



PARIS

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**DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS  
COMMITTEE ON CAPITAL MOVEMENTS AND INVISIBLE TRANSACTIONS  
COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES**

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**Joint Meeting**

**POLAND: EXAMINATION OF POSITION UNDER THE CODES  
OF LIBERALISATION AND THE DECLARATION AND DECISIONS  
ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES**

**Report to Council**

*This report was approved by the CMIT at its meeting on 12-13 October 2000. If no comments are received by the Secretariat before c.o.b. 31 October 2000, it will be considered approved by both committees and forwarded to Council.*

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**POLAND: EXAMINATION OF POSITION UNDER THE CODES OF LIBERALISATION  
AND THE DECLARATION AND DECISIONS ON INTERNATIONAL INVESTMENT  
AND MULTINATIONAL ENTERPRISES**

**Report to Council**

1. When Poland joined the OECD in November 1996, it was agreed that a full review of Poland's position under the Codes of Liberalisation of Capital Movements and Current Invisible Operations and the National treatment instrument should be held two years after its accession [C (96) 117]. This review was held on 24 November 1998. A comprehensive report on the review has now been adopted by the Committee on Capital Movements and Invisible Transactions ("CMIT") and the Committee on International Investment and Multinational Enterprises ("CIME") [see DAF/INV/IME(99)1/REV2].
2. As a result of the review, Poland is in a position to modify its position under the Codes by removing certain reservations and reducing the scope of others. It is proposed that the Council act to amend Poland's reservations to the Codes of Liberalisation and the National Treatment instrument as set out in annexes to this Report, reflecting the position at the end of 1998.
3. However, because of delays in finalising the Committees' report, some of the information in the report is no longer current. The CMIT has therefore undertaken to conduct a thorough update of the report, taking account of the progress report to be made by the Polish authorities, for consideration at its first meeting in 2001. The results of this update, including conclusions and recommendations, will be submitted to the Council as soon as possible thereafter.
4. Accordingly the Council is invited to adopt the following entry in its Summary Record:

**THE COUNCIL**

- a) Noted document C(2000)... and the statements made at the CMIT meeting on 13 October 2000 [DAFFE/INV/M(2000)2].
- b) Adopted the draft decisions set out in:
  - Annex 1 amending Annexes B of the Codes of Liberalisation of Capital Movements and Current Invisible Operations;
  - Annex 2 amending Annex A to the Third Revised Decision on National Treatment.

ANNEX 1

**DRAFT DECISION OF THE COUNCIL  
AMENDING ANNEXES B  
TO THE CODES OF LIBERALISATION OF CAPITAL MOVEMENTS  
AND OF CURRENT INVISIBLE OPERATIONS**

THE COUNCIL

Having regard to Article 5a of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Codes of Liberalisation of Capital Movements and Current Invisible Operations;

Having regard to the Report by the Committee of Capital Movements and Invisible Transactions and the Committee on International Investment and Multinational Enterprises on the examination of Poland's position under the OECD Codes of Liberalisation and the Declaration and Decisions on International Investment and Multinational Enterprises [C(2000)...];

**DECIDES:**

**1. The list of reservations by Poland in Annex B to the Code of Liberalisation of Capital Movements shall be amended to read as follows:**

List A, Direct investment  
I/A

- In the country concerned by non-residents

*Remark: the reservation applies only to:*

- i) The operation of a branch as a “mortgage bank” to the extent that a “mortgage bank” is defined under Polish law as an institution authorised to issue mortgage securities on domestic markets, and thereby reserved to financial institutions incorporated under domestic law;*
- ii) The provision of asset management services by branches of non-resident investors to domestic pension funds;*
- iii) The acquisition of land reserved for agriculture or forests, and acquisition of water areas, unless authorisation is granted;*
- iv) Investment in an enterprise operating an airline, unless authorisation is granted;*

- v) *Investment in a broadcasting company bringing foreign ownership of the share capital above 33 per cent;*
- vi) *Investment in an enterprise rendering international telecommunication services, long-distance, or mobile telecommunication service, or cable radio and television services, bringing foreign ownership of the share capital above 49 per cent;*
- vii) *Investment in an enterprise operating in the gambling and betting sector, except through an enterprise incorporated in Poland in which foreign ownership of the capital is 49 per cent or less;*
- viii) *Investment in a registered vessel, except through an enterprise incorporated in Poland.*

List B,  
III/A1  
and B1

**Operations in real estate**

- Building or purchase in the country concerned by non-residents.

*Remark: The reservation does not apply to the acquisition of apartments, or to foreigners having resided in Poland for at least 5 years.*

- Building or purchase abroad by residents.

*Remark: The reservation does not apply to the acquisition of real estate for personal use up to ECU 50 000 per operation.*

List A,  
IV/A1  
and A2,  
B1,  
C1 and D1

**Operations in securities on capital markets**

- Issue through placing or public sale of domestic securities on a foreign capital market

*Remark: The reservation applies only to the issue of shares and other securities of a participating nature by public companies (i.e. companies that have made at least one issue of shares admitted to public trading) in excess of 25 per cent of the total number of shares issued, or depository receipts representing more than 25 per cent of total voting rights. The reservation will cease to apply on 31 December 1999.*

- Introduction of domestic securities on a recognised foreign security market.

*Remark: The reservation applies only to securities in public trading, issued on the Polish market; it will cease to apply on 31 December 1999.*

- Issue through placing or public sale of foreign securities on the domestic capital market.

*Remark: The reservation applies only to mortgage debt securities.*

- Purchase of securities in the country concerned by non-residents.

*Remark: The reservation applies only to the purchase of shares and other securities of a participating nature, which may be affected by regulations on foreign direct investment.*

List B, **Operations on money markets**  
V/A1

and A2,  
B1 and B2,  
C3 and C4  
D1, D3  
and D4

- Issue through placing or public sale of domestic securities on a foreign money market.

*Remark: The reservation does not apply to securities issue by authorised resident banks; it will cease to apply on 31 December 1999.*

- Introduction of domestic securities on a recognised foreign money market.

*Remark: The reservation does not apply to securities issued by authorised resident banks; it will cease to apply on 31 December 1999.*

- Issue through placing or public sale of foreign securities on the domestic money market.

*Remark: The reservation will cease to apply on 31 December 1999, except with respect to mortgage debt securities.*

- Introduction of foreign securities on a recognised domestic money market.

*Remark: The reservation will cease to apply on 31 December 1999.*

- Lending through other money market instruments in the country concerned by non-residents.

*Remark: The reservation does not apply to lending to authorised resident banks; it will cease to apply on 31 December 1999.*

- Borrowing through other money market instruments in the country concerned by non-residents.

*Remark: The reservation does not apply to borrowing from authorised resident banks; it will cease to apply on 31 December 1999.*

- Purchase of money market securities abroad by residents.

*Remark: The reservation does not apply to purchases by authorised resident banks of categories of securities specified by regulation No 10/93 of the President of the National Bank; it will cease to apply on 31 December 1999.*

- Lending through other money market instruments abroad by residents

*Remark: The reservation does not apply to lending by authorised resident banks; it will cease to apply on 31 December 1999.*

- Borrowing through other money market instruments abroad by residents

*Remark: The reservation does not apply to borrowing by authorised resident banks; it will cease to apply on 31 December 1999.*

List B, **Other operations in negotiable instruments and non-securitised claims**

VI/A1  
and A2,  
B1 and B2,  
D1 and D3

- Issue through placing or public sale of domestic instruments and claims on a foreign financial market.

*Remark: The reservation will cease to apply on 31 December 1999.*

- Introduction of domestic instruments and claims on a recognised foreign financial market.

*Remark: The reservation will cease to apply on 31 December 1999.*

- Issue through placing or public sale of foreign instruments on a domestic financial market.

*Remark: The reservation will cease to apply on 31 December 1999.*

- Introduction of foreign instruments on a recognised domestic financial market.

*Remark: The reservation will cease to apply on 31 December 1999.*

- Purchase abroad by residents.

*Remark: The reservation does not apply to operations by authorised resident banks; it will cease to apply on 31 December 1999.*

- Exchange for other assets abroad by residents.

*Remark: The reservation does not apply to operations by authorised resident banks; it will cease to apply on 31 December 1999.*

List B, **Financial credits**

IX/A and B

- Credits and loans granted by non-residents to residents

*Remark: The reservation only applies to credits and loans with a maturity of less than one year, not extended to authorised banks; it will cease to apply on 31 December 1999.*

- Credits and loans granted by residents to non-residents.

*Remark: The reservation only applies to credits and loans with a maturity of less than one year, not extended by authorised banks; it will cease to apply on 31 December 1999.*

List A, **Sureties, guarantees and financial back-up facilities directly related to international trade or international current invisible operations, or in cases related to international capital movement operations in which a resident participates**

X(i)/B2

- Financial back-up facilities granted by residents in favour of non-residents

*Remark: The reservation will cease to apply on 31 December 1999.*

List B,  
X(ii)/B2 **Sureties, guarantees and financial back-up facilities not directly related to international trade, international current invisible operations, or international capital movement operations or where no resident participates in the underlying international operation concerned.**

- Financial back-up facilities granted by residents in favour of non-residents

*Remark: The reservation does not apply to financial back-up facilities provided by authorised resident banks; it will cease to apply on 31 December 1999.*

List A,  
XI/A1  
and A2 **Operation by non-residents of deposit accounts with resident institutions**

- Operations in domestic currency by non-residents of accounts with resident institutions

*Remark: The reservation applies only to:*

- i) *the conversion into foreign currency and transfer abroad of deposits from accounts other than 'free' or 'non-escrow' accounts;*
- ii) *the reception of deposits on "free" or "non-escrow" accounts;*

*it will cease to apply on 31 December 1999.*

- Operations in foreign currency by non-residents of accounts with resident institutions

*Remark: The reservation applies only to:*

- i) *the transfer abroad of deposits from 'C' accounts;*
- ii) *the reception of deposits on 'free' or 'non-escrow' accounts, as well as escrow accounts opened for residents;*

*it will cease to apply on 31 December 1999.*

List B,  
XI/B2 **Operation by residents of deposit accounts with non-resident institutions**

- Operations in foreign currency by residents of accounts with non-resident institutions

*Remark: The reservation does not apply to:*

- i) *authorised resident banks;*
- ii) *natural persons when abroad;*
- iii) *representative offices of resident enterprises if the deposit is used to cover these offices' expenses;*

iv) *resident enterprises' branches abroad if the deposit is used to cover these branches' operating costs;*

v) *deposits made in connection with authorised investment abroad;*

*it will cease to apply on 31 December 1999.*

List B,  
XII/B1

**Operations in foreign exchange**

– Purchase of foreign currency with domestic currency abroad by residents

*Remark: The reservation applies only to purchases not linked to any particular underlying transaction.*

**2. The list of reservations by Poland in Annex B to the Code of Liberalisation of Current Invisible Operations shall be amended to read as follows:**

C/2 Inland waterway freights, including chartering

*Remark: The reservation applies only to the transport between two Polish inland waterway ports.*

C/3 Road transport: passengers and freights, including chartering

*Remark: The reservation applies only to the following operations provided by non-residents:*

*a) for passengers:*

- *transit;*
- *picking up or setting down on an international journey;*
- *transport within the country;*

*b) for freights:*

- *transit;*
- *delivery on an international journey;*
- *collection on an international journey;*
- *return cargo where collection is authorised;*
- *return cargo where delivery is authorised;*
- *transport within the country.*

D/3 Life assurance

Annex I to Annex A, Part I, paragraph 2.

D/4 All other insurance

Annex I to Annex A, Part I, paragraph 5.

*Remark: The reservation does not apply in the following cases:*

- *legislation abroad requires local insurance in the country concerned;*
- *international conventions require or permit insurance abroad;*
- *the insurance covers residents during short trips abroad or is related to employment abroad;*
- *protection and indemnity insurance in maritime transport.*

E/2 Banking and investment services

*Remark: The reservation applies only to the provision of banking and investment services, other than “standby” underwriting services, by non-residents to residents.*

E/3 Settlement, clearing and custodial and depository services

*Remark: The reservation applies only to the provision of custodial and depository services by non-residents to residents.*

E/4 Asset management

*Remark: The reservation applies only to the provision of asset management services by non-residents to residents.*

E/7 Conditions for establishment and operations of branches, agencies etc., of non-resident investors in the banking and financial services sector.

Annex II to Annex A, paragraph 1.

*Remark: the reservation applies only to:*

- *the operation of a branch as a “mortgage bank” to the extent that a “mortgage bank” is defined under Polish law as an institution authorised to issue mortgage securities on domestic markets, which is reserved to financial institutions incorporated under domestic law;*
- *the provision of asset management services by branches of non-resident investors to domestic pension funds.*

H/1 Exportation, importation, distribution and use of printed films and other recordings – whatever the means of production – for private or cinema exhibition, or for television broadcasts.

*Remark: The reservation applies only to the extent that films are not currently excluded from the calculation of domestic production quotas for commercial television; it will cease to apply on 31 December 1999.*

L/6 Professional services

*Remark: The reservation applies only to citizenship requirements for: i) maritime pilots, ii) sworn translators, iii) patent agents, iv) construction experts, v) dentists, vi) midwives, vii) editors in chief of newspapers, viii) museum guides, ix) train dispatchers, and to residency requirements for: x) attorneys in law and legal counsellors in respect of representation of a client before the court, xi) insurance/reinsurance brokers and agents, xii) auditors, xiii) medical doctors, xiv) veterinary surgeons, xv) pharmacists and xvi) teachers.*

ANNEX 2

**DRAFT DECISION OF THE COUNCIL  
AMENDING ANNEX A TO THE REVISED DECISION OF THE COUNCIL  
ON NATIONAL TREATMENT**

THE COUNCIL,

Having regard to Article 5a of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to Article 1 of the Third Revised Decision of the Council on National Treatment of 12, 17 and 19 December 1991;

Having regard to the Report by the Committee on Capital Movements and Invisible Transactions and the Committee on International Investment and Multinational Enterprises on Poland's position under the Codes of Liberalisation and the Declaration and Decisions on International Investment and Multinational Enterprises (C(2000)...];

DECIDES:

The entry for Poland in Annex A to the Third Revision Decision on National Treatment shall be amended to read as follows:

**A. Exceptions at national level**

***I. Investment by established foreign-controlled enterprises***

*Real estate:* Foreign-controlled enterprises require authorisation for the acquisition of real estate for other than purposes than direct investment and of land reserved for agriculture or forests, or water areas.

Authority: Act on acquisition of real estate by foreign parties (Journal of Acts, 24/1920, item 202; last amended in 1996).

*Air transport:* The operation of an airline by enterprises with foreign equity participation requires authorisation.

Authority: Aviation Act of 1992 (Journal of Laws 1984, no.32, item 153; last amended in 1996).

*Broadcasting:* The transmission of radio and television programmes is reserved to enterprises with a foreign equity participation of 33 per cent or less.

Authority: Act on broadcasting (Journal of Acts 7/1993, item 34).

*Telecommunications:* Establishing and using telecommunications networks and equipment for radio communication across Polish borders is reserved to Polish entities.

Authority: Act on broadcasting (Journal of Acts 7/1993, item 34).

*Telecommunications:* Rendering international, long-distance, or mobile telecommunication services, or cable radio and television services, is reserved to enterprises with foreign equity participation of 49 per cent or less.

Authority: Act on telecommunication (Journal of Acts 86/1991, item 504).

*Gambling and betting:* Foreign-controlled enterprises are not permitted to conduct activity in gambling or betting, including casinos.

Authority: Act on gambling and betting (Journal of Acts 68/1992, item 341).

**II. *Official aids and subsidies***

None.

**III. *Tax obligations***

None.

**IV. *Government purchasing***

None.

**V. *Access to local finance***

None.

**B. *Exceptions by territorial subdivisions***

None.