot cover its operational losses from its own resources or through commercial credits granted under normal market conditions and consequently defaults on its tax and credit obligations, such enterprise is subjected to the bankruptcy procedure. Usually the first step is to seek recovery through changes in management. If this measure fails to remedy the situation within a prescribed time limit, the effective bankruptcy procedure should be initiated. The normal outcome would be either to sell the enterprise (preferably through privatization) or to liquidate its assets to meet the creditors' claims.

To avoid any ambiguity it may be stated that such enterprise is most unlikely to be bailed out by the Government. The actual experience is quite explicit in this respect.

Question II/22

Please describe the scope, level, and direction of State loans, direct grants, or other subsidies to Polish industry and agriculture in 1990. What changes, if any, in these allocations are foreseen in 1991 and later?

Reply II/22

As mentioned earlier (see reply II/3), domestic price supports are applied only with regard to a handful of goods and services which are still subject to some form of price controls, while the margin of subsidization is rapidly reduced through successive price adjustments. For example, only during the first quarter of 1991, for which the most recent information is available, upward price corrections involved crude oil (by 23%), coal (up to 20%), electricity (20%), natural gas (60-80%), transportation fares and freight rates (20%). Such price increases are typically passed on to end users. Also, the few remaining domestic subsidies on food (milk and low fat cheese) were removed. The budgetary allocation for domestic subsidies in 1991 totals 28.6 trillion (thousands of billion) zlotys, which represents 6.0 percent of GDP, compared to 8.5 percent of GDP in 1990.

Question II/23

Regarding paragraph 16, does the Polish Government still publish any economic plan or report suggesting growth and development goals or levels to be reached within a certain period?

Reply II/23

All previously existing legal provisions serving as a foundation and institutional base of economic and social planning have been abrogated by a parliamentary decision of 30 September 1990. Consequently central plans are no longer drafted and the institutions which were responsible for central planning have been either dissolved or reformed. Henceforth the Government is obliged by law to submit to the Parliament annually the general assumptions of its economic policy including projections of key aggregates, such as the expected rates of GDP and GNP, inflation, employment, balance of payments and monetary policy guide-lines. The same submission includes also a medium and long-term prognosis of general business conditions in Poland and abroad and a long-term description of the general economic policies of the Government, including sectorial policies.

Such information has no legal status and is intended to be used only in the context of the constitutional parliamentary control over the executive branch. It is not transmitted downwards to be transformed into plans or directives for individual enterprises, their organisations or other economic entities.

Question II/24

Could Poland clarify the nature of the production credits extended to rural services and small-scale food processing, as mentioned in paragraph 9? Could the extent of the credits available and the products most affected be outlined?

Reply II/24

During 1991, the range of activities for which the particular credit mentioned in the Memorandum was intended has been reduced and its interest charge has been linked to the refinance rate.

Question II/25

Regarding paragraph 9, how far has privatization gone in agriculture. e.g., what part of total production is now private? What progress has been made to privatize supply of farm inputs and the agricultural marketing system?

Reply II/25

The agricultural sector in Poland is largely private. Its productivity and responsiveness to market forces are, however, significantly impeded by inefficiency of intermediate operations (processing and procurement in particular) and by the inflexible agrarian structure preventing consolidation of small land holdings into larger and more economically viable units. All legal restrictions concerning the maximum size of a land holding were removed in 1990.

Only about 18 per cent of arable land is owned and operated by the State. Over the next three years: (a) a part of this land will be privatized according to general procedures adopted for the privatization of State enterprises; (b) the land confiscated after the war in violation of the Land Reform Decree or other relevant laws will be returned to its rightful owners; (c) organizational structure of farms remaining a State property will be changed (e.g. by leasing them to private managers).

Cooperative farms will be restructured by giving greater autonomy to their members.

The process of structural change in agriculture, where there is now a high level of disguised unemployment, will involve a transfer of labour to other occupations, mainly in the rural areas. It is the Government's intention, therefore, to encourage development of small and medium industry in the countryside, primarily in food processing and other forms of agro-industry, as well as tourism. To facilitate such development, roads, utilities, telecommunications and other elements of the general infrastructure will need to be improved.

Question II/26

With regard to paragraph 10, what problems are encountered in the privatization programme of State assets? According to which criteria are shares issued in previously State-owned enterprises and in which ones? Are the Polish authorities being confronted with claims of earlier private ownership? Has any time schedule been fixed for the implementation of the private ownership programme?

Reply II/26

The privatization may assume a variety of forms. Some of its major elements are:

- transfer of Government-owned assets to local authorities;
- breaking-up and privatization of cooperatives;
- reorganization of public enterprises by selling some of their operations;
- small companies are being privatized by liquidating their assets

and selling them to their employees, or third parties;

- large enterprises are privatized in two stages: first the enterprise is transformed into a joint stock company with the Treasury as the sole stockholder and subsequently a portion of its shares is offered to Polish and foreign private and institutional investors.

Question II/27

Regarding paragraph 11, could further details be given about privatization in the banking sector including the rights of establishment of foreign banks?

Reply II/27

The right of establishment of foreign banks in Poland is regulated by the same Banking Law which applies to Polish banks. Foreign persons may invest in the existing or newly founded banks which are established as joint stock companies and which may be partly or wholly foreign-owned. Foreign participation is allowed up to 100% of the equity capital, but should be at least US\$ 6 million in convertible currencies. The amount of Polish currency is not limited. Such banks may be set up by at least three legal persons or 10 physical persons, subject to approval by the Minister of Finance. The chairman of the Board should be nominated in consultation with the President of the Polish National Bank and the Board should have at least one Polish citizen.

Foreign banks may also open field offices and branches in Poland, subject to the same minimum investment requirements as indicated above.

Operating conditions are essentially the same as for Polish banks and are subject to the Polish Banking Law.

State-owned commercial banks will be constituted as joint stock companies in 1991 and privatization procedures will be applied to some of them. The privatization process is scheduled to be substantially advanced by the end of 1993. The policy on the establishment of new banks is liberal. The rural banking is demonopolised through the application of the new Law on Cooperatives and an environment for a free association and mergers of cooperative banks will be promoted further with a view to create a coherent and efficient system of financial intermediation in the agricultural sector, as well as to enhance banking supervision.

Question II/28

With regard to paragraph 13, what is the experience to date of the operation of the new bankruptcy laws? To what extent and in which sectors will public companies still remain after structural adjustment?

Reply II/28

Because of the general economic situation the profitability of industry has declined, with a growing number of firms facing insolvency. By the end of the first quarter of 1991 781 enterprises were listed as credit unworthy, while 68 were designated for liquidation. In no sector of the economy will the State ownership be exclusive.

Question II/29

The system of central planning having been abandoned (as indicated in paragraph 16), do the Polish authorities apply any kind of administrative guidance to enterprises? What is the de facto share of foreign trade still going through or being handled by Foreign Trade Organizations?

Reply II/29

Public authorities do not apply any administrative guidance to enterprises, including foreign trade enterprises.

Foreign trade organisations with a majority or minority share of the Treasury still account for a predominant part of foreign trade turnover, as indicated in paragraph II/15. This fact should be attributed exclusively to their previously acquired dominant position in the market and to their international standing, as the present system offers no special treatment or incentives which would be biased towards such companies. In fact, arrangements are being made at present to drastically reduce or even entirely eliminate the State participation in such entities, in preparation for their privatization.

Meanwhile, private traders expand their share in foreign trade operations. By conservative estimates the total volume of their operations increased in 1990 threefold in exports and fivefold in imports and their share in total foreign trade was 5% in exports and 14.6% in imports. However, this trend is accelerating very rapidly, and at the end of the first quarter of 1991 the corresponding figures were already 12% for exports and 37% for imports.

Question II/30

If the difficulties of the Polish economy persist, is there a danger that the authorities will again have recourse to dirigiste methods, and if so, what will be the implications for Poland's situation in GATT?

Reply II/30

The present policy course may be modified and adjusted according to circumstances, but such changes may only be made within the scope of economic disciplines based on a fundamental orientation towards the market and private entrepreneurship. There is no possibility of a major reversal not only because of the external commitments (IMF, GATT, Paris Club, etc.), important as they are, but primarily due to the strongly negative public perception of the centrally planned system, whose institutional and legal basis has since been effectively reduced or destroyed.

Question II/31

While the use of certain restrictive measures under the stabilization programme may be warranted in view of the critical situation of the economy, a line should be drawn between such emergency measures and the economic policy instrument that will be maintained later on a permanent basis. Is it possible to indicate the nature of the economic policy instruments that will be employed after the completion of the stabilization programme?

Reply II/31

As the stabilisation programme is progressing there has been a steady elimination of those (relatively few) restrictive measures which had to be used initially as safety valves in the first, shock-therapy stage of economic transition. This successive liberalisation in foreign trade sector is discussed in parts III and IV below. The ultimate objective is to achieve normal conditions of a market economy with its standard and well known policy instruments, conforming to international disciplines and operational standards.

PART III. MAIN FEATURES OF POLISH FOREIGN TRADE

Commodity and geographical structure of foreign trade

Question III/1.1

Could the sectorial import and export data in Table 7 be supplemented by a table that breaks down the data on the basis of convertible/non-convertible currencies? If so, please provide.

Reply III/1.1

Polish exports and imports in 1990 at current prices (1989=100).

	Exports		Imports	
	Inconvert. currency	Convert. currency	Inconvert. currency	Convert. currency
TOTAL	90.1	140.9	65.7	106.3
of which:				
Fuels and energy	89.9	124.2	59.0	334.7
Manufactures:				
- engineering	89.2	135.3	71.7	131.8
- metallurgy	50.2	154.5	54.5	82.7
- chemicals	114.9	151.2	59.2	71.2
- textiles, clothing and leather wear	50.9	150.7	61.8	86.9
- processed food	91.2	119.8	73.5	73.1
Agricult. commodities	104.8	164.5	321.1	26.6

Source: GUS, Informacje Statystyczne-Handel Zagraniczny, Warsaw, May 1991, table 22

Question III/1.2

Concerning bilateral trade agreements with CMEA or other Socialist countries (paragraph 17, Annex 1, tables 7 and 8) and the protocols to these agreements listing the goods to be exchanged:

- Please list such agreements still in effect and their most recent protocols. Please describe their terms and the means of payment.
- Regarding tables 7 and 8, please indicate what portion of Poland's total external trade is currently conducted under the auspices of such bilateral agreements, protocols, and clearing arrangements, by country.

Reply III/1.2

In order to alleviate the shock caused by the disruption of trading patterns following the abrupt, factual dissolution of the CMEA, it was necessary to conclude new commercial agreements with the former CMEA members. They aim at ensuring a proper conclusion of the on-going commercial and investment deals and spell out the new rules of trade, based on the relevant standards of the international market. Such agreements have been concluded with the USSR, Czech and Slovak Republic, Hungary, Rumania, Bulgaria, Albania, Laos and Vietnam. Agreements with Mongolia, People's Democratic Republic of Korea and

Kampuchea were initialled. Only one of these agreements (with the USSR) contains a selective, indicative list of tradeable goods of major interest to the parties concerned. The list names engineering industry products in Polish exports and raw materials and fuels in Polish imports. The mode of trade and payments (cash, countertrade, barter, etc.) has been left entirely at the discretion of the traders themselves.

All agreements provide for settlements in convertible currencies, with the transferable rouble payments applicable only to old contracts. The agreements contain no provisions that would be discriminatory or otherwise prejudicial to the rights of GATT contracting parties.

During the first four months of 1991 exports and imports in trade with those countries were only 53 per cent and 63 per cent respectively, compared to the corresponding period of 1990, while the share of this group of partners in the total value of Poland's foreign trade was 17 per cent in exports and 22 per cent in imports.

2. Balance of Payments

Question 2.1

With regard to paragraphs 20 and 46, according to our information, the Polish current account balance in the first 9 months of 1990, both with convertible currency countries and with the transferable rouble area, was positive. Confirmation of the latest trends for current account and balance-of-payments situations is needed. What are the prospects, including the possible need to invoke Article XII?

Reply III/2.1

For the whole of 1990, the current account balance was positive with both payments areas (+7,121 mln transferable roubles and + 668 mln US dollars). As the transferable rouble is no longer used as an accounting unit, official projections of the total balance of payments in 1991 have been made uniformly in US dollars and they indicate the possibility of a current account deficit reaching up to US \$ 3 billion. The actual development of the balance-of-payments position up to the time of writing these replies does not suggest any immediate need to invoke Article XII.

Question III/2.2

What fiscal or trade measures are currently in place to defend Poland's balance of payments (BOP)? Will Poland commit to notify those measures applied for BOP purposes that affect trade, and consult with the CONTRACTING PARTIES as provided for in Article XII of the General Agreement?

Reply III/2.2

In view of a positive development of the balance-of-payments position of Poland no specific measures have been taken since the beginning of 1990 to defend the BOP. This was still true at the end of the first quarter of 1991 when this reply was written. In fact, further liberalisation of foreign exchange and import policy was introduced early in 1991 (stabilization of exchange rate, extension until mid-1991 of customs tariff cuts and suspensions affecting a majority of tariff lines [see Annex 4], lifting of controls on private remittances abroad from private bank accounts denominated in foreign currencies).

Therefore there has been no need so far to take recourse to Article XII. Should such a need arise, Poland would most certainly follow the procedures of that GATT Article.

PART IV. TRADE POLICY

1. Trade policy objectives

Question IV/1.1

In regard to paragraph 21, traditionally, bilateral clearing arrangements and agreements with CMEA and other Socialist countries have obligated Poland to buy and sell specific quantities and products. This paragraph states, however, that the Polish Government no longer mandates specific production, sales, or purchases by Polish firms. Under these circumstances, how can the Government of Poland ensure that the trade specified in the bilateral agreements is actually conducted, i.e., how does the Government execute its obligations under these agreements? Is this trade subject to the same customs duties and taxes as imports from convertible currency countries? If so, who pays these charges when they are applied?

2. Foreign exchange régime and exchange rate policy

Question IV/2.1

Regarding paragraph 22(a), how are the requirements for engaging in international trade listed in this paragraph applied to firms engaging in trade mandated under the CMEA bilateral trade agreements and funded through clearing arrangements in non-convertible currencies?

Replies IV/1.1 and IV/2.1

All trade with the CMEA partners is now subject to the general rules applicable to all other segments of trade, and based on the convertible currency payments. So called "transferable roubles" may still be used as accounting units for the settlement of transactions

concluded before the end of 1990. The intergovernmental trade agreements concluded for 1991 with some partners in the region do not specify any trade targets and serve primarily as a legal framework for an orderly transition to a normal trade regime. The general commodity lists attached thereto are indicative in nature and consequently do not imply any government-to-government obligation, unless they refer to items covered by previous intergovernmental investment undertakings. Such trade is subject to the same ad valorem customs duties and other financial charges as the trade with third parties.

As was explained earlier (see Part III) the CMEA is no longer operationally active in trade matters.

Questions IV/2.2 and IV/2.3

IV/2.2

It is stated in paragraph 22 (e) that "capital flows and transfers are still restricted". Please supply details on this statement.

IV/2.3

Given that capital flows and transfers are still restricted, does Poland have any definite intentions regarding their liberalization?

Replies IV/2.2 and IV/2.3

The statement was true at the time of drafting the text of the Memorandum in the middle of 1990. The Government has already prepared a new law on foreign investment. It provides, inter alia, for a remarkable simplification of administrative procedures and the repatriation of all after tax profits without any restrictions. The draft is now before the Parliament for its expected action before summer 1991.

Question IV/2.4

Regarding paragraphs 22 and 23, is it correct to understand that only natural persons are allowed to hold foreign currency deposits in Polish banks, whereas all other legal persons (e.g. corporate bodies) must resell currencies, e.g. export proceeds, to an exchange bank? If the answer is affirmative, does this then imply that foreign exchange may only be obtained at the officially fixed rate and that economic operators are not allowed to swap currencies amongst themselves?

Reply IV/2.4

According to the Foreign Exchange Law of 28 December 1989, all foreign exchange earned through production, commerce or other economic activities conducted after 1 January 1990 (with a major exception of financial and insurance institutions) must be resold to the currency

banks. This stipulation makes no distinction between legal and natural persons as long as they are engaged in such activities. In addition, natural persons are free to have unlimited currency deposits obtained through other means (wages and salaries, pensions, remittances, conversion of national currencies into foreign, etc.).

Conversely, foreign exchange needed for business transactions may only be obtained through purchase at market-based exchange rate.

Questions IV/2.5 and IV/2.6

IV/2.5

Regarding paragraphs 22(c)-22(d), do these requirements mean that exporters are not allowed to retain foreign exchange earned through exports? Do the exchange banks have an unlimited source of foreign exchange, or is there some mechanism that limits or allocates available foreign exchange? What is the rôle of the Polish Government and/or the National Bank of Poland in ensuring the availability of foreign exchange through the exchange banks?

IV/2.6

Is there no retention scheme foreseen for the holding of foreign currency?

Replies IV/2.5 and IV/2.6

Until the end of 1989 exporters were allowed to retain foreign exchange earned through exports. Since the beginning of 1990 this instrument has been abandoned in favour of procedures described in paragraph IV/2.5. Article 9 of the Foreign Exchange Law of 1989 states that foreign exchange banks are obliged to sell convertible currencies to the Polish legal and natural persons to meet their obligations resulting from purchase of goods, services and property rights abroad. There is no quantitative limit established for this obligation and consequently no discretionary mechanism has been foreseen or applied to allocate such resources among various end-users. The responsibility for meeting these obligations rests with the National Bank of Poland which is obliged to conduct its exchange rate policy and its foreign exchange management with a view to securing the liquidity of the system. The methods applied to this end are essentially the same as those used in other market-economy countries.

Question IV/2.7

What are the restrictions on capital flows and transfers?

Reply IV/2.7

At present, there are still both procedural and financial restrictions to capital flows, although most of them (marked with *

below) are expected to be phased out in a near future. The most important are:

- the requirement to obtain license for the purchase of stock of a privatized (formerly State-owned) enterprise when the purchase by a single foreign investor exceeds 10 percent of the total emission of such shares;
- the requirement that direct foreign equity participation in a joint venture should not be less than US \$ 50,000 for one investor and not less than 20 percent of the total equity for all investors (*);
- the possibility to repatriate profits only in the amount equal to surplus of export proceeds over import expenditures plus 15 percent of the remaining profit (*).

Question IV/2.8

Regarding paragraph 23, what percent of the total value of foreign exchange transactions during 1989 or 1990 was accounted for by transactions at licensed exchange offices by natural persons? Can natural persons that obtain foreign exchange through these offices use it to engage in international trade? If not, what measures are applied to restrict such activity, and why?

Reply IV/2.8

No data are available on the volume of transactions by licensed exchange dealers. Natural persons purchasing foreign exchange from such dealers may use it to engage in external trade. In fact, the scope of such engagement is quite substantial, as reflected in a remarkably high volume of consumer imports.

Question IV/2.9

It is stated in paragraph 24 that, "The rate of exchange of the Zloty is set by the National Bank of Poland at the level which allows bringing supply and demand for foreign exchange into equilibrium ...". If supply and demand are in equilibrium, why is the Zloty not fully convertible?

Reply: IV/2.9

The supply-demand equilibrium in the foreign exchange market, described in L/6714 para.24, continues to be maintained as indicated by the closeness of exchange rate quotations in official and private transactions. This equilibrium allows to maintain a full and unrestricted internal convertibility. However, the final step towards a complete (i.e. internal and external) convertibility is still probably a few years away. This would imply a virtually full liberalisation of capital transfers abroad, which in turn depends on the elimination of the present differentials between domestic and foreign factor costs.

Such differentials, especially with regard to labour costs relative to productivity, are gradually narrowed down, but their elimination will take some time, particularly under the conditions of anti-inflationary policies. The time-frame of the complete convertibility will also depend on the speed of privatization and the restructuring of productive capacities.

Question IV/2.10

Regarding paragraph 25, what are the requirements stipulated in law affecting foreign trade operations by corporate bodies? To what extent are Poland's international (especially GATT) trade obligations incorporated in domestic law?

Reply IV/2.10

Apart from the restrictive monetary and fiscal policies mentioned in para.25 of the Memorandum, there are no other regulations aimed at maintaining a relatively stable exchange rate by means of e.g., quantitative restrictions affecting activities of foreign trade companies.

Question IV/2.11

What is the nature of the restrictive monetary and fiscal policies undertaken to maintain a stable exchange rate?

Reply IV/2.11

Considering the direct relationship between inflation and exchange rate, the restrictive monetary and fiscal policies mentioned in document L/6714 paragraph 25 are aimed at controlling the aggregate demand through the application of the following major measures: heavy taxation of wage and salary increases in the public sector, improved disciplines of tax collection, relatively high discount rate applied by the central bank, positive real interest rate on savings and loans, balanced government budget, price decontrol.

Question IV/2.12

With regard to paragraphs 26-28, please give the most recent exchange rate for the Polish zloty to the US dollar (both official and parallel market rates) and the transferable rouble.

Reply IV/2.12

Average exchange rate (buying and selling) of US dollar on 1 June 1991:

- National Bank of Poland and other chartered banks: 11,105 zlotys

- private currency dealers: 11,117 zlotys

The "transferable rouble" is no longer used or traded.

3. Tariff rates

Question IV/3.1

Regarding paragraph 29, can Poland supply a translated copy of the Customs Law (Journal of Laws, No. 75-89, item 445) for review by the CONTRACTING PARTIES?

Reply IV/3.1

An unofficial translation of the Customs Law as amended in 1991 will be provided separately.

Question IV/3.2

Please list all non-tariff charges and taxes applied to imports, excluding internal taxes that are also applied to domestic production. Please indicate, as appropriate, in what way these charges are consistent with the cost of the customs service rendered. Please give the purpose for any charge or tax applied.

Reply IV/3.2

There are no non-tariff charges or special taxes applied solely to imported products in Poland.

Question IV/3.3

Are all laws, regulations, requirements, decrees, etc., affecting trade published prior to implementation and in a manner allowing traders to be aware of them? Where does Poland publish such information? How can traders determine which products are under quota or licensing restriction?

Reply IV/3.3

All laws, executive orders and other regulations affecting foreign trade are brought to public notice in regular Government publications which are issued frequently (several times a month) and which are generally available in bookstores, stationary shops and special sales outlets. Essential legal acts and executive regulations are also published by some daily newspapers. Also the drafts of major laws are announced before the final legislative action.

There is a general legal requirement that all such documents should be publicly available prior to their implementation. Quantitative regulations affecting trade, licensing requirements, tariff modifications etc., appear in several official sources, such as Dziennik Ustaw (Journal of Laws), Monitor Polski (Polish Law Gazette)

and Dziennik Urzędowy Ministra Współpracy Gospodarczej z Zagranicą
(Official Gazette of the Minister of Foreign Economic Relations).

Question IV/3.4

Regarding paragraph 32, is the customs tariff established in 1988 still in effect? Are there plans to alter it? Will Poland provide a copy of its customs tariff for review by the CONTRACTING PARTIES? Will Poland please submit import statistics for a recent representative period, by tariff item, by supplier country?

Reply IV/3.4

The customs tariff established in 1988 according to the HS standards and effectively applied since 1 January 1989, as notified by Poland in GATT document L/6463 is still in effect, except for a few changes listed in Annex 1 to this document. Since the beginning of 1990 and until the end of June 1991, the collection of customs duties has been suspended erga omnes for a substantial part of the tariff schedule with regard to imports coming from all GATT and non-GATT sources (notified in GATT documents L/6640 and L/6670). The aim of this suspension has been to encourage imports within the framework of the anti-recessionary and anti-monopoly policy and to alleviate the inflationary pressures.

As a result of drastic changes in economic policies and conditions since 1988, a number of inconsistencies and other faults have become apparent in the present customs tariff. Consequently intensive work is being pursued to revise the tariff schedule before the end of 1991. The new tariff will be notified to the GATT as soon as practicable in conformity with the relevant provisions of the General Agreement and is intended to be used as a basis for tariff concessions by Poland.

Polish import statistics by tariff items and by supplier countries are attached as Annex 2 to this document.

Question IV/3.5

Regarding paragraph 31, what is the impact of clearing or barter arrangements still in operation vis-à-vis neighbouring CMEA countries and what is the relevance of the tariff for such operations? What is going to happen to quantitative restrictions in the trade with CMEA countries?

Reply IV/3.5

According to the Customs Law as effectively applied since the beginning of 1989, all imports from all sources and irrespective of the mode of trade transactions or payments are subject to the same tariff regime, with the exception of the GSP and LLDC treatment of the eligible beneficiary countries. This principle is fully applicable to imports originating from the CMEA partners. As discussed earlier

above, the CMEA trading system is in the state of collapse, while Poland's bilateral trade arrangements with its CMEA neighbours no longer provide for government-to-government transactions. They stipulate that payments should be based on freely negotiated prices expressed in convertible currencies, reflecting the realities and practices of the international market. Therefore it may be safely assumed that the customs value of goods traded within this framework is similar to the customs value of comparable goods coming from other sources.

Question IV/3.6

Please give details of the specific rules of origin which are in effect for the purpose of administering the customs tariff. If different rules of origin are in effect for other purposes, please also specify the rules for each type of trade measure.

Reply IV/3.6

The definition of the country of origin is provided in Article 2.14 of the Customs Law of 1989.

Question IV/3.7

Regarding paragraph 34, to what extent is the Polish tariff bound? Do the Polish authorities, on the basis of present experience, feel the existing tariff level constitutes a sufficient means of protection, now that previously applied measures have been dismantled?

Reply IV/3.7

There are no bound rates in the Polish tariff at present. As regards the second part of the question, the experience gathered since the present tariff went into effect in 1989 indicates that the protection offered by the existing rates is not sufficient in certain cases (notably food products).

Question IV/3.8

In its request for renegotiation, Poland indicated an interest to establish its terms of participation in the GATT on the basis of tariff concessions. In this context, will Poland bind the entirety of its tariff schedule at appropriate levels?

Reply IV/3.8

Poland will be ready to negotiate the binding of its new tariff at levels commensurate with the principle of effective reciprocity.

Question IV/3.9

Please provide a list of the countries subject to m.f.n. rates of duty and to the higher, autonomous rates.

Reply IV/3.9

According to the Decree of the Council of Ministers of 30 December 1989 as amended on 27 December 1990, the m.f.n. rates of customs duty are automatically applied to goods originating in Contracting Parties to the GATT. In addition, the following countries, regions and customs territories are subject to the m.f.n. rates on a mutually reciprocal basis: Albania, Algeria, Saudi Arabia, Bahamas, Bahrein, Brunei, Bulgaria, Iraq, Qatar, Lebanon, Libya, Seychelles, St. Christopher and Nevis, Syria, Taiwan, United Arab Emirates, Union of Soviet Socialist Republics.

41 LLDCs are subject to the zero rates of duty on all goods imported into Poland. Preferential rates equal to 70 per cent of the m.f.n. rates are applied to 55 beneficiaries of the GSP scheme (both country lists are provided in paragraph IV/4.1 below).

All countries and territories which are not covered by the four categories listed above are subject to higher customs duties which equal 200 per cent of the corresponding m.f.n. rate, or 25 per cent of the customs value of goods for which the m.f.n. rate is zero.

Question IV/3.10

It is stated in paragraph 35 that "the average tariff incidence amounted to 8.9 per cent in 1989". Is this a trade-weighted calculation, or a simple average rate based on all the tariff lines? If the latter, please also give the trade-weighted average.

Reply IV/3.10

The quoted tariff incidence amounting to 8.9 percent in 1989 (8.6 per cent in 1990) is a trade-weighted average.

Questions IV/3.11 and IV/3.12

IV/3.11

In Annex 2, please give trade-weighted average tariffs for the various Sections of the Harmonized System shown.

IV/3.12

Concerning the average level and distribution of Poland's tariff rates (paragraph 35 and Annex 2):

- What is the trade-weighted average of Poland's m.f.n. and non-m.f.n. tariffs on all dutiable imports? On farm products and on non-agricultural products?

- In a recent representative period, what percentage of non-preferential import trade entered at rates of duty of 10 per cent or less, 10 to 20 per cent, 20 to 30 per cent, etc.

Replies IV/3.11 and IV/3.12

A comprehensive analysis of the actual trade-weighted level of tariff protection will be available later.

For a general information a simple average was calculated for major product groups with the following results:

Agriculture (HS 01.01-24.03)	13.3 per cent
Textiles and clothing (HS 50.01-63.10)	8.6 per cent
Steel products (HS 72.01-73.26)	6.7 per cent
Engineering (HS 84.01-84.85)	8.1 per cent

Question IV/3.13

With respect to the customs tariff, is it possible to indicate the future treatment of motor vehicles and parts and components to motor vehicles, respectively?

Reply IV/3.13

There is no intention to introduce prohibitive barriers in the form of excessively high tariff rates for new vehicles (20 per cent at present). However, the problem of the rapidly increasing imports of used cars may need to be addressed through border measures on the grounds of environmental and safety standards. Spare parts are imported at the rate of 3.5 per cent while CKD sets are duty free. Any possible changes in the tariff treatment of automobiles and related products will be reflected in Annex 2 to this document.

4. Preferential treatment

Question IV/4.1

Regarding paragraph 36, please provide lists of the countries that receive GSP and LLDC tariff treatment in Poland's tariff régime. Please list the countries that grant GSP treatment to Polish exports. Please list any other tariff or trade preferences granted or received by Poland, e.g., free trade areas or other preferences.

Reply IV/4.1

According to the Decree of the Council of Ministers of 27 December, 1990, the following countries and territories receive GSP and LLDC tariff treatment on imports of goods into Poland, as notified in GATT document L/5321/Add.2 :

GSP treatment: Angola, Belize, Bolivia, Cameroon, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Dominica, Dominican Republic, Egypt, Ecuador, Fiji, Ghana, Grenada, Guyana, Guatemala, Honduras, India, Indonesia, Jamaica, Jordan, Kampuchea, Kenya, Korea (People's Democratic Republic of), Liberia, Madagascar, Mauritius, Mexico, Mongolia, Morocco, Namibia, Nicaragua, Nigeria, Pakistan, Papua-New Guinea, Paraguay, Philippines, Salomon Islands, Salvador, Senegal, Sri Lanka, St. Lucia, St. Vincent and Grenadines, Swazi, Thailand, Tonga, Tunisia, Vietnam, Zaire, Zambia, Zimbabwe.

LLDC treatment: Afghanistan, Bangladesh, Benin, Bhutan, Botswana, Burkina Faso, Burundi, Cape Verde, Central African Republic, Comores, Djibuti, Ethiopia, Equatorial Guinea, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Sao Tome and Principe, Sierra Leone, Somalia, Sudan, Tanzania, Tchad, Togo, Tuvalu, Uganda, Vanuatu, Western Samoa, Yemen (Republic of).

Question IV/4.2

Approximately what portion of Poland's current imports are subject to the preferential tariff rates listed in this paragraph?

Reply IV/4.2

In 1990 GSP preferences were effectively applied to approximately 5 per cent of the total Polish imports.

Question IV/4.3

Please describe in more detail the criteria applied to determine the origin of goods eligible for preferential tariff treatment as described in paragraph 36.

Reply IV/4.3

Preferential tariff treatment is applied to all goods imported directly to Poland from the developing beneficiary countries on presentation of the certificate of origin. The share of materials originating from a third (non-beneficiary) country in the purchased product cannot exceed 50 per cent, which should be indicated in the certificate of origin. The goods should be transported directly from the developing country of purchase and the exporting firm should be domiciled in the country of purchase.

Question IV/4.4

Through the end of 1992, the former German Democratic Republic, now part of a unified Germany, intends to take certain traditional levels of imports from countries covered by these bilateral agreements on a duty free basis, in order to minimize the economic disruption occurring when the former GDR adopted the EC trade régime. Will Poland continue to accept similar export trade from the former GDR on a duty free basis during this period even though such exports technically originate in Germany, which is no longer covered by such agreements?

Reply IV/4.4

Polish imports from the former GDR were never duty free. Duties were levied just like on imports from any other CMEA country. Goods imported from the former GDR territory at present are subject to the generally applied tariff treatment.

Question IV/4.5

Please provide a status report on Poland's progress and objectives in negotiations with the European Communities towards association agreements that will contain provision for trade preferences and other forms of economic co-operation.

Reply IV/4.5

Poland's negotiations on association with the European Communities are still in progress. One of the aims of these negotiations (and also those with EFTA countries) is the establishment of a free trade area. However, it is still too early to discuss any detailed provisions.

5. Customs valuation

Question IV/5.1

It is stated in paragraph 37 that "the customs value of merchandise ... is determined in full conformity with ... the Customs Valuation Code". Does Poland intend to become a signatory to the Customs Valuation Code? If so, what timing is envisaged?

Reply IV/5.1

On 30 October 1990, the Government of Poland accepted the Agreement on Implementation of Article VII (Customs Valuation Code) subject to ratification.

Questions IV/5.2, IV/11.6 and IV/13.15

IV/5.2

Does Poland intend to adhere to existing GATT Codes, notably the Standards and Government Procurement Codes?

IV/11.6

Does Poland intend to become a signatory to the Government Procurement Code?

IV/13.15

Does Poland intend to become a signatory to the Subsidies Code? If so, what timing is envisaged?

Replies IV/5.2, IV/11.6 and IV/13.15

On 29 April 1991, Poland has signed the Subsidies Code, subject to ratification. Also, the administrative procedure has been started concerning accession to the Government Procurement Code in a near future. It is intended that Poland will adhere to all Tokyo Round Codes.

Question IV/5.3

Do the duty-free zones and duty-free warehouses include additional benefits, such as delivery of services or products for use in production of exported goods on preferential terms, when compared to production of goods outside duty-free zones for domestic consumption?

Reply IV/5.3

Under the Customs Law, the free-trade zones and duty-free warehouses do not benefit from any preferential terms in the deliveries of goods and services from the Polish customs territory.

Question IV/5.4

Regarding paragraph 38, are normal taxes, as well as customs duties, applied to "imports" into Poland's customs territory from the duty free warehouses?

Reply IV/5.4

Goods entering Polish customs territory from the duty-free warehouses are subject to the same tax and tariff treatment as similar goods imported across the border.

Question IV/5.5

Regarding paragraph 39, what are the objectives of the 15 free trade zones and how important are they expected to become in proportion to global foreign trade?

Reply IV/5.5

The free-trade zones were intended to stimulate trade turnover and industrial activity in selected regions. However, their establishment proved to be a slow process and their economic role is still negligible. In fact, when the preferential economic and legal provisions originally granted to such areas have largely become part of the general economic order in the country, the need for such zones is subject to debate.

Question IV/5.6

Are firms locating in Poland's "duty free" or "free trade" zones described in paragraph 39 required to export a certain percentage of their output or to meet a local content requirement in their production? Are there any criteria for establishment of a firm in the zone? Are these firms subject to normal direct and indirect taxes?

Reply IV/5.6

Neither Polish nor foreign-owned firms located in duty-free and free-trade zones are subject to export performance or local content requirements.

By a Decree of 22 December 1990, published in Dziennik Ustaw (Journal of Laws) No.1/1991, the Council of Ministers established that goods imported from the duty-free zones (except alcoholic beverages) are eligible to benefit from a 75 percent to 100 percent reduction from the applicable customs tariff rate, if the value of components which originate from the Polish customs territory and which are incorporated into such products represents respectively at least 40 percent to 75 percent of the total value of the final product.

6. Temporary suspension of customs duties

Question IV/6.1

Is the temporary suspension of customs duties always implemented on an m.f.n. basis? If there are exceptions to this, please supply details.

Reply IV/6.1

The temporary suspension or reduction of customs duties is implemented on an m.f.n.basis without any exceptions.

Question IV/6.2

Are customs tariffs sometimes or always eligible to be suspended or refunded to the buyer in the case of:

- government procurement (purchasing)?; or
- purchases carried out (by any buyer) under bilateral clearing arrangements?; or
- purchases handled by Foreign Trade Organizations?

Please supply details for each of the above types of purchases.

Reply IV/6.2

Customs tariffs are never suspended, altered or refunded to the buyer in circumstances mentioned in the question.

Question IV/6.3

Regarding paragraph 40, is there an export requirement requested of firms to qualify for tariff duty exemption for imports of machinery and equipment, etc., by firms investing in Poland?

Reply IV/6.3

Foreign firms investing in Poland are not required to fulfil any export performance requirements to qualify for tariff duty exemptions on imports of machinery and equipment. Such exemptions are extended automatically to all foreign investors during the first three years of operations.

Under the new Foreign Investment Law which is now before the Parliament, the exemptions from customs duties are to be limited only to the physical inputs contributed by foreign investor to the fixed capital of the company. Like at present, the application of this provision will not be conditional upon any export performance criteria.

Questions IV/6.4 and IV/6.5

IV/6.4

Regarding paragraph 43, approximately how many tariff lines and what portion of Poland's imports have been subject to temporary import reductions and exemptions like those applied in 1990? Are these exemptions applied on an m.f.n. basis? How much longer will such exemptions need to be applied?

IV/6.5

Are the customs duties on foreign products, including those in the agriculture sector, which were suspended temporarily from April 1990, still suspended?

Replies IV/6.4 and IV/6.5

On 19 December 1990 the Council of Ministers decided to extend until 30 June 1991 the temporary suspension and reduction of customs duties on all items covered by the original decision of 5 March 1990 as described in L/6714 paragraph 43 and by additional decisions made during the year. The decree on the extension was published in Dziennik Ustaw (Journal of Laws) No.91/1990 item 539. All such suspensions and reductions are applied on an m.f.n.basis. They affected well over 50 per cent of all tariff lines (mainly raw materials, intermediate goods and a wide range of engineering products) and have resulted in a substantial reduction of trade-weighted tariff protection, from the estimated 10.9 per cent in the first half of 1990 to 5.2 per cent at the end of the year.

7. Measures against unfair trade practices

Question IV/7.1

Regarding paragraph 44, have any anti-dumping investigations been initiated or completed to date?

- If initiated, but not yet completed, which products and source countries are involved?
- If completed, what was the result of the case(s)?

Reply IV/7.1

On 15 February 1990 the Central Customs Office initiated an anti-dumping investigation to determine if injury has been caused to domestic industry as a result of allegedly dumped imports of animal and plant fats. The decision to initiate this investigation was published in Monitor Polski (Polish Official Gazette) No.6/1991 item 43. This is the first instance of such proceedings having been initiated in Poland under the GATT Anti-Dumping Code and the corresponding provisions of the Polish law.

Question IV/7.2

What is the current policy in effect which governs the use of countervailing duties? Please give details.

Reply IV/7.2

Till now, no countervailing duties have been applied.

Question IV/7.3

Does Poland have specific legislation concerning the application of safeguard or countervailing measures to protect Polish goods from injury by subsidized or excessive levels of imports? If so, please cite these laws or regulations?

Reply IV/7.3

Section 7 of the Customs Law lays down specific provisions in respect of unfair practices in international trade, including countervailing measures to protect Polish producers from injury caused or threatened to be caused by subsidized imports.

With regard to excessive imports, Article 9 of the Customs Law stipulates that the Council of Ministers may introduce temporary restrictions on imports, if such restrictions are justified by trade policy requirements, economic interests or national security considerations.

Under Article 7 of the Customs Law the Minister of Foreign Economic Relations may introduce import quotas in either quantity or value terms.

Question IV/7.4

Could Poland supply translated texts of its laws concerning protection against dumped, subsidized, or excessive imports?

Reply IV/7.4

The text of section 7 of the Customs Law concerning protection against dumped imports has been notified to the Committee on Anti-Dumping Practices. The same procedures also apply to the countervailing of subsidized imports.

8. Internal taxes levied on products

Questions IV/8.1, IV/8.2 and IV/8.3

IV/8.1

The temporary turnover tax, which is levied at a higher rate than on domestic products for some categories of imports by natural persons, appears to breach Article III of the GATT. Can Poland comment on this?

IV/8.2

Is the Turnover Tax still in place? Will Poland implement the Value Added Tax (VAT) during 1991? If so, what products will be covered and at what level will the tax be applied? Will imports and domestic goods be equally subject to this tax?

IV/8.3

Regarding paragraph 46, are the discriminatory turnover taxes described in this paragraph still in place? If so, what plans does Poland have to bring these measures into conformity with Article III?

Reply IV/8.1, IV/8.2 and IV/8.3

The turnover tax which is still levied on a number of goods does no longer differentiate between similar domestic and imported products or between the natural and legal persons. The present tax is expected to be replaced by a VAT-type tax obligation beginning 1 January 1992 at the latest (see also reply II/9 above).

9. Non-tariff measures

Question IV/9.1

Regarding paragraph 47, does Poland intend to become a signatory to the Agreement on Technical Barriers to Trade? If so, what timing is envisaged?

Reply IV/9.1

Poland intends to become a signatory to the TBT Code. The relevant procedures will commence during the second part of the year.

Question IV/9.2

Does Poland intend to accede to MTN Agreements of the Tokyo Round? If so, which Code is Poland interested in most?

Reply IV/9.2

At present Poland is a signatory to the following MTN Agreements of the Tokyo Round: Antidumping, Import Licensing, Dairy Products, Bovine Meat. The Customs Valuation Code was accepted by Poland late in 1990 and the Subsidies Code in April 1991, both subject to ratification. Poland intends to accede to the remaining Codes of the Tokyo Round, beginning with the TBT and Government Procurement Codes probably in 1991.

Question IV/9.3

Please provide a list of items subject to quantitative import/export restrictions. Are all quantitative restrictions consistent with Article XIII of the General Agreement?

Reply: IV/9.3

The exhaustive list of quantitative import and export restrictions as of 21 May 1991 is as follows:

(a) Import prohibition on: undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent vol. or higher (HS 2207.10), unflavoured vodka (HS 2208.90). This measure has been instituted in conformity with the provisions of GATT Article XI:2 (c)(i) and is expected to be in effect until the end of 1991.

(b) Import prohibition on: two-stroke automobile engines and all types of automobiles with such engines, effective until the end of June 1991 unless extended. This measure has been taken for reasons of environmental protection as justified by GATT Article XX(b).

(c) Import quotas, established for the first six months of 1991:

HS tariff line	I t e m	Quota (hectolitres)
2207.20	Ethyl alcohol and other spirits, denatured, of any strength	100
2208.10	Compound alcoholic preparations	15,000
2208.20	Spirits obtained by distilling grape wine or grape marc	75,000
2208.30	Whiskies	16,000
2208.40	Rum	6,000
2208.50	Gin and geneve	6,500
2208.90	Liqueurs and aperitifs	10,000

(d) Other import restrictions: malt beer (HS 2203.00), wines, vermouths, meads (HS 2204.10; 2204.21; 2204.29; 2204.30; 2205.10; 2205.90; 2206.00), cigars, cigarettes and other similar tobacco products (HS 2402.10; 2402.20; 2402.90). The restriction which is foreseen to be in effect until the end of June 1991 consists in the requirement to obtain import license. This measure has been applied for a short and limited duration in order to facilitate the introduction of a uniform turnover tax which covers both imported and domestically produced goods, without distinction and discrimination.

(e) Export prohibitions: reexports of all chemical agents used for plant protection and components for their production, if obtained within the framework of economic assistance to Poland.

(f) Export restrictions: (i) hard coal, anthracite, coal briquettes, coke and semicoke, gasoline, Diesel oil; (ii) whole and skimmed milk powders, cheese, butter; (iii) textiles and textile products, apparel and footwear if exported to the EEC, United States, Canada, Sweden, and Norway; steel and specialty steel products if exported to the EEC and the United States; lambs and lamb meat if exported to the EEC.

Restrictions on items listed under (i) conform to the provisions of GATT Article XI:2(a), those listed under (ii) are intended to assure Poland's compliance with the minimum price requirements of the Dairy Protocols or the bilateral price undertakings, while those covered by (iii) result from import quotas established in external markets. All these restrictions consist in the requirement to obtain export license.

Question IV/9.4

Does the statement in the last sentence of paragraph 47, that the restrictions are consistent with Articles XX and XXI of the GATT, cover those restrictions which may be introduced in trade?

Reply IV/9.4

The statement indicated above refers to the policy measures in effect at the time of the original submission of L/6714. It is not intended to be interpreted as a blanket commitment for the future, which might prejudice Poland's right to use all GATT-consistent provisions, including those of Articles XI, XII, XIII, XIX, XX and XXI.

Question IV/9.5

Could the products likely to be affected by the non-tariff barriers mentioned in paragraph 47 be listed?

Reply IV/9.5

Paragraph 47 of L/6714 is a general policy statement expressing the intention of the Polish Government to avoid using non-tariff barriers in trade and to follow all relevant GATT procedures if and when such measures may be considered necessary. Therefore it is not possible to give any indication of product coverage of such hypothetical actions as might occur in the future.

10. Import quotas

Question IV/10.1

Regarding paragraph 49, could Poland describe the circumstances under which particular products could become subject to import quotas as provided for in Article 7.2 of the Customs Law?

Reply IV/10.1

The circumstances which might possibly be invoked for the introduction of import quotas are essentially those which are foreseen and described in Articles XI, XII, XIX, XX and XXI of the General Agreement.

Question IV/10.2

Does the relevant legislation (Article 7.2 of the Customs Law) list the specific product types which could be affected?

Reply IV/10.2

Article 7.2. of the Polish Customs Law does not specify or otherwise indicate the products which might be subject to import or export quotas or covered by other quantitative restrictions.

Question IV/10.3

What are "specific" goods for which the customs law permits import quotas?

The present tax is expected to be replaced by a VAT-type tax obligation beginning January 1, 1992 at the latest (see also reply II/9 above).

Reply IV/10.3

The word "specific" in paragraph 49 of L/6714 is indeed misleading. Neither the Article 7.2 of the Customs Law nor the remaining text of this Law contain any indication as to the product coverage of possible restrictive actions.

Question IV/10.4

Which products, if any, are currently subject to import quotas or specific import licensing restrictions? Please list farm products whose importation is highly restricted or banned for animal or plant health reasons.

Reply IV/10.4

Apart from restrictions discussed under item IV/9.3 above there are no other import restrictions imposed as a general trade policy measure. Naturally, there are also normal procedures concerning admittance of medicines and veterinary drugs as well as preservatives, emulsifiers, colouring agents and artificial sweeteners in food products. The relevant control regulations apply equally to domestically produced and imported goods.

Question IV/10.5

Will Poland commit to apply its laws and regulations which provide for import prohibitions, import licensing, import permits, or other quantitative limitations on imports in a manner consistent with the provisions of the General Agreement, including Articles XI, XII, XIII, XIX, XX, and XXI?

Reply IV/10.5

Yes, Poland shall be ready to undertake such commitments and to act accordingly.

11. Licensing

Questions IV/11.1 and IV/11.2

IV/11.1

Could Poland provide details as to the current nature of its trading relations with CMEA countries? Is the special trade status of these countries to continue (including quantitative measures and fixed exchange rates)? If so, what ways will Poland seek to expand trade with non-CMEA countries?

IV/11.2

Although the scope of application of the customs tariff has been widened and now also concerns trade with CMEA countries, the latter's special status does not seem to have been completely eliminated. How does Poland envisage transforming its relations with the CMEA countries so that they become consistent with the GATT?

Replies IV/11.1 and IV/11.2

As of 1 January 1991, Poland's trade relations with CMEA countries underwent a radical transformation. The essential features of the present regime in trade with those countries are: the replacement of government-to-government commercial agreements with their commodity-specific commitments by general framework understandings, the use of convertible currency payments instead of the so-called "transferable roubles" (with the exception of old contracts which are expected to be settled in this accounting unit) and the application of international market prices in place of the "sliding average price". This segment of Poland's trade has therefore lost much of its specificity and is subject to the same set of rules and policies, including GATT standards of commercial behaviour, which apply to the entire foreign trade of Poland. More specifically, this uniformity implies equal treatment with regard to tariffs, taxes and other financial charges, exchange rate policy, import and export restrictions, as well as anti-dumping and anti-subsidy disciplines.

So far, the transformation has resulted in a strong decline in Poland's trade with CMEA partners, especially with the USSR. One possible, temporary remedy might be to resort to a dollar-denominated clearing arrangement, which however would not effect the fundamental GATT consistency of all major instruments of Poland's trade policy vis-à-vis the region.

Question IV/11.3

It is stated in paragraph 50 that "licensing may apply to imports carried out within the framework of international agreements which stipulate bilateral settlements". Which are the countries concerned, and will the system be continued? Please describe in detail the terms which will govern Polish trade with the member countries of the CMEA as of 1 January 1991. Please include, inter alia, details of any terms which may involve barter or countertrade, especially product details and time frames.

Reply IV/11.3

The relevant statement in paragraph 50 refers to the Customs Law which was drafted when the traditional CMEA system of trade was still in existence. Should a dollar-denominated clearing be established on a temporary basis as speculated in paragraph IV/11.1 above, it might require some form of licensing. The measure, if ever applied, would likely be limited to one country within the former CMEA region. No government-to-government barter or countertrade are envisaged.

Questions IV/11.4 and IV/11.5

IV/11.4

What proportion of Polish government procurement is imported, by sector? Please show separate data for convertible and non-convertible currency sources.

IV/11.5

What proportion of trade with the CMEA relates to procurement (purchasing) carried out by entities of the Polish government?

Replies IV/11.4 and IV/11.5

As the system of government procurement with its separation of government and non-government imports is now being developed, there are no statistics available to indicate the volume of such purchases. The information may be provided at a later date. It may be only stated that all transactions made on behalf of the Government are conducted on the basis of commercial considerations, without any non-commercial preference for a specific source of supply, including the former CMEA.

Question IV/11.6

See page 32.

Question IV/11.7

We understand that Poland now licenses exports of butter and skimmed milk powder to ensure that exports do not breach minimum prices established under the International Dairy Arrangement. Can

Poland explain how this licensing system works? What other regulatory measures, if any, does Poland use to ensure compliance in its foreign trade activities with its international obligations? (The list of licenses in paragraphs 54-55 of the Memorandum does not appear to cover the above case.)

Reply IV/11.7

The enforcement of minimum prices established under the International Dairy Arrangement is in the hands of the Ministry of Foreign Economic Relations which operates a system of export permits for products covered by external price and quantitative commitments. Export licenses for such dairy products are issued only to those exporters who produce an export contract indicating that the minimum price has been honoured or that proper procedures for derogations have been followed.

12. Export policy

Question IV/12.1

Regarding paragraph 54, is coal still subject to temporary export restrictions as listed in Annex 3 of L/6714 and, if so, what is the rationale for such restrictions?

Reply IV/12.1

As indicated in paragraph IV/9.3. above, coal, coke and semicoke are still subject to export restrictions in the form of export licensing requirement. This measure, which is expected to be in effect until mid-1991, has been taken under GATT Article XI:2(a) to prevent possible shortages of solid fuels as long as their domestic price continues to be regulated. Such fuels are among a very few items for which full price deregulation is yet to be carried out.

Question IV/12.2

What are the justifications for maintaining export restrictions on notably non-ferrous metals scrap and raw hides, as listed in Annex 3?

Reply IV/12.2

Export restrictions (licensing requirements) on metals scrap and raw hides were originally introduced early in 1990, to prevent serious disruptions in domestic availability of such goods under conditions of strong export incentives created by a steep devaluation of the zloty. This rationale is no longer valid and the restriction is likely to be lifted in mid-1991.

Question IV/12.3

Are coal exporters in receipt of indirect taxes on inputs as set out in paragraph 21.

Reply IV/12.3

Coal exports are covered by the general rules, including the drawbacks of indirect taxes on inputs.

Question IV/12.4

What, if any, special programmes or benefits are directed at the textile industry? We understand that the exports of the textile sector have fallen significantly since the introduction of market oriented policies. In the light of this, is Poland considering any changes to existing policies for this sector?

Reply IV/12.4

The textile industry does not benefit from any special supports involving budgetary expenditure. No departure from this practice is foreseen.

Questions IV/12.5 and IV/12.6

IV/12.5

With regard to paragraphs 53 and 54, what is the connection, if any, between the twenty-two items subject to export quotas in early 1990 to prevent shortages of some goods on the domestic market described in paragraph 53, and the temporary export licenses required for twenty-four products (reduced to seventeen in April 1990) listed in Annex 3 and described in paragraph 54? Please indicate all current products, by HS line, subject to export quotas or export licensing requirements.

IV/12.6

Which products, if any, are currently subject to export quotas or specific export licenses?

Replies IV/12.5 and IV/12.6

All export quotas understood as a quantitative indication of maximum allowable exports were lifted in May 1990, as stated in L/6714 paragraph 53. Since then, most of the items listed therein have been subject to export licensing as a less rigid form of restriction, introduced for various reasons: domestic price controls (fuels), externally imposed quotas and price undertakings (textiles, clothing, metals, live animals), GATT minimum price commitments (dairy products) or domestic availability criteria. The licenses are intended to serve

as a monitoring instrument and are issued without discrimination to all exporters domiciled in Poland. In some cases (price undertakings and commitments) licenses may be granted only to those applicants who meet such price requirements. The complete list of products covered by export licenses is provided in paragraph IV/9.3 above.

Question IV/12.7

Does Poland foresee the need in the future to retain or expand the export restrictions described in these paragraphs?

Reply IV/12.7

Poland intends to lift all autonomous export restrictions before or at the end of 1991. The elimination of others would be a welcome development, which, however, depends largely on the cooperation of Poland's trading partners.

13. Financial measures

Question IV/13.1

It is stated in paragraph 56 that "since January 1990 no direct or indirect export subsidies are granted. Moreover, there is no income or price support which could be treated as a measure aimed at increasing exports of any product from Poland". Is it correct to infer from this that some enterprises are being allowed to go into bankruptcy? Please give details as to the number of enterprises by sector, and the number of employees affected.

Reply IV/13.1

The conclusion implied in the question is correct. Only in 1991 there may be up to 100 bankruptcies of major State-owned enterprises.

Question IV/13.2

Does the first sentence of paragraph 56 mean that from January 1990 any direct or indirect export subsidies will not be permitted, or simply that they are not at present granted? Can Poland offer any commitments in respect of future use of domestic and export subsidies?

Reply IV/13.2

The statement means that subsidies in question are not granted and are not expected to be permitted. Any possible commitments in respect of subsidies would be similar to those which might be assumed by other GATT contracting parties.

Question IV/13.3

Does the Polish Government offer any official trade credits or export credit guarantees to finance Polish exports? If so, at what terms?

Reply IV/13.3

In view of a stringent budgetary policy the Government generally refrains from granting export credits or credit guarantees, except in a very limited number of cases involving developing countries. A new institution in the Polish insurance system, the Export Credit Guarantee Corporation was established earlier this year. Its main task is to insure commercial and political risks in transactions involving supplier credits. The Corporation's statute and organization are based on the experience of the German HERMES and the French COFACE. The Corporation will be affiliated with the International Union of Insurers in Bern.

Question IV/13.4

Does what is stated in paragraph 56 apply to both agricultural and industrial goods, and to goods exported to all countries?

Reply IV/13.4

Poland does not apply export subsidies neither to agricultural goods nor to manufactures, whatever their destination.

Question IV/13.5

Can export firms acquire inputs from State or State-owned sources at rates below the cost of production or acquisition? Do export firms receive any tax incentives other than duty drawback and the rebate of indirect taxes applied to exports or to components incorporated in the export?

Reply IV/13.5

All transactions between export firms and their domestic suppliers or customers, whether State-owned or others, are conducted at the discretion of the parties directly concerned, without any support from publicly funded sources. Such transactions are therefore expected to be priced above the cost of production or acquisition. Exporters or producers of exported goods do not receive any tax incentives or other financial incentives related to exports other than duty drawback and the rebate of indirect taxes.

Question IV/13.6

Does Poland intend to notify under Article XVI:1 of the General Agreement types of subsidies other than those stated in paragraph 56?

Reply IV/13.6

Poland shall continue to comply with all notification requirements of Article XVI:1.

Question IV/13.7

Offers and sales, in particular in the EC market, from certain segments of the Polish (power-intensive) export industry have created considerable difficulties for certain exports of like products. In our opinion, the prices of such products exported from Poland seem to be less than the normal value of these products as determined through a reasonable estimation of the total cost of production. How does Poland intend to align its pricing policies to normal practices?

Reply IV/13.7

The situation described in the question may indeed occur in individual cases as long as energy prices remain regulated. As stated earlier, this is one of the reasons why the prices of energy inputs are scheduled to be fully decontrolled within the next few months.

Question IV/13.8

Please indicate which commodities currently benefit from domestic income and price supports, or from other subsidies which might affect trade.

Reply IV/13.8

The reply is provided in para.II/3 above.

Question IV/13.9

Are any production support programmes in place? If so, please give details as to terms and conditions, sectors, and amounts disbursed by sector.

Reply IV/13.9

There are no production support programmes applied in Poland at present, with the exception of goods which are still subject to domestic price controls and where such support is product-specific.

Question IV/13.10

Please describe the current activities and objectives of the Export Development Fund (EDF), including loans granted for the expansion of export capacity, and grants made to compensate for differences in domestic over world prices and exchange rate irregularities related to trade in transferable roubles.

Reply IV/13.10

The Export Development Fund has been dissolved. Its existence is no longer required as there is no trade in "transferable roubles", which required such support to producers.

Questions IV/13.11 and IV/13.12

IV/13.11

It is stated in paragraph 16 that Poland has eliminated enterprise-oriented subsidies and other governmental support measures. What subsidies were referred to in the paragraph? What subsidies are currently granted in Poland?

IV/13.12

Does Poland plan to abolish all internal subsidies? If not, to what extent do the subsidies in transport and energy influence production prices, in the narrow sense, and conditions of export competition?

Replies: IV/13.11 and IV/13.12

The reference in para.16 of the Memorandum is made to direct subsidy payments which used to be granted in the past to certain domestic producers as producer-specific financing especially in the extractive and heavy industries, to compensate for losses sustained in the production of goods subject to price controls and sold in the domestic market. As already stated, such subsidies have since been phased out.

Question IV/13.13

We understand that by July 1990 Poland had cut production subsidies on non-fat milk. Can Poland confirm that these, and any other subsidies (both domestic and export) on dairy products have been eliminated?

Reply IV/13.13

All subsidies on dairy products have been eliminated, both domestic and export-oriented.

Question IV/13.14

We understand that a strategy paper on agriculture in Poland was under development by the IBRD, EC and Poland in May 1990. A meeting to discuss this was scheduled in July last year. What is the current status of the strategy paper for Poland's agriculture sector?

Reply IV/13.14

Such draft documents was in fact created. However, in the opinion of the competent Government agencies, its recommendations did not fully reflect a realistic appraisal of Poland's agriculture, although some elements of the paper have been utilised in the actual decision-making process.

Question IV/13.15

See page 32.

Question IV/13.16

Paragraph 58 states that certain goods are exempted from refunds of the turnover tax when exported. Which products are affected and what is the significance of this measure?

Reply IV/13.16

This tax is being gradually phased out. At present it is levied on the following exports: certain types of hard coal, liquid fuels, preserved raw hides. Its purpose was to restrict exports in order to prevent supply distortions in the domestic market.

14. Foreign Investment in Poland

Question IV/14.1

Regarding paragraph 63, from which sectors of activity are foreign investors excluded?

Reply IV/14.1

At present there are no such sectors.

Question IV/14.2

Does Poland apply any export performance or local content production requirements to firms that invest in Poland?

Reply IV/14.2

Poland does not apply any such requirements.

Question IV/14.3

Regarding paragraph 65, what is the agricultural tax? How does it differ from other forms of taxation? What is its effect?

Reply IV/14.3

The agricultural tax is a variation of income tax, applicable to agriculture. It is levied according to two schedules: - for special agricultural activities (production under glass, orchards) according to a progressive scale, just like any other income tax, and - for normal agricultural activity according to a predetermined rate per unit of usable land.

PART V. INSTITUTIONAL ORGANIZATION OF POLAND'S FOREIGN TRADE

1. Central administration

Question V/1.1

Regarding paragraph 67, what authority does the Polish Government have to administratively alter tariff levels or to apply import or export surcharges without recourse to legislative approval? In what Ministry or Ministries would such authority be vested?

Reply V/1.1

The Customs Law (Law of 28 December 1989) delegated the legal competences on tariff matters to the Council of Ministers. The Council is responsible for setting the level of tariff and has the right to order suspension of collection of customs duties by decrees. Tax-related policies, including export and import surcharges, are delegated to the Minister of Finance, subject to control by the Council of Ministers. All decisions concerning customs, taxes and other measures affecting trade are taken with the participation of the Minister of Foreign Economic Relations.

Question V/1.2

What Ministry or Ministries administer licensing and certification requirements applied to imports for veterinary, sanitary, and other health and safety purposes?

Reply V/1.2

Such requirements are administered by the Ministry of Health and the Ministry of Agriculture acting through their executive agencies, each within its terms of reference. Once the certificate has been issued, the product in question may be imported freely without any additional licensing obligations.

Question V/1.3

In paragraph 68 there are several important bodies listed, such as the Supreme Customs Office, etc. Is it possible to appeal to a Court of Law decisions taken by these bodies?

Reply V/1.3

Decisions of the border customs offices at the point of import entry may be appealed to the Central Customs Office and eventually to the Minister of Foreign Economic Relations. In cases when the party concerned is dissatisfied with the ruling, it may resort to the Supreme Administrative Court.

Question V/1.4

Please describe in more detail the rôle of the Supreme Customs Office of the Ministry of Foreign Economic Relations, and as appropriate the rôle of other Ministries, vis-à-vis customs valuation, classification, inspection, and the right of appeal of decisions taken by customs officials at the point of import entry?

Reply V/1.4

According to provisions of the Customs Law, the Central Customs Office:

- implements the customs tariff policy of the Government, under a supervision of the Minister of Foreign Economic Relations;
- participates in formulating this policy;
- supervises the activities of the border customs offices;
- cooperates with customs services of other countries and with the relevant international organizations.

2. Enterprises

Question V/2.1

See pages 9 and 10.

Question V/2.2

What is the current number of State-owned FTOs and of other trade intermediation companies having State participation? Have any fully private firms of this sort been established?

Reply V/2.2

11 foreign trade-related enterprises are wholly owned by the Treasury. These firms either deal in key commodities or act as specialized agents offering commercial services for the foreign trade

sector, such as insurance, standardization and quality control, advertising and public relations, cargo handling and transportation, etc. The Treasury also participates as a majority or minority shareholder in the equity capital of 32 other foreign trade companies, operating in a wide range of goods and services. None of them enjoys a monopoly position in its area of operations.

Question V/2.3

See pages 9 and 10.

Question V/2.4

Please indicate the major product categories of trade normally handled through the State-owned foreign trade organizations and, as appropriate, companies in which the Treasury is a shareholder.

Reply V/2.4

No products or product categories are set aside for exclusive handling by foreign trade companies which are wholly or partially owned by the Treasury. Nevertheless, for reasons indicated in paragraph II/29 above, such companies still have a dominant position in trade, especially in bulk commodities, such as fuels, minerals and metals, grains and chemicals.

Question V/2.5

Can Poland provide more details of the commodities which the state-owned foreign trade organizations in practice deal in, and likewise for the 32 companies in which the Treasury is a shareholder? For the latter, what is the proportion of State ownership? How do these enterprises operate? Have they any monopoly or compulsory purchasing, sale or distribution rights?

Reply V/2.5

Foreign Trade Organizations (FTOs) with the participation of the Treasury act as any commercial organization, while the administrative authorities have no impact whatsoever on their day-to-day activities. They do not enjoy any monopoly as regards their product profile or markets. They do not have any exclusive purchasing, sale or distribution rights either.

Question V/2.6

Are any of the State-owned or State-participation trade organizations or firms involved principally in trade in major agricultural commodity groups? If so, please indicate to what extent trade in these commodities is dominated by one or more of these organizations.

Reply V/2.6

Any FTO or other trade firm may engage in trade in agricultural products. However, there are firms leading in this field by virtue of their long established connections with foreign purchasers and suppliers. As has been emphasized, such status must not be misinterpreted as a monopoly position.

Question V/2.7

Is it legally permissible to establish an FTO without any state share in the ownership?

Reply V/2.7

Any natural or legal person may establish a foreign trade company without a State participation. Such initiatives are not only fully compatible with the existing law but in fact they are being encouraged within the framework of the de-etatization and privatization of the economy.

Question V/2.8

See page 11.

Question V/2.9

Is there any specific plan for privatization of the State-owned trading enterprises?

Reply V/2.9

Privatization of trading enterprises which are wholly or partially owned by the Treasury is already in progress, with two major companies (one dealing in manufactures, the other in construction services) actually privatized as of April 1991. Most of the others are in various stages of preparation, with a view to getting the process effectively advanced before the end of 1991.

Question V/2.10

See page 11.

Question V/2.11

Regarding paragraphs 73, through what type of trade intermediation organization does the Polish Government conduct the trade provided for in bilateral clearing arrangements with CMEA and other Socialist countries?

Reply V/2.11

There is no specific type of trade intermediation organization through which the Polish Government conducts trade with its former CMEA partners. Such trade is open to all enterprises, public or private.

3. Banking system

Question V/3.1

Regarding paragraph 75, how do the "exchange banks" referred to in L/6714 relate to the National Bank of Poland? Are exchange banks privately owned, or are they extensions of the National Bank or some other institution of the Polish Government?

Reply V/3.1

The National Bank of Poland monitors the activities of banks, in particular with respect to: - security of savings and deposits; - consistency of bank activities with the Bank Law of 31 January 1989, as amended (see Part 9, Article 100 of said Law).

The exchange banks are not extensions of the National Bank or some other institutions of the Polish Government. They act independently, basing their decisions on commercial considerations. A few private banks are established in the form of joint stock companies.

Question V/3.2

Does the National Bank of Poland allocate foreign exchange to the exchange banks or to firms, and if so, how and based on what criteria?

Reply V/3.2

The National Bank of Poland does not allocate foreign exchange but sells it to exchange banks or firms according to the actual demand for foreign currencies (See: The Foreign Exchange Law, Article 7.2, as amended 28 December 1989).

Question V/3.3

Regarding paragraph 76, can commercial banks borrow or lend foreign exchange from and to Polish citizens and firms?

Reply V/3.3

Commercial banks conduct normal financial operations as far as their credit and deposit activities are concerned. They are entitled to lend foreign exchange to Polish citizens and firms as well as to

keep deposits denominated in foreign currencies, in accordance with their statutes.

Question V/3.4

To what extent are agricultural firms and enterprises allowed to retain foreign exchange export earnings or to purchase foreign exchange at auctions?

Reply V/3.4

All legal persons keep their accounts domiciled in Poland in Polish zloty, which is internally convertible. The convertibility implies the obligation to sell foreign earnings to exchange banks and the right to buy foreign currencies without any restrictions, to cover contractual obligations (see also the replies provided in paragraphs IV/2.4 and IV/2.5 above).

4. Chambers of Commerce

Question V/4.1

Do the Chambers of Commerce described in paragraphs 77-79 provide guidance to their members on import or export pricing?

Reply V/4.1

The Chambers of Commerce do not provide any formal guidance to their members on import or export pricing. However, such institutions, and a number of independent and predominantly private consultancy firms, offer market information, including that on international price developments and projections, to be used exclusively at the discretion of the firms directly concerned. The only formal guidance is provided by the Ministry of Foreign Economic Relations with regard to the minimum prices of the Dairy Arrangement and with regard to goods which are subject to the bilateral price undertakings (mainly with the EEC).