In pursuance of the CONTRACTING PARTIES' Decision of 12 April 1989 concerning the Trade Policy Review Mechanism (L/6490), the Secretariat submits herewith Volume A (Text) of its report on the Republic of Poland. Volume B (Tables and Appendices) is presented in document C/RM/S/31B.

The report is drawn by the Secretariat on its own responsibility. It is based on the information available to the Secretariat and that provided by the Republic of Poland. As required by the Decision, in preparing its report the Secretariat has sought clarification from the Republic of Poland on its trade policies and practices.

Document C/RM/G/31 contains the report submitted by the Government of Poland.

NOTE TO DELEGATIONS

Until further notice, this document is subject to a press embargo.
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SUMMARY OBSERVATIONS

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

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

(1) Poland's Road to a Market Economy

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

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

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

6. The newly elected Solidarity led Government introduced, from 1 January 1990, a radical stabilization programme aimed at transformation into a full market economy. The main elements of the programme included complete liberalization of prices; sharp cuts in subsidies and spending; a restrictive monetary policy to curb inflation; incomes policy based on a tax on wage and salary increases above an established coefficient; internal convertibility of the zloty, following substantial devaluation; autonomous liberalization of foreign trade; and plans for wide ranging privatization, reform of the financial system and establishment of a capital market. Central planning was eliminated.

7. As a result of the implementation of the programme, inflation has been reduced substantially; domestic prices have moved into line with world prices; the supply of goods has greatly improved, partly due to the liberalization of imports; and competition has strengthened. Despite slow progress in privatization of large-scale industrial units, private entrepreneurship has expanded rapidly. At the end of 1991, the private sector, including agriculture, employed about 56 per cent of the workforce; approximately 29 per cent of industrial production originated in the private sector, as against 17 per cent in 1990; and some 80 per cent of retail trade and of construction was in private hands.
8. In the first two years of the reform, the Polish economy suffered a deep contraction. GDP declined by almost 20 per cent overall. Industrial production fell by some 45 per cent because of low domestic demand, inability or reluctance of State-owned enterprises (still operating under pre-reform regulations) to adjust, competition from imports and the collapse of CMEA trade. Provisional data for 1992, however, suggest that the economy may be beginning to emerge from the deepest phase of the recession; the fall in real GDP (about 2 per cent) is expected to be much smaller than in 1991.

(2) Poland in World Trade

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

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

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

12. Liberalization of the trade régime in 1990 marked a clear turning point in the country's trade relations, with a major reorientation toward market economies. The change was accentuated in 1991 by the abolition of the CMEA and the virtual collapse of trade with the Soviet Union and other ex-CMEA countries. The trade share of CMEA countries fell rapidly from
some 45 per cent in the mid-1980s to 18 per cent in 1991. At the same time, the share of the EC grew from less than 30 per cent to 56 per cent in exports and 50 per cent in imports.

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

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

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

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

3) Institutional Framework

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

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

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

20. Poland's fundamental rules on foreign trade are laid down in the Law on Economic Activity of 1988 and the Customs Law of 1989. Implementing regulations are issued by the Minister of Foreign Economic Relations. Customs duties are set by the Council of Ministers. Other important reform-related new laws include the Law on Privatization of State-Owned Enterprises of 1990, the Antimonopoly Law and the Law on Companies with Foreign Participation of 1991. Many new laws remain to be finalized; the tax system is to be modernized, the standards régime is to be reshaped, a draft law on intellectual property protection was recently introduced and the principles and methods of privatization are to be improved.
21. Under the Association Agreement concluded with the European Communities, the Communities will give Poland technical assistance to bring its laws into compatibility with EC legislation. Poland has already introduced the EC's Combined Nomenclature (CN) and the Single Administrative Document (SAD) system, used by EC and EFTA countries and it is revising its standards to make them compatible with EC norms.

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

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

24. In Poland, there are no formal independent bodies which review trade and industrial policies. However, the Polish Chamber of Commerce and various academic institutions regularly survey economic developments.
(4) **Trade Policy Features and Trends**

(i) **Poland in the GATT**

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

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

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

(ii) **Recent evolution**

28. Prior to the economic reform of 1990, Poland's trade policy was determined by its system of central planning and participation in the CMEA. The economy was heavily protected from international market signals. Differing rules and institutions governed the domestic market, CMEA relations and relations with market economies. Foreign trade was administratively controlled and subordinated to the plan. Market relations played a minor, though increasing rôle.
29. The changed political structure from 1989 paved the way for a return to market-based principles and institutions. In the stabilization of the Polish economy, import liberalization played a major rôle. Elimination of most import licences, together with substantial tariff suspensions covering over 50 per cent of tariff lines, introduced increased competition with domestic producers.

30. Until 1992, Poland's trade with market economy countries, with the exception of Finland, was conducted on an m.f.n. basis. A free trade agreement with Finland was signed in 1976. Since December 1991, the basis of Poland's trade relations has changed significantly, with the signature of an Association Agreement, and subsequent entry into force of an Interim Agreement, with the EC: this Agreement will lead to a free trade area within 10 years. Free trade agreements are also under negotiation with EFTA countries, Hungary and the Czech and Slovak Federal Republic.

(iii) Type and incidence of trade policy instruments

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

32. The coverage of import and export licensing has been reduced drastically compared to the pre-reform period. Although, in 1991, some items were added to the list, the number of products subject to import licensing is fairly limited, including some alcoholic beverages, cigarettes, dairy products, natural gas, oil, engine fuels and some sensitive "dual application" products. Import prohibitions are also limited and are used, according to Polish authorities, mainly for non-economic reasons relating to products such as some alcohols, cars with two stroke engines or old cars.
33. Import quotas are applied for certain alcoholic beverages, cigarettes and petrol products. The criteria for their allocation are not clear; Poland auctions neither import quotas nor import licenses and there may be room for discretion in their distribution. As a result, importers rather than the State budget receive the associated economic rents.

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

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

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

37. The introduction of variable import levies on some agricultural products was announced in October 1992. The levy system and its product coverage is still under consideration.
38. Poland does not have any bound tariff rates. It is Poland's intention to bind practically all tariff rates in the industrial sector. Poland is engaged in tariff negotiations with its trade partners in the context of the renegotiation of its GATT Protocol of Accession.

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

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

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

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

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

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

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

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

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

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

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

(v) **New initiatives**

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

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

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

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

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

(5) Trade Policies and Foreign Trading Partners

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

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

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

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

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

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

(1) Major Features of the Polish Economy

1. Poland is one of the larger European countries, with a territory of 313 thousand square kilometres and 38 million inhabitants. In 1990, GDP per capita amounted to US$1,676. More than 60 per cent of the population lives in towns; the capital, Warsaw, has a population of 1.7 million (Table I.1).

2. Poland has a generally young population, although the share below 30 years of age decreased from 51 per cent in 1980 to 46 in 1990. The workforce is well educated, with fairly rapid growth in educational levels over the last two decades.

3. Poland is well endowed with mineral resources, mainly coal, lignite, copper, zinc, lead, natural gas, sulphur and salt. For a number of raw materials, including oil, it is reliant on imports. Poland has similar natural conditions for agricultural production to most European countries. The long Baltic Sea coastline has provided favourable natural conditions for the development of sea transportation, fishing and shipbuilding.

4. Industry, including mining, manufacturing and construction, accounts for 58 per cent of GDP and employs 40 per cent of the labour force. The share of manufacturing in industrial output is in the order of 90 per cent. The shares of agriculture and services in GDP are 13 per cent and 29 per cent, respectively, with employment in agriculture equal to 29 per cent of the workforce and 31 per cent in the case of services. The high share of industry in GDP, and the relatively low share of services, stems from the concerted industrialization efforts in Poland's four decades of central planning following the Second World War.

5. Poland's economy is dependent on foreign trade: the value of merchandise exports and imports was equal to 44 per cent of GDP in 1990. Over the last decade, Poland's share in world trade has, however, declined

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1 Using purchasing power parity as a guide, Poland's 1990 per capita GDP was estimated at US$4,505. UNIDO - Polish Investment Company S.A. (1992), Foreign Investors' Guide to Poland, p. 6.

2 For example, the share of population over 15 years of age with higher education increased from 2.7 per cent in 1970 to 6.5 per cent in 1988.

3 Poland is the third largest producer of sulphur in the world. It ranks 5th and 6th in hard coal and lignite production, respectively.

substantially; in 1991, Polish merchandise trade represented 0.36 and 0.38 per cent of world exports and imports respectively, compared to 1975 shares of 1.18 per cent for exports and 1.04 per cent for imports.  

(2) Historical Development

6. Following over forty years as a planned economy, Poland began a process of radical economic transformation in 1990. Initially, in 1990 and 1991, GDP declined, industrial and agricultural production fell and living standards deteriorated considerably (Table I.2). However, there are some signs that the decline in economic activity has been arrested and perhaps reversed, with industrial output up by slightly under 1 per cent in the first nine months of 1992 relative to the same period in 1991; however, unemployment has risen to an estimated 13.6 per cent, compared to 11.8 per cent at end 1991.  

7. Poland suffered large losses in the Second World War, including more than one-fifth of its population and nearly 40 per cent of the capital stock. After the War, Soviet influence was a decisive factor in Poland's immediate political and economic development. At the end of 1948, the Polish United Workers' Party became the dominant political force.

8. Central planning was introduced in the period 1945 to 1949, with nationalization of industry and foreign trade. Agriculture, unlike in other eastern European countries, remained largely in private hands. Poland was a founding member of the Council for Mutual Economic Assistance (CMEA).

9. Rapid industrialization was pursued during the 1950s, but with little attention to economic costs and comparative advantage. Under the 1950-1956 Six-Year Plan, preference was given to large industrial units - the average enterprise in the state or cooperative sector had some 1100 employees in a multi-plant structure - and small and medium-sized firms virtually ceased to exist. Foreign trade was conducted by a small number of specialized enterprises, each enjoying a monopoly in its sphere of activity.

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5 In 1981, Poland's exports were 0.67 per cent of world exports, and its imports held a share of 0.78 per cent in world imports.

6 Data provided by the Polish authorities.

7 Some of the major industrial plants established in this period were the Lenin Iron and Steel Works in Cracow, the Motorcar Factory in Warsaw, the Lorry Factory in Lublin, the Chemical Works in Oswiecim, the Aluminium Works in Skawina, the Nitrogen Works in Kedzierzyn, the Czechowice Power Plant; a petrochemical industry was located in Plock, and chemical works in Pulawy, Wloclawek and Police. New industrial towns established included Nowa Huta in Cracow, Nowe Tychy and the new districts in Great Poland. A number of coal mining districts were also established.
10. Change in the political leadership in 1956 led to some redirection of the economy towards satisfying demand for housing and consumer goods, within the planned framework of rapid industrialization. Economic growth in the 1960s, however, did not keep pace with population growth; efforts to maintain the growth rate in the late 1960s at the expense of real wages led to social disturbances and a change in political leadership.

11. In the first half of the 1970s, a "high-tech" policy, underpinned by foreign credits and based on imported western technologies and equipment, encouraged high growth rates, still within a framework of strict central planning. However, the inefficient implementation of the modernization programme, aggravated by the effects of the first oil price shock, led to a serious balance of payments crisis in 1975, when the current account deficit rose to almost 10 per cent of GDP. By 1980, external debt accounted for 40 per cent of GDP. The resulting economic austerity programme led to sharp declines in GDP and living standards (Chart I.1). Renewed social turbulence contributed to the emergence of the Solidarity trade union in 1980 as a determining political force. After a period of "dual power", martial law was declared in December 1981.

12. In early 1982, a market-oriented economic reform programme was launched together with the introduction of strict adjustment and stabilization measures. Real wages and per capita consumption declined, initially to about 15 per cent below 1978 levels.

13. Important elements of the reform programme included a new legal framework for State enterprises, workers' self management, socioeconomic planning, and a certain price liberalization. Strict central planning was replaced by non-directive, indicative macroeconomic planning. State-owned enterprises were granted greater autonomy in economic decision-making, with State intervention in enterprise management restricted to exceptional cases. Company staff, through workers' councils, were accorded the right to undertake wage bargaining and to influence fundamental management decisions, while the principle of self-financing was meant to introduce harder budgetary constraints into enterprise financing.

14. Real growth in GDP resumed in the second half of 1982 but difficulties were soon evident, including the constant bargaining between enterprises and the authorities over State support and exceptions to the rules, high inflation and substantial shortages of officially marketed goods, and a large black market for items traded in convertible currencies.
15. The system of fixed prices was modified through the introduction of three categories; State, regulated and negotiable prices. State administered prices covered staple consumer goods, raw materials and other means of production: in most cases these prices were subsidized by the State budget. Regulated prices, for a range of intermediate goods, were set on the basis of actual production costs plus a fixed margin. Negotiable prices, applicable to most consumer goods, were determined in discussions between buyers and sellers.

16. Institutional changes included reform of the banking sector and of company taxation. The system of monopolistic enterprise unions - mainly vertically integrated groupings of companies - was abolished; however, companies could continue to form "voluntary associations" for similar, often monopolistic purposes. In addition, the authorities retained the right to set up compulsory associations.

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17. The second stage of economic reform, initiated in 1988, aimed to deepen and strengthen market relations, while preserving the role of indicative macroeconomic planning. The Law on Economic Activity of 1988 allowed private sector activity in practically all areas, including foreign trade. The Banking Law of 1989 introduced a two-tier banking system, making the National Bank of Poland purely a central bank and establishing nine commercial banks (Chapter III(3)). Under a new foreign exchange retention scheme, exporters had the right to retain 10 to 50 per cent of their foreign exchange earnings, with the rest to be surrendered at the official exchange rate. In addition, direct Government intervention in the economy was reduced. The central allocation of inputs was restricted to some "essential" items such as coal, coke, crude oil and paper pulp. However, some 70 per cent of imports remained financed through centrally allocated foreign exchange, while export quotas, necessary because of artificially low domestic prices, continued to be maintained on important raw materials.

18. Despite the reforms introduced between 1982 and 1989, economic resources were not allocated with due regard to efficiency and comparative advantage. Price controls were widespread; at the same time, enterprises, frequently in a monopolistic position, found it easier to raise prices or obtain subsidies than to cut costs. The budget deficit increased and, with negative real interest rates and continued availability of financing, enterprises were able to increase wages and investments without effective restraint. Flight from the zloty to U.S. dollars and other convertible currencies was widespread. The liberalization of food prices and wage indexation, introduced in 1989 as a defence against inflation, contributed to the encouragement of hyperinflation which, by October 1989, reached over 18,000 per cent on an annual basis. Chronic shortages of basic consumer goods emerged and by the autumn of 1989, Poland was in a deep political and economic crisis.

(3) Recent Economic Developments

19. The new Government elected in September 1989 introduced a radical macroeconomic stabilization and structural reform programme on 1 January 1990. Unlike previous programmes, the objective was not the improvement of the existing system, but the transformation of Poland into a full market economy. The main elements of the programme, which gained the support of the International Monetary Fund and the World Bank, were

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10Data provided by the Polish authorities; and OECD (1992), Economic Surveys, Poland, p.13.
complete price liberalization; fiscal adjustment, involving sharp cuts in subsidies and spending; tight monetary policy; restrictive income policies, with a tax on wage and salary increases above an established coefficient; internal convertibility of the zloty, following a substantial real devaluation; liberalization of foreign trade; wide-ranging privatization and the encouragement of the private sector; and reform of the financial system and establishment of a capital market.

20. As a first step, almost all price controls were abolished in January 1990. Retail prices administered by the State (for energy, rents, public utilities, public transportation and some milk products) were raised substantially. These measures, together with the major devaluation of the zloty, resulted in a substantial further, once-for-all increase in inflation, with consumer prices rising by 80 per cent in January 1990 and contributing to a yearly average inflation rate of almost 600 per cent in 1990. Inflation declined to some 70 per cent in 1991 and has fallen further in 1992 (Chart I.2). The termination of price controls also contributed to the early elimination of major shortages in the consumer goods market.

21. In 1990, Government expenditure was cut by eliminating subsidies for food and agricultural items and substantially reducing payments to coal mining, public utilities and housing. Increased revenue was achieved through the elimination of income tax relief and the introduction of higher income and turnover taxes. In consequence, the State budget, with a deficit of some 3 per cent of GDP in 1989, turned to a surplus of 0.4 per cent of GDP in 1990. This was reversed in 1991, when revenue declined sharply, largely because of the diminished tax-paying capacity of State-owned enterprises, and social expenditures rose; the budget deficit was the equivalent of some 4 per cent of GDP.

\[11\] Budgetary data was provided by the Polish authorities.
22. In 1990 and 1991, the main objectives of Poland's monetary policy were to curb inflation, restore confidence in the national currency and increase the role of interest rates in stimulating savings and the allocation of resources. Credit tightening and a policy of positive real interest rates over the medium term was introduced. In the period through mid-May 1991, the exchange rate was pegged to the U.S. dollar, as a nominal anchor for the financial programme. The growth of the money supply (M2) fell sharply, with the decline in inflation pointing to the broad success of the monetary stance.

23. The stabilization programme abandoned the wage and price indexation applied in the late 1980s. It also introduced a tax-based incomes policy, for State-owned enterprises, through a progressive tax on wage increases in excess of a coefficient set below the rate of inflation. Real wages fell sharply, by 30 per cent in 1990 and a further 4 per cent in 1991.

The wage index coefficient against the consumer price index was cut from 0.7 per cent in January to 0.3 per cent in February and 0.2 per cent in March and April 1990. The system was amended several times in 1991.
24. In January 1990, the zloty was devalued by 32 per cent and made internally convertible for current account transactions. In May 1991, following a 16 month period of appreciation of the real effective exchange rate (REER), the zloty was again devalued by 14 per cent and in October 1991, a crawling peg for the exchange rate was introduced, allowing for a gradual nominal depreciation of the zloty (Chapter III(1)). With domestic inflation still putting upward pressure on the REER, the zloty was again devalued in late February 1992, by about 11 per cent.

25. The economic reform effort has drawn support from Poland's official creditors. Poland undertook large external borrowings during the 1970's, with external debt increasing further during the 1980s due to the accumulation of payment arrears. In 1990, Poland's net external debt reached US$48.5 billion, or 76 per cent of GDP, with external debt servicing due of about 60 per cent of exports of goods in convertible currencies. Actual debt servicing was in the order of 6 per cent, under rescheduling and new arrears. During 1991, Poland reached an agreement with its creditors on forgiveness of 50 per cent of its US$33 billion official debt, contingent upon the initiation and implementation of a multi-year economic programme, significantly reducing debt service due in 1992 and into the medium-term (Chapter III(4)).

26. In the first two years of the reform, the Polish economy underwent a sharp contraction. In 1990 and 1991, real GDP declined by 12 per cent and an estimated 7 per cent, respectively. Gross fixed investment fell by about 11 per cent in 1990 and a further 5 per cent in 1991. Industrial production dropped by 26 and 15 per cent in 1990 and 1991 respectively, under the combination of low domestic demand, competition from imports and the collapse of CMEA trade (in effect, giving rise to a terms of trade shock). Agricultural output also declined. By the end of 1991, unemployment, which was unknown before, reached 11.8 per cent and the payment of unemployment benefits had become a serious burden for the State budget.

27. Nevertheless, as a result of the implementation of the stabilization and reform programme, the supply of goods to both consumers and producers has improved and competition strengthened. Domestic prices have moved into line with world prices. Despite the slow progress of privatization in the

13 The devaluation is expressed in foreign currency terms.

14 The data reflects official statistics, which according to some views did not appropriately reflect the increase in private sector activity, thus overstating the actual decline in real GDP. A. Berg and J. Sachs (1992), Structural adjustments and international trade in Eastern Europe: the case of Poland. Economic Policy, April 1992, No.14.
State-owned enterprise sector, private entrepreneurship has shown a dynamic expansion. By mid-1992, the private sector accounted for some 56 per cent of employment; about 29 per cent of industrial output originated in private enterprises, as against 17 per cent in 1990, and roughly 80 per cent of retail trade and construction was in private hands.

(4) Trade Performance

(1) Introduction

28. Liberalization of the trade régime in 1990 marked a clear turning point in Poland's trade development, with a major re-orientation of trade flows away from eastern European trading partners towards market economies. This change was all the more marked in 1991, with the abolition of the CMEA as an institution and the virtual collapse of trade between the former Soviet Union and its ex-CMEA partners. Reflecting the switch in regional patterns of trade, the overall commodity composition of Poland's exports has also changed from the heavy engineering-based structure of trade with the former CMEA countries to a pattern in which food, agriculture and chemicals play a greater part. Fuels continue to dominate imports from former CMEA partners and engineering goods have increased their share of imports from market economies.

29. There has been a marked increase in the rôle of the private sector in trade. Its share is estimated to have grown from 8 to 25 per cent in exports and from 22 to 50 per cent in imports between 1990 and 1991. Trade liberalization, pent-up import demand, the growing rôle of the private sector in production, and the decline in domestic demand each played a rôle in these increased shares.

30. For statistical and accounting reasons, it is impossible - and probably not useful - to give a clear picture of Poland's overall trade in the period before 1990. Trade in convertible currencies fell by some 40 per cent between 1980 and 1982, growing subsequently to reach approximately 97 per cent of its 1980 current dollar value in 1989. At the same time, trade denominated in non-convertible currencies grew steadily (Chart I.3).

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16There is also a possibility that the private sector may have participated in reported "distress sales" in 1990 and 1991 of goods no longer in demand in former CMEA markets. OECD (1992), p.138, op.cit.

17A determination of overall trade would rely on cross-rate calculations based on the zloty/transferable ruble rate, but the latter was in the nature of an accounting rate rather than representative of actual exchange values.
Chart I.3
Poland's trade by currencies, 1970-91

(A) Trade in convertible currencies

(B) Trade in non-convertible currencies

Source: Data provided by the Government of Poland and International Monetary Fund, International Financial Statistics, various issues.
31. Up to 1991, Poland's trade with its CMEA partners was conducted mainly in transferable ruble accounting terms on the basis of five-yearly intergovernmental agreements, with annual protocols containing mandatory export-import lists. Trade was conducted at prices negotiated by Governments, generally on the basis of a five-year rolling average of world prices: under the agreements, partners aimed to balance bilateral trade, as surpluses or deficits with one CMEA country could not be offset through trade with others. From 1990, an increasing volume of trade began to be conducted at world prices in convertible currencies (beginning with oil and other deliveries from the Soviet Union). Since early 1991, Poland has unified its own trade régime and conducts virtually all trade flows in convertible currencies.

(ii) Regional pattern of trade

32. Before the Second World War, Germany, the United States, the United Kingdom and Czecho-Slovakia were Poland's main trading partners. After the War, the Soviet Union became Poland's main market for exports, and its dominant supplier of raw materials and energy, with a share estimated at one third of Poland's total trade until the middle of the 1980s, followed by the German Democratic Republic and Czechoslovakia (Table I.3).

33. Between 1987 and 1991, the trade share of former CMEA members fell rapidly, from 42 and 46 per cent to 17 and 19 per cent for exports and imports, respectively. In the same period, the share of the European Communities grew from 26 to 56 per cent of exports and 25 to 50 per cent of imports (Chart I.4). In 1991, Germany was Poland's largest individual partner, with 29 per cent of exports and 27 per cent of imports; the Soviet Union was second, taking 11 per cent and supplying 14 per cent of exports and imports. These changes in relative shares resulted from the general decline in CMEA trade in general, but also from improvements in access for Polish goods to European and other Western markets and the stimulus to Western imports stemming from the liberalization of Poland's foreign trade in 1990.

\[18\] In 1991, less than 2 per cent of Poland's merchandise trade was conducted in rubles, compared to an estimated 50 per cent in the mid-1980s.

\[19\] In 1989, exports to the USSR amounted to 60 per cent of Polish exports to the CMEA area. Exports to the Soviet Union were at the level of 4 per cent of GDP, which represented a lower share than in other European CMEA members.

\[20\] Measures which facilitated the access of Polish exports to western markets included the elimination by the European Communities of all specific discriminatory restrictions on Polish exports, and its suspension of non-specific quantitative restrictions on Polish products and increase of quota allocations on textiles and steel; and extension by a number of market economies of GSP treatment to Poland.
Chart I.4
Distribution of Poland's trade by main regions, 1987-91
Per cent

Exports

<table>
<thead>
<tr>
<th></th>
<th>1987</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td>USSR</td>
<td>24.8</td>
<td></td>
</tr>
<tr>
<td>Other countries</td>
<td>31.9</td>
<td></td>
</tr>
<tr>
<td>FRG</td>
<td></td>
<td>10.8</td>
</tr>
<tr>
<td>EFTA</td>
<td></td>
<td>6.4</td>
</tr>
<tr>
<td>Former CMEA countries</td>
<td>41.8</td>
<td>16.8</td>
</tr>
</tbody>
</table>

Imports

<table>
<thead>
<tr>
<th></th>
<th>1987</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td>USSR</td>
<td>27.5</td>
<td>26.6</td>
</tr>
<tr>
<td>Other countries</td>
<td>28.9</td>
<td>31.1</td>
</tr>
<tr>
<td>FRG</td>
<td>11.5</td>
<td>14.2</td>
</tr>
<tr>
<td>EFTA</td>
<td>10.5</td>
<td>14.1</td>
</tr>
<tr>
<td>Former CMEA countries</td>
<td>46.0</td>
<td>31.1</td>
</tr>
</tbody>
</table>

Source: Government of Poland.
34. Poland's industrial exports - particularly of electrical engineering, light-industrial and pharmaceutical goods - were particularly affected by the recession in the CMEA area. On the import side, Soviet deliveries of oil, pig iron and cotton dropped significantly in 1991. A serious decline was registered in Poland's trade with other central and eastern European countries, including Hungary, the Czech and Slovak Federal Republic, Bulgaria and Romania.

35. The share of developing countries in Poland's imports rose from some 7 per cent during the 1980s to some 10 per cent in 1991, mainly because of increased purchases from Iran, Indonesia and Venezuela. South-east Asian developing countries are becoming important suppliers of electrical engineering products for the Polish market. The share of developing countries in Poland's exports fell from around 10 per cent in 1980 to less than 8 per cent in 1991. Poland's exports to developing countries are mainly of manufactured goods.

(iii) Commodity pattern of trade

36. Before 1990, the commodity composition of Poland's trade with market economies differed significantly from that with CMEA countries. Both exports to and imports from CMEA partners were highly concentrated in electro-engineering products (64 per cent of exports to and 44 per cent of imports from CMEA countries in 1989, compared with 25 and 33 per cent respectively for market economies). Fuels were the largest single product group in imports from CMEA countries.

37. Data for 1991 show major changes in trade patterns with former CMEA countries. The share of electro-engineering products was halved, while that of fuels, especially in imports, increased considerably. At the same time, the commodity structure of Poland's trade with market economies remained stable and evenly distributed among product groups (Chart I.6).

38. The composition of imports by end-user categories has also changed significantly in the last years. Between 1989 and 1991, the share of consumer goods increased from 18 to 30 per cent, while the proportion of intermediate goods declined from 57 to 53 per cent. In 1991, mainly due to import liberalization and the real effective appreciation of the domestic currency, substitution of imported for domestic goods increased in both production and consumption.

Products of the electro-engineering sector, according to the Polish classification, include metal products, engineering, precision instruments, transport equipment, electrical engineering and electronics.
Chart 1.5
Commodity composition of Polish trade with former CMEA countries, 1989 and 1991
Per cent

<table>
<thead>
<tr>
<th></th>
<th>1989</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total: 4.75 trn zlotys</td>
<td>Total: 31.35 trn zlotys</td>
</tr>
<tr>
<td>Fuels</td>
<td>44.4</td>
<td>5.9</td>
</tr>
<tr>
<td>Minerals and metals</td>
<td>9.1</td>
<td>21.2</td>
</tr>
<tr>
<td>Food and agriculture</td>
<td>2.7</td>
<td>6.8</td>
</tr>
<tr>
<td>Electrical engineering</td>
<td>28.0</td>
<td>55.1</td>
</tr>
<tr>
<td>Chemicals</td>
<td>8.2</td>
<td>4.2</td>
</tr>
<tr>
<td>Manufactures\footnote{Manufactures includes wood and paper products, textiles, wearing apparel and leather goods, construction, forestry and other industries.}</td>
<td>7.2</td>
<td>6.9</td>
</tr>
</tbody>
</table>

\footnote{Manufactures includes wood and paper products, textiles, wearing apparel and leather goods, construction, forestry and other industries.}

Chart I.6
Commodity composition of Polish trade with market economy countries, 1989 and 1991
Per cent

<table>
<thead>
<tr>
<th>Year</th>
<th>Sector</th>
<th>1989</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total: 12.87 trn zlotys</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>19.0 Fuel</td>
<td>17.2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>25.3 Electrical engineering</td>
<td>21.8</td>
<td></td>
</tr>
<tr>
<td></td>
<td>16.8 Minerals and metals</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>16.1 Food and agriculture</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>11.5 Manufactures</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total: 131.20 trn zlotys</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>17.2 Fuel</td>
<td>10.6</td>
<td></td>
</tr>
<tr>
<td></td>
<td>21.8 Electrical engineering</td>
<td>20.8</td>
<td></td>
</tr>
<tr>
<td></td>
<td>11.3 Minerals and metals</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>10.3 Food and agriculture</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>10.3 Manufactures</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Exports

<table>
<thead>
<tr>
<th>Year</th>
<th>Sector</th>
<th>1989</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total: 10.67 trn zlotys</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>32.6 Fuel</td>
<td>41.1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>19.5 Electrical engineering</td>
<td>15.4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>18.8 Minerals and metals</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>13.2 Food and agriculture</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>13.5 Manufactures</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total: 135.39 trn zlotys</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>32.6 Fuel</td>
<td>41.1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>19.5 Electrical engineering</td>
<td>15.4</td>
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<tr>
<td></td>
<td>18.8 Minerals and metals</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>13.2 Food and agriculture</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>13.5 Manufactures</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Manufactures includes wood and paper products, textiles, wearing apparel and leather goods, construction, forestry and other industries.

39. In 1991, coal and coke products, together with iron and steel, accounted for 16 per cent of Poland's exports (Table I.4). Other major exports included non-ferrous metals, machinery and equipment, transport equipment, textiles and clothing, live animals, and furniture. Petroleum and products alone accounted for 15 per cent of merchandise imports in the same year, with other imports covering a wide range of products (Tables I.5, and Table AI.1).

40. Reflecting the pattern of Poland's industrial development, about 35 per cent of Polish exports are raw material-intensive (Table I.6). At the same time, the share of labour-intensive products, where Poland may enjoy a competitive edge over OECD countries, is only about 19 per cent, smaller than in Germany and less than half of the proportion registered in the five "Dynamic Asian Economies" (DAEs).\(^2\) The proportion of capital-intensive exports is comparable to that of Germany and much higher than in the DAEs; however, the share of research and development-intensive products in Poland's exports is low compared to both Germany and the DAEs.

(5) Outlook

41. There is some evidence, though not unambiguous, to suggest that the Polish economy may be beginning to emerge from the deepest phase of the adjustment-induced recession. In July 1992, factory output was some 9 per cent higher than in the corresponding month of 1991; sales of industrial products, although still lower overall than in 1991, rose by some 3 per cent in the second quarter. The number of private, mostly small, firms increased by 7 per cent between end-1991 and June 1992 to some 1.5 million and the rôle of the private sector in the economy continues to grow. Inflation appears to be diminishing, although it is still high.

42. Favourable trends were also registered in exports, which increased by about 13 per cent in the first half-year compared to the same period in the previous year. Imports fell by 8 per cent in the same period. The current account registered a substantial surplus in the first seven months, and Central Bank reserves increased by 13.2 per cent to US$4.33 billion.\(^2\)

\(^2\)A recent study prepared for the OECD suggests that the competitiveness of Polish exports (particularly in raw materials and manufacturing) was subject to a long-term, regular decline. In the period 1970-86, the most competitive products were inorganic chemicals, wood manufactures, textile yarn and fabrics, manufactures of metal, metal working machinery, other transport equipment, furniture, clothing and footwear. Analyses showed that the higher the degree of product manufacturing, the larger was the productivity gap between Polish and EC industries. (W. Burzynski, E. Sadowka-Cieslak and D. Zbytniewski (1991), Polish Export Capabilities in the 90s, OECD, Paris).

\(^2\)International Monetary Fund (1992), International Financial Statistics, October, Washington, D.C.
43. These positive elements, however, must be set against a number of concerns. These include an apparent sharp increase in the budget deficit, which may increase to 6.5 per cent of GDP for the full year, potentially undermining the credibility of the adjustment programme and making it more difficult to reduce inflation; the absence of an investment recovery, with the value of new projects down by some 8 per cent; the still relatively weak budget constraints faced by the State-owned enterprises, emphasizing the need for more rapid restructuring and privatization; and rising unemployment, projected by the authorities to reach 16 per cent by the end of 1992. Overall, the Government expects GDP to fall by 2 per cent in 1992.

44. The new Government which took office in July 1992 has expressed its determination to continue the market-oriented reform process. Its defined priorities are to reduce the budget deficit, speed up the process of privatization, depoliticise income negotiations with employees of State-owned enterprises, and to sustain the current export-led recovery in industrial output.

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24 Budgetary data provided by the Polish authorities.
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) General Framework

45. Fundamental political change has taken place in Poland since the second half of 1989, following forty years of socialism based on the leadership of the Polish United Workers' Party. Poland is now a Parliamentary democracy. Legal and natural persons may act freely unless the law provides otherwise. Discretionary powers of State administration have been reduced substantially.

46. Change had been preceded by "round-table negotiations" between then the ruling authorities and representatives of the Solidarity led opposition. The ensuing Parliamentary elections held in June 1989 were won by the opposition. The new Government, formed by Solidarity, took office in August 1989.

47. Political change was reflected in several amendments to the Polish Constitution. These included the establishment of new political institutions, such as the State Presidency and the Senate, the abolition of the Council of State as the supreme organ of State authority, and a return to the name, the Republic of Poland. Constitutional guarantees for the pre-eminent rôle of the Polish United Workers' Party were also abolished.

48. Poland's territory is divided into 49 voivodships. The smallest territorial units, with local self-government are the gminas, numbering 2,383 in 1991. Voivodships and gminas decide on local matters, and have no direct rôle in trade policy formulation or implementation.

(2) Structure of Trade Policy Formulation

(i) Legislative and executive branches of Government

49. State authority is vested in the two chambers of the National Assembly, the Sejm and the Senate. The Sejm (lower chamber) is the principal legislative body, consisting of 460 deputies elected for a term of four years. Its institutions include the Presidium, the Council of Seniors and 23 standing committees. The Presidium is composed of the Speaker and Deputy Speakers. The Council of Seniors includes members of the Presidium and leaders of caucuses representing major political orientations.

50. The Senate is the upper chamber of the National Assembly. The Senate participates in the legislative procedure and acts as the spokesbody for local government and citizens' rights. It comprises 100 elected members, with a term of office equivalent to that of the Sejm.

51. New laws can be proposed by members of the Sejm, the Senate, the Government and the President. Laws can be adopted by the Sejm in the presence of at least 50 per cent of its members. The Senate has the right to submit amendments to the law adopted by the Sejm within 30 days after the law has been submitted to it. After the expiration of this term, the law is to be signed by the President. In case of amendments adopted by the Senate, the Sejm may reject them with a majority of two-thirds of votes. Otherwise, the law is to be signed by the President as amended by the Senate. The two-thirds majority rule applies to amendments of the Constitution, in both the Sejm and the Senate.

52. The President of the Republic represents Poland in internal and international relations. The President is guardian of the Constitution, orders Parliamentary elections, summons the first sitting of the Sejm, may dissolve both the Sejm and the Senate under certain circumstances, and has several functions regarding the ratification and revocation of international agreements as well as the appointment and recall of diplomats. The President also serves as supreme commander of the armed forces and as head of the National Defence Committee. He further nominates the Prime Minister and appoints the Presidents of the Supreme Court and the National Bank of Poland. The President has no specific trade-related powers, however, he may veto any laws adopted by the Parliament.

53. The Government is formed and headed by the Prime Minister, subject to approval by the Sejm. Government institutions include the Prime Minister, the Presidium, the Economic Council, the Social Council and the Office of the Council of Ministers.

54. A feature of Poland's political life is the high number of parties represented in the Sejm. Their number is 28; the largest party, the Democratic Union, has 14 per cent of parliamentary seats, closely followed by the Democratic Left Alliance, with 13 per cent (Chart II.1). As a result, formation of Government and Government policies is a difficult and slow process.

\[2\] Since August 1989, Poland has had five Prime Ministers.
Chart II.1
Political parties and organizations represented in the Sejm, October 1991
Per cent

<table>
<thead>
<tr>
<th>Political Party or Organization</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democratic Left Alliance</td>
<td>13</td>
</tr>
<tr>
<td>Democratic Union</td>
<td>4</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
</tr>
<tr>
<td>Ethnic Minorities &amp; Local Movements</td>
<td>3</td>
</tr>
<tr>
<td>Polish Party of the Friends of Beer</td>
<td>4</td>
</tr>
<tr>
<td>&quot;Solidarity&quot; Trade Union</td>
<td>6</td>
</tr>
<tr>
<td>Peasants' organizations originating from &quot;Solidarity&quot;</td>
<td>8</td>
</tr>
<tr>
<td>Liberal-Democratic Congress</td>
<td>10</td>
</tr>
<tr>
<td>Centre Alliance</td>
<td>10</td>
</tr>
<tr>
<td>Confederation for Independent Poland</td>
<td>10</td>
</tr>
<tr>
<td>Polish Peasant's Party-Program Alliance</td>
<td>10</td>
</tr>
<tr>
<td>Christian-National Union</td>
<td>11</td>
</tr>
</tbody>
</table>

Source: Foreign Trade Research Institute (1992), Poland, Your Business Partner.

55. The last parliamentary elections, in October 1991, reflected a certain degree of disillusionment with the economic and social impact of radical market-oriented reforms. Two-thirds of the electorate voted for parties critical of the market reform policies of the first two reform Governments, under Prime Ministers Mazowiecki and Bielecki, respectively. The economic programme of the first Government after the October 1991 elections reflected the changed mood, somewhat slowing the original market-oriented reforms. In the summer of 1992, a series of industrial actions took place in Poland demanding the improvement of living conditions and, inter alia, the conduct of a less liberal import policy. These actions did not result in Government concessions.

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3 Only 40 per cent of the electorate participated at the elections.

56. Under the Polish Constitution, the Sejm is responsible for the adoption of trade policy legislation. Economic and trade policy is formulated by the Government. The Economic Committee of the Council of Ministers is the operational governmental body that co-ordinates the economic activities of various organs of the State administration. It is headed by the Deputy Prime Minister responsible for economic affairs. Trade policy is implemented and administered by several governmental bodies. At present, the Ministry of Foreign Economic Relations, the Ministry of Agriculture, the Anti-Monopoly Office and the Central Customs Office have major responsibilities in trade policy or trade policy-related matters. The following Ministries and other central bodies also have some trade-related powers:

- Ministry of Finance;
- Ministry of Industry and Commerce;
- Ministry of Privatization;
- Central Planning Office;
- Committee for Standardisation, Measurement and Quality Control; and
- National Bank of Poland.

57. Matters concerning international trade fall mainly under the responsibility of the Ministry of Foreign Economic Relations (MFER). In formulating and implementing trade policies the MFER cooperates closely with other Ministries and Government agencies. The MFER is, in particular, empowered to: prepare guidelines for foreign economic policy; initiate new forms of economic cooperation with other countries; collaborate with the Ministry of Finance in the implementation of foreign exchange and fiscal policy; conclude multilateral and bilateral trade agreements; formulate and implement tariff policy and control foreign trade through issuing licences, establishing quotas etc. (Chapter IV).

58. To assist the MFER in decisions on the issuance of trade permits and import licences, a Special Commission has been established with the participation of other Ministries. Implementation of the customs policy is entrusted to the Central Customs Office.

59. Central planning was abolished in 1990. The Central Planning Office now formulates indicative macroeconomic programmes and monitors economic and trade developments. The Ministry of Privatization was created in 1990; its major areas of responsibility include the formulation of policies concerning privatization and the implementation of the Law on Privatization of State-owned enterprises. The Antimonopoly Office was created in 1990, with responsibility for counteracting monopolistic practices, forming the competitive structure of the market and promoting competition.
60. The activities of the Administration are under Parliamentary authority. In addition, the Administration is checked by the Constitutional Court, the State Tribunal, the National Administrative Court, the Ombudsman and the Central Auditing Authority. The Constitutional Court rules on the constitutionality of laws and administrative decisions. The State Tribunal protects the consistency of government actions with the laws. The National Administrative Court supervises the legality of all decisions, including those related to trade. All citizens and legal persons who claim a violation of their rights may refer the matter to the Administrative Court. The Ombudsman guards the rights and freedoms of citizens and the Central Auditing Authority audits administrative expenditure.

(ii) Advisory and review bodies

61. With the introduction of major political and economic reforms, informal pressure groups of the previous régime, representing the interests of large-scale State-owned enterprises and the party bureaucracy, have weakened substantially or disappeared. Since 1990, a high number of bodies have been established to represent the interests of economic operators, including the growing private sector and consumers. These bodies are organized in different forms, on a sectoral, regional or national basis.

62. Representatives of business associations are generally consulted on economic and trade policy issues of concern to them. The main self-governing economic organization is the Polish Chamber of Commerce, composed of over 100 chambers and economic associations. Its objectives are to represent interests of Polish economic operators and to develop international economic cooperation. The tasks of the Chamber include: regular monitoring and reviewing of changes in terms and conditions of business operation; expressing opinions on initiatives, draft laws and decisions adopted by the Government and other administrative agencies; cooperation with political and business organizations in drafting economic programmes; and delegating representatives to advisory bodies of State authorities.

63. Outside the Parliamentary system, there are no formal, independent bodies for the review of Polish trade and industrial policies. However, as noted, the Polish Chamber of Commerce carries out advisory and review functions. In addition, several academic institutions regularly survey economic developments. These institutions include the Polish Foreign Trade Research Institute, under the authority of the MFER, and the World Economy Research Institute, which is part of the School of Economics.
(3) **Trade Policy Objectives**

(i) **General trade policy objectives**

64. Poland's trade policy objectives have undergone fundamental change in the past few years. In the four decades after the end of the Second World War, economic developments were dominated by central planning, State-ownership and participation in the CMEA. Poland was largely isolated from outside markets. Market signals were replaced by mandatory plan targets, foreign trade was administratively controlled and was conducted by a small number of foreign trade organizations (FTOs). The policy of rapid industrialization, without significant regard to comparative advantage, led at times to major economic imbalances and social tensions.

65. The importance of market-oriented instruments was gradually increased through the 1980s. In the second half of the decade, the Government made several decisions which aimed to liberalize the foreign trade régime and increase competition in the domestic market.

66. In January 1990, the democratically elected Government launched a major market-oriented reform, the so-called Balcerowicz Plan, which was agreed by the IMF. One of the main objectives of the reform has been to open the economy in order to improve resource allocation by increased pressure of foreign competition on Polish producers. Since that time the Polish foreign trade system has been largely liberalized; foreign trade is now open to all economic units, the zloty is internally convertible and tariffs have become a main trade policy instrument. The decline of the Soviet Union reduced drastically trade opportunities for all CMEA countries, including Poland. The CMEA ceased to exist in 1991, and trade relations with former CMEA members, in principle, are conducted on world prices and in convertible currencies. The share of CMEA countries in Poland's foreign trade has decreased sharply and that of western Europe has increased significantly. Closer economic relationship with the EC, through the Association Agreement, has become one of Poland's main trade policy objectives.

(ii) **Sectoral trade policy objectives**

67. As a result of central planning, insulation from world markets and close integration in the CMEA system, resource allocation in Poland was less than optimal. The emphasis on industrialization left many sectors oversized, with a number, such as aircraft, shipbuilding, transport equipment, machine tools and rolling stock, greatly dependent on CMEA trade and not always fully competitive on international markets.
68. Poland's economic reforms have largely eliminated sectoral trade policies. Most production assistance, including export subsidies, has been phased out under the expectation that the required sectoral changes will take place through self-regulatory market mechanisms. The main protection to individual sectors is now in the form of tariffs. Higher than average tariff protection has been accorded since 1991 to agriculture and some industrial sectors, including textiles and clothing, motor vehicles, industrial consumer goods and computers. Since 1991, different interest groups have increasingly pressured the Government to provide more sectoral protection, both in agriculture and industry, through tariff and non-tariff measures. This, against the background of the economic recession, may have caused a certain waning in the credence given to market forces, and moves towards a sector-specific industrial policy are under consideration (Chapter IV).

(iii) **Objectives in the Uruguay Round**

69. Poland has played an active rôle in the Uruguay Round, looking to it for an improvement in market access opportunities, including in the area of trade in services, and for a strengthening of the GATT system, in both the traditional and non-traditional areas. Poland has underlined "the inseparable linkage between trade, indebtedness and international financial and monetary arrangements". Also, as an important exporter and importer of agricultural products, Poland has taken the position in the negotiations on agriculture that "...no success in the Uruguay Round can be achieved without successful completion of negotiations on agriculture." In addition, it has stressed the need "to reach comprehensive agreement, based on the m.f.n. principle, on the use of all type of safeguard measures."  

70. In 1990, Poland submitted its initial proposal on tariff concessions and indicated that "it would need to be considered in the context of the Working Party on Poland's Protocol of Accession to GATT". Therefore, Poland will annex its final list of concessions to the tariff protocol after completion of the renegotiations in the Working Party.

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5 In the Group of Negotiations on Services, Poland has submitted its Preliminary Conditional Offer; GATT document MTN.GNS/W/128/Rev.1, 30 March 1992.


7 GATT document, MIN(86)/ST/74, 19 September 1986.

8 GATT document, MTN.TNC/MIN(90)/ST/59, 5 December 1990.
(4) **Trade Laws and Regulations**

71. The Polish reform process has involved major changes in economic legislation, including a large degree of deregulation. Part of the legislative work is still to be completed. Thus, for example, the tax system is to be modernized, a draft Law on Standardization is before Parliament, and the principles and methods of privatization are to be improved. In April 1992, a draft law on intellectual property protection was introduced.

72. The basic rules and principles of Poland's foreign trade and its administration are laid down in the Law on Economic Activity of 1988 and the Customs Law of 1989. The Law on Economic Activity introduced the freedom to conduct economic activity, including foreign trade. Under the 25 February 1992 Ordinance of the Minister of Foreign Economic Relations, foreign trade in a limited number of items is subject to licensing requirements. The Customs Law provides the legal framework for the Polish tariff system, including rules on the imposition of anti-dumping and countervailing duties, import bans, export and import licensing, the establishment of export and import quotas and safeguard measures. Implementing regulations are issued by the Minister of Foreign Economic Relations. Customs duties are set by the Council of Ministers.


74. Other important elements of Poland's economic legal framework, include the Civil Code and the Commercial Code of 1934. The Civil Code was amended in 1990, to incorporate the legal principles of economic reform, including the equal rights of economic entities. The Commercial Code codifies company forms, such as civil law companies, joint-stock companies and registered partnerships. The Bankruptcy Law of 1934 remains in force, although the authorities view some of its provisions as being out of date.

75. Compatibility of Polish laws and regulations with that of the European Communities' (EC) legal system is a necessary precondition for Poland's closer relationship with the EC. According to Poland's Association Agreement with the EC, the Communities will provide Poland with technical assistance in this area (exchange of experts, training, etc.).
76. Poland has not fully incorporated into its legal system the General Agreement and the Tokyo Round Agreements to which it is a party, namely the Codes on Anti-Dumping, Customs Valuation, and Import Licensing. However, the most important and directly applicable provisions of these legal instruments are part of Poland's relevant laws and regulations. For example, Article XIX of the GATT and the main provisions of the Anti-Dumping Code have been incorporated into the Customs Law.

(5) Trade Agreements and Arrangements

(i) Multilateral agreements

77. Poland acceded to the General Agreement in 1967. At that time Poland's foreign trade "...was conducted mainly by State enterprises and the Foreign Trade Plan rather than customs tariff was the effective instrument of Poland's commercial policy. The present customs tariff was applicable only to a part of imports effected by private persons for their personal use and it was in the nature of a purchase tax rather than a customs tariff". As a result, Poland's main concession for its accession to the GATT was a commitment "to increase the total value of its imports from the territories of contracting parties by not less than 7 per cent per annum." Subsequently, in 1971, the commitment was altered to a growth in the total value of Poland's imports from the contracting parties "by 7 per cent per annum aggregated and compounded over multi-year" periods.

78. The other specific elements of the Polish Protocol of Accession included: a provision on the maintenance, subject to their gradual relaxation and elimination, of prohibitions and discriminatory quantitative restrictions maintained inconsistently with GATT Article XIII by some contracting parties against imports from Poland; a selectively applicable safeguard clause against Polish exports; and rules on regular and special consultations with the CONTRACTING PARTIES. Paragraph 13 of

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9 Poland is also a signatory to the Subsidies and Countervailing Duties Code, subject to ratification by the Sejm, and the Dairy and Bovine Meat Agreements.


12 BISD, 18th Supplement, p.200.

13 No specific target date was specified for the elimination of these measures. (For the precise text see paragraph 3 of the Polish Protocol of Accession, BISD 15th Supplement, pp.47-48).
the Working Party Report on Poland's Accession laid down specific rules regarding anti-dumping procedures on imports from Poland (Chapter IV).

79. Between 1967 and 1976, Poland increased its imports from contracting parties by more than the Protocol-required percentage. However, in 1977 and in the following years, Poland did not fulfil its import obligations, due to adverse domestic economic conditions. For this reason, the Polish Working Party has not met since 1978. In 1982, the United States, citing Poland's failure to fulfil its GATT obligations, suspended its m.f.n. tariff treatment for Poland under the General Agreement \(^{14}\), to be reactivated in 1987.

80. After the adoption of market-oriented reforms, Poland asked for the renegotiation of the "unique and outmoded terms of Poland's Protocol of Accession, with a view to adopting the normal commitments based on tariff concessions and the universal application of the General agreement as well as the Codes of the Tokyo Round and the agreements which will emerge from the Uruguay Round". \(^{15}\) In February 1990, the GATT Council established a Working Party to examine the request of Poland to renegotiate its Protocol of Accession. The Working Party has had several meetings and is expected to finish its work soon. At present, Poland is engaged in tariff negotiations with GATT members, with a view to establishing the schedule of tariff concessions that is expected to be part of the renegotiated Polish Protocol.

(ii) Regional agreements

81. Poland's major trading partners are located in Europe. This fact has provided for Poland a strong incentive for closer economic relations with European States. Hence, Poland concluded an Association Agreement with the EC and intends to sign a free-trade agreement with EFTA countries. Furthermore, negotiations with Hungary, and the Czech and Slovak Federal Republic on a free trade area are likely to be concluded in the near future.

(a) Association Agreement with the Community

82. In December 1991, Poland signed an Association Agreement (the "Europe Agreement") with the European Communities (EC). The importance of the Agreement is reflected both by the EC being Poland's largest trading

\(^{14}\)GATT document L/5396/Add.2, 28 October 1982.

partner and by the fact that it is a major political and economic objective of Poland to become a member of the Communities. Because the Association Agreement requires ratification by all national Parliaments concerned, an Interim Agreement was signed to enable the trade provisions of the Association Agreement (Articles in Title III) to come into force on 1 March 1992.

83. The Association Agreement consists of a Preamble and nine Titles, covering all areas of the association between the parties (Note II.1). The Preamble includes a sentence stating the Polish objective to become an EC member and that the association will help to achieve this objective. The Agreement provides for a transitional period of ten years for its full implementation, divided into two five-year stages. It also lays down the framework for regular dialogue between the parties. Consultations should support Poland's convergence to the economic and political system of the EC. The implementation of the Association Agreement is supervised by the Association Council, composed of representatives of both parties. The Council will decide on Poland's transition to the second stage of the association process.

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17 The Association Agreement has already been ratified by both the Polish and European Parliaments.
Note II.1

The Contents of Poland's Association Agreement with the European Communities

Preamble
Title I: Political Dialogue
Title II: General Principles
Title III: Free Movement of Goods
  Chapter 1. Industrial Goods
  Chapter 2. Agriculture
  Chapter 3. Fisheries

Title IV: Movement of Workers, Establishment, Supply of Services
  Chapter 1. Movement of Workers
  Chapter 2. Establishment
  Chapter 3. Supply of Services
  Chapter 4. General Provisions

Title V: Payments, Capital, Competition and Other Economic Provisions
  Approximation of Legislation
  Chapter 1. Current Payments and Movement of Capital
  Chapter 2. Competition and Other Economic Provisions
  Chapter 3. Approximation of Laws

Title VI: Economic Cooperation
Title VII: Cultural Cooperation
Title VIII: Financial Cooperation
Title IX: Institutional, General and Final Provisions

Annexes
Protocols
Joint Declarations
Unilateral Declarations
Exchange of Letters
84. Under paragraph 1 of Article 1 of the Interim Agreement, "The Community and Poland shall gradually establish a free-trade area in a transitional period lasting a maximum of ten years starting from the entry into force of this Agreement... in accordance with the provisions of the present agreement and in conformity with those of the General Agreement on Tariffs and Trade." The Interim Agreement applies to all industrial products originating in the EC and in Poland, as listed in Chapters 25 to 97 of the Combined Nomenclature (CN) with the exception of a few items listed in Annex I of the Agreement. The scope of liberalization of trade in agricultural products is limited. The Agreement provides for the reduction, but not total elimination, of customs duties on certain products and reduction of variable levies on some Polish goods. Due to differences in levels of economic development, liberalization is to be asymmetric, with the EC reducing tariffs and other import barriers earlier than Poland.

85. On 1 March 1992, on the date of entry into force of the Interim Agreement, Poland abolished customs duties on about 27 per cent of its imports from the EC. The products concerned are mainly raw materials and investment goods. On most industrial products, Poland, as of 1 January 1995, will annually reduce its tariffs by 20 per cent. Imports of passenger cars and trucks constitute an exception. Reduction of customs duties on these products commence on 1 January 1994, with duties to be totally abolished by 1 January 2002. The Agreement provides for the exchange of concessions on cars and trucks. Poland agreed to offer a duty-free tariff quota on 30,000 passenger cars, including 5,000 cars with catalytic equipment, and 100 trucks. The quota is to be increased by 5 per cent each year for passenger cars and by 10 per cent for trucks. However, this measure did not enter into force by the end of September 1992, pending final arrangements on the allocation of the quota. The EC granted a duty-free quota of 150 million ECU for cars originating in Poland (Chapter IV). These restrictions shall be abolished in 2002.

86. On 1 March 1992, Poland reduced its customs duties on certain EC agricultural products by 10 percentage points; these items account for about 15 per cent of Polish agricultural imports from the EC. The tariff reductions cover products either not produced in Poland or the domestic production of which does not meet Polish demand (citrus fruit, yogurts, cheeses, wine and beer).

18 The products concerned are: albumins, albuminates and some albumin derivatives; cork; flax and true hemp.

19 The items covered are listed in Annex IV(a) of the Agreement.
87. On 1 March 1992, the EC abolished customs duties on imports of Polish industrial products constituting about 55 per cent of Poland's industrial exports to the Community. Customs duties levied on other industrial products originating in Poland will be phased out in accordance with an agreed time-table. In 1993, customs duties on 25 mineral product groups and chemical materials will be abolished. In 1996, imports of five non-ferrous metals will be liberalized. However, the pace of tariff reductions will be slower in "sensitive" product groups, such as certain chemicals, cement, casein, tyres, skins and leather products, footwear, glass and china ware, certain copper products, radios and TV sets, lamps and some furniture. Rules of origin are included in Protocol No.4 of the Interim Agreement.

88. On textiles and clothing, Protocol No.1 of the Interim Agreement lays down specific rules. EC tariffs on these products will be eliminated over a six year period. The elimination of quantitative restrictions maintained by the EC on its imports of textiles and clothing from Poland is linked to the outcome of the Uruguay Round; the EC will eliminate such measures in half the phasing-out period agreed to in the Round, subject to a minimum of five years.

89. Under the Agreement, quantitative restrictions on steel products were eliminated on 1 March 1992. The EC will phase out its tariffs on steel products by 1 January 1997, beginning on 1 March 1992. For coal, tariffs and quantitative restrictions maintained by the EC on its imports from Poland will be eliminated, with a four-year phase-out envisaged for Germany and Spain and one year for other EC members.

90. The liberalization of the EC market for Polish exports of agricultural and processed agricultural products is moderate. Variable levies are to be reduced by 50 per cent, and quotas increased by 10 per cent a year, on a range of items, including beef, pork, poultry, milk powder, cheeses and eggs. Reduction of the levies by 20 to 50 per cent on such items, subject to quota limitations on the volume of an eligible imports, has become effective as of 1 March 1992. Quotas will be increased annually over five years. Levies will be cut by 75 per cent on certain calves, within the framework of an import quota for the Czech and Slovak Federal Republic, Hungary and Poland; the quota is to be raised by 10 per cent a year, effective from 1992 for a period of five years. As of 1 March 1992, EC import tariffs have been lowered by 30 to 100 per cent on

20These products are listed in Annex III of the Agreement. They benefit from a suspension of customs duties on imports within the limits of increasing annual EC tariff quotas or ceilings. All remaining tariffs will be abolished by 1997 at the latest.
a number of products, without quantitative limits, including horses, swine, offal, venison, honey, flowers, cucumber, asparagus, cherries, berries and onions. Gradual and differentiated tariff reductions will apply on other fruits and vegetables within the context of quota increases of 10 per cent a year. On most agricultural raw materials, duties and quantitative restrictions will remain in effect, but on processed products tariffs will be gradually reduced. Agricultural liberalization affects, to a various degree, some 40 per cent of Polish agricultural exports to the EC. Poland's reciprocal trade concessions include tariff reductions of 10 percentage points on about 250 8-digit tariff lines from CN Chapters 1-24 effective as of 1 March 1992.

91. Article 19 of the Interim Agreement is in the nature of a standstill provision, prohibiting increases in existing tariffs (or equivalent charges), the introduction of new duties, the tightening of quantitative restrictions (or similar measures) and the introduction of new quantitative measures. However, under Article 22, Poland is authorized to introduce exceptional tariff increases, for a period not exceeding five years, to assist infant industries, or certain sectors undergoing restructuring or facing serious difficulties. Customs duties introduced under this provision "may not exceed 25 per cent ad valorem and shall maintain an element of preference for products originating in the Community. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the Community...". In addition, Article 24 contains a safeguard clause that may be invoked by both Poland and the EC.

92. The implementation of the Interim Agreement is supervised by a Joint Committee, which, in case of disputes arising from the implementation of the Interim Agreement has the power to take binding decisions on both parties.

93. The importance of the Association Agreement for Poland lies in facilitating its integration into the European economy and its possible accession to the EC. Under the Agreement the eventual removal of trade barriers in industrial trade and the partial liberalization of agricultural trade will cover about 89 per cent of total Polish exports to the EC (Table II.1). However, the process of trade liberalization is slowest (textiles, clothing and steel) or limited (agriculture) in sectors where Poland appears to have a comparative advantage. The share of these "sensitive" products is about 50 per cent of total Polish exports to the Community. Due, therefore, to relatively low EC tariffs and GSP treatment accorded by the EC to Polish exports prior to the entry into force of the Interim Agreement, Polish exports are unlikely to gain significant
advantage from the Agreement in the short term. By contrast, because of the higher relative tariff protection in Poland, EC exporters especially after 1995, will have significantly improved market-access possibilities in Poland, indicating the possibility of a certain asymmetry in potential benefits from bilateral tariff reductions.

94. An important aspect of the Interim Agreement is that the establishment of a free-trade area could well result in a deterioration of access to the Polish market for third countries, not parties to the Agreement. Polish m.f.n. tariffs are likely to imply a substantial margin in favour of EC products; as a result, the dependency of the Polish economy on western European products and technology may increase to the possible detriment of internationally-efficient Polish resource allocations and growth.

(b) Negotiations with the European Free Trade Association (EFTA)

95. Poland and the EFTA countries initiated negotiations on an association agreement in 1990. The negotiations are entering their final stage and are expected to be concluded in the last quarter of 1992. With Finland, Poland concluded a free-trade agreement in 1976, which remains in force.

(c) Negotiations with the Czech and Sloval Federal Republic and Hungary

96. In 1991, Poland entered into negotiations with the Czech and Slovak Federal Republic and Hungary on the creation of a Central European free-trade area. In April 1992, the three parties signed a Joint Declaration on the establishment of a Central European Cooperation Committee. The Committee provides a forum for regular consultation on different aspects of the parties' external economic policies. The authorities expect that the agreement on a free-trade area will be signed in the course of 1992.

21According to a Polish analysis, "The liberalization under the Interim Agreement means, for a number of products, at least in the first years of the Agreement, only a consolidation of preferential treatment that Polish exporters enjoyed under GSP scheme, granted by the Community on January 1, 1990. So, it is reasonable to assume that the commercial benefits of the Agreement in terms of possible increase of exports may be somehow comparable to those resulting from the GSP preferences, and the latest were estimated to be rather modest...The fact that the quotas and ceilings on the products of reduced duties and/or levies are set annually, reduces further the potential advantages. In some cases the Agreement preferences in 1992 turned out to be even smaller than the previous ones under GSP". E. Kaweczka-Wyrykowska (1992), "Implications of the Association Agreement with the European Communities for Poland", Re-integration of Poland into the West European Economy, Foreign Trade Research Institute, Warsaw.
(iii) **Bilateral agreements**

97. Poland has bilateral trade agreements with a high number of its trade partners based on the general framework of the GATT. Trade relations with GATT contracting parties are governed by the rules of the General Agreement, with bilateral agreements with these countries therefore of little practical effect. Trade with the successor States of the former Soviet Union, and other former CMEA members, is conducted, in principle, at world prices and in convertible currencies. However in some instances, elements of barter trade have been retained (Chapter IV).

98. In March 1990, Poland and the United States signed a treaty on Business and Economic Relations which intended to encourage trade relations and facilitate U.S. investment by providing internationally-recognized protection and standards. It gives U.S. investors in Poland the same treatment as that enjoyed by Polish nationals or investors from third countries, whichever is more favourable. Both countries agreed to internationally-recognized expropriation standards. The Treaty provides for free, unrestricted transfer of all payments, including royalty and management fees and proceeds from sale of investment. It recognized Poland's right to maintain certain restrictions of a limited duration, with regard to transfer of profits and dividends, provided that such restrictions shall be progressively eliminated, and shall cease to be applied to profits earned in 1995 and in subsequent years. The treaty provides U.S. companies with the right to market goods and services at wholesale and retail level; obtain access to public utilities and financial institutions; obtain commercial rental space and raw materials on a non-discriminatory basis; conduct market studies and distribute commercial information; obtain registration licences, permits and other approvals on an expeditious basis. The treaty contains major provisions related to intellectual property rights and investment procedures.

99. The Polish-Soviet trade agreement of 21 December 1990, included an "indicative" list, which envisaged, *inter alia*, exports of Polish electro-engineering industry products and imports of basic fuels and raw materials from the USSR. However, the actual trade turnover was below expectations. Hard-currency clearing was introduced for the second half of 1991, but barter trade was also intensified.

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22 Under the Special 301 provision of the U.S. 1988 Omnibus Trade Act, Poland has been designated as a "priority" violator of US intellectual property rights. The U.S.-Poland Investment Treaty signed in March 1990, requires Poland, *inter alia*, to ratify the Berne Convention on intellectual property rights; adopt copyright protection for computer software; and product and process patent protection for pharmaceuticals and chemicals. Poland has not yet signed the Berne Convention. *BNA's Eastern Europe Reporter*, Volume 2, Number 9.
100. On 24 December 1991, Poland signed a Trade Protocol with Russia, under which settlements and payments are to be made in convertible currencies and at world prices. A list is attached to the Protocol, which includes a number of basic goods to be exported (Table II.2). Under the Protocol, Russia finances its imports from Poland with income from its exports to Poland. (For the functioning of the Protocol see the section on countertrade in Chapter IV.)

101. In 1991 and 1992, Poland signed trade agreements with Belarus, Ukraine, Lithuania, Latvia, Estonia, Armenia, Georgia, Uzbekistan, Kyrgyzstan, and Moldova. The provisions of these agreements provide for the simultaneous use of various forms of payment and commodity exchange, namely for cash settlements in convertible currencies, clearing in convertible currencies and cashless transactions. The Agreements with Azerbaijan, Kazakhstan, Turkmenistan and Tadjikistan are expected to be signed before the end of 1992.

(iv) The Generalized System of Preferences (GSP)

102. Since 1981, Poland has granted GSP tariff preferences autonomously to developing countries with a lower per capita GDP than Poland. Imports from least developed countries are granted duty free treatment. A number of "sensitive" agricultural, textile and consumer products are excluded from GSP treatment. In 1990, GSP imports accounted for about 5 per cent of Polish imports. (For more details of the Polish GSP scheme see Chapter IV).

103. Polish products receive GSP treatment from several developed market economies. The EC granted GSP preferences to Polish exports until the entry into force of the Interim Agreement on 1 March 1992.
III. TRADE-RELATED ASPECTS OF THE FOREIGN EXCHANGE REGIME

(1) Exchange Rate Movements and Trade

104. The currency of Poland is the Zloty. The exchange rate of the zloty is determined on the basis of a weighted basket of currencies.

105. Prior to the introduction of reforms on 1 January 1990, the zloty's exchange rate against currencies, other than those of its former socialist partners, was set in relation to the U.S. dollar on the basis of a so-called submarginal rate; cross rates against other convertible currencies reflected the U.S. dollar rate on international exchange markets. The allocation of convertible currency was largely administratively regulated. Particularly in the mid to late 1980s, there was an active black market for exchange, with a significant premium for convertible currencies relative to official rates. With inflation high and accelerating, an increasing share of domestic transactions was foreign currency based, normally in U.S. dollars and the tendency grew for Polish citizens to store their wealth in foreign exchange.

106. During Poland's central planning period, trade with members of the Council for Mutual Economic Assistance (CMEA) was largely conducted under bilateral agreements, in transferable roubles through the International Bank for Economic Cooperation. Since 1 April 1991, trade with the former CMEA countries is, in principle, conducted at world prices and convertible currencies, although a limited amount of trade under previously concluded contracts continues to be transacted in transferable roubles (Chart III.1).

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1 From 1982, the administrative allocation of foreign currencies was somewhat loosened. Exporters had the right to retain a certain share of their hard currency earnings; these could be used, at the discretion of exporters, for selling at auction or financing imports. In July 1989, the average auction exchange rate was 6 times higher than the official exchange rate. By November, the difference declined to 1.5 to 1, as a result of sharp progressive devaluations of the zloty initiated in October 1989. R. Kokoszynski and A. Kondratowicz (1991), "Monetary and Credit Policy in Poland", PPRG Discussion Papers No.10. Warsaw University.

2 The clearing rouble was used for most transactions with non-CMEA socialist countries, such as Albania.
107. As part of the stabilization and market-oriented reform programme, the zloty was devalued by some 32 per cent on 1 January 1990, became convertible for all trade and trade related transactions, and pegged to the U.S. dollar at the rate of Zl 9,500 per US$1. The peg remained in place until mid May 1991, serving as a nominal anchor for the macroeconomic stabilization effort, enforcing monetary discipline and restoring confidence in the domestic currency. On 17 May the zloty was devalued to Zl 11,100 per US$1, and pegged to a basket of five currencies. Since 14 October 1991, the zloty has been on a crawling peg, under which it is depreciated by Zl 9 a day against the basket, subject to a maximum

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3 In October 1989, the zloty had been devalued from Zl 500 per U.S. dollar to Zl 1,970 per U.S. dollar; in November and December 1989, the zloty had again been devalued to Zl 3080 per U.S. dollar and Zl 6,500 per U.S. dollar, respectively.

4 The basket (with weight in brackets) consists of: the U.S. dollar (45 per cent); German mark (35 per cent); pound sterling (10 per cent); French franc (5 per cent); and Swiss franc (5 per cent).
depreciation of 1.8 per cent a month. On 26 February 1992, the zloty was again devalued against the basket, with the subsequent midpoint rate against the U.S. dollar being Zl 13,238. Cross-rates between the zloty and other convertible currencies are determined on the basis of the exchange rates between the U.S. dollar and the other currencies concerned on international markets. The National Bank of Poland (NBP) quotes daily exchange rates for the currencies of countries deemed to be market economies, and is prepared to undertake transactions in them. Banks are free to set buying and selling rates for foreign currencies within margins of 2 per cent of the NBP's middle rates. There are no taxes or subsidies on exchange transactions, and commissions are internationally competitive.

108. Since 1990, Poland has had a legal parallel exchange market in which individuals are allowed to transact freely. Exchange rates on this market are determined by market forces, and may vary from the official NBP rates. However, parallel rates have remained closely in line with official rates, and in practice have oscillated around the NBP rate, with monetary policy geared, in part, to avoiding significant differentials.

109. During much of the central planning period the trade impact of exchange rate movements was at best indirect. Foreign exchange flows were subject to a State monopoly, numerous administrative regulations, and bilateral arrangements. A substantial part of convertible currency exports in the 1980s appears not to have been profitable at official exchange rates, and exports were both directly and indirectly subsidized. Concurrently, partly for exchange conservation but also for plan conformity, imports were subject to import licensing and other controls.

110. Under the radical economic reforms of 1990, tariffs became Poland's main, virtually sole, trade policy instrument, with exchange rates taking a more normal market-economy rôle in trade. With the zloty pegged to the U.S. dollar for the period January 1990 to mid-May 1991, and with Polish inflation considerably above that of its major partners, the zloty's real effective exchange rate (REER) appreciated significantly. The REER index rose from 100 in January 1990 to some 240 in April 1992 (Chart III.2). Subsequent policy served first to slightly depreciate the real effective rate and then keep it within a relatively narrow range; the crawling peg for the zloty and the February 1992 discrete devaluation served to correct, 

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6 In 1985 and 1986, about 63 and 72 per cent, respectively, of exports were profitable at official exchange rates. The World Bank (1989), Poland, Policies for Trade Promotion, p.73.
by and large, for inflation differentials with trade partners. Nevertheless, the real effective appreciation of the zloty from January 1990 is likely to have hampered the competitiveness of Polish exports. During this period, it is to be noted that productivity also appears to have slipped, and unit labour costs to have increased.

Chart III.2
The zloty's real effective exchange rate and nominal rate against the US dollar ¹

1) Upward movements indicate an appreciation.

Source: Government of Poland and IMF, International Financial Statistics, various issues

7According to a study, "As early as the second half of 1990, and even more apparently in 1991, the profitability of exports in some industries was lower than the profitability of sales on the domestic market. Such situation occurred in the ferrous metallurgy as well as metal, precision, paper and leather industries." J. Piotrowski (1992), Exchange Rate and the Profitability of Exports, Polish Foreign Trade in 1991, Foreign Trade Research Institute, Warsaw, p.27. According to a survey made among Polish firms in 1991, 76 per cent of the surveyed firms declared that "the present exchange rate of the zloty does not ensure the profitability of their exports." E. Kawecka-Wyrzykowska (1992), Note for the OECD Working Party of the Trade Committee on East-West Trade, p.37.

8Industrial labour productivity declined by 20 and 7 per cent in 1990 and 1991, respectively.
111. The value of Poland's exports increased by some 23 per cent in 1990, with exports settled in convertible currencies up sharply, by 36.5 per cent. Imports were down by 4.5 per cent in nominal terms, but those from the convertible currency area rose by almost 18 per cent. The zloty's sharp nominal devaluations in 1989 and early 1990, the decline in domestic demand, and the liberalization of the foreign trade régime each played a rôle in Poland's 1990 trade performance. In 1991, with the zloty's fairly rapid real appreciation in the 16-month period after 1 January 1990 and the virtual collapse of trade with former CMEA members, Poland's exports declined by 9 per cent; however, exports settled in convertible currencies were again up, by just over 22 per cent. Imports rose strongly, by almost 23.5 per cent, with imports in convertible currencies up by virtually 48 per cent. The pace of export decline, as settled in all currencies, was more rapid in the earlier part of the year; the May 1991 exchange rate correction and the October 1991 introduction of the crawling may have served to arrest and reverse the decline, and these factors, together with the increased tariff protection adopted in August 1991, may have moderated import demand. Data for the first half of 1992, with a depreciation of the zloty in February 1992 and still weak domestic demand, suggest a recovery of exports by some 13 per cent, together with an 8 per cent contraction of imports.

112. Poland's external current account in convertible currencies was in deficit throughout the 1980s, with trade surpluses, through most of the period, largely offset by interest on external debt (Chart III.3). In 1990, the merchandise trade surplus of some US$1.4 billion led to a current account surplus of about US$830 million. With the growth in convertible currency exports in 1991 considerably slower than that of imports, both the trade and current accounts recorded deficits, of some US$790 million and US$2.35 billion, respectively. Lower external debt interest payments and stronger exports resulted in an estimated current account surplus of US$480 million in the first 8 months of 1992.

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10Exports to former socialist countries, and settled in convertible currencies, increased by about US$1.4 billion in 1991.

11Data provided by the Polish authorities.

12IMF (1992(b)), op.cit.

13Data supplied by the Polish authorities.
113. The reorganization of ex-CMEA trading arrangements has meant that the importance of payments in non-convertible currencies has diminished drastically since 1990. Since 1991, the balance of payments in non-convertible currencies has been confined to settlements of liquidation accounts. In 1991, the surplus in the non-convertible current account amounted to 558 million transferable roubles, on a low export-import turnover, compared to 1989 and 1990 surpluses of 7.1 and 1.1 billion transferable roubles, respectively.  

14 The high surplus in 1990 was due to strong Polish exports to the Soviet Union and the reduced Soviet (mainly oil) exports.
Foreign Exchange Allocation

114. The legislative framework for Poland's foreign exchange system is laid down in the Law on Foreign Exchange of 1989. Implementing regulations are issued, by the Minister of Finance in the form of general foreign exchange permits, or by the President of the NBP as individual permits. The authority for the enforcement of foreign exchange regulations rests with the Minister of Finance, who exercises these functions through the President of the NBP. Decisions concerning individual foreign exchange permits are subject to appeal to the Supreme Administrative Court.

115. Payments for trade and trade related transactions are freely permitted. Other invisible transactions are to be made under general or individual permits. Imports up to US$1 million may be financed on credit, of up to three years, under general permits; other terms of credit are negotiable under individual permits issued by the President of the NBP. Export receipts must be repatriated, in general within two months. Payments within the context of multilateral and bilateral payments agreements are made on the terms and currencies specified in the agreements. All Poland's bilateral payments agreements were effectively terminated at end 1990, but some outstanding balances need to be settled. In principle, new agreements specify payments in convertible currencies.

116. Polish residents can freely hold foreign exchange in the form of currency, stocks, bonds, etc. Accounts "A", available to natural persons, can be freely credited with convertible currency, without declaration of source, and used to effect non-commercial payments and transfers abroad and for tourist travel. Withdrawals can be exchanged for zloty on the parallel market.

117. Foreign Exchange Accounts, "ROD", may be held by legal persons. Before 1 January 1990, ROD accounts could be credited with foreign exchange retained against exports in convertible currencies. Since 1 January 1990, foreign exchange receipts from exports must be surrendered. However, legal persons are allowed to retain foreign exchange accumulated in ROD accounts before that date. These funds can not be used for settlements between enterprises.

118. Resident individuals and enterprises may hold foreign exchange accounts abroad provided the NBP agrees that the accounts are necessary.

\[\text{This sub-section draws on IMF (1992(a)), ibid.}\]
Nonresident legal and natural persons are free to keep both convertible currency and zloty accounts, subject to certain conditions.

119. All categories of capital transfers, including gifts, by resident natural persons require foreign exchange permits. According to the authorities, while the economy is in transition to a full market based system, it would be difficult to fully liberalize capital transfers. The actual calendar for the liberalization of such transfers will also depend in part on the outcome of the Uruguay Round negotiations on services, as well as on further negotiations with the European Communities on the treatment of financial services.

(3) The Banking System

120. Until the end of 1988, Poland had essentially a mono-bank system. The Central Bank, the NBP, granted 90 per cent of enterprise credits. New banking regulations came into effect on 1 January 1989, under the 1989 Banking Law (amended in 1992). The NBP ceased commercial operations, becoming purely a central bank; former branches were reorganized into 9 regional commercial banks. State-owned specialized banks were permitted previously barred activities, such as the acceptance of deposits from, and the granting of credits to the public. Since early 1989, about 90 new private banks have been established, some with the participation of foreign capital: 4 joint-stock banks with foreign participation are operating and 2 are being organized; and 4 branch offices of foreign banks are in business in Poland. Apart from private and State banks, there are also about 1,700 small cooperative banks. In addition, the NBP and the Ministry of Finance have issued licenses for representative offices of foreign banks, with 12 such offices in operation and 5 being set up.

121. The NBP is autonomous, although monetary policy guidelines are endorsed by the Sejm. The President of the NBP is appointed for a term of 6 years, and recalled by the Sejm, on the recommendation of the President of Poland. The President of the NBP participates in meetings of the Sejm and the Council of Ministers.

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16 Other, strictly specialized banks included the Bank Handlowy (foreign trade bank); PKO Bank (savings bank); Bank PeKao, S.A. (foreign currency bank) and the Bank for Food Economy (lending bank for agriculture).

17 Information supplied by the Polish authorities.

18 Data provided by the Polish authorities.
122. A substantial share of corporate and individual clients are still served by the nine regional State banks, which together amount for about 45 per cent of the banking sector's outstanding credit. The regional banks often retain strong links to State-owned enterprises, some in serious financial difficulties. It is estimated that the regional banks have in their loan portfolios credits to State-owned enterprises to the equivalent of US$ 10 billion. According to some observers, "as much as half of this portfolio should be regarded as bad or doubtful..."  

123. The nine commercial State-owned banks are to be privatized. The first step towards privatization was made in October 1991, when these banks were converted into joint stock companies with the State Treasury as the sole share holder. It is expected that two of the commercial banks will be privatized in 1992, while the remaining seven are to be privatized within two or three years. The Export Development Bank, created in 1986, was privatized in mid-1992 and its shares are quoted on the Warsaw stock exchange.  

124. As an element in Poland's general economic reform, the Warsaw stock exchange was opened in April 1991. At the outset of its operations, the shares of 6 companies were quoted on the stock exchange; privatizations had increased this number to 16 by October 1992. The exchange operates twice a week, with an average value of transactions in the equivalent of US$3 million per session. There is as yet no trading in bonds on the exchange, although bonds are traded by some banks.  

(4) Foreign Debt  

125. Poland's outstanding convertible currency foreign debt was in the order of US$ 47 billion at end 1991, with debt service due equal to almost 70 per cent of exports. In the period 1981 to 1990, Poland concluded five Paris Club debt rescheduling agreements. Under a further such agreement in 1991, Poland's debt of US$33 billion to western governments is to be written down by 50 per cent in two stages by April 1994, subject to the initiation and successful implementation of a three year economic

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20 OECD (1992), *Economic Surveys, Poland*, p.67. According to another estimation, "In the case of one of the nine state-owned commercial banks, while at 30 June 1990 only 13 per cent of all loans fit into the category of "doubtful" or "loss", at 30 June 1991, almost 24 per cent of all loans fit into this category. In the case of another bank the rates amounted to 12 and 55 per cent respectively. A similar situation occurred in the other commercial banks..." World Economy Research Institute (1992), *Poland, International Economic Report, 1991/92* Warsaw School of Economics, p.176.
programme. Under the agreement, Poland will not be required to make principal repayments on official debts for five years, and interest payments for the first three years will be limited to no more than 20 per cent of interest due on total official debt before debt reduction. The modalities of debt reduction are to be agreed bilaterally between Poland and its individual creditors. As a result of the agreement, Poland's interest payments on official debt until 1994 will average less than US$ 500 million a year. 21

(5) Foreign Direct Investment

126. Poland took initial steps at attracting foreign direct investment with a 1976 Decree of the Council of Ministers, authorizing the establishment of companies in Poland by people of Polish origin. By 1986, the number of companies established under this Decree had reached about 700, with initial capitalization of some US$ 30 million. The first joint venture law dates from 1988, allowing joint ventures with a minimum initial capital of US$50,000. This legislation, though more liberal than the 1976 Decree, excluded certain sectors from foreign investment, required licensing approval, and senior Polish management; equity participation of foreigners was limited to a maximum 49 per cent and a certain share of foreign exchange earnings had to be sold to the Polish Foreign Exchange Bank.

127. The 1988 Law on Economic Activity with the Participation of Foreign Parties permitted 100 per cent foreign equity participation, allowed the employment of managers with foreign nationality, reduced the share of foreign receipts to be sold to Polish banks, extended tax holidays and abolished the requirement to obtain a separate license for conducting foreign trade. In 1989, restrictions on profit repatriation were further eased. During the period 1989-June 1991, about 4,800 companies were established with foreign participation. The foreign capital invested reached US$ 700 million.

128. The July 1991 Law on Companies with Foreign Participation further liberalized foreign investment regulations, with a view to increasing the rôle of foreign investors in the process of transformation and privatization of Poland's economy. Under the new legislation, establishment of companies with foreign participation does not require a


22The excluded sectors included the defence industry, railway and air transport, communications, telecommunications, insurance, banking, publishing and foreign trade.
special permit, unless the area of activity includes at least one of the following: operation of seaports and airports; real estate agency transactions; defence industry; wholesale trading in imported consumer goods; and legal services. Foreign companies engaged in other activities need only to register their business, in like manner to local enterprises. Permits, when required, are issued by the Ministry of Privatization. Foreign partners may repatriate up to 100 per cent of their share of the profits of the company, after taxes. The Minister of Finance may exempt from income tax a company with initial capital exceeding the equivalent of ECU 2 million; Poland has concluded bilateral double taxation agreements with 29 countries. The 1991 Law dissolved the Foreign Investment Agency and transferred its powers to the Ministry of Privatization; the law also provides for the establishment of the State Foreign Investment Agency, for the promotion of foreign investments.

129. At the end of April 1992, about 6,200 companies with foreign participation were registered in Poland, the total of invested foreign capital being some US$700 million. In the Polish car industry, an agreement was signed with Fiat in October 1992, and investments are expected to be undertaken in the near future by GM and Volkswagen. At present, Germany is the largest investor, followed by the United States and Sweden (Chart III.4).

130. The value of foreign investment in Poland remains relatively low. Reasons behind this low level appear to include the frequent changes in tax and other regulations; uncertainty about the privatization programme; and the still relatively unsophisticated financial and telecommunications infrastructure.

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Australia, Austria, Belgium, Canada, People's Republic of China, Czech and Slovak Federal Republic, Denmark, Finland, France, Germany, Greece, Hungary, India, Israel, Italy, Japan, the Republic of Korea, Malaysia, Netherlands, Norway, Pakistan, Spain, Sweden, Switzerland, Sri Lanka, Thailand, the United Kingdom, the United States and Yugoslavia. Negotiations are ongoing with 16 other countries.
Some investors also appear to seek special treatment from the Government in terms of increased tariff and non-tariff protection in their respective product sectors. In this respect the conclusions of a recent OECD report on Poland appropriately stressed that such pressures from foreign or domestic investors "to subvert the present, broadly liberal trade régime in Poland into a non-transparent tool for discriminatory special treatment for favoured sectors or enterprises must be resisted."  

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24 OECD (1992), Economic Surveys, Poland, p.158.
IV. TRADE POLICIES AND PRACTICES BY MEASURE

(1) Overview

132. Since 1 January 1990, Poland has undertaken radical economic reform, aimed at establishing a market economy. The administrative management of foreign trade has been abolished and the system has been liberalized to a considerable extent, with the customs tariff now the main trade instrument. All economic units, including private ones, have the right to carry out foreign trade activities, and the trade régime has become more diversified and sophisticated. Trade measures used in the former planned economy system have been abolished. Poland uses import licensing and other non-price-based trade measures only sparingly. However, the establishment of a system based on market forces cannot be considered as finished; for example, measures, including the tax system, remain subject to frequent changes.

133. Polish reforms aim at drastically reducing the rôle of the State, with enterprises and other economic factors basing their behaviour on market signals. However, against the background of an unprecedented economic recession, partly due to slow adjustment by State-owned enterprises, credence in market forces may be waning. As a result, in the area of trade-related instruments a more interventionist policy may be gaining ground.

134. There is considerable pressure on the Government to address the economic recession with direct State intervention, particularly with higher levels of protection and State support for both industry and agriculture. The level of Polish tariff protection has increased with the introduction of a new customs tariff in 1991. The substantial trade liberalization introduced in agriculture in 1990 is not thought to be sustainable by the authorities and, beyond higher tariffs, different protective measures, like a levy system and fixed purchase prices, are in preparation.

135. At the beginning of the reform process, Poland took the approach that "the best industrial policy is no industrial policy". However, at present different projects are in preparation that are expected to result in a more differentiated approach to industrial policy and to lead, at the possible expense of regulations by market forces, to more State intervention in the restructuring process of industrial enterprises.

136. The privatization of State-owned enterprises is a priority of the authorities. Progress is moderate, with tension between speeding the process and the maintenance, and improvement of, employee morale and tax-paying capacities of the enterprises.
137. As a result of the reforms, the share of newly-established private enterprises in Polish foreign trade has increased substantially. With progress in privatization, the share of State-owned enterprises in foreign trade is expected to continue to decline sharply.

138. Until the end of 1990, Poland maintained a dual foreign trade system, due to its specific trade relations with CMEA countries that were based on bilateral inter-governmental trade agreements, transferable rouble accounting and a number of specific internal measures. Since 1991, the CMEA and the legal basis of specific CMEA trade institutions have ceased to exist; Polish trade with former CMEA members is in principle, now conducted in convertible currencies. As a result, Poland maintains a single trade régime, applicable to all countries.

139. The Association Agreement with the European Communities (EC) is likely to have a significant influence on the future development of the Polish economic régime. As EC-membership is a Polish objective, Poland's trade policy instruments need to become compatible with those of the EC.

(2) Measures Directly Affecting Imports

(i) Registration and documentation

140. Under the Law on Economic Activity of December 1988, foreign trade is open to all Polish legal and natural persons. The State monopoly of foreign trade has been abolished and State-owned foreign trade enterprises do not enjoy any specific trade privileges or immunities. Article 8 of the Law has established a registration obligation for all legal and natural persons that are engaged in economic activities. Commercial companies established under the Polish Commercial Code, must be registered with a Commercial Court.

141. A permit from the Minister of Foreign Economic Relations is needed for entities to engage in imports and exports of the following goods and services:

- radioactive materials and durable isotopes;

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1Each company should be registered in the Central Statistical Office in the so-called REGON statistical system. The presentation of the code number in the REGON system is required by revenue authorities, the State Pension Fund and the bank where the company opens its bank account. Registration applications should be submitted to the local authorities and are subject to a fee of Zl 18,000 (about US$1.50).

2Ordinance of the Minister of Foreign Economic Relations, 15 February 1992.
- goods and services meant for military or police use;
- explosives, pyrotechnical and highly inflammable materials;
- arms, and munitions for non-military use;
- alcohol products above 18 per cent alcohol content;
- tobacco products; and
- mineral oil.

Permits are granted to companies that have been found economically stable by a Special Commission established by the Minister of Foreign Economic Relations. Relevant criteria for decisions, which have been established by legal rules, include the following: taxpaying discipline of the company; financial stability; and technical facilities such as storage capacity etc. Permits can be given for a definite period or without time limitation. Through June 1992, about 70 companies have received permits, from an applicant pool of 250. The high number of applicants due to the fact that foreign trade in these groups of products is highly profitable, because of administrative restrictions applied (quotas, import licensing). The application fee is Zl one million. Wholesale trade of beer and wine is subject to a licence, issued by the Minister of Trade and Industry.

142. Under the Law on Economic Activity, the Council of Ministers is entitled to establish temporary limitation on foreign trade if it is required by trade policy, economic or national interests.

143. Foreigners, subject to a permit issued by a competent Ministry, can set up representative offices in Poland in the form of branch, technical information and supervisory offices. Representative offices may be permitted to conduct foreign trade, transport and tourist and cultural services on behalf of their parent companies. The offices do not have legal personality and are not allowed to engage in other forms of economic activity, like production, services, wholesale and retail trade. Representative offices are subject to income tax.

144. For a representative office to engage in foreign trade, a permit is required from the Minister of Foreign Economic Relations. Applications

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3Ordinance of the Council of Ministers, 6 February 1976.

4Only branch offices are entitled to carry out foreign trade activities. Technical information offices are only entitled to be engaged in the sphere of scientific and technical information within the scope of operation of the parent company. Supervisory offices can be established only in order to ensure supervision of the implementation of contracts between Polish and foreign companies.
should describe the basic characteristics of the company. The objective of the authorities is to prevent the direct presence of insignificant companies or activities which are deemed disadvantageous for Poland.

(ii) Tariffs

145. At the time of its GATT accession in 1967, Poland was without an economically-operative tariff, with foreign trade subject to administrative control in a centrally-planned system. Thus, in its Protocol of Accession, Poland undertook quantitative import commitments in exchange for tariff concessions by other contracting parties. In successive reform attempts in the 1970s, Poland sought to introduce a tariff system compatible with the requirements of the General Agreement. These attempts, however, proved unsuccessful, in the absence of a comprehensive turn to a market economy. Customs duties played only a fiscal function, and were not an active instrument affecting the structure and volume of imports.

146. In the light of its radically-reformed foreign trade régime, including its new customs tariff, Poland is renegotiating its Protocol. The main Polish objective in the negotiations is to replace the Protocol's quantitative import commitments with tariff concessions, the basis for GATT membership of almost all other contracting parties.

(a) Form of tariffs

147. The principles underlying the Polish tariff régime were established by the Customs Law adopted on 28 December 1989. Customs duties are set by the Council of Ministers through regulations. The authority to implement Government's policies and decisions concerning customs tariff is vested in the President of the Central Customs Office.

148. The Sejm adopted substantial changes to the Customs Law on 22 June 1991, which entered into force on 19 August 1991. The declared purpose of the changes was to adjust, based on experience accumulated during the period of implementation of the Customs Law of 1989, "Polish regulations in the field of export-import transactions to norms universally accepted by market-economy countries, eliminating the practices of

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5 Permits are subject to a fee of Zl 10 million (about US$750), to be paid in convertible currencies.

6 Before November 1991, intermediation between Polish and foreign companies was entrusted to a limited number of State-owned companies.

7 Customs Law of 26 March 1975
circumventing the provisions of the Customs Law by parties engaged in foreign trade, and, finally, ensuring better protection of the financial interests of the State budget.  

149. A substantially revised Polish customs tariff was introduced by the Decree of the Council of Ministers of 3 October 1988 and entered into force on 1 January 1989. It has since been amended several times. The latest major amendments came into effect in August 1991. The customs duty generally is levied as an ad valorem rate. However, since August 1991, seasonal duties are applied to some vegetables (potatoes, tomatoes, cucumbers, cauliflower, broccoli) and certain fruits. The duty on alcoholic beverages depends on alcohol content and, in the case of second-hand cars, on age.

150. Under Article 10 of the Customs Law, the Minister of Foreign Economic Relations may, by issuing an executive order, introduce lump-sum duties on merchandise brought in by travellers or handled by the postal service, if the importation of the merchandise is for personal and not business use.

151. Since 1 August 1991, the Polish customs tariff nomenclature is based on the Combined Nomenclature (CN), adopted by the EC countries, and identical to the Harmonized Commodity Description and Coding System (HS) at the six-digit level. The Polish tariff has 9,742 lines at the eight-digit CN level. The CN system is also used for the collection of import and export data.

152. The Polish customs tariff specifies most-favoured-nation (m.f.n) rates only. They apply to goods originating in GATT contracting parties and other countries which grant m.f.n. treatment to Polish goods. Imports from least-developed countries are subject to zero tariff rates. Rates under Poland's Generalized System of Preferences scheme are 70 per cent of the m.f.n. rates. Imports from countries not covered by the above categories are subject to customs duties of 200 per cent of the m.f.n. rate, or 25 per cent if the m.f.n. rate is zero (Table IV.1). Under Poland's Customs Law, imports from former CMEA sources are also dutiable.

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8 Polish Foreign Trade (1991), Changes of Import Regulations in Poland, p.3.
11 Between January 1989 and end-July 1991, Poland used the HS system. The tariff had 5,019 six-digit HS lines. Previously the CCCN nomenclature had been in effect.
153. On 1 March 1992, the Interim Agreement on Trade and Trade Related Matters between the EC and Poland entered into force. Under the Association Agreement, Poland and the EC are to form a free-trade area within 10 years (Chapter II); duty-free treatment is already given to a significant number of imports from the EC. In 1976 Poland signed a free-trade agreement with Finland, since 1985, imports of industrial products from Finland, covered by the agreement, are free of customs duties. Poland currently is engaged in negotiations on free-trade agreements with the EFTA countries, the Czech and Slovak Federal Republic and Hungary.

(b) Average tariff levels and tariff range

154. With the introduction of revised customs tariffs in 1989, the simple average tariff was 18.3 per cent and the trade weighted average tariff was 8.9 per cent, according to the authorities. 12

155. In the first half of 1991, against the background of increasing pressure from domestic industries, Poland introduced tariff changes on 149 tariff lines (120 tariff rates were increased, 29 decreased), covering about 4 per cent of 1989 imports. 13 Most changes affected the food-manufacturing sector and agricultural commodities. The average of the affected tariffs increased from 10.4 to 17.7 per cent, with their trade weighted-average increasing from 8.9 per cent to 9.4 per cent.

156. On 1 August 1991, under a Decree of the Council of Ministers, new rates of duty entered into force and the list of goods subject to tariff suspensions was modified. In the new tariff there are nine basic rates, ranging from 0 per cent to 45 per cent. The most common rate is 15 per cent, representing almost 60 per cent of all lines, followed by the 30 per cent rate, covering 11 per cent of duty rates (Chart IV.1). This compares with the structure in 1989, when 58 per cent of rates were between 0 and 5 and per cent, and 10 per cent of lines carried tariffs of between 10 and 20 per cent. However, the variance of rates has decreased (Table IV.2).

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13According to newspaper reports, the Polish Minister of Industry took the view that "Poland must raise import tariffs to protect domestic industry...The invisible hand is taking out the wrong firms; the best companies, not the worst ones, are being ruined." Financial Times, 27/28 April 1991.
157. As a result of the introduction of the August 1991 tariff, the simple tariff average increased marginally to 18.4 per cent. Industrial products are subject to an average tariff of 16.3 per cent, while the average for agricultural products is 26.2 per cent (Table IV.2). Compared to the earlier situation, the average industrial tariff rate has declined by more than two percentage points, but the average agricultural rate increased by nine points.

158. In the August 1991 tariff, raw materials are subject to a 5 per cent duty, except oil and natural gas, and phosphate ores, where the rates were lowered to 0 per cent and 3.5 per cent, respectively, in the autumn of 1991. The bulk of imported semi-finished and finished products enter at tariff rates of 10-15 per cent. Industrial consumer goods bear a 20 per cent tariff. A 25-35 per cent rate is applied on agricultural products and textiles. Ice-cream, butter, cured meat products, sugar and confectionary are subject to a tariff of 40 per cent. Items considered luxury goods, such as crab, shrimp, chocolate, fruit juices, quality alcoholic drinks, spirits, tobacco and perfume, are charged a tariff of...
35-45 per cent. The highest customs duties are applicable to alcoholic beverages.

159. In explaining the economic considerations behind this tariff structure, the Polish authorities indicated that such stratification of tariff rates is expected to reduce input costs through relatively lower duties on raw materials and semi-manufactures, and is intended to assist the process of industrial restructuring through tariff protection extended to several manufacturing industries. Relatively high tariffs on "luxury items" are explained primarily by fiscal policy reasons.

160. Since 1 August 1991, a number of tariff rates have been changed. In August 1991, rates on most types of herring and sprats were decreased from 15 to 5 per cent; books and newspapers were accorded duty free treatment; and the rate on small motor vehicles for the transport of goods was increased to 25 per cent. In October 1991, rates on some sorts of fermented drinks were lowered. With effect from 1 January 1992, tariffs on passenger cars, trucks and buses were increased to 35 per cent and specific minimum duties were introduced; at the same time, import duties on crude oil and natural gas were eliminated, and those on calcium phosphates were reduced from 5 to 3.5 per cent.

161. As of 1 August 1991, tariff protection of the Polish economy increased substantially, mainly due to the elimination of most tariff suspensions. In August 1990, as a result of tariff suspensions, the average tariff declined from 18.3 to 5.5 per cent (Chapter IV.2(ii)(f)). In August 1991, the increase in the nominal tariff rate and the virtual termination of the tariff suspension programme increased the average to 18.4 per cent (Table IV.2). According to the OECD, "rates of effective protection probably do not differ greatly from the nominal tariff rates".

162. Polish tariffs will be gradually phased out over a ten-year period on products of EC origin, as provided for by the EC-Poland Association Agreement. To date, tariff rates on about 27 per cent of Polish imports from the EC have been reduced to zero (Chapter II). To prevent distortions in import sourcing, it is the intention of the Polish Government to reduce substantially tariff rates on an m.f.n. basis, starting in 1995.

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14 In 1991, import duties amounted to more than 7 per cent of State budget revenue.

(c) Tariff escalation

163. Poland's customs tariff shows the presence of tariff escalation, with average rates rising from about 15 per cent for raw materials to 21 per cent for finished goods. Escalation is most pronounced in the industrial sector, where the average tariff on raw materials is 9.1 per cent, while those on semi-manufactured and finished products are 14.4 and 18.4 per cent, respectively (Chart IV.2). There is higher than average tariff escalation in textiles and clothing, and in pulp, paper and paperboard.

![Chart IV.2
Tariff escalation in Poland, 1991](image)

Source: Polish Customs Tariff (1991), GATT Secretariat.

(d) Tariff bindings

164. At present, Poland does not have any bound tariff rates. However, Poland has expressed its readiness to negotiate the binding of its new tariffs at levels commensurate with the principle of effective
reciprocity. It is Poland's intention to bind practically all tariff rates in the industrial sector. At present, Poland is engaged in tariff negotiations with 11 countries in the context of the renegotiation of its GATT Protocol of Accession.

(e) Tariff preferences

165. Under a Decree of the Council of Ministers of 30 December 1989, imports from developing countries are granted preferential treatment within Poland's Generalized System of Preferences (GSP) scheme.

166. Preferential, zero tariff rates apply to commodities originating in 42 least-developed countries and regions. Poland's current list of these countries and regions accords with the decision taken by the 45th Session of the UN General Assembly. Preferential, zero duty rates also apply on specified tropical products from GSP beneficiary countries.

167. The Polish GSP scheme also accords tariff preferences with an applied rate equal to 30 per cent of the m.f.n. rate to most items, other than tropical products, originating in 54 developing countries and territories (Table IV.1). Beneficiary countries are limited to non-European countries with a lower per capita GDP than Poland. A number of goods are not subject to preferential rates. These include "sensitive" agricultural products, textiles, consumer electronics, alcohols, tobacco products and luxury goods, such as gold and gold articles, precious stones, jewellery and cosmetics. In January 1992, this list was extended to include phosphate ores, oil, liquefied natural gas and other liquid hydrocarbons, tractors, and motor vehicles. In 1990, GSP preferences were effectively applied to some 5 per cent of Polish imports.

168. Preferential tariff treatment is applied to goods imported directly to Poland from a beneficiary country on presentation of a certificate of origin. The share of materials originating in a third non-beneficiary country in an imported product may not exceed 50 per cent. Goods should be transported directly from the developing country, and the exporting firm should be domiciled in that country.


17 Poland's first GSP scheme had been introduced in 1981. GATT document, L/5321, 2 June 1982.

18 For the list of products see GATT document, L/5321/Add.1, 30 March 1989.

19 Oil, petroleum and natural gas have a zero m.f.n. tariff rate.
(f) Tariff concessions

169. The Polish Customs Law specifies particular circumstances under which tariff exemptions are allowed. The most frequent of these are:

- articles imported for diplomatic and consular officials, or missions accredited to Poland and international organizations, on the basis of reciprocity;
- goods carried by tourists for their use during their trip;
- donations legally accepted and not to be used for economic activity;
- imports for the use of charity institutions;
- materials for scientific research and didactic purposes imported for schools, universities and research institutions;
- Spare parts for machines and equipment, sent for repair under guarantee; and
- imports of machinery, equipment, and other items that are part of the non-cash contribution of a foreign partner to an undertaking under the Law on Economic Activity with Participation of Foreign Parties, provided they are not disposed of within three years from the date of clearing customs.

All tariff exemptions are implemented on an m.f.n. basis.

170. Under the Customs Law, the Council of Ministers is authorised to suspend temporarily the collection of customs duties in cases of economic or social need. For 1990, the Council of Ministers temporarily suspended customs duties on a number of products with a view to accelerating recovery of the agricultural sector. The tariff suspension programme also included several products to encourage imports within the framework of the declared anti-recessionary and anti-monopoly policy and to alleviate inflationary pressures. The programme affected over 50 per cent of all tariff lines and resulted in the average tariff declining from

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20The products included vegetable materials and vegetable waste used in animal feeding, chemical products used in production of insecticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants, insecticides, agricultural, forestry and horticultural machinery, harvesting and threshing machinery, and tractors.

21GATT documents L/6640 and L/6670, 7 February 1990 and 25 April 1990. The notifications included 125 and 143 HS six-digit tariff items falling under the following HS headings: 3101, 3102, 3104, 3105, 3303, 3304, 3305, 4801, 4802, 4809, 4810, 4816, 8432, 8433, 8434, 8436, 8440, 8442, 8443, 8518, 8519, 8520, 8521, 8522, 8523, 8527, 8528, 8701, 8703, 8706, 8707, and 8713 (L/6640). 0904, 2106, 2818, 3001, 3002, 3003, 3004, 3005, 3006, 3206, 3212, 3213, 3215, 3701, 3904, 4104, 4806, 7003, 7004, 7006, 7015, 7017, 7019, 7210, 7307, 7321, 8419, 8423, 8518, 8519, 8520, 8521, 8522, 8523, 8527, 8528, 9028, 9602, 9603, 9608 and 9609 (L/6670).
18.3 per cent (in January 1989) to 5.5 per cent. In some product categories, such as agriculture, industrial minerals and metals, machinery, transport equipment and precision instruments the proportion of tariff decreases was even more substantial (Table IV.2). The temporary suspensions were implemented on an m.f.n. basis.

171. As of 1 August 1991, most tariff suspensions were terminated, with the remainder eliminated by 28 February 1992. The date of expiry of the latter tariff suspensions is linked to the relevant provision of the EC-Poland Interim Agreement, which provides that tariff concessions apply to the rates of duty in effect on the day preceding the entry into force of the Agreement, on 1 March 1992. Thus, to retain a certain tariff flexibility, Poland reset the suspended tariffs at their original levels on 29 February 1992.

172. As a result of reduced crops due to drought in 1992, the Government established tariff suspensions in October 1992, valid until 31 March 1993, for several grains and animal feeds.

173. Exporters of processed goods are eligible for duty drawbacks, subject to normal initial customs clearance of imported intermediate items. Under Article 80 of the Customs Law, exporters are refunded tariffs on imported inputs (such as raw materials, intermediate products and accessories) that have been physically incorporated in the exported products. The drawback of duties takes place within 30 days after the date of exportation. Interest is not paid on drawback duties.

174. In accordance with Article 20 of the Customs Law, tariffs paid on imported goods that are later re-exported are also subject to reimbursement, provided that the re-exports are effected not later than six months from the date of importation. When re-exportation is effected after the six-months limit, but not later than twelve months from the date of importation, 50 per cent of customs duty paid on imports is refunded.

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22The products subject to full tariff suspensions in the period 1 August 1991 to 28 February 2002 included tariff items falling under the following HS headings: 2709, 2711, 3001, 3002, 3003, 3004, 3006, 3206, 4903, 4905, 7011, 8419, 8517, 8540, 8802, 8803, 9018, 9019, 9020, 9021, 9022, and 9027. During the same period, partial tariff suspensions, in the form of reduced applied tariff rates, included items falling under the following HS headings: 0301, 0302, 0303, 0304, 0305, 0803, 0805, 1604, 2402, 2403, 7410, 8471, 8473, 8502, 8503, 8518, 8519, 8520, 8521, 8526, 8530, 8532-8548, 8564, 8607, 8608, 8703, 8706, 8802 and 8803. For some of these headings, the full or partial suspensions were revoked at the end of 1991.

23They fall under the following HS headings: 0714, 1005, 1007, 1008, 1201, 2301, 2304, 2305, 2306, 2820, 2827, 2833, 2835, 2836, 2842, 2922, 2923 and 2930.
(g) Rules of origin

175. Customs clearance requires a certificate of origin for the imported goods. The certificate should include the following information: name and address of both the exporter and importer; name (tariff code number) of the article concerned; means of transportation and in case of transport by sea, the name of the ship; a declaration that the article is a natural or manufactured product wholly made in the exporting country or that at least 50 per cent of its value comes from physical and labour inputs contributed in that country; numbers and markings on packaging and containers; gross and net weight; place and date of issue of the certificate of origin; stamp of the office or institution issuing the document, and signature of the person in charge. Certificates should be issued in the country of origin by the local Chamber of Commerce and Industry, or other institutions recognized by the Polish Government. The discrepancy between the quantity of goods stated in the certificate of origin and that established in the course of customs clearance cannot exceed 10 per cent.

176. Under Polish Customs Law, the country of origin of "natural produce" is that where the produce has been grown, harvested, picked, extracted or obtained in some other way. The country of origin in case of:
- sea and seabed resources, and semi-products thereof obtained by processing at sea, is the home country of the fishing company;
- finished and semi-finished goods is the country of manufacture;
- processed natural produce and other products is the country where the processing took place, subject to a 50 per cent value added criterion.

177. Regarding rules of origin for items imported under the GSP scheme, Poland applies the "Agreement on uniform rules for determining the origin of goods from developing countries in connection with the granting of tariff preferences under the general system of preferences". The Agreement was worked out within the CMEA and was signed in 1980 by five preference-giving countries, including Poland.

178. Requirements for the certificates of origin in trade with other preferential sources of imports like Finland and the EC, are specified in the respective bilateral agreements (Chapter II).

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24 Annex No. 2 to the Order of the President of the Central Customs Office of 19 August 1991 lays down the specific requirements regarding certificates of origin.

(h) Customs valuation and customs procedure

179. Poland is a signatory to the GATT Customs Valuation Code. Under Polish Customs Law, as amended in July 1991, the customs value of imported goods is defined as the purchase price or the price due for a dutiable commodity (transaction value), plus other costs borne by the buyer. These include: transport and insurance, paid up to the Polish border; sales commission; packaging; licence fees; expenses incurred as a condition of the transaction; income and other benefits from resale, use or other arrangements concerning the goods in question; and the value of goods and services provided free by the buyer, or at below market prices, in connection with the production or sale of the item. Prior to the July 1991 amendment of the Customs Law, transport and insurance charges could be deducted in determining customs value.

180. Customs duties may be secured against goods, cash, bank guarantees or other financial assets. Duties are to be paid within seven days of being levied, with interest charged on delayed payments. To improve payment discipline, an unlimited liability on default of payment of duties has been introduced.

181. All imports, exports and transit of goods through Polish customs territory are subject to customs control. Customs officers may exercise control beyond the places of customs clearance. Customs procedures are started upon presentation of a written application by the trader. Alternatively, the application may be submitted by the transport agent or the forwarder of the goods. For imports, the procedure is to be started no later than 14 days from days of delivery of goods to the customs point. For goods in transit, the procedure starts upon the presentation of the application, and for exports, on the day of arrival of the goods at customs where a customs officer starts inspection. Customs declarations concerning live animals, fresh fruits and plants, as well as dangerous materials, must be submitted on the day the goods are delivered to customs.

182. Each entity engaged in foreign trade must declare its bank account number and its REGON statistical number in a customs application accompanying the shipment. Moreover, if customs clearance in a given customs office is the first ever for the entity concerned, the entity must attach documents making clear its legal status (e.g. an abstract from the commercial register, or a copy of the articles of association of the company).
183. Under the Ordinance of 20 September 1990 of the Minister of Foreign Economic Relations, the following main fees and charges are associated with customs clearance:

- storage fees, equal to 5 per cent of the value of the goods, but not lower than Zl 50,000 a month;
- a customs control fee of Zl 50,000, for inspection of the goods, documents and means of transport, plus if applicable, a fee of Zl 50,000 for the transfer of customs examinations to another officer; a fee of Zl 50,000 per hour for carrying out at the request of an interested party, inspection outside customs premises or after working hours, including the time needed for travel, delays and interruptions in work caused by the party concerned; and
- operational charges of 0.3 per cent of the dutiable value of the goods for every day of delay in inspection. For failure to satisfy conditions specified in a decision on temporary customs clearance, charges amount to 2 per cent of customs- or market-value (in case of exports) of the goods. The charge is 5 per cent of the customs value for violation of the condition that goods are not to be resold within a specified period.

184. As of 1 January 1992, Poland introduced its equivalent of the Single Administrative Document (SAD) used in the EC and EFTA countries for customs procedures. The objective is to simplify foreign trade procedures, adjust them to those currently applied in the EC and EFTA countries, and to limit the number of documents involved in trade transactions. However, the change means that the party declaring goods for customs clearance will have to provide more details than in the pre-existing system. Due to difficulties related to the introduction of the SAD system, official Polish trade statistics have been delayed for the first months of 1992.

185. Initially, the Polish SAD document will not be recognized by the EC and EFTA countries, as Poland has not yet joined the SAD Convention between the EC and EFTA countries. However, the layout and sequence of boxes in

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26 Order issued by the President of the Central Customs Office on 12 September 1991.
27 In particular, it is no longer necessary to use separate documents for making a customs declaration, providing data for the statistics of foreign trade, notifying goods in transit through Polish customs territory, and making declaration on imported goods for tax purposes. As a result of the introduction of SAD, Polish foreign trade statistics should be compatible with statistics compiled in western countries.
28 The Polish version of SAD is divided into 56 boxes, while the customs application form used until the end of 1991 had 18 sections.
the Polish SAD form closely follow the pattern used in the EC and EFTA countries.

186. The following documents are required for Polish customs clearance:
- original invoice, or other documents, necessary to establish customs value;
- certificate of origin;
- declaration of customs value, and, in addition, for imports;
- specification of the goods;
- import licence, if the goods are subject to licensing;
- previous customs clearance permission, if the goods being imported had earlier been exported from Poland;
- health, sanitary and other like documents, as may be necessary under separate legislation; and
- agency authorization, if the importer uses a customs broker.

187. In 1991, in the light of wide-spread practices of undervaluation of goods imported to Poland, customs officers were given wider powers to question the credibility of documents produced by importers for establishing the customs value.

188. Since 1990, under the terms of the Customs Law, customs agencies have been established in Poland to serve as brokers in relations between economic entities engaged in import-export transactions and customs offices. Customs agencies facilitate formalities in the customs clearance procedure, and can act as intermediaries in differences between importers and customs officials. Agencies are forbidden to engage in any other kind of economic activity and their staff has to pass appropriate professional examinations. Customs agencies require a permit from the Central Customs Office. The use of services of customs agencies is voluntary.

(i) Duty-free zones and duty-free warehouses

189. Polish Customs Law provides for the possibility of establishing Duty Free Zones (DFZ) and Duty Free Warehouses. A Duty Free Zone is defined as "...the area separated from the national customs territory but treated as a foreign territory, on which Polish, foreign and international economic entities can conduct an economic activity". From 1 August 1991, retail trade operations are forbidden on a DFZ. The authority to establish DFZ's is with the Council of Ministers.

190. Trade between a DFZ and other countries is free from any restrictions, exempted from customs duties and may be effected without any prior authorisation or licence. However, the movement of goods into and out of a DFZ must be declared for statistical purposes, and is monitored by the customs administration. Goods imported from duty-free zones (except
alcoholic beverages) are eligible for a 75 per cent to 100 per cent reduction in the applicable tariff rate, provided the Polish content (in components) is at least 40 per cent of the value of the product. Neither Polish nor foreign-owned firms located in DFZ's are subject to export performance or local-content requirements.

191. According to the Polish Government, the establishment of duty-free zones has "proved to be a slow process and their economic rôle 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." In 1992, there were 16 DFZs in Poland, but their trade turnover was negligible.

192. The Customs Law of 1989 defined Duty Free Warehouses as "...the area separated from the national customs territory and treated as a foreign territory, on which all economic entities domiciled in Poland are allowed to store, manufacture, assemble, refine and process goods etc." Under an August 1991 Amendment, only storage, consignment or packaging of goods is allowed in a duty-free warehouse; concurrently the maximum storage term was shortened from three years to 12 months. The establishment of a duty-free warehouse needs prior authorization from the President of the Central Customs Office. Goods entering Polish customs territory from duty-free warehouses are subject to normal tax and tariff treatment.

(iii) Tariff quotas

193. In October 1992, zero-duty tariff quotas were established for durum wheat (HS tariff heading: 1001) 300,000 tons; other varieties of wheat, 600,000 tons and barley (HS tariff heading 1003), 900,000 tons.

194. The EC-Poland Interim Agreement, provides for a duty-free Polish tariff quota on cars. Originally, the Polish Government wanted to distribute a quota of 30,000 passenger cars among three EC car producers (Fiat, General Motors and Volkswagen) making substantial investments in the Polish car industry. As the intended decision raised protests from other EC car producers, quota distribution principles are under revision; the

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305,000 cars have to be equipped with catalyzers.
final decision has not yet been taken (Chapter II). As from 1993, the quotas will be increased by 1,750 cars a year.

195. In July 1992, two temporary duty-free import quotas were established for the purpose of industrial assembly of vehicles. The first quota covering around forty items, amounts to Zl 4.4 billion and includes parts for assembly of new vehicles. The second quota amounts to Zl 120 billion and covers equipment for factories involved in industrial assembly of new vehicles. The quotas expire at the end of 1992. According to the Polish authorities they are allocated on erga omnes basis in accordance with Article XIII of the General Agreement.

(iv) Variable import levies

196. At present, Poland does not apply variable import levies. However, the introduction of a variable import levy system on some agricultural products has been officially announced in October 1992, with actual implementation envisaged before the end of 1992. The product coverage of this measure and the operating principles of the new régime are under consideration. The main reason behind this proposal is that the substantial trade liberalization introduced in agricultural trade in 1990 has led to very strong competition from highly-subsidized imported products. The increased tariff protection introduced in 1991, is not considered sufficient, with Polish agricultural production in these basic commodities under pressure.

(v) Other levies and charges

197. Domestically-produced goods and services are subject to a turnover tax at point of sale; imported goods are charged at the border. In 1991, State revenue from turnover taxes amounted to about 29 per cent of total budgetary revenues. On imports, the turnover tax is calculated on the basis of the c.i.f. value of the item, using the invoice price converted into the national currency at the current exchange rate, plus the applicable customs duties. In the case of domestic products the tax base includes the turnover tax (the producer price plus the amount of the tax due).

198. The normal turnover tax rate is 20 per cent of ex-factory or farm price on domestic goods, equivalent to an ad valorem 25 per cent rate of

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31 The quota for cars equipped with catalyser will be increased by 500 a year.

32 Turnover taxes on exported goods and services are refundable (Chapter IV.(3)).
the c.i.f. on imported goods (Polish authorities believe the effective tax burden is the same in both cases). However, some categories of goods are charged with higher rates. The excess of over 20 per cent is in lieu of excise duty, which does not exist as a separate tax under the Polish fiscal régime. Goods imported for investment or as inputs into further manufacturing process, with the exception of motor cars, alcohols, television sets, carpets, candy, other household goods and similar items, are usually not liable to the tax.

199. A VAT is likely to be introduced in Poland in 1993 and will replace the present turnover tax system. Two VAT rates are planned: a standard 22 per cent and 7 per cent on goods like basic food items. The rates will apply equally to imported and domestic goods and services.

(vi) Import prohibition

200. Under Customs Law, import prohibitions may be applied in conformity with Polish obligations under international agreements or for reasons related to the protection of the natural environment, national security, public order, human, plant and animal health.

201. Imports of the following products are banned:
- pure alcohol and unflavoured vodka;
- cars with two-stroke engines (with the exception of those for disabled persons), as well as two-stroke engines of a capacity greater than 250 cubic centimetres;
- passenger cars older than 10 years;
- lorries older than six years;

The above import prohibitions cover 59 eight-digit CN tariff items (Table IV.3).

202. For health, safety and environmental reasons, prohibitions also apply to sick or disease-suspected animals, carcasses, parts or products, thereof or anything carrying animal-infectious diseases; all species of parrots; some species of pigeons; live predators; leaves, soil, compost, manure and weeds, fruit skins and remnants (except for citrus fruit skins); poisonous products and industrial wastes that could damage the environment.

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33 Higher rate apply to alcoholic beverages (25-29 per cent), cigarettes (50 per cent) and some items qualified as "luxury goods" such as jewellery (25 per cent), consumer electronics like colour TV receivers (40 per cent), video recorders (40 per cent), hi-fi record players (30 per cent).

34 The main reason behind the prohibition of imports of cars with two-stroke engines is to prevent imports of Trabants and Wartburgs from Germany and other central and eastern European countries.
(vii) **Import licensing**

203. In the context of Poland's reform to a market economy, the scope of import licensing has been drastically reduced. Before 1990, all imports were subject to import licensing and the licensing system was the major instrument for regulating imports, especially in the "centrally-financed import" category. The system involved a great degree of discretion.

204. Poland maintains its import licensing system on the basis of Article 7.1 of the Polish Customs Law. Import licensing may apply to:
- imports of goods for which a trade permit is needed;
- imports of goods subject to import quotas (Chapter IV.2);
- temporary imports of capital goods and transport equipment for leasing;
- and for imports carried out within the framework of international agreements that stipulate bilateral settlements.

205. Currently, the imports of the following items require licensing:
- beer;
- wine;
- alcoholic beverages with over 18 per cent alcohol content;
- cigarettes made of tobacco;
- dairy products;
- natural gas;
- oil; and
- engine fuels.

The coverage of import licensing was expanded recently. Licensing requirements for alcoholic beverages with over 18 per cent alcohol content and tobacco products was introduced at the beginning of 1992; and, on natural gas, oil and engine fuels on 1 October 1991.

206. Import licensing on dairy products was introduced in 1992, to implement the minimum price requirement of the International Dairy

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35 At present these items include radioactive materials and durable isotopes and goods for military and police purposes, explosives, pyrotechnical and highly inflammable materials, arms, munitions for non-military use, alcohol products above 18 per cent alcohol content, tobacco products, and mineral oil.

36 This provision applied to trade with CMEA countries. Since early 1991, trade with all former CMEA countries is, in principle, on a convertible currency basis.

37 Import licensing requirement is applied to 172 eight-digit tariff items in the HS nomenclature.

38 Milk and sour cream, buttermilk, sour and curdled milk, cream, yogurt and kefir, whey, butter, all kinds of cheeses and casein.
Agreement. Polish importers are to pay a price not lower than the minimum established for dairy products in accord with the Agreement. Import licences are granted by the Ministry of Foreign Economic Relations.

207. The Ministry of Foreign Economic Relations issues fuel import licences against the following documentation:

- a purchase contract, signed by the foreign supplier, stating the volume and price of goods to be imported, as well as the payment conditions and terms of delivery;
- a statement by the importer declaring that the quality of the contracted goods meet up to Polish standards; and
- a statement by the importer that the goods will be accompanied by a certificate of quality issued by an internationally recognized quality control company. The required certificate of quality can also be issued by some designated Polish firms.

According to Polish authorities, the main reason for introducing the licensing requirement was to ensure appropriate quality of imported gas, oil and engine fuel.

208. Under an August 1991 amendment of the Customs Law, imports, exports and transit of certain sensitive products are subject to licensing.

209. Poland is a signatory to the GATT Import Licensing Code. General authority for import and export licences is with the Minister of Foreign Economic Relations. The Minister may refuse to grant a licence, or change the conditions of an already issued licence, if deemed necessary for reasons of national interest, conditions of trade policy or economic difficulties, or in the event of overfulfillment of an applicable quota disposition of established quotas. Licences may be revoked if the importing or exporting entity has not fulfilled the conditions specified in the licence.

39 Such as Caleb Brett International Ltd (Chelmsford), D.C. Griffith Company Inspection Gmbh (Bremen) and Inspectorate Watson Gray (Essex)

40 Institut Technologii Nafty (Cracow), International Inspection Services Ltd. Euroservice (Gdansk), Polskie Towarzystwo Kontroli Supervise (Gdynia) and Polcargo International Ltd. (Szczecin).

41 These sensitive products include chemicals of dual application listed by the so-called Australian Group; radioactive materials and nuclear equipment listed by the so-called Zanier Committee; chemicals that destroy the ozone layer in the atmosphere listed by the Vienna Convention on the protection of the ozone layer, and materials, equipment and technologies of dual application that can be used directly or indirectly for production of weapons.
(viii) **Import quotas**

210. Article 7.1 of the Customs Law stipulates that the Minister of Foreign Economic Relations, jointly with the Minister of Industry and Trade, is empowered to establish import quotas. In 1990, at the time of the introduction of Poland's economic reform programme, no import quotas were applied. In 1991, import quotas were established for certain alcoholic beverages, cigarettes, and petrol products (Table IV.3). The quota on petrol products has as its main purpose temporary protection to the Polish oil-refining industry.

211. Import quotas are administered by the Ministry of Foreign Economic Relations, through the import licensing system. The Ministry is assisted by a Special Committee in which other interested ministries participate, including the Ministry of Finance, Ministry of Industry and Trade, and the Ministry of Agriculture. Producers attend the meetings of the Committee as observers. Several-product specific Sub-committees have been established for discussing issues relating to individual product groups. Criteria for decisions of quota allocations have been published in the Polish Official Journal. According to the authorities, these criteria are not changed frequently. Only those companies that have received the appropriate trade permit from the Ministry of Foreign Economic Relations have the right to apply for a quota share.

212. Poland auctions neither import quotas nor import licences, but distributes them administratively. As a result, importers rather than the State budget receive the associated economic rents, on the amount of which no estimates are available.

(ix) **Import surveillance**

213. Poland does not apply any import surveillance measures.

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42 According to the Polish Government, the circumstances which might possibly invited for the introduction of import quotas are essentially those which are foreseen and described in Articles XI, XII, XIX and XXI of the General Agreement. GATT document, L/6862, 14 June 1991, p.39.

43 The quota amounts on alcoholic beverages for the first six months of 1992 were: ethyl alcohol and denatured spirits of any strength, 100 hectolitres (hl); compound alcoholic preparation, 15,000hl; spirits from distilled grape wine or grape marc, 75 000hl; whisky, 16 000hl; rum, 6 000hl; gin and genever, 6 500hl; and, liqueurs and aperitifs, 10 000hl.

44 These criteria are not known to the Secretariat.
214. According to the authorities, Poland does not have any State-trading enterprises in the sense of Article XVII of the General Agreement, the authorities note that none of the enterprises owned by the State "enjoy any special rights or 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".  

215. There are two government-chartered monopolies in Poland: the State Tobacco Monopoly and the State Spirits Monopoly. The exclusive rights of the Tobacco Monopoly cover domestic purchases of tobacco leaves and domestic production of tobacco products. The Spirits Monopoly is the sole organization authorized to allocate domestic production of hard alcoholic beverages. Internal marketing and foreign trade in tobacco products and alcohol are not covered by the monopoly rights.

216. The Agricultural Market Agency (AMA), established in 1990, is a public agency with certain features of a State-trading entity. The Agency operates mainly in basic commodities such as grains, sugar, potato starch, flax fibre, slaughtered pigs, butter, honey and raw sheep wool. Its main functions include:

- purchases (including imports) and sales of unprocessed and processed agricultural products for the national food reserve;
- stabilizing the domestic agricultural sector through purchases of surplus production for subsequent commercial resale at home and abroad;
- the provision of credit guaranties for entities operating in the agricultural sector;
- analysing agricultural markets at home and abroad and to forecast their future development; and
- advising the Government on the agricultural market and proposing intervention, as necessary.

Poland is considering notification of the Agency under Article XVII of the GATT.

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(xi) Import cartels

217. No companies in Poland have exclusive or privileged import rights, unlike in the earlier pre-reform period, which was characterized by a small number of state-owned specialized export and import monopolies. The importation of all goods may be affected by any economic unit, independently of its ownership. However, the foreign trade share of enterprises (mainly in exports), with a predominant or significant State participation is still large, reflecting the monopolistic situation of the former specialized foreign trade enterprises. In 1991, the share of the private sector reached 25 per cent of total exports (compared to 5 per cent in 1990) and 50 per cent of imports (15 per cent in 1990), and the share of privately-owned companies in both imports and exports continues to increase rapidly. The total number of economic units engaged in foreign trade is about 100,000.

218. No import cartels exist according to Polish authorities.

(xii) Countertrade

219. Poland's trade relations with the countries of the former CMEA include countertrade elements, although trade with these countries has, in principle, been conducted in convertible currencies and at world prices since the beginning of 1991. The presence of countertrade in these relations is mainly due to a currency shortage, the still substantial State-intervention in foreign trade, particularly in the Soviet successor states and the low level of development of trade institutions. Normally, the general trade principles laid down in bilateral inter-governmental agreements between Poland and some former CMEA members, allow for barter and compensation trade.

220. The system of "indicative lists" in the trade with the then Soviet Union was introduced with the Agreement of 21 December 1990. The system was supposed to ensure the financing of imports from Poland with convertible currency receipts earned by the Soviet Union from exports to the Polish market. Anticipated Polish export products included electric machinery, pharmaceuticals and some raw materials. On the import side, the main listed products were basic fuels and raw materials, including natural gas but excluding crude oil. However, the system did not function well, with Polish exports much below envisaged levels in mid-1991. On 21 September 1991, the parties signed a letter of exchange that specified the items to be exported and imported, together with a mechanism of mutual settlements. The new arrangement balanced trade between the two countries at a level determined by Soviet import possibilities. It covered supplies equivalent to about US$250 million for each party. Polish exports consisted of mainly pharmaceuticals, and imports of natural gas.
221. Due to the central control of barter transactions introduced by the Soviet Union in 1990, Poland also signed, at Governmental level, several specific barter arrangements with the Soviet Union. The arrangements covered the exchange of Polish consumer goods against Soviet fuels and raw materials, with accounting in US dollars and at world prices. In 1990 and 1991, Polish food products were exchanged for 1.4 billion cubic meter of Soviet natural gas (value: US$133 million). Polish meat and wheat was exchanged against Soviet ferrous metals and raw materials for the metallurgical industry (value: US$270 million). At the end of 1991, the two sides agreed on a transaction for the delivery of Polish agricultural products (potatoes, apples and onions) against natural gas (estimated value: US$100 million). In addition to these large transactions, barter trade takes place regularly between Polish and Russian enterprises.

222. Poland and Russia signed a trade agreement on 24 December 1991, with some countertrade features (Chapter II). According to the Agreement, the Russian Foreign Trade Bank has the obligation to open two US dollar accounts (A and B) with the Bank Handlovy in Warsaw. On the A account the Russian Government deposits its receipts from gas exports to Poland; on the B account, income from oil exports to Poland are deposited. Under the Agreement, 40 per cent of the money on the B account is blocked, for use only to buy Polish export products (coal, sulphur and pharmaceuticals). The remainder of the B account, as in the A account, is at the free disposal of the Russian Government and enterprises.

223. Poland has signed trade agreements with former Soviet Republics, the Russian Federation, Ukraine, Belarus, Lithuania, Latvia, Estonia, Moldova, Armenia, Georgia, Uzbekistan, Kazakhstan and Kyrgyzstan (Chapter II). These agreements provide for various forms of payment, including cash settlements in convertible currencies, clearing in convertible currency and cashless transactions.

(xiii) Standards and other technical requirements

(a) Standards and technical regulations

224. Poland is not a signatory to the Tokyo Round Agreement on Technical Barriers to Trade (Standards Code). The Polish Committee for Standardization, Measures and Quality Control (Standards Office) has overall responsibility for Poland's standards system. As a heritage from the centrally-planned economy, it is part of the State administration and has Ministerial status. According to a new draft Law, submitted to Parliament and expected to be in force from the middle of 1993, the Standards Office will cease to exist, with three new bodies to be established. These are:
- the Polish Standardization Committee, a non-governmental body, responsible for standardization. (Initially, the Committee will be financed from the budget of the Government, but later will be expected to cover its expenses from the sale of services to its clients);
- The Polish Center for Testing and Certification, also a non-governmental body, responsible for the management of certification, accreditation and quality control matters;
- the Main Office for Measures, which will remain a Government Office.

225. Under the present Polish Law on Standards of 1961, standards are obligatory, and have a legal nature similar to technical regulations in market economy countries. Under the present system, draft standards are prepared by different, mostly State (industrial) research centres, which number about 200. These centres establish technical committees, with the participation of experts. Draft standards are approved by the Standards Office, becoming legally binding. In the proposed, new system, standards will not be mandatory. Technical commissions (established by the Polish Standardization Committee), with the participation of experts, will be responsible for preparing draft standards. Secretariats of these commissions will be located in different organisations such as: professional and sectoral associations, branch research centres, universities, etc. Technical regulations will be approved by responsible Ministries and will be mandatory in character.

226. Poland is a member of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Prior to 1990, Poland signed various international conventions and participated in CMEA standardization activities. CMEA standards, if accepted by Poland, became Polish standards. Since the introduction of economic reforms, Poland has increased its activities in international standardization. Poland's participation in the European integration process requires that its standardization system become compatible with that of the EC. The Standards Office has become an affiliate of CEN and CENELEC and Polish representatives participate in the work of a number of technical committees in these organizations.

227. At present, Poland has about 13,000 standards, and implemented 1,296 ISO, 360 IEC and 55 European Standards. However, the remainder of its standards only partially conform with internationally-recognized ones, with about 20-25 per cent of Polish standards based on CMEA standards. Under its new standards law, Poland intends to revise all its standards and make them compatible with EC and other international norms.
228. Polish standards apply to both domestic and imported products. Exported products must comply with contractual stipulations usually based on Polish, international or importing country's standards.

229. Imports of certain products such as pharmaceuticals, foodstuffs, new consumer goods, products of the electrotechnical industry, and certain types of machinery are governed by regulations on safety and health protection. According to the authorities, the requirements laid down in these regulations apply to all products originating in any country and are not intended to limit imports of the products concerned.

230. Electrotechnical products imported for the first time into Poland require a "CB Test Certificate" issued by National Certification Bodies. Under bilateral agreements with Hungary, Bulgaria and the Czech and Slovak Federal Republic, certificates issued by relevant institutions from those countries are also recognised. In each case, upon presentation of the "CB Test Certificate", or a corresponding certificate issued in the above-mentioned countries, a certificate of approval ("turnover certificate") is granted.

231. Diagnostic apparatus, drugs and medical equipment for which there are no national standards and which are not on the list of domestically-produced medicines, may be imported only if approved by the Ministry of Health.

(b) Sanitary and phytosanitary regulations

232. Poland requires phytosanitary certificates on the basis of international conventions. Poland is a member of the European Plant Protection Organization (EPPO) and has signed bilateral agreements in this area with the Netherlands, Canada and the former CMEA countries. The list of goods requiring a certificate is issued by the Ministry of Agriculture. The principles of application of sanitary certificates regarding plant articles are based on the International Plant Protection Convention (IPPC). Poland has not signed the Convention, however, it abides by its regulations. With the exception of roasted coffee, tea, cocoa, spices as well as chilled fruits and vegetables, imports of all parts of plants and plant preserves (non-impoverished) are subject to sanitary certificate requirement.

233. Veterinary conditions prescribed by the Ministry of Agriculture must be adhered to by the supplier. Poland ratified the international convention on preventing infectious animal diseases in the 1930s and concluded bilateral agreements in this field with Italy (1931), Czechoslovakia (1934), Bulgaria (1951), Hungary (1951), the Netherlands
(1977), Mexico and Yugoslavia. Agreements are in preparation with Norway, Turkey, the EC, Germany, Lithuania and France.

234. In case of food imports, sanitary inspection is carried out by the National Sanitary Inspection which is subordinated to the Ministry of Health and Social Welfare. The Ministry of Agriculture is responsible for veterinarian and phytosanitary inspection of imported food items. For imports of chemical substances the permit of National Sanitary Inspection is required if they are used in food industry or for articles of everyday use that come into contact with food. There is a special procedure for products imported for the first time.

235. According to the authorities, Poland's sanitary and phytosanitary regulations are not intended to limit imports. Nevertheless, Polish authorities acknowledge that Poland has recently used its sanitary and phytosanitary regulations to prevent, for economic reasons, the increase of imports of certain agricultural products from some new States of the former Soviet Union.\(^{46}\) The authorities were of the view that Poland was compelled to resort to these measures because its trade instruments could not provide adequate protection to its producers.

(c) Packaging and labelling

236. Specific labelling requirements are applied to food products, spices, condiments and permitted additives. The date of production should be clearly stated on the labels of all foods, except diabetic products, edible oils, mayonnaise, some cheeses and milk drinks, for which "use by" date is required. Specific packaging and labelling requirements for foodstuffs are included in Polish food standards.

(d) Quality control

237. Poland exercises compulsory quality control on imported or exported food products. Official quality control is performed by the Quality Inspection Office of the Ministry of Foreign Economic Relations. Food inspectors check compliance with quality requirements stipulated in contracts which are based on international or Polish Standards. Control certificates are issued for foods conforming with contract stipulations.

\(^{46}\) These products include eggs and cucumbers from Russia and Ukraine. The authorities explained that, due to highly-subsidized energy prices in these countries, production costs were much lower than in Poland; the problem was compounded by artificial exchange rates.
(xiv) **Government procurement**

238. Statistics are not available on government procurement, in the sense of the Tokyo Round Agreement on Government Procurement.

239. According to the Polish Government, "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". However, there are some tied budgetary allocations for military expenditures favouring domestic products. Poland intends to sign the GATT government Procurement Code in the near future. There are no special rules on Government procurement.

(xv) **Local-content requirements**

240. There are no local-content requirements in force in Poland.

(xvi) **Anti-dumping and countervailing duty actions**

241. The emergence of anti-dumping and countervailing duty measures among Poland's trade policy instruments is linked to its introduction of market-economy reforms. In the central-planning period, the use of such measures did not arise, with the State exercising administrative control of trade flows. Economic reform, with substantial price and trade liberalization, including the creation of a tariff-based import régime, has created the need and the possibility, according to the authorities, to use anti-dumping and countervailing actions to safeguard domestic producers against dumped and subsidized imports, respectively.

242. Poland's anti-dumping legislation is contained in Chapter 7 of the Customs Law of 1989 and entered into force on 1 January 1990. Poland is a signatory to the Tokyo Round's Anti-dumping Code. According to Polish legislation, "anti-dumping duties may be additionally levied on a product imported into Polish customs territory at dumping prices, with such duties not to exceed the difference between the normal value and the export price of the product (the dumping margin), if importation at dumping prices results in material injury or threat of material injury to a domestic industry, or in a material retardation of the establishment of such an industry." The legislation provides definitions of term, including "dumping price", "like product", "normal value", "constructed value"
"dumping margin", "domestic industry", "material injury" and "threat of material injury".

243. An anti-dumping investigation can be initiated at the written request of an individual or organization (with or without legal status) acting on behalf of the affected domestic industry or by the Ministry of Foreign Economic Relations. The request is to include sufficient evidence of importation at a dumping price, of injury to the domestic industry, and of the causal link between the dumped imports and the alleged injury. The Minister of Foreign Economic Relations may initiate an anti-dumping investigation ex officio. Decisions to initiate or terminate an investigation are published in the Official Gazette.

244. The Anti-Monopoly Office makes a preliminary determination, within 80 days of initiation of the investigation, whether the imports cause or threaten to cause material injury to a domestic industry, or materially retard the establishment of such an industry. A final determination is presented by the Anti-Monopoly Office to the Minister of Foreign Economic Relations within a further 80 days, or in particularly complex cases, within a further 140 days.

245. The Minister of Foreign Economic Relations decides to terminate an investigation if he concludes that there is no dumping or that the dumping margin is negligible, or if the preliminary conclusion of the Anti-Monopoly Office is that the concerned imports do not cause or threaten to cause material injury to a domestic industry or materially retard the establishment of such industry. In cases when the investigation is not terminated, the Minister, within 90 days of the request for an investigation, issues a preliminary ruling. This ruling specifies the product found to be sold at a dumping price and the estimated dumping margin. The Minister may impose a temporary anti-dumping duty for a period not longer than four months.

246. Taking into account the final determination of the Anti-Monopoly Office, the Minister decides on definitive action not later than within 90 days, and in particularly complex cases within 150 days, of the day of issue of the preliminary ruling. A definitive duty may not exceed the dumping margin. During the period of investigation, exporters may undertake to observe minimum export prices. Price undertakings may be accepted by the Minister if such undertakings serve to eliminate the injurious effect of the dumping; on acceptance of a price undertaking, the investigation is terminated.

247. The decisions of the Minister may be reviewed at the initiative of any directly concerned party.
248. The Minister may, *ex officio* or at request of an interested party, waive or alter rulings that impose anti-dumping duties or confirm price undertakings, provided the party presents evidence that, in the light of changed circumstances, such waivers or alterations are warranted. Polish anti-dumping legislation does not contain a "sunset" clause.

249. In early 1991, Poland initiated two anti-dumping investigations on imports of animal and vegetable fats and oils and fractions thereof, and beef meat from EC members, the procedures were subsequently terminated because of lack of sufficient evidence.

250. Under Article 106 of the Customs Law, legal rules on anti-dumping procedures "apply correspondingly in the event that merchandise subsidized by the Government of the country of origin is introduced into circulation in Polish customs territory". To date, Poland has made no recourse to countervailing duty actions.

(xvii) **Safeguard actions**

251. In July 1991 a new Section (Section 7a) was added to Polish Customs Law, entitled "Protection of the Market Against Importation of Commodities Impeding the Interests of Home Producers". The text of Article 106a is based on Article XIX of the GATT and provides that: "In case commodities are brought in the Polish customs territory by increased quantities and on such conditions that it is or may be harmful to the interests of home producers of similar or competitive commodities, then measures defined in the present Section can be taken for a period not exceeding one year."

252. The administration of safeguard proceedings is with the Minister of Foreign Economic Relations. If harm, actual or potential, to Polish producers is confirmed, the Minister may request the foreign exporter to either restrain exports to Poland or alter the export price. The Minister also has the right to initiate with the Council of Ministers the introduction of temporary import quotas, import licensing or special border charges. No safeguard action has ever been taken under these provisions.

253. Paragraph 4 of Poland's GATT Protocol of Accession includes a selective safeguard clause, which is applicable only to exports from Poland to other contracting parties; Poland cannot use the provisions. The

\[49\] A similar selective safeguard clause has been included in the Hungarian Protocol of Accession. This clause, however, can be operated on a reciprocal basis. GATT (1991), *Trade Policy Review-Hungary*, Volume I. p.116.
EC-Poland Association Agreement also includes a selective safeguard clause, which, however, can be invoked by either party (Chapter II).

(3) **Measures Directly Affecting Exports**

(1) **Export taxes, charges and levies**

254. Poland does not impose export duties or export changes. Exports are free from turnover taxation. Moreover, exports of processed foods are eligible for refunds or turnover taxes incorporated in the price of intermediate goods and components. However, in April 1991, in order to protect against the risk of excessive exports of goods in shortage on the domestic market, the Minister of Finance temporarily imposed a turnover tax on the exportation of a few products, mainly on fuels. The levying of turnover tax on exports of hard coal has been suspended at the beginning of 1992 until 31 March 1993 as a result of governmental commitment to ease financial situation in coal mines.

(ii) **Minimum prices**

255. Poland is a member of the International Dairy Arrangement. In this capacity it applies minimum prices on dairy products covered by the Arrangement.

(iii) **Export prohibitions and restrictions**

256. Export prohibitions apply to: cultural works of before 9 May 1945; fresh or dried protected wild plants; and protected animal species, either live or slaughtered, and their parts and products. In early 1992, export prohibitions were extended to cover live poultry (ducks, geese, turkeys and guinea fowl, not weighing over 185 grammes each) and turkey and goose eggs. In October 1992, due to damage caused by severe drought, the Government introduced temporary prohibitions on exports of feed-grains and oilseeds, effective until 31 March 1993.

50 The list of products subject to turnover tax includes petrol engine fuels (tax rate: 50 per cent), diesel engine fuels (50 per cent), benzenes for pyrolysis (50 per cent), hard coal, half-tanned skins and crude skins, both immediate after slaughtering and preserved for the tanning industry (20 per cent).

51 These objects may be exported, provided that conditions specified under the Act on Protection of Cultural Items and Museums of 15 February 1962 are satisfied.

52 The prohibition covers the following HS tariff headings: 0713, 2302, 2303, 2306 and 2309.
257. In 1990, to prevent domestic shortages, Poland restricted the exports of goods in 17 product groups, including coal, timber, cereals and bovine animals. The principal rationale for the restrictions was that the sharp devaluation of the zloty at the beginning of 1990 created strong export incentives. By 1991, the list of covered products had been reduced to four items, coal, coke, semicoke and non-ferrous metal scrap. The restrictions were implemented through the Polish export licensing system. These restrictions remained in force in 1992.

(iv) Export licensing

258. Under Article 7.1 of the Customs Law, export licensing applies to:
- goods for which a trade permit is needed (Chapter IV.(2))
- goods for which export quotas have been established;
- goods covered by voluntary export restraint arrangements;
- technologies and equipment made available to Poland subject to COCOM controls;
- pharmaceuticals and psychotropic drugs;
- capital goods and transport equipment for leasing purposes;
- exports within the framework of international agreements that stipulate bilateral settlements; and
- technical and scientific documentation.

259. Poland also maintains export licensing on dairy products, casein, anthracite, non-ferrous metal and aluminium scrap, lead, zinc and tin. Licensing on dairy products is maintained to implement Polish obligations under the International Dairy Agreement. In October 1992, export licensing was introduced for some grains and animal feeds. The aim of this measure is to alleviate domestic shortages due to drought which adversely affected plant production in Poland in 1992. The licensing obligation remains in force until the end of June 1993.

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53 The restrictions covered the following products: coal and briquettes; coke and semi coke; peat and peat products; non-ferrous metallurgy scrap; sulphur; calcined soda; sodium hydrite; chemical fibres; coniferous timber, oak timber and wooden floor materials; paper pulp; waste paper and cardboard; raw hide preserved and semi-preserved for the tanning industry; flour; powder milk; grain of major cereals and other crops grown for food and feed; grain of colza and labour bovine animals, bovine animals for slaughtering, fresh bovine meat (beasts).

54 The product coverage is the same as in case of import licensing (Chapter IV(2)).

55 The measure covers the following HS headings: 0713, 1001, 1002, 1003, 1004, 1008, 1205, 2301, 2303, 2304 and 2309.
260. According to Polish authorities, the following criteria apply, as established by the Ordinance of the Minister of Foreign Economic Relations of 31 December 1989, in granting export licences:

- first come-first served;
- the applicant’s past export performance (volume, prices) and
- the expected net currency earning.

If several applicants meet equally the last two criteria, preference is given to producers of the merchandise concerned.

261. In 1990, to counteract excessive exportation of goods by natural persons, Poland introduced a temporary export permit obligation. At present, permits are given by customs offices if exports are not expected to have a negative influence on the domestic market and are not shipped in large quantities.

(v) Export quotas

262. The Minister of Foreign Economic Relations may establish, under Article 7.2 of the Customs Law, export quotas to implement voluntary restraints, and to prevent shortages on the domestic market or ensure compliance with domestic price regulations. The quotas are administered by export licensing. In 1992, export quotas under voluntary restraints, applied to the following products and trading partners: textiles and clothing (Canada, the EC, Norway and the United States); steel and special-purpose steel products (United States), and sheep and mutton meat (EC).

263. At the beginning of 1990, for reasons of shortages on the domestic market and internal price regulations, export quotas were introduced on 22 goods, mainly raw materials. These quotas were eliminated in May 1990.

(vi) Export cartels

264. According to Polish authorities, no cartels exist in Poland.

(vii) Voluntary restraints, surveillance and similar measures

265. Poland is a signatory to the Multi-fibre Arrangement (MFA) and Poland accepted the extension of MFA IV on 12 October 1992. As noted in the above Sections on export quotas, Poland has agreements with Canada, the EC, Norway, and the United States to restrain its exports of textile and clothing. The EC increased Poland's quotas for 1991 in order to take into account the unification of Germany. For 1990, the EC had already increased Poland’s quotas to support the country's political and economic reforms. The Agreement with the EC orivudes for 20 quotas for direct export of textiles and 10 quotas for export processing. Duties for textiles subject
to direct export quotas will be progressively reduced starting on the day of entry into force of the Interim agreement (71 per cent of basic rate) and ending at the beginning of the seventh year with zero rate. Duties for export processing were abolished on the day of entry into force of the Interim Agreement.

266. Poland has concluded bilateral export restraint agreements with the EC on steel products and sheep meat.

267. In the last five years, a high number of Polish export products, mainly in the EC and Canada, have been subject to anti-dumping actions (Table IV.4). Based on Poland's specific Protocol of Accession to the GATT, in anti-dumping procedures Poland was treated as a "State-trading" country. This implied that the normal value of products imported from Poland was established on the basis of the "constructed value", third-market prices or the internal prices of the importing country. Internal Polish prices were not accepted as basis of reference in anti-dumping procedures.  

268. Despite the Poland's radical market-economy reforms, Poland's status as a non-market economy country under national anti-dumping legislations, with one exception, has not changed. The Australian authorities, in a preliminary proceeding, determined the normal value of the PVC exported by a Polish company on the basis of rules concerning market-economy countries. The normal value determined was lower than the export price, and therefore the preliminary decision did not find dumping. At the request of the Australian manufacturers, who questioned the operation of market mechanisms in Poland in this sector because of administered energy prices, the proceedings were resumed.

269. Since 1986, no safeguard actions have been initiated against Polish export products. No actions have been based on the specific selective

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56 Paragraph 13 of the Report of the Working Party on Poland's accession to the GATT laid down the following: "With regard to the implementation, where appropriate, of Article VI of the General Agreement with respect to imports from Poland, it was the understanding of the Working Party that the second Supplementary Provision in Annex I to paragraph 1 of Article VI of the General Agreement, relating to imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, would apply. In this connection it was recognized that a contracting party may use as the normal value for a product imported from Poland the prices which prevail generally in its markets for the same or like products or a value for that product constructed on the basis of the price for a like product originating in another country, so long as the method used for determining normal value in any particular case is appropriate and not unreasonable." GATT (1968), Basic Instruments and Selected Documents, Fifteenth Supplement, p.111.
safeguard clause contained in paragraph 4 of the Polish Protocol of Accession to the GATT.

(viii) Export subsidies

270. Until the end of 1989, Poland had a sophisticated system of export support. A price equalization account equalized domestic and foreign prices of goods for which internal Polish prices were administered. If such a product was exported and the export price was higher than the domestic price, the difference had to be paid to the price equalization account. In the reverse case, the exporter received an export subsidy. In 1987, Polish total net export subsidies amounted to 9.7 per cent of the value of total Polish exports.\(^5\) From 1988, a system of unified export subsidy rates was introduced, covering mainly agro-alimentary products. Subsidy rates amounted to 50 per cent of the export value in case of non-convertible currency settlements and 20 per cent on convertible currency exports. Since March 1989, export supports, in a corresponding amount, were paid through the Export Promotion Fund. The Fund ceased to exist at the beginning of 1990.

271. Prior to 1990, exporters were authorized to retain a part of their foreign currency earnings, on foreign currency retention accounts, and to use them for imports; or sell them at periodically operating auctions to other enterprises, usually with a large premium over the official exchange rate. In the early phase of this system, the retention coefficient was fixed individually for each exporter, taking into account the foreign currency needs in the manufacturing process. Later, the coefficients were applied on a uniform basis according to the degree of product processing. By the end of 1989, balances in foreign currency retention accounts reached almost US$1.5 billion.

272. Between 1987 and 1989, Polish banks granted foreign currency credits for 218 export-oriented projects. Customs-duty exemptions and tax reductions were possible in cases of imports for export production. The income tax rate of 40 per cent was reduced by 0.4 percentage points for each 1 per cent of exports in total sales. In addition, the Minister of Foreign Trade granted rewards for increasing convertible currency exports and for the fulfillment of obligations under international trade agreements.

273. Since the introduction of economic reforms in 1990, Poland grants no direct or indirect subsidies to exporters, including exporters of

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\(^5\) The ratio was 9.4 in CMEA relations. The World Bank (1989), *Poland, Policies for Trade Promotion*, p.65.
agricultural products. The only financial measure related to exports is a refund or exemption of indirect taxes and customs duties on imported inputs incorporated into exported goods.

274. In April 1991, Poland signed the GATT Subsidies Code, subject to ratification. The representative of Poland stated, "The decision by Poland to accept the Agreement was motivated by two essential objectives: firstly, to consolidate the present policies of non-subsidization given the importance of these policies from the point of view of economic efficiency and, secondly, to offer domestic industries an instrument of legitimate defence against unfair, subsidized import competition through the adoption and implementation of procedures consistent with the provisions of the Agreement." 58

(ix) Duty and tax concessions

275. In Poland, exporters of processed goods are eligible for refunds of turnover taxes incorporated in the price of some intermediate goods and components utilized in the earlier stages of the manufacturing process. The amount of this reimbursement is set, not on a percentage basis, but in accordance with the actual costs of inputs and fiscal charges. According to the authorities, the remittance of prior stage cumulative indirect taxes is not a subsidy under paragraph (h) of the Illustrative List of Export Subsidies in the Annex of the GATT Subsidies Code. Exporters are also reimbursed the customs duties charged on all imported inputs physically included in the exported goods.

276. Exporters or producers of exported goods do not receive any tax incentives or other financial incentives related to exports other than duty drawbacks and the rebate of indirect taxes. 59

(x) Export finance

277. The Polish Government gives export credits or credit guarantees only in limited cases involving developing countries. 60

60 In July 1992, the United States suggested that Poland be permitted to use its US$1 billion exchange rate stabilization fund for purposes such as capitalizing the banking industry or financing exports. BNA's Eastern Europe Reporter, 20 July 1992, p. 595.
(xi) Export insurance and guarantees

278. In 1991, the Export Credit Guarantee Corporation was established. Its main task is to insure commercial and political risks in transactions involving supplier credits. The Corporation's statutes and organization are based on those of HERMES and COFACE. The Corporation will be affiliated with the International Union of Insurers in Bern. By late 1992, the Corporation was still in the start-up stage.

(xii) Export promotion, marketing assistance

279. Up to the end of 1990, the Export Development Fund (EDP) provided assistance for Polish enterprises in form of loans for the expansion of export capacity, and grants to compensate for differences in domestic-over-world market prices in case of exports against transferable roubles. Since the shift to trade with the former CMEA members at world prices and in convertible currencies, on 1 January 1991, the Export Development Fund has not been required, and was dissolved.

280. One of the tasks of the Polish Chamber of Commerce is to promote foreign trade. It is engaged in organization of international fairs and exhibitions at home and abroad; it performs functions such as the authentication of documents, issuance of certificates of origin and the arbitration in commercial disputes. In 1991, the State Budget allocated an equivalent of US$6 million for export promotion purposes.

(4) Measures Affecting Production and Trade

(i) Privatization

(a) General aspects of privatization

281. In Poland, as a result of wide-scale nationalization in the post World War II period, in all economic sectors except agriculture, State and cooperative property had become the dominant form of ownership. Until 1989, the development of the private sector was prevented by restrictive legislation. In addition, private economic units, including agriculture, were also subject to price, marketing and other economic restraints. At end-1989, private undertakings accounted for only about 10 per cent of industrial production, 4 per cent of exports and some 15 per cent of industrial employment. In agriculture, however, more than 80 per cent of arable land remained in private hands. A basic objective of Poland's economic reforms is to change the ownership structure; privatization is to lead to an ownership structure similar to that in developed market economies.
(b) Functioning of State-owned enterprises

282. As part of Poland's partial market-oriented reforms introduced of the early 1980s, the status of State-owned enterprises underwent substantial change. Strict central planning was replaced with non-directive, strategic planning and State-owned enterprises received a measure of economic independence in the form of "self-management". Self-management was considered a means of decreasing the negative impact of State and party bureaucracy on enterprise behaviour and as an attempt to increase the degree of socialization through employee involvement in enterprise matters. Within the framework of "self-management", company staff were given the right to influence the fundamental economic decisions of State-owned enterprises, including profit distribution, investment, major foreign trade decisions, and long-term cooperation arrangements. Management was the responsibility of the Director General, appointed by the Worker's Council, although trade unions were given a substantial rôle. The trade unions, together with the Workers' Councils and the Director General formed the "triangle of power" within the enterprise structure.

283. Self-management gave rise to little improvement in efficiency. Its introduction substituted for ownership reform, and may, in fact, have led to confusion in intra-enterprise relations and priorities, which included constant wage increases and the maintenance of employment regardless of profitability.  

284. Poland's economic reforms have yet to overhaul the specific rules on the functioning of State-owned enterprises although efforts are underway to inculcate greater financial discipline. Thus, State-owned enterprises are prone to pre-reform behaviour, but in a totally changed economic environment. In effect, these enterprises do not appear to operate efficiently; to quote the OECD, "in responding to declining profits, State enterprises failed to address the fundamental problems of costs. Cost-cutting measures, such as more aggressive laying-off of redundant

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61 "This power structure is a source of major conflicts: vain struggles for power between the three main actors undermine timely and effective reactions of state-owned enterprises to changing environmental conditions and result in a systematic bias of their business policy in favour of short-term goals rather than long-term performance improvement." Foreign Trade Research Institute (1992), "Reintegration of Poland into West European Economy", in P. Lanzoni and M. Wolteni, Privatization in Poland, p. 122.

62 The Law on State Enterprises was amended in 1990. The amendment allowed the founding organ, in close cooperation with the Ministry of Finance, to: compel a non-performing enterprise into restructuring/liquidation or ultimately, into bankruptcy; suppress the Workers Council management system; and, turn the enterprise over to a Recovery Commission. In addition, State-owned enterprises, but not private undertakings, are subject to a wage increase tax and a dividend tax, which could discourage, however, attempts to improve productivity and profitability.
labour, that might have preserved competitiveness, were not taken." As a result, many State-owned enterprises are in a critical financial condition.

285. The importance of rapid privatization of State-owned firms has been frequently emphasized by government and other experts. Yet some of the largest State-owned enterprises retain significant social and political influence, enjoy privileges, particularly in access to bank loans, and overall the State sector remains the main source of revenue to the State-budget.

(c) Privatization methods

286. Poland, at present, has four forms of ownership: Treasury property, with State-owned enterprises and State budgetary entities, such as schools and hospitals; municipal property, with municipal-owned enterprises and municipal budgetary entities; property owned by cooperatives and State farms; private or semi-private property (joint ventures between State-owned enterprises and private foreign or local partners). According to Article 1 of the Law on Economic Activity of 1988, "Undertaking and conducting economic activity is free and permitted for all under equal rights".

287. In July 1990, the Polish Parliament enacted the Law on Privatization of State-owned Enterprises. Based on this Law, the Ministry of Privatization was established in September 1990. The objective is to achieve an ownership structure similar to that in Western Europe within

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64 "At the end of November 1991, a third of the 8200 State-owned enterprises reported a before-tax loss, and 41 per cent reported after-tax losses. Of 1800 firms under the supervision of the Ministry of Industry, 718 were in a desperate or difficult financial position; 250 firms employing more than 500 people could have been declared bankrupt in line with the law on State-owned enterprises while another 300 were expected to be in a similar situation in the near future. In most branches output has continued to decline although at a slower rate in 1991 than in 1990, while massive layoffs have started to add significantly to unemployment." OECD (1992), Economic Surveys, Poland, p. 83.

65 "Unless privatization occurs quickly and on a vast scale, it will be virtually impossible to maintain macroeconomic control in the medium term. Thus, the government is in a race against time. If privatization is delayed in Poland and the rest of Eastern Europe, the economic achievements to date will be threatened by a renewal of macroeconomic instability." J.D. Sachs (1991), Poland's Big Bang: A First Report Card, The International Economy, January/February 1991, p. 41.

66 In 1991, the contribution of the public sector to State revenues was 81 per cent, against 19 per cent of the private sector, while the share of the private sector was almost 55 per cent in employment, over 25 per cent in industrial production and 75 per cent of agricultural output.
five years, with approximately half of State-owned assets to be privatized in the first three years.

288. At the end of 1990, there were a total of 8,500 State-owned enterprises in the "productive" sector (manufacturing, construction, agriculture, public utilities, transportation, communication and other commercial services) and 3,700 in the "non-productive" sector (including schools and hospitals). The private sector comprised over 38,500 firms established under the Polish Commercial Code of 1934, mainly in manufacturing and food processing, but also in domestic trade and other services. This figure does not include family businesses and one-person undertakings that numbered close to 1.3 million at the end of the first half of 1991. In addition, there were about 1,400 active joint ventures with foreign participation and close to 4,500 partially State-owned joint stock or limited liability companies.

289. Poland started its privatization programme with shops and other small service units. In 1990 and 1991, about 60,000 such entities were leased or sold to the private sector. Around 80 per cent of retail trade is now in private control, with wholesale trade and construction also rapidly being privatized. Truck transport has also been substantially privatized.

290. To privatize bigger State-owned enterprises two main alternative routes are envisaged under the Privatization Law:

(1) Capital transformation into a State corporation (commercialization), followed by a sale of shares, such that the larger enterprises have a diversified ownership, although the smaller-to medium-sized firms may be wholly or substantially in single proprietorship. Commercialization may be initiated by either the enterprise itself, by its founding organ, or be imposed by the Prime Minister on the recommendation of the Ministry of Privatization. A number of commercialized, Treasury-owned companies are subject to enterprise restructuring before their actual sale. The number of private firms in mid-1991 was nearly twice as high as a year before, when this group of enterprises comprised about 21.5 thousand units.

67 J.D. Sachs (1991), "Accelerating Privatization in Eastern Europe: The Case of Poland", WIDER Working Papers, Helsinki, pp. 2-3. Restructuring is understood to mean organizational, managerial, financial, product and technical adaptation of companies to market-economy conditions, to increase their operational effectiveness. The process of restructuring is carried out within the framework of a management contract concluded between the Ministry of Privatization and the management submitting the best restructuring plan.
shares of a commercialized company can be sold through public offerings, trade sales, management/employee buy-outs, or through a combination of these methods (Chart IV.3); and

(ii) Privatization through liquidation; a State-owned enterprise may be liquidated by its founding organ, under its own initiatives or that of the Workers Council, with the approval of the Ministry of Privatization. The purpose is the sale of all or part of the enterprise's assets to another company, or the lease of assets to a company created by the majority of employees of the liquidating enterprise (Chart IV.4).

291. In general, State-owned entities that are deemed by the Ministry of Privatization to be in a satisfactory financial and structural condition are expected to follow the route of "commercialization". Enterprises regarded as not sufficiently "viable" (either financially or in terms of size) are likely to be privatized through "liquidation".

292. In privatizing State-owned assets, Poland has introduced concepts, not tested in practice on a similar scale. One is mass privatization, to accelerate the process and actively involve Polish citizens. The main element is the transfer of equity of 400 medium-sized, financially-sound State-owned companies to 20 investment groups, or National Wealth Management Funds, formed as joint-stock companies, and the subsequent distribution of shares in these Funds to all Polish adult citizens. The shares will be tradeable and quoted on the Warsaw Stock Exchange in the spring of 1993, with share purchases open to foreigners. The Supervisory Boards of the Funds will comprise experienced Polish managers, international businessmen and financial experts; management will rest with specialized firms, on a contractual basis. The Funds will be able to borrow money, to issue new shares, and to make new investments in Poland. Anyone, including foreign investors, will be able to buy shares in the investments groups.

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70The 400 companies represent about 10 per cent of total industrial output and 7 per cent of industrial employment.
Chart IV.3
Privatisation through transformation in Poland

Step 1: Initiation
The enterprise approaches the government and expresses an interest. This is the usual path.
Alternatively, the Prime Minister can order privatisation on proposal from the Minister of Privatisation

Step 2: Feasibility Study
Privatisation through transformation
Privatisation through liquidation

Step 3: Decision
A. Management applies for privatisation
B. Worker’s Council applies for privatisation
C. Opinion of Workers’ Delegation
D. Opinion of Founding Body (e.g. Ministry of Industry and Commerce)
E. Proposal by Workers’ Council on Employee Share Ownership Scheme - up to a max of 20% of total shares or average worker’s salary in the state sector multiplied by the number of workers
F. Draft of company’s statutes and proposed capitalisation
G. Decision of Anti-Monopoly Office

Step 4: Complete Documentation
Advisers (chosen by tender) to work on:
A. Auditing
B. Legal analysis
C. Business plan and valuation
D. Privatisation options

Step 5: Additional Appointments (as required)

Step 6: Ministerial Decisions
Minister decides on:
A. Transformation with or without conditions
B. Company’s statutes
C. Selection of 2/3 of the Supervisory Board (1/3 chosen by employees)
D. Capital structure
Leading to transformation: switch from a state-owned enterprise to state-owned corporation governed by commercial code:
* Notary registration of company
* Court registration of company

Step 7: Transformation
Decision on privatisation strategy and pricing:
A. Trade sale - to one or more persons
B. Public offer for sale of shares
C. Management/Employee Buy-Out
Implement employee share scheme
Choice of one or more of A to C plus Employee scheme

Step 8: Implementation
Advisers assist on:
A. Sales documents/advertisements
B. Controlled auction
C. Selection of short-listed bidders
D. Contract negotiations
E. Due diligence

Step 9: Implementation
Advisers assist on:
A. Sales documents/advertisements
B. Controlled auction
C. Selection of short-listed bidders
D. Contract negotiations
E. Due diligence

Appoint additional advisers as necessary
Advisers prepare:
A. Prospectus
B. Public relations campaign
C. Share distribution system
D. Marketing to large investors

Source: Ministry of Privatisation.
Chart IV.4
Privatisation through liquidation in Poland

Step 1: Initiative
Enterprise or Founding Body considers steps necessary to privatise and decides to initiate the process often with a consulting firm.

Step 2: State-Owned Enterprise's Decision
Workers' Council presents opinion on whether to privatise. State-Owned Enterprise (SOE) chooses its preferred method - (asset sale, contribution into company, buy-out). Business plan is drafted and Ministry of Privatisation questionnaire regarding financial and legal data is completed. Consulting firm is used for valuation of company. Documents are given to Founding Body (Voivodeship government or branch Ministry).

Step 3: Founding Body's Decision
1) Founding Body appoints Preparatory Team to examine documents and renders an opinion on the application. If Preparatory Team is not satisfied with valuation a different consulting firm is hired by the Founding Body.
2) Preparatory Team opinion is discussed if necessary with SOE. Preparatory Team can choose a method other than one preferred by SOE.
3) Founding Body examines results of documentation submitted by Preparatory Team, renders an opinion and drafts decree on liquidation of enterprise.
4) Documentation and decree is submitted to Ministry of Privatisation.

Step 4: Ministerial Decision
Ministry of Privatisation reviews documents and evaluates the financial and legal status; approves or disapproves of privatisation plan.

Step 5: Implementation
- YES
  Founding Body administers liquidation process
- NO
  Problem resolved in cooperation with Founding Body

Step 6: Methods
- Asset Sale
- Contribution into Company. A new company is created between Treasury and domestic or foreign investors
- Management/Employee Buy-Out 20% capital test; sale on instalment

Source: Ministry of Privatisation.
293. The share-holding of enterprises privatized under the Mass privatization programme is expected to be:
- 33 per cent with one investment group;
- 27 per cent with the other investment groups;
- 10 per cent (maximum), given free, to employees; and
- 30 per cent retained by the State (a part of this is to be allocated to the State pension fund).

Shares in the entities will be tradeable.

294. The other new privatization concept is the so-called "sectoral privatization", meant to facilitate restructuring of branches of the economy, taking different privatization forms into account. Such privatization is preceded by an analysis, by foreign consulting companies, of conditions in a given sector. The objective of sectoral studies is to encourage State-owned enterprises to initiate privatization and to promote rational decision making. To date, 34 such sectoral studies have been prepared.

295. At present, about 1,600 State enterprises are covered by the privatization process. More than 1,100 enterprises have been covered by the privatization procedures through liquidation, and some 500 have been converted to joint-stock or limited liability companies awaiting privatization (Table IV.5). The privatization programme for 1991-1993 assumes that about 50 per cent of State assets will be privatized.

296. The most important barriers to the privatization process, as identified by the Council of Ownership Transformation, include the following:
- lack of capital on the part of potential investors;
- weak interest of foreign firms;
- decreasing interest of the public to buy equity in privatized firms; and
- inadequate quality of preparatory studies for sectoral privatization.

In addition, budgetary income from privatization has been much smaller than expected, reaching only about 20 per cent of the envisaged level.

71 Sectoral studies prepared cover the following main branches: the wood-and-paper industry, the brewing industry, potato and sugar processing, the aircraft industry, the textile and clothing industry, the meat industry, the rolling bearing-producing industry, and the power machine building industry.

72 In 1991, there were 1,194 enterprises whose ownership structure was changed; they represent 14.5 per cent of all State-owned enterprises.
297. According to information available to the Secretariat, the low level of economic activity in the State-owned industries was also a result of permanent controversies over the privatization programme of the State industry. High uncertainty concerning its future, restrained the restructuring and adjustment processes in that sector. This also had a restraining effect on possible joint ventures with foreign capital. 

(d) Privatization in foreign trade

298. Since 1988, all enterprises, irrespective of their ownership status, have the right to engage in foreign trade. As a result, the share of State-controlled enterprises in Polish foreign trade has declined from 90 per cent (1989), to about 50 per cent for imports and 75 per cent for exports.

299. There are two types of trade firms with direct State involvement. The first group covers 16 enterprises which are wholly State-owned. They either operate in the area of commercial "infrastructure" (dealing with inspection of goods, forwarding etc.) or trade in strategically important commodities, such as grains, metals, coal and natural gas. The other category consists of 45 foreign trade, joint-stock or limited liability companies established under the Polish Commercial Code of 1934. The State-owned equity in each of these companies is represented by the Minister of Foreign Economic Relations on behalf of the Treasury.

300. According to the Polish Government, the still substantial rôle played by State-controlled enterprises in foreign trade "should not be attributed to any exclusive or special privileges, but only to certain characteristics acquired under the previous economic régime. Such specific features include, inter alia, the established position in the domestic and foreign market, strong traditional links with domestic suppliers and customers,

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74 It is emphasized by the Polish Government that "... the essential feature of such entities namely their relationship with the State, does not, by itself, make their conduct of business in any major way different from that of any other trade enterprise...such foreign trade organizations are totally independent from any Government institutions or agencies in terms of all operational decisions; They are solely responsible for and independent in activities related to all financial matters; They bear exclusive responsibility for all legal obligations and for maintaining the economic viability of the company, without any possibility of recourse to Government resources. Therefore, State participation has no important practical implications for business practices". GATT Document L/6882/Add.1, 17 January 1992.
expanded relations with financial institutions at home and abroad, business
know-how and the ability to attract qualified personnel."

301. There are several privatization concepts. One includes the
transformation of Foreign Trade Organizations (FTOs) into commercial and
industrial corporations, as was done in Spain, Japan and Korea. Another
envisages financial restructuration prior to the privatization of FTOs.
The restructurization of the FTOs would consist of transferring the working
capital of the FTO to the budget, or creating investment funds at the
disposal of the Treasury.

302. The basic privatization technique is expected to be the sale of FTOs
to domestic or foreign investors, either directly or through the stock
market as portfolio investment. Some employee participation is also
envisaged. In the privatization process, the enterprises are assisted by
the Privatization Council, an advisory body composed of scientists, FTO
employees, consulting firms, and representatives of the Ministry of Finance
and the Ministry of Privatization. By the end of 1991, some ten FTOs had
been privatized, and the programme for 1992 and 1993 is to cover between
forty to fifty FTOs overall. FTOs which are engaged in the trade of
armaments, fuels and cereals, which are considered as strategic goods, will
remain under State control. State control will be effected either through
a majority share or a controlling package.

(ii) Competition policy

303. Poland's centrally-planned economy was characterized by the lack of
competition and the existence of wide-spread monopolistic situations in all
sectors of the economy. Even in agriculture, where private farms
dominated, the marketing and processing of agricultural output was largely
monopolized by Government and socialized sector agents. Socialized sector
farms were required to use these services, while private sector farms had
to use them if they were to receive allocations of inputs and if the farmer
sought to participate in the farmer's social security scheme. Access to
credits was also skewed to the socialised sector. 76

304. Anti-competitive practices and situations were widespread also in the
industrial and domestic trade sectors, in the form of multi-plant combines,
sales and distribution monopolies prevailing in wholesale trade, and price

76 World Bank (1990), Poland, Economic Management for a New Area, p. 16.
collusion practices. An inquiry as to how many enterprises controlled more than 30 per cent of output in their sector found 74 cases in 174 sectors. In addition, competition with imported products was limited by administrative import controls. The creation of large economic units was supported by the CMEA system of cooperation and specialization agreements.

305. In the field of foreign trade, specialized FTOs, with a monopoly position, were, for decades, the only entities entitled to conduct export-import activities. In the 1980s, the Polish foreign trade system was gradually liberalized, the State-monopoly of foreign trade abolished in 1988.

306. Introduction and promotion of economic competition was an objective of the market-oriented reforms in 1990. A number of measures aimed at diversifying production and trade structures, including privatization and import liberalization. In addition: entry into business has been facilitated by the removal of many restrictions to setting up new enterprises; and between January 1990 and mid-1991, customs duties were reduced or suspended on all manufactured products that compete with domestically-produced equivalents, in cases where a Polish supplier controlled at least 50 per cent of the domestic market.

307. In February 1990, the Polish Parliament enacted the Antimonopoly Law, providing a comprehensive framework for competition law and practice. It establishes basic principles on illegal market behaviour and provides a framework for the implementation of the Law. The Law regulates both market structure and business conduct and gives definitions for prohibited anticompetitive behaviour. The Act specifies a number of monopolistic practices, including:

- imposing onerous contract terms that yield undue benefits;
- making the conclusion of a contract contingent on having the other party accept or perform unrelated services;
- acquiring shares and stocks of companies or assets of economic entities when such acquisition could lead to a significant weakening of competition;
- direct or indirect price fixing;
- division of markets among competitors; and
- restriction of production, sales or purchases.

77 Idem, p. 16.


79 The Antimonopoly Law was amended on 24 February 1991.
308. Monopolistic practices specified in the Act are prohibited, unless they are necessary to conduct an economic activity and do not result in a significant restraint of competition (rule of reason). The burden of proof lies with the party that claims the existence of such a situation. Economic entities in a monopolistic position are prohibited from limiting the production, sale or purchase of commodities, or from refraining from the sale of commodities, to increase prices; and also from charging exorbitant prices. A "dominant position" is defined by the Act as one where a firm does not encounter substantial competition on the home or local market; it is presumed that that an economic entity has a dominant position if its market share exceeds 40 per cent. Monopolistic position is defined as one where an economic entity does not encounter competition on a national or local market.

309. The administration of the Law is entrusted to the Anti-Monopoly Office. It is a cabinet-level institution, directly responsible to the Prime Minister. The Office has broad powers to order the abandonment of anticompetitive practices, impose fines, rollback prices, or order the break-up or dissolution of law-violating companies with a dominant position. It also has the right to review all proposed mergers, transformations (commercializations and privatizations) and acquisitions, which must be notified to the Office. Under Article 12 of the Act, State-owned enterprises, cooperatives and companies operating subject to commercial law, that have a dominant position can be divided or liquidated if they permanently restrain competition or the conditions for its emergence. Proposals for the conversion of State enterprises into joint-stock companies, and for their privatization, must be cleared by the Office. The Office seeks to prevent State monopolies from being transformed into private monopolies. Decisions of the Office can be appealed to the anti-monopoly branch of the Warsaw District Court.

310. The Office generally follows a liberal trade policy line, taking the position that under conditions of a highly-monopolized economy, trade liberalization is an important element for safeguarding and supporting competition. In 1991, the Office, counteracting trends to increase domestic protection, demanded a comprehensive evaluation of the consequences of abandoning the liberal trade policy introduced in 1990. By this means, the Office intended to show that the cost of economic protection may be high. The Office is of the view that before taking any protective measures, the specific reasons for protection should be

80 In 1991, the Office received 1089 applications concerning transformation or creation of economic entities. In about 10 per cent of the cases, the Office protested against the conditions of the transformation.
explained, and the scope and duration of protection should be defined in advance.

311. Despite the anti-monopoly measures taken by the Government as part of its reform programme, economic competition is still subject to serious constraints in Poland. According to a number of reports, the Polish economy, for the time being, continues to be highly monopolized: for example, "... for 438 analysed manufactured goods, 63 are produced by only a few enterprises, representing from 30 per cent to 100 per cent of the total production. The manufacturing of 140 products (32 per cent) is concentrated at only one or two enterprises. The most concentrated industries are: mining, metallurgy, aviation, automobiles, chemicals and the production of durable goods." A paper prepared by the Office, reports that of the 825 "markets" studied, in 62 per cent of the cases one firm controlled more than 30 per cent of output. In over 25 per cent of the markets, the leading firm had over 60 per cent of the market.

312. It also appears that conditions of competition in Poland are far from equal for different groups of economic units. On the one hand, State-owned enterprises pay high taxes, but the largest among them can easily borrow from State-owned commercial banks, and the "soft" budget constraint has been resurrected in the transition period. In addition, State-owned enterprises, by tolerating payment delays, accord hidden credits to each other. As a result of weak competition, many State-owned enterprises are able to improve their financial position through price increases, without production growth.

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83 "Loss-making firms with no prospects of recovery are currently able to continue to operate with impunity by running down bank balances and liquidating assets. Several firms in the Soviet-trade sector have been found recently to be living off of such asset liquidations, without any realistic prospects for generating future cash flows from production." J.D. Sachs, op. cit.


86 "Giving up investments, limiting employment, and a considerable decline in real wages enabled enterprises to achieve quite a good financial situation without having to increase production." World Economy Research Institute (1991), p.58.
313. Concurrently, the small Polish private sector is adversely affected by circumstances that diminish its competitiveness. Small private firms often deal only with public enterprises, "who exert market power and may impose unfair or onerous conditions. For example, small private firms are often required to pay for all purchases in cash, while they must supply interest-free credit (in the form of delayed payment) to public enterprises that purchase their products."

314. Poland's Bankruptcy Law of 1934 does not appear to have been efficient in eliminating economically-unviable competitors. The number of bankruptcy cases has been low. Moreover, big and less efficient State-owned enterprises appear less likely to lose their creditworthiness than do small undertakings. This too implies that increased import competition operates mainly on new private and smaller State enterprises, leaving the larger units intact, often despite weak financial positions.

315. Article 19 of the Law on State Enterprises also includes a bankruptcy provision. However, despite the State sector's increasing volume of overdue taxes, founding organs rarely initiate bankruptcy procedures. State-owned banks are also tied to big State-owned enterprises and are not wont to press for bankruptcy of their substantial borrowers.

(iii) Adjustment assistance

(a) General aspects of adjustments assistance

316. Due to the radical changes in the Polish economy, particularly since 1990, there is an enormous adjustment pressure on economic units.

317. Government policy on assistance to industry is not clear. At the beginning of 1990, the Government followed a "The best industrial policy is


88 According to a study prepared by the Polish Central Bank, by the end of February 1991 there had been no case where a commercial bank initiated bankruptcy proceedings against a debtor. On the list of 523 enterprises that lost their creditworthiness by the end of 1991, there was no large enterprise. Cited by J. Winiecki, op. cit. p. 15.

89 In 1991, unpaid taxes of State-owned enterprises accounted for 10.7 per cent of the Budget Act's revenue estimates.

90 According to a World Bank study prepared in the mid-1980s, about one-third of Poland's industrial output was found non-competitive in world market terms. The World Bank (1990), Poland, Economic Management for a New Era, p. xvi.
no industrial policy" approach. Thus, the transition to a market economy was expected to be a self-regulatory process in which State intervention, beyond privatization, was restricted to tariffs, exchange rates, interest rates and taxes. Market forces were expected to compel enterprises to restructure and act in accordance with market considerations. However, the authorities note that experience has demonstrated that increased import competition and the collapse of the CMEA market, instead of forcing State enterprises into efforts to restructure production, improve quality and lower costs, have instead led to cutbacks in investments and output. At present, there are some signs to suggest that the Government, against the background of economic recession, has chosen a more active policy regarding State intervention in the economy.

318. The "Guidelines of Economic and Social Policy for 1992", elucidated by the Central Planning Office, introduced the principle of sectoral priorities differentiating intervention instruments according to the liquidity situation and growth potential of enterprises. This concept was developed in the Economic Policy Guidelines for 1993, announced in October 1992. As set out in the Guidelines, the Government intends to focus its restructuring policy on two major groups of industries, identified on the basis of technological, financial and social criteria. The first so called strategic category, covers defence industry, energy and fuels, as well as resource-intensive sectors (metallurgy, shipbuilding, pulp and paper and chemical industries). The capacity of all these will need to be gradually trimmed down, with only the most efficient producers eventually remaining in place. The second group comprises manufacturing sectors which are regarded as having potentially good prospects of further development: petrochemicals, electronics, pharmaceuticals, agricultural supplies, light industries and equipment for environmental protection. The modalities of industrial policy are still in the drafting stage.

319. According to an industrial policy document prepared by the Ministry of Industry and Trade, industrial policy "cannot constitute interference

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91 Guidelines of Economic and Social Policy for 1992 have not been accepted by Parliament. However, the Sejm accepted a document entitled "Directions of the Social and Economic Policy till 1994" providing that large- and medium-sized firms, as well as firms playing a decisive role on the local labour market will be subject to particular attention by the Government. Firms that have been selected for this purpose are classified into one of the four following categories:

(a) firms that, due to their economic role, shall remain State-owned without any changes in their legal status;
(b) corporatized State firms (converted into joint stock or limited liability companies); stocks held totally by the State Treasury;
(c) Corporatized firms partly privatized; majority of stocks or shares held by the State Treasury;
(d) firms to be totally privatized.

The list of firms will be adjusted periodically.
with the market mechanism but only utilization of market instruments for attainments of the goals of economic policy. These goals are defined by the Ministry as revitalization of the economy by means of Government instruments; stimulation of adjustment reactions in public-sector industry; multi-track privatization and support for expansion of the private sector.

320. Since mid-1991, privatization and restructuring has been combined. As noted, sectoral studies have been prepared that included the examination of growth potentials of particular sectors in open market conditions.

321. In agriculture a similar trend may be observed. After the introduction of reforms, non-interference in economic processes was the guiding principle. Interventions by the Agricultural Market Agency was at a minimum. However, the scheduled introduction of an import levy and a fixed agricultural purchase price system would represent a significant step toward a more interventionist policy approach.

322. Since an open (as opposed to disguised) unemployment is a new phenomenon, associated with the "shock therapy" in Poland's economy, a policy to cope with this issue is still in a formative stage. Until recently, it had focused on providing unemployment relief. The "Economic Policy Guidelines" adopted by the Government in October 1992 set the stage for a more active employment policy. The Labour Fund, which serves as the main source of financing unemployment-related social programmes will be increased through higher mandatory and voluntary contributions and injection of new public resources. The share of active employment programmes in the total expenditure of the Fund is to rise to 15 per cent. Local authorities are expected to assume greater responsibility for creating jobs through public works and other regional projects. The Government support for such programmes will continue to be provided in the form of temporary tax incentives for new investment, higher write-offs on fixed capital, credit preferences and credit guarantees for private investors in areas of relatively high unemployment, and direct financial support for infrastructural projects.

(b) Institutional aspects of assistance

323. In 1988, Poland adopted a restructuring programme, the Fund for Structural Changes in Industry (FZS), to help small-, medium-size and

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private enterprises. In eastern Poland the main task was to stimulate economic activity. The FZS supported the following measures: the start up of production of modern products and introduction of energy- and material-conserving technologies; increasing profitable exports; and the purchase of licences and applications of research results to production. Financing was mainly by loans and subsidies, discounting bills, and participation in equity. Loans granted by the FZS carried a lower-than-bank interest rate.

324. During the first eight months of 1990, under the FZS scheme 80 applications were processed and loans granted in an amount of Zł 110.5 billion. Of this, Zł 65 billion was accorded to five electro-mechanical enterprises, and the rest to small projects. Forty loans (a total of Zł 17 billion) were granted to individuals starting new businesses. At the end of 1990, the activities of the Fund were terminated and its assets, about Zł 380 billion, were taken over by the new Agency for Industry Restructuring.

325. The basic task of the Agency is to assist the structural adjustment of industrial enterprises, with a view to increasing the value of their assets or to assist their liquidation. Activities of the Agency include:
- preparation and implementation of structural adjustment programmes;
- assistance in liquidation of State enterprises;
- financial adjustments, and creditworthiness evaluation of State enterprises; and
- the creation of infrastructure for small- and medium-scale enterprises.

In addition, the Agency intervenes at the request, and expense of, the Ministry of Industry and Trade, in matters such as management and adjustment decisions.

326. In 1991, the Agency performed two basic functions. First, it assisted enterprises, at the request of the Ministry of Industry and Trade, to solve problems related to structural adjustments, financing and liquidation. The Agency also granted consulting help and loans on a commercial basis to enterprises. Activities of the Agency are financed from the State budget.

327. There are plans to change the financing of the Agency's activities. In future, enterprises will have to pay for the different studies prepared, or services rendered, by the Agency. In the sphere of financing, the Agency will offer loans only on a commercial basis, based on investment-risk analysis. The Agency will actively cooperate with foreign financial institutions in the field of commercial loans. Also, it will offer credit guarantees. The Agency will be expected to conduct sectoral
and regional studies, marketing and financial analyses, and assist the Ministry of Industry and Commerce in establishing priorities for an active industrial policy.

328. The amount of foreign loans and aid given to Poland for adjustment purposes has been small. In 1990, it amounted to US$30 million. Another form of foreign assistance is management consultancy to Polish firms, financed by foreign sources.

329. The Polish Development Bank also supports restructuring programmes. In 1991, it extended loans on commercial terms totalling US$30 million to a number of private enterprises.

330. Operations of the Agency and the Polish Development Bank to date have been limited and confined to a few small projects. The funds available for supporting structural change in 1991 amounted to some Zl 3 trillion. Assistance to State-owned industry was particularly modest. 93

(iv) Assistance for research and development

331. Up to 1990, Poland's R&D activities were carried out mainly by State-owned units. Industrial enterprises represented a very small proportion in R&D activities. In 1988 their share amounted to 7 per cent. Seventy to 80 per cent of R&D in Poland was financed by the Central Research and Development Fund, the rest by the State budget. Enterprises had to pay a mandatory R&D levy. The Government Office for Scientific and Technical Change and Implementation had rights over the Central Research and Development Fund. R&D activities carried out by enterprises were self-financed. It is estimated that R&D expenditures accounted for 1.3 per cent of Poland's total national income in 1989. 94 Under the old economic régime, the R&D sector was separated from industry and market considerations played only a minor rôle in the whole functioning of R&D.

332. Since the introduction of the economic reforms in 1990, the R&D sector has undergone basic changes. The rôle of the Government in R&D has decreased and market mechanisms play a decisive rôle. The rôle of firms is expected to increase considerably.


333. Since 1990, Poland has taken a number of specific measures in the field of R&D: the Central Research and Development Fund was abolished and R&D is financed directly from the State Budget. Financing is administered by the Scientific Research Committee. Expenditure on R&D from the State budget has been reduced. The number of R&D programmes has been decreased. According to the new financial principles, a major part of R&D State funds will be devoted to financing the statutory activities of R&D organizations. The organizations which can be qualified for support include research units of the Polish Academy of Sciences; R&D institutions within the health service, environmental protection and agriculture; institutions carrying out basic research as their main statutory activity; and some specific institutions working for the central State administration. Other R&D institutions will be financed within project-oriented schemes. Universities and similar institutions can get public funds for R&D by competing for research projects.

334. Poland's basic objective is to establish an R&D system which is similar to that of developed market-economy countries. At present, a major problem is that firms, due to lack of resources, find it difficult to establish or increase their R&D units.

(v) Pricing and marketing arrangements

335. Up until 1990, Polish prices differed significantly from world prices under a system of administered prices and subsidies. Between 1984 and 1988, about 50 per cent of retail prices were in the "administrative" or "regulated" categories. The Polish consumer goods market, partly reflecting administered pricing, was characterized by chronic shortages of a number of goods.

336. Decontrol of prices was started in the second half of 1989 and was continued in 1990. At the beginning of 1991, 90 per cent of prices (measured by the overall transaction value) were market determined. As a result of economic reform, most domestic prices have been brought into line with world prices. Initially, this step caused corrective inflation, particularly in the earlier 1990. In 1991, the following prices remained under Government control: housing rents, central heating and hot water supply to residential buildings, gas and electricity, inland transportation, medicines provided under the social security scheme, public health services and alcoholic beverages made in Poland. The aim of the Government is to upgrade these prices to market levels within one to two years. At the beginning of 1992, gas, electricity and heating prices were increased substantially.

337. Natural gas and electricity power prices are still subsidized in Poland. Polish electricity prices are about 30-50 per cent of western
European countries. The difference is smaller in case of natural gas prices. Prices paid by individual consumers are higher than those paid by industry. The difference is about 15 per cent in the case of gas and about 20 per cent for electric power. The process of transition from official to market prices for gas and power is planned to be fully implemented by the end of 1993.

338. Official prices for coal were eliminated with effect of 1 April 1992. Since that date, Polish coal prices are market determined.

(vi) Production subsidies

339. In 1990, Poland abolished all subsidies for manufacturing and eliminated a number of tax reliefs. Until 1988, all extractive industries received subsidies and relief in the form of direct subsidies to cover losses, direct export subsidies in cases of unprofitable transactions, income tax relief, and excessive wage increase tax relief. Starting in 1989, the exceptional privileges of extractive industries were gradually phased out. In 1991, direct subsidies remained only for hard coal. In 1991, the subsidy for hard coal extraction amounted for 15 per cent of the sales value. The subsidy on coal production has disappeared as a result of the price liberalization implemented in the sector in April 1992.

340. Except for fuel and power, other State subsidies are restricted to the prices of calcium and calcium-magnesium fertilizers, to promote utilization of these products for environmental protection reasons. In 1992, Zl 560 billion is envisaged for this purpose, equivalent to some 70 per cent of fertilizer sales. In agriculture, budget allocations are made for agricultural credits, to assist banks offering preferential credits to farmers for purchases of fertilizers, plant protection chemicals, tractors and agricultural machinery, except for means of transportation. In 1991, budget appropriations for agriculture amounted to Zl 21.4 trillion. According to the authorities, there are no direct subsidies to firms.

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95 In previous years, subsidies amounted to 45 per cent (1990), 85 per cent (1989), 18 per cent (1988) and 15 per cent (1987).

96 In 1989, subsidies to enterprises represented 37 per cent in Poland's budgetary expenditures. In 1990 and 1991 this proportion was reduced to 17 and 9.4 per cent.

97 More than 50 per cent of this amount was used to support farmers' pensions.
(vii) Regional assistance

341. The present reforms in Poland have given wide ranging autonomy to regional and local authorities and have greatly increased their freedom to mobilize and utilize economic and financial resources. The focus of regional policies is now on alleviating adverse consequences of structural adjustments and, in case of border areas, on greater interaction with the adjacent regions of neighbouring countries. In 1993, Poland intends to accelerate the formation of institutional infrastructure of modern regional policies, compatible with EC standards. This will include the implementation, in five provinces, of a regional structural development programme (STRUDER), which is expected to involve financial assistance provided by the European Communities.

342. Regions threatened with high structural unemployment, have been identified. They embrace 245 communes concentrating 17 per cent of all unemployed. There are economic preferences offered for investors in those regions in the form of accelerated depreciation of newly fixed assets. There are also public undertakings initiated in those regions financed from the Labour Fund and investment ventures in infrastructure, supported partly by the central budget.
V. TRADE POLICIES AND PRACTICES BY SECTOR

(1) Introduction

343. Four decades of central planning, in the period up to the late 1980s served to transform Poland from a basically agrarian into an industrialized economy. At the same time, the economy developed in a manner largely insulated from international price signals, contributing to widespread inefficiencies and resource distortions. Industrialization was strongly influenced by the demand and supply structure inherent in bilateral and plurilateral links under the CMEA trade system.

344. The radical market-orientated reforms undertaken since 1990 aim at macroeconomic stabilization and a rapid restructuring of the economy with resources allocated according to comparative advantage. The transition costs, including a deep recession, exacerbated by the virtual collapse of traditional CMEA markets, and substantial unemployment appear to have brought pressures to slow the adjustment process. Since 1991, tariff protection has been augmented, with considerable escalation in a number of sectors, and new protective measures (including the possibility of variable levies in agriculture) and a sector-specific industrial policy would seem to be in preparation.

(2) Agriculture and food production

345. Agriculture plays a significant rôle in Poland's social and economic structure. The rural population of 15 million accounts for about 40 per cent of the total. Reflecting in part the previous régime's industrialization efforts and relative neglect of agriculture, the share of the rural population working outside agriculture increased from 15.7 per cent in 1950 to 40.7 per cent in 1988. Nevertheless, agriculture (including forestry) contributes some 13 per cent of GDP, and employs about 29 per cent of the total labour force; approximately one-fifth of agricultural employees depend exclusively on farming for their income. Poland relies on domestic agriculture for 87 per cent of its food consumption; some 20 per cent of industrial output stems from agro-related industries that draw heavily on the agricultural sector for raw materials.

346. Agricultural income derives almost equally from crop and animal production. The main crops are potatoes, rapeseed, sugar beet and cereals. Poland is the world's largest producer of currants and strawberries, the

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1 The World Bank (1990), An Agricultural Strategy for Poland, p.3, Washington D.C.

2 The World Bank (1990), op.cit.
second producer of potatoes in Europe and is a substantial producer of milk and butter.

347. In 1991, Poland's agricultural and food exports accounted for 17 per cent of the total. Some 10 per cent of agricultural production was exported, to a value of US$2.5 billion; imports amounted to US$2 billion. Exports of food and farm products stagnated in 1991 while imports of agricultural and processed food items increased sharply, by 145 per cent and 97 per cent, respectively. The major export products included meat and meat preparations, live animals, vegetables, fruit, fish and its preparations, and sugar; the main imports included fruit, vegetable oils, meat and tobacco products. The most important agricultural export destinations in 1991 were Germany, the former Soviet Union and France.

348. Since 1989 agricultural production has declined, in real terms, by some 5 per cent in 1990 and 2 per cent in 1991. Government projections early in 1992 indicated that the downward trend was likely to continue, with total agricultural output estimated to decrease by between 3.5 and 7.5 per cent during the year. The probable fall-off in production is explained by changes in general business conditions and such factors as: increased input prices, the elimination of most producer subsidies and income supports, economic deterioration of a number of small family farms and import competition.

349. Studies indicate that Polish agricultural productivity is lower than in major European agricultural producers. As noted in a World Bank study, "It seems that Poland does not have better natural conditions for agricultural production than the rest of Europe, but worse...Polish agriculture will only be competitive at world market export prices with a much smaller farming sector than exists at present...The odds are that Poland will not, in the medium term, be able to generate an important export surplus of agrifood products even with sizeable investment in upstream and downstream sectors." Studies also suggest that, at least at the end of the centrally planned period, the food industry was less competitive internationally than the rest of Polish industry; in particular, food processing had negative value added when measured at world

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3 The estimates abstract from possible drought-inflicted damage in 1992.

4 The productivity index was 40 per cent lower in Poland than in leading European producers. Ministry of Agriculture and Food Economy (1992), The Polish Agriculture and Food Economy, Warsaw.

5 The World Bank (1990), pp. 103-104, ibid.
prices.\(^6\) It should be noted, however, that the studies are based largely on pre-reform parameters and that the introductions of competition and more efficient farming techniques should raise productivity and export competitiveness.

Chart V.1
Agricultural and industrial production in Poland, 1985-91
Annual percentage change in real terms

Source: Government of Poland

350. The average farm size in Poland is 6 hectares. Traditionally, the agricultural sector has been dominated by private owners and operators, who account for about 75 per cent of agricultural land area and 85 per cent of the active agricultural population.\(^7\) State farms produce about one quarter


\(^7\) In the early 1950s, enforced collectivization was attempted in Poland. However, only (Footnote Continued)
of agricultural output, cultivating some 20 per cent of agricultural land. Most of the remainder of the cultivable land area is in the hands of cooperatives, with some in the property of municipalities.

351. As part of the reform effort, privatization has been started in the agricultural sector. One of its prime objectives is to make the production, processing and distribution chain more efficient and market oriented. In 1991 the Agency of Agricultural Treasury-Owned Estates was established to manage the restructuring and privatization of State-owned agricultural and food-industry assets. By end of December 1991, 34 State-owned food industry enterprises had been transformed into commercialized State-Treasury companies (Chapter IV.(4)(i)), and the Ministry of Privatization had given its consent for the privatization of a further 82 agricultural and food industry enterprises through liquidation.

352. Until recently, the Polish agricultural sector was essentially inward-looking. Agricultural policy was based on achieving food self-sufficiency and income parity between farm households and urban wage earners. This policy was implemented through administered consumer prices at below market levels, subsidies and price supports to farmers and trade controls. The latter included a State monopoly of foreign trade, foreign trade plans, a system of bilateral arrangements with other CMEA countries, and export subsidies.

353. In the period 1986 to 1989, food subsidies ranged from 3.4 to 4.8 per cent of GDP; direct domestic support to agriculture was in the order of 5 to 6 per cent of GDP. Producer prices for wheat exceeded border prices by 10 to 30 per cent. In 1988, the producer subsidy equivalent (PSE) for wheat was 35 per cent; for rye, 28 per cent; for barley, 32 per cent; for sugar beet, 15 per cent; for rapeseed, 27 per cent; for pork, 13 per cent; for beef, 45 per cent; for milk, 17 per cent; for poultry, 81 per cent; and for eggs, 71 per cent. More recent PSE estimates are not available.

(Footnote Continued)

9 per cent of the arable land was collectivized and most of it was reprivatized in subsequent years. In the 1960s and the 1970s, "indirect collectivization" was implemented by tightening the network of State and quasi-state firms and institutions that virtually surrounded private agriculture and made farmers highly dependent on them. A. Kwiecinski and A. Leopold (1991), "Polish Agriculture During the Transition Period", PPRG Discussion Papers No.8., pp.1-2.

8 The number of State farms is about 1300.


10 The PSE measures assistance by the value of transfers to farmers as a percentage of total value of output.

354. As part of its economic reform, Poland introduced a liberal agricultural trade régime on 1 January 1990. Export subsidies and most non-tariff barriers were eliminated. Tariffs, at an average rate of 17.2 per cent, became the principal instrument of border protection for the agricultural sector. Subsequent tariff suspensions reduced the average tariff to 4 per cent (Chapter IV.2(ii)).

355. Tariffs have since been raised. In August 1991, under pressure of increasing import competition, the tariff suspension programmes were eliminated. This, together with other tariff increases, raised the average rate on imports of agricultural and food products to 26.2 per cent. However, use of other border measures, such as licensing and quotas, remains sparing.

356. Since 1990, all major financial support programmes for agriculture have been discontinued; they are not likely to be reactivated, according to the authorities (Chapter IV). At present, the remaining major instrument of Government intervention in agriculture is the Agricultural Market Agency (AMA), which operates in part to stabilize domestic market conditions, mainly for cereals, sugar, potato flour, flax fibre, slaughtered pigs, pork half carcasses, butter, honey and crude sheep's wool (Chapter IV(2)(x)). Intervention disbursements by the AMA in 1991 totalled 1,900 billion zloty (about US$ 180 million at average 1991 exchange rates). In addition, 400 billion zloty (US$ 38 million) was spent to replenish national food reserves.

357. In the second quarter of 1992, the Government authorized minimum reference prices for wheat, rye and milk. The reference benchmark, negotiated between the AMA and producers' organizations, is based on production costs, import prices, and forecasts of domestic price developments. The AMA is to effect purchases whenever prices tend below the reference level, with sales from stocks at higher prices. For 1992, the Government authorized a budgetary allocation of 2,000 billion zloty in support of the reference price programme: by end of August 1992, major interventions by the AMA under this programme included purchases of 180,000 tons of grain and 15,000 tons of butter, and sales of 15,000 tons of sugar. Imports by AMA of up to 2 million tons of wheat are also under consideration.

\[12\] In 1990, food subsidies declined to 0.2 per cent of GDP, from 4 per cent in 1989; input subsidies decreased to 0.3 per cent of GDP, compared to 1.3 per cent in 1989.
358. The Government is also considering the introduction of variable import levies on dairy products, potatoes, cereals and pigmeat; the scheme is in the drafting stage, with no further details available.

(i) Foodstuffs (Table AV.1)

359. This category includes fruit, vegetables, sugar, flours, preparation of cereals, honey and eggs. Fruit and vegetables are the major export of the sector, accounting for 3.8 per cent of Poland's exports in 1991. Imports of foodstuffs rose sharply in 1991, from 0.5 per cent of total imports in 1990 to 2.1 per cent in 1991.

360. The simple average m.f.n. tariff on imports of foodstuffs is 27.4 per cent. Seasonal duties apply to the imports of certain vegetables and fruits. There are no quantitative or other restrictions on imports, or exports, of foodstuffs.

(a) Fruit and edible nuts

361. Poland is a substantial producer and exporter of apples, plums, pears, cherries, strawberries and currants. About 13 per cent of the fresh fruit crop is exported, mainly to western Europe. Imports include citrus fruit and bananas, which are not grown in Poland, grapes and raisins. The bulk of demand for preserved fruit and fruit preparations is met by domestic output, although the trade liberalization of 1990 has resulted in some imports of these products.

362. Fresh fruits and edible nuts are subject to tariffs averaging 20 per cent and ranging between 10 and 30 per cent. Tariff escalation assists prepared and preserved fruits, with rates ranging from 20 to 40 per cent: the simple average of duties on unprocessed products is 21 per cent, while that on semi-manufactured and finished products is 27.9 and 32.2 per cent, respectively. Imports of tropical fruits are usually subject to lower tariffs than domestically grown fruits.

(b) Vegetables, fresh or dried

363. Poland is Europe's second largest potato producer, with a 1991 harvest of some 29 million tonnes. The 1991 output of other vegetables amounted to 5.7 million tonnes, with the main crops being cabbage, carrots, onions, tomatoes, and cucumbers. Some 8 per cent of fresh vegetables are exported, largely to western Europe. Poland is also a substantial producer and exporter of mushrooms.

364. The average tariff on fresh and dried vegetables is 21.2 per cent, rising to an average of 25.6 per cent for prepared or dried products.
Certain vegetables, including potatoes, tomatoes and cucumbers, are subject to seasonal tariffs; thus the in-season rates for imports of potatoes and tomatoes are 30 per cent and 40 per cent respectively, compared to off-season, m.f.n. rates of between 20 and 25 per cent for potatoes and 20 per cent for tomatoes. As noted in Chapter IV, a recent sharp increase in cucumber imports from east-European sources has caused Poland to use its sanitary and phyto-sanitary regulations as protective instruments; the authorities are of the view that these cucumbers benefit from subsidized energy inputs and that, at present, the Polish trade-regulatory machinery is not equipped to deal with the difficulty other than by resorting to the above measures.

(c) Sugar and confectionery

365. Poland is a large producer of sugar beet and sugar, with a harvest of almost 12 million tonnes of sugar beet in 1991. Sugar, sugar preparations and honey accounted for 1.1 per cent of total 1991 Polish exports. Both beet and cane sugar imports are subject to a 40 per cent tariff; the simple average tariff on imports of sugar confectionery products is 33.2 per cent, indicating an element of negative tariff escalation.

(d) Other foodstuffs

366. In 1991, imports of coffee, tea, cocoa and spices, accounted for 1.7 per cent of total imports into Poland, compared to 1.3 per cent in 1990. Coffee, tea and mate are subject to tariff rates of between 15 and 20 per cent, cocoa beans to a 15 per cent rate, and spices to rates between 20 and 25 per cent. There is substantial tariff escalation for processed products, with rates higher than for the required raw materials.

367. Other foodstuffs, including products of the milling industry such as flour, malt and starches, receive tariff protection in the range of 10 to 40 per cent. Again, tariff escalation is a factor, with the simple tariff average on grains at 13 per cent, compared with averages on bakers' wares and cereal preparations of about 34 per cent and 37 per cent, respectively. Natural honey, of which Poland is a significant exporter, carries an import tariff of 35 per cent; in both 1990 and 1991 the AMA intervened in the market, with purchases of 5,000 tonnes and 2,000 tonnes, respectively.

13 The simple average tariff rate for coffee and tea extracts is 27 per cent; for cocoa and cocoa preparations, 34.2 per cent; and for chocolate and other preparations containing cocoa, 38.7 per cent.
368. Although Poland is a substantial producer of grain, the harvest is usually not sufficient to cover domestic demand. Nevertheless, both in 1991 and 1992, export surpluses were produced. Cereals are produced on about 60 per cent of arable land. Some 70 per cent of the area is in private hands, and the private sector accounts for approximately 75 per cent of cereal output. State farms and cooperatives are responsible for the remainder. The product structure of output is dominated by wheat (32 per cent) and rye (22 per cent), followed by barley (15 per cent), mixed grains (13 per cent), triticale (9.2 per cent), oats (7.5 per cent) and maize (1.1 per cent). Cereals for fodder constitute about 68 per cent of total output.

369. A network of grain silos and stores provides storage capacity of about 10 million tons. About 45 per cent of storage belongs to the State Cereals Enterprise (PZZ), the leading grain-purchase organization. In the 1991/92 season, the PZZ acquired about 2.8 million tons of cereals, equivalent to about 68 per cent of total sales.

370. Foreign trade in cereals is conducted largely by Rolimpex, a foreign trade organization with a monopoly in the area until 1990. With liberalization Rolimpex's share of trade has decreased, but it is estimated that in the 1991/92 season its import and export shares were still 75 per cent and 80 per cent, respectively.

371. Domestic cereal prices are now largely market determined. Production and consumption subsidies were eliminated at the end of 1989. Through the middle of 1992, market interventions by the AMA were minimal, with intervention prices set below market price levels. However, the purchase and storage of cereals can be financed by preferential credits, with the State budget meeting the difference between preferential and market rates. According to the authorities, there are no export subsidies on grain, and nor are any other forms of export promotion in effect.

372. Import duties on cereals range from 10 to 25 per cent. The lower rates apply to items, such as rice, that are not produced in Poland, or those, such as maize and seed grain, that are produced in insufficient quantities to meet domestic demand.

(iii) Live animals, meat and dairy products (Tables AV.3 and 4)

373. In 1991, total Polish meat production, including fats and offal, totalled about 3.5 million tonnes, a record level. Pork, with a 60 per cent share, dominates meat output, followed by beef and poultry, with shares of 20 and 10 per cent respectively; veal, mutton and horse meat
account for the remainder of the output.\textsuperscript{14} Poland is a net exporter of live animals, meat and products, with 1991 exports amounting to 4.1 per cent of total Polish exports; imports, in consequence of liberalization, rose from a share of 0.5 per cent in 1990 to 1.1 per cent of total imports by Poland in 1991. Virtually all foreign trade in the sector continues to be handled by specialized foreign trade organization established during the central-planning period, although recently some smaller private companies appear to be gaining a market foothold.

374. All subsidies in the sector were eliminated in 1990. Since the price liberalization of the domestic meat market in August 1989, prices are largely market determined. Purchases by non-State entities accounted for about 45 per cent of total meat sales in 1991, compared to some 9 per cent in 1988. However, the AMA has a mandate to intervene in the market, with a view to stabilization and the prevention of production disruptions. In general, no minimum prices are set, although the AMA purchased pigs at a set price during parts of 1991; a lack of financial resources prevented AMA intervention to halt declining live-cattle and beef prices during the course of 1991.

375. Imports in the sector are subject to an average unweighted tariff of 29 per cent, with rates ranging from 5 per cent to 40 per cent. The average rate of some 36 per cent on preserved and prepared meat imports is almost double that on live animals, indicating considerable border assistance for the processing sub-sector. No export subsidies or taxes are applied. Under a bilateral agreement, exports of sheep and mutton to the EC are subject to an annual quota, enforced by export licensing requirements.

376. The Polish dairy sector, with an annual production equivalent to some 15 billion litres, represents 19 per cent of agricultural output and accounts for about 32 per cent of the livestock sector's contribution to GDP. In 1991, exports consisted largely of milk powders (106,000 tonnes), casein (12,000 tonnes), butter (7,000 tonnes) and cheeses (5,000 tonnes); imports were mainly butter (40,000 tonnes), standard milk (34,000 tonnes) and assorted cheeses (13,000 tonnes).

377. All production and consumption subsidies for the sector were eliminated in 1989. Domestic prices are market determined. The purchase-price index for dairy products has recently grown at well below the domestic rate of inflation, mainly, according to the authorities,\textsuperscript{14}

\textsuperscript{14}At end-March 1992, the number of farm animals, in millions was: pigs, 21.2; cattle, 8.1; and others, 3.8.
because of increased import competition following the January 1990 trade liberalization.

378. Imports of dairy products are subject to an unweighted tariff average of about 35 per cent, with rates rising from 10 per cent to 40 per cent as value added increases. The August 1991 tariff revisions increased protection for the processing sector, with imports of butter and cheeses now facing average tariffs of between 35 and 40 per cent, compared to 10 to 20 per cent earlier. An export duty of 5 per cent is levied on baby food.

(iv) Oilseeds, fats and oils and their products (Table AV.5)

379. The bulk of Polish vegetable oil production consists of rapeseed oil, most of which is exported. The main non-edible imported varieties are linseed, soybean and castor oils, largely from western Europe, Brazil and the People's Republic of China. Among edible oils, palm oil has a dominant share, while in the category of animal feeds, Argentina, Brazil and India are suppliers of soya and peanut based oil cakes.

380. Tariffs in the product group average 18.4 per cent, ranging from 5 to 35 per cent. Imports of vegetable oils are subject to a simple tariff average of just over 21 per cent, with the structure biased in favour of domestic rapeseed oil producers. Oil cakes for animal feed, in which domestic production falls short of demand, face a uniform tariff of 10 per cent on importation.

(v) Beverages and spirits (Table AV.6)

381. The average unweighted tariff on imports of beverages and spirits, including fruit and vegetable juices, is almost 46 per cent with rates ranging from a low of 20 per cent to a peak of 145 per cent. In part, these rates complement domestic measures designed both to discourage the consumption of alcoholic beverages and to change the pattern of that consumption towards low alcohol-strength varieties. In addition, the average tariff of some 38 per cent on fruit and vegetable juices implies significant border assistance to domestic producers in the form of tariff escalation, with fruit imports subject to a tariff average of about 20 per cent (Chapter V.2.(i)(a)).

382. Domestic and foreign trade in alcoholic beverages is subject to restrictions. Domestic production of the beverages is subject to the Spirits Monopoly (Chapter IV. (2)(x)). The 1982 Law on the Prevention of Alcoholism together with the 1988 Law on the Economic Activities provide a system of concessional franchises for domestic wholesale and retail trade in alcoholic beverages. Wholesale trade is divided into trade in beer, wines and other beverages of alcoholic strength not over 18 per cent by
volume, and beverages of over 18 per cent alcohol content. Wholesale trade concessions provide maximum and minimum allowable annual volumes of sales per outlet, subject to the discretion of the Spirits Monopoly. For 1992, concessions for wholesaling spirits were issued only to operators declaring an annual turnover of the equivalent of at least 500 thousand litres of pure alcohol.

383. Retail trade concessions for alcoholic beverages are granted by regional and municipal authorities, subject to limitations on the total number of outlets for each province (voivodship). The maximum number of retail outlets for the sale of beverages with an alcoholic strength of over 4.5 per cent is determined for each voivodship by the Minister of Industry and Trade, in proportion to the number of inhabitants. The actual distribution of points of sale is decided by the local administration.

384. For Polish-made, high-strength alcoholic beverages, official ceiling prices are established by the Ministry of Finance. Prices of imported wines, beers and spirits are unrestricted. According to Polish authorities, the reason behind the ceiling price system is to control windfall profits of monopolized Polish producers. No such consideration is relevant for imports. The authorities are of the view that price ceilings do not materially affect conditions of import competition, because imports are concentrated in a different market segment.

385. Imports of beverages with an alcoholic strength of over 18 per cent by volume can only be effected by authorized traders and are subject to import quotas and licensing requirements (Chapter IV (2)(i) and (vii)). Imports of pure spirits and unflavoured vodkas are prohibited. Import quotas are in place for spirits distilled from grape wine, and for whiskies, rum, gin, liqueurs and aperitifs. The quotas are allocated to authorized importers on a semi-annual basis, by a commission composed of representatives of the Ministry of Foreign Economic Relations and several other Government agencies. The applicant must be licensed to wholesale alcoholic beverages, and has to have a clean record of compliance with internal tax requirements, adequate storage and transportation facilities and be able to offer collateral against such fiscal obligations as may result from the utilization of the quota allocation.

For 1992, the Minister of Foreign Economic Relations established the following quotas (in hectolitres): denatured alcohol - 100 hl; alcohol preparations - 20,344 hl; spirits distilled from grape wine - 113,344 hl; whiskies - 24,219 hl; rum - 7,750 hl; gin - 12,599 hl; and other - 15,550 hl.
386. In line with attempts to change consumption patterns, regulations for wine and beer are less stringent than those for higher alcohol content beverages. There are no sales stipulations, and all trade-related procedures are simplified, although both wine and beer imports are covered by licensing requirements. Applicants must be licensed to wholesale wines and beers. According to the authorities, import licensing is not intended to be trade restrictive, being required primarily for statistical purposes.

387. High tariffs are imposed on imported alcoholic beverages containing over 18 per cent of alcohol by volume. Grape-wine spirits carry a tariff of 75 per cent, subject to a minimum of US$25 per hectolitre (hl) plus US2.5 for each percentage point of alcohol content (US$2.5/%age alc). For other spirits, the rates are: whiskies, 85 per cent, subject to a minimum of US$25/hl plus US$2.5/%age alc; rum, 80 per cent, subject to a minimum of US$15/hl plus US$1.5/%age alc; gin, 85 per cent, subject to a minimum of US$15/hl plus US$1.5/%age alc; and liqueurs, 105 per cent subject to a minimum of US$30/hl plus US$3/%age alc. In addition, turnover tax is collected at the border, at rates equal to 150 per cent of the customs value plus customs duty.

388. Imports of beer and wine are liable to a customs duty of 30 per cent. A uniform turnover tax is applicable on imports, at a rate of 150 per cent on customs value plus tariffs (Chapter IV.(2)(v)). According to Polish authorities, turnover tax levied on domestic wines and beers equals 60 per cent of the producer's selling price, with producers setting their selling price at a level equal to costs plus profit plus tax. Consequently, according to the authorities, the effective tax burden applied on like domestic and imported beverages is similar.

(vi) **Fish, shellfish and products (Table AV.7)**

389. Poland has a substantial and relatively modern fishing sector. Although the tonnage of the fishing fleet has declined since 1980, it still totals almost 300,000 gross register tonnes (G.R.T.). About 90 per cent of the catch is from deep-sea fishing. The sea-catch has fallen from a peak of 803 thousand tonnes in 1979 to 430,000 tonnes in 1990, with the decline due both to the depletion of Baltic fish resources, and increased access difficulties to foreign fishing zones, including a reduction of fishing quotas.

390. Imports of fish and shellfish and products decreased from 228 thousand tonnes in 1989 to 148 thousand tonnes in 1990 and 93 thousand tonnes in 1991, with the latter equal to 0.8 per cent of total 1991 imports. Export figures for the same period were: 142 thousand tonnes in 1989; 113 thousand tonnes in 1990; and 121 thousand tonnes in 1991, equal to 1.8 per cent of total 1991 exports.
391. The simple average import tariff for the sector is 18.4 per cent, with rates ranging from 5 to 55 per cent. Tariff escalation is considerable with raw fish subject to an average rate of 16.4 per cent and the processed variety to an average of about 37 per cent; for crustaceans, averages rise from 26 to 42 per cent as the degree of processing increases.

(vii) Tobacco (Table AV.8)

392. Under Polish law, both tobacco cultivation and manufacturing of tobacco products is subject to permits, issued by the Tobacco Monopoly under the authority of the Minister of Agriculture and Food Industry (Chapter IV (2)(i) and (x)). Permits are automatically granted to any legal or natural persons upon presentation of a contract concluded with manufacturing and trading entities designated by the Minister of Agriculture and Food Industry. The number and volume of contracts are determined by the production outlook for tobacco products and the expected volume of imports. Domestic trade in tobacco products is not subject to a separate license.

393. In 1991, imports of tobacco and tobacco manufactures accounted for 1 per cent of total Polish imports; exports amounted to 0.2 per cent of total exports. Importation of tobacco products is subject to trading permits, import quotas and licensing. Tariff rates applicable on imports are high, ranging between 30 and 120 per cent on tobacco and manufactured tobacco. Tariff escalation favours processing, with average rates on manufactured tobacco in the order of 72 per cent compared to about 31 per cent for the raw materials.

394. All retail and domestic trade is subject to turnover taxes, at rates of 60 per cent for cigarettes and 40 per cent for other tobacco products. On imports, a uniform turnover tax of 130 per cent applies and is collected at the border on customs value plus the tariff (Chapter IV.(2)(v)).

(viii) Cut flowers and other plants (Table AV.9)

395. Tariffs on imports in the product group average 19 per cent, with a range of 5 to 35 per cent. Under the August 1991 tariff revision, protection for cut-flower producers was raised significantly, from an

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16 The following import quotas were established for 1992: under CN tariff line CN 2402.10.00 (cigars, cheroots and cigarillos containing tobacco), 20 billion pieces; CN 2402.20.00 (cigarettes), 6 billion pieces; and CN 2402.90.00 (other cigarettes), 20 million pieces.
average rate of somewhat below 15 per cent to a uniform rate of 35 per cent. Nevertheless, the profitability of domestic cut-flower production has decreased markedly, with the reduction of energy subsidies calling into question the use of hot-houses. Imports of other plants, including bulbs and tubes, bear an average unweighted tariff of some 16 per cent.

(ix) Forestry and related industries (Table AV.10)

396. With 8.7 million hectares of forest area and an annual harvest of about 22 million cubic metres, Poland is among Europe's largest holders of forestry-related resources. Forest area increased by approximately one-third over the past 40 years, and now covers some 20 per cent of Poland's territory. Eighty-three per cent of the forest area is in State ownership, with the remaining 17 per cent in private hands. According to the authorities, private ownership of forest land is likely to increase to some 30 per cent over the next few years. The dominating species is pine (70 per cent), followed by spruce and fir (9 per cent) and birch (6 per cent).

397. The wood and wood-processing branch accounts for about 70 per cent of the output of the wood and paper sectors. It is estimated that about 20 per cent of domestic production of wood and related products is exported, with some two-thirds of such exports being furniture. In 1991, furniture exports alone accounted for 2.4 per cent of total Polish exports, with imports of furniture below 0.5 per cent of the Polish import bill. Imports of other wood products, together with cork, are generally negligible, amounting to some 0.1 per cent of total Polish imports in 1990.

398. Paper and related products constitute about one third of the wood and paper sectors' output. Exports of paper and related products are less than 10 per cent of the sub-sectors output, with Poland a net importer of paper, paperboard and manufactured paper products.

399. Imports of wood and cork are subject to relatively low tariff rates of 5 per cent. Tariff escalation protects processing, with rates rising as domestic value added increases. Thus manufactured items of both wood and paper bear a uniform import tariff of 15 per cent, triple the rate on raw materials, and most furniture imports are charged a tariff of 20 per cent.

17 UNIDO(1991), Poland, Managing the Transition to a Market Economy, pp. 100-101.
400. Paper-pulp and paper-waste imports are subject to an average unweighted tariff of 5.2 per cent, with rates fairly tightly grouped around the average. As for wood products, tariffs rise with value added, to provide protection to processing; thus paper board and manufactured articles bear a uniform import tariff of almost triple the rate on raw materials, and rates on printed matter range from zero to 35 per cent for an average of some 9 per cent.

(3) Industry

401. Industry, including construction, amounts for about 45 per cent of Polish GDP, almost 93 per cent of Poland's exports and provides employment for 45 per cent of the labour force. Industrial output has declined sharply since 1991, reflecting the macroeconomic stabilization efforts, the virtual collapse of CMEA export markets and the ongoing structural adjustment process. Industrial production decreased by some 35 per cent in the period 1990 and 1991, with the largest declines in light industry, electro-engineering and metallurgy. However, during this period, with ownership forms liberalized (Chapter IV.(4)(i)) and the private sector responding fairly rapidly to competitive opportunities, the share of private undertakings in industrial output rose from 17 to 27 per cent, with the share of the State-owned sector shrinking accordingly. Since early 1992, there are signs of a recovery in industrial output, mainly in engineering, electronics, chemicals, wood and paper, apparel and food processing; the increased activity is being led by private enterprises and State-owned firms operating under strict commercial considerations.

402. Poland's industrial structure changed significantly in the 40 years prior to 1990. The major industries in 1950 were food processing, fuel and power, and light manufacturing (Table V.1). With an emphasis on heavy industry during the central-planning period, particularly in the engineering and chemical sectors, other areas, such as food processing, saw their share of industrial sales decline. Large State-owned enterprises, frequently with monopoly power, came to dominate industrial production. Further, many industrial branches, including aircraft, shipbuilding and other transportation, machine tools and significant parts of the steel sector, were CMEA oriented, with a substantial proportion of their

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18 Construction accounts for 9-11 per cent of GDP.
19 UNIDO (1991), Poland, Managing the Transition to a Market Economy, p.31.
20 In 1989, the number of industrial enterprises employing less than 100 persons totalled 1.4 per cent of all enterprises, compared to some 70 to 90 per cent in developed market economies.
production linked to trade with these countries, normally at government-fixed prices and artificial exchange rates (Tables V.2 and 3).

403. Radical economic reform, particularly price liberalization and the onset of import competition, put Polish industry under enormous adjustment pressure; this has been accentuated by the virtual loss of the former CMEA trading links and the recent entry into force of the Interim Agreement with the European Communities (Chapter II. (5)(ii)). Although the process might in general be expected to be somewhat lengthy, as noted in Chapter IV. (4)(i), the larger State-owned enterprises have been tardy in responding to market forces, a factor which more rapid privatization aims to ameliorate.

404. The capital stock of Polish industry is old, with only some 5 per cent of industrial equipment less than five years of age in 1988.21 Further, the energy intensity of Poland's national income is estimated at 2 to 3 times that of developed market economies, contributing to relatively low unit values for Polish industrial items compared to those of competing producers.22 However, the human capital stock, in terms of education and expertise of the work force may well be a substantial asset.23

405. Prior to 1990, the Polish price system was heavily distorted, preventing a clear-cut ranking of industrial branches according to profitability. However, it would appear that a number of sectors, including basic chemicals, cement, non-ferrous metallurgy and some food processing, had negative value added at world prices, with input costs exceeding the resultant value of output.24

406. A trade-based analysis, to determine indices of "revealed comparative advantage", suggests that Poland has a competitive edge in labour intensive products. These include: inorganic chemicals, wood manufacturers, textile yarn and fabrics, furniture, apparel, footwear, manufactures of metal and metal working machinery. Nevertheless, productivity gaps between Poland and industries in the European Communities (EC) tend to be substantial,

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21This compares to some 40 per cent of industrial equipment aged 5 years or less in Germany, and 23 and 29 per cent in the Czech and Slovak Federal Republic and Hungary, respectively. OECD (1992), Economic Surveys, Poland, p.89.


25P. Hare and G. Hughes (1991), ibid.
with the lowest gaps in labour and resource based items. Thus, for example, in the cement and leather industries Polish productivity appears to be on a par with that in Belgium and Denmark; in hard coal it would seem to be some 25 per cent lower than in EC producers; and for nitrogenous fertilizers and rubber, EC productivity per worker is some 55 to 65 per cent higher than in Poland.

407. Work by the Polish authorities suggests that, based on recent trade performance, the following sectors of the Polish economy may be competitive in international markets in agriculture: cereals, rapeseed, vegetables, fruit and certain animal products; in primary and related commodities: solid and liquid fuels, electricity, and sulphur; in manufactures; electro-mechanical products; chemicals; mineral products, wood items, cellulose, paper, textiles, non-ferrous metal and steel products and agro-alimentary goods; and in services: construction, including assembly and operation of plants; construction services; repair, processing and printing services; agrotechnic and fishing services.

408. At the outset of the radical reform process the Polish Government took the view that the transition to a market economy and the restructuring of enterprises had to be a self-regulating process, or, alternatively stated, that the best industrial policy was the absence of such a policy. The rôle of the State was to be restricted mainly to the creation and maintenance of an appropriate and stable macroeconomic environment. Therefore, in 1990 most production subsidies were abolished, a number of tax benefits were withdrawn and administrative control of industrial sectors was severely reduced (Chapter IV (4)(iii)). State assistance to industry was seen to be appropriately limited to protection at the border, through the tariff: the State's rôle would be supervisory in nature, including the possible channelling of foreign investment according to certain priorities and ensuring the adherence to quality and technical standards.

409. However, against the background of economic recession, the slow response of State-enterprises to market signals, sectoral and regional difficulties and high unemployment, there appears to be some evolution in Poland's approach to industrial policies (Chapter IV. (4)(iii)). Less reliance than previously may now be placed on market forces. Since August 1991, tariff protection for a number of industrial sectors has increased


27 Information supplied by the Polish authorities.
Since mid-1991, increased emphasis has also been put on the combination of restructuring and privatization, particularly in the context of sectoral studies to examine the growth potential of industries; and at present, the Ministry of Industry and Commerce has under study a new industrial policy (Chapter IV.(4)(iii)).

410. Since January 1990, tariffs have become Poland's principal trade policy instrument for industrial products. Although statutory industrial tariff rates were cut by more than 2 per cent in August 1991, the concurrent termination of nearly all tariff suspensions increased the applied rates substantially, with the average again raised in late February 1992 (Chapter IV.(2)(ii)). At present, the simple tariff average on imports of industrial products is 16.4 per cent. Tariff escalation is widespread. Most imports of raw materials are subject to a 5 per cent tariff. The bulk of imported semi-finished and finished products are liable to duty rates ranging between 10-15 per cent. Industrial consumer goods, motor vehicles, electronics, textiles, footwear and glass items are subject to higher rates, ranging from 20 to 35 per cent.

411. Poland uses non-tariff measures sparingly for the protection of industrial production. There are some import prohibitions in force on automobile imports relating to old, second-hand cars and those with two-stroke engines. Imports of oils, some oil products and petroleum gas are subject to import licensing (Chapter IV.(2)(vi),(vii) and (viii)).

412. On the entry into force on 1 March 1992 of the EC-Polish Interim Agreement, Poland abolished customs duties on 27 per cent of its industrial imports from the EC (Chapter II.(5)(ii)). The duty free items include raw materials, semi-finished products and some processed goods. Customs duties

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The necessity of an industrial policy is under discussion inside and outside Poland. A recent OECD Report takes the following approach: "Indeed, if there is to be an industrial policy, than this is the best form: one that contains within it clear-cut and credible rules to assure that it is temporary. What must be decided by the Polish authorities are the criteria for judging an industry to be in serious difficulties, and whether it would in any case make sense to introduce protective measures. The criteria for such a decision will have to take account of the cost to other industries and the economy as a whole rather than the cost to the particular industry or to the budget. In making such decisions many countries have found it useful to create independent institutions with powers to investigate claims." OECD (1992), Economic Surveys, Poland. p.123.

Before 1 August 1991, imports of computers were subject to a 5 per cent tariff, while the applicable rate for household electronics and automobiles was 20 per cent.
on most other industrial products imported from the EC (which now accounts for some 50 per cent of imports) will be eliminated over a period of 5 years from 1 January 1995. However, liberalization in the car sector will be slower, with free-trade between the partners to be achieved in 2002. It is expected that in the near future Poland will sign free trade agreements covering industrial products with the EFTA countries, the Czech and Slovak Federal Republic and Hungary.

(i) Coal, petroleum, natural gas (Table AV.11)

413. Poland's share of world coal production is in the order of 5 per cent. Excluding republics of the former Soviet Union, Poland is Europe's largest producer, with output of some 140 million tonnes a year, although production is declining. In 1991, coal, including coke and briquettes, was the largest export item, accounting for 8.5 per cent of Poland's total exports.

414. Oil production in Poland is low, and only some 25 per cent of natural gas requirements are satisfied by domestic sources, although output appears to be rising. Petroleum and related products accounted for some 15 per cent of imports in 1991. Until recently, the former Soviet Union was the source of most of Poland's oil imports; the introduction of competition has brought diversification in the geographic origin of such imports. In the case of natural gas, the existence of pipe-lines to the former Soviet Union makes it the virtual exclusive supplier.

415. Coal took 77 per cent in Poland's primary energy consumption in 1991; petroleum, 13 per cent and natural gas, 9 per cent.

416. Mining in Poland is subject to licensing. Licenses are issued by the Minister of Environmental Protection, Natural Resources and Forestry in consultation with the Minister of Industry and Commerce and regional development authorities. A licensing and annual exploitation fee is charged, with the latter not to exceed 10 per cent of the value of sales.

417. Extractive industries were heavily subsidized in the central-planning period. By 1991 only hard coal extraction remained subsidized, and in 1992 the subsidy was phased out. In addition, officially fixed coal prices were eliminated on 1 April 1992, but natural gas and electricity rates remained subsidized.

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418. Poland has taken a relatively cautious approach on the privatization of the energy sector. Under present Government plans, privatization is to start with prospecting, natural gas extraction, and the production of methane from coal. A new draft law on energy generation envisages privatization of a majority of power plants through establishment of joint ventures and new private firms. However, the State would be given the right to recover the property of the enterprise if energy security is endangered. Plans do not envisage the privatization of State enterprises responsible for oil and gas pipelines and the energy transmission network.

419. The privatization programme for electrical energy envisages the commercialization and subsequent privatization of support enterprises; the reorganisation of power and energy distribution plants following their grouping into companies under commercial law; the reorganization of central heating plants into some 10 commercial law companies; and ceding the high voltage line to the Treasury-owned Polish Energy Transmission Network.

420. The privatization programme for the gas sector also includes the commercialization and subsequent privatization of support enterprises; the establishment of companies for prospecting, and exploitation of, deposits; the commercialization of distribution and transmission enterprises and their conversion to commercial law companies; and the restructuring, of the Polish Oil and Gas Mining Enterprise.

421. Tariff escalation is present in the oil and gas sector. Imports of oil and gas are duty free, those of coal, briquettes and lignite are subject to a rate of 5 per cent, and coal for coke to a tariff of 10 per cent. However, to provide encouragement for domestic processing, imports of products derived from coal, petroleum or gas face tariff rates ranging from 5 to 15 per cent. Imports of oil and its derivatives are subject to import quotas, with importers also required to have trading permits (Chapter IV.(2)(i)). Imports of natural gas have been subject to licensing requirements since October 1991. Oil and gas are zero-rated for turnover tax but imports of motor oils and gasoline face turnover tax rates of 55 per cent and 150 per cent, respectively, on the customs value plus tariffs. For coal, according to the Interim Agreement, tariffs and quantitative restrictions on Polish products will be eliminated within four years in Germany and Spain and one year in the rest of EC countries.

422. Exports of coal require licensing; however, licenses are issued freely. Exports of some fuels are subject to turnover tax (Chapter IV.(3)(i)).
(ii) Ores and metals (Table AV.12)

423. Poland is a major producer and exporter of copper and has substantial lead and zinc deposits. The Polish iron and steel industry is large but productivity in many mills is low. Direct energy consumption per unit of pig iron and steel is significantly higher than in other industrialized countries. Iron ore is imported, mainly from Russia and Brazil. Iron and steel exports accounted for 7.4 per cent of total Polish exports in 1991, and the share of non-ferrous metals, mainly copper and zinc was 6.2 per cent.

424. The unweighted average tariff on imports in the product group is some 14 per cent, with rates ranging from 5 to 35 per cent; however, dispersion is limited, with the standard deviation of rates about the average being less than 3 per cent. Some tariff escalation is built into the structure, with imports of mineral ores subject to tariffs of 5 per cent and those of most semi-manufactures and manufactures liable to a uniform tariff of 15 per cent. However, rates on cutlery range from 15 to 35 per cent. Imports of ferro alloys, iron and non-alloy steel and stainless steel and articles are subject to tariffs of 15 per cent.

425. Prior to March 1992, Polish exports of steel products to the EC, Poland's largest export market, were restricted under a bilateral export restraint agreement. With the entry into force of the Polish-EC Interim Agreement on 1 March 1992, quantitative restrictions on steel products were eliminated by both parties. In addition, the EC will phase out its tariffs over the next five years on steel products originating in Poland; tariffs on Polish imports of EC steel products will be phased out during the final five years of the 10 year transition for the full implementation of the Agreement. Poland's exports of steel and special purpose steel to the United States are subject to export quotas, in order to comply with import ceilings established on the U.S. market under a bilateral restraint agreement that continues to be in force.

(iii) Precious stones and precious metals (Table AV.13)

426. Poland is the world's seventh largest silver producer, with a 6 per cent share of world production. In 1991, Polish exports of silver amounted to 931 tons, which represented 0.8 per cent of total exports. Other precious metals and precious stones are not mined in Poland in significant quantity.

427. Tariffs on imports in the product category average about 15 per cent. The average disguises considerable dispersion, with rates ranging between 5 and 45 per cent and the standard deviation about the average some 14 per cent. Escalation of tariffs is significant, with imports of
precious metals and stones subject to a uniform rate of 5 per cent compared to an average rate of over 31 per cent for finished articles.

(iv)  **Raw hides and skins, leather and furskins, footwear and travel goods (Table AV.14)**

428. The leather clothing industry plays a marginal rôle in Poland's trade, with a share of only 0.2 per cent in total exports and an insignificant volume of imports. The virtual collapse of CMEA trade was a particular problem for the Polish footwear industry, for which the former Soviet Union was the major market. Largely as a result, 1991 production of footwear was more than 30 per cent below its 1990 level; and the share of footwear in total Polish exports declined from 1.2 per cent in 1990 to 0.8 per cent in 1991. A similar decline affected the leather clothing industry.

429. Tariff protection for the Polish leather industry is relatively high, with m.f.n. rates in the category averaging about 25 per cent. Raw hides and furskins are subject to import tariffs of between 15 and 30 per cent, and on imports of manufactured articles, the applicable rates lie between 30 and 35 per cent. The simple tariff average on footwear is 19.4 per cent; on travel goods, it is substantially higher at 30.5 per cent, with peaks of 35 per cent. Under the EC-Poland Interim Agreement, tariff reductions on Poland's imports of EC leather goods will begin three years after 1 March 1992 and will be fully implemented over 5 years.

(v)  **Textiles and clothing (Table AV.15)**

430. Poland has a large, diversified textile and clothing industry, which, together with the leather industry, accounts for about 7 per cent of industrial sales and 6 per cent of industrial employment. As in the case of footwear, the sector has been severely negatively affected by the loss of the former Soviet Union as a major market. Nevertheless, the industry, with active private participation, has remained relatively vibrant and appears to be internationally competitive (Chapter V (3)). Raw materials are almost entirely imported and are at the base of exports of textiles and clothing that amount to some 5 per cent of total Polish exports. With liberalization, imports of clothing have shown a substantial increase.

431. Poland maintains bilateral restraints, under the Multifibre Arrangement (MFA), on its exports of textiles and clothing to Canada, the EC, Norway and the United States. Under the Polish-EC Interim Agreement, EC tariffs on its imports of Polish textiles and clothing are to be phased out over the next six years (from 1 March 1992). The elimination of EC
quantitative restrictions on Poland's exports of these products has been linked to the results of the Uruguay Round (Chapter II.(5)).

432. The average tariff on Poland's imports of textiles and clothing is 20.6 per cent providing considerable protection to the industry. Escalation is a significant feature of the tariff structure, with average tariff rates rising from 9 per cent on raw materials to 14.7 per cent on semi-manufactures and 28.1 per cent on finished goods. Under EC-Poland Interim Agreement, tariff reductions on Poland's imports of textile and clothing from the EC will begin three years after the Agreement has taken effect (on 1 March 1992) and will be fully implemented over 5 years. Customs duties on imports from the EC of certain raw materials for the textile industry were lifted in March 1992.

(vi) Mineral products and fertilisers (Table AV.16)

433. Poland is the world's third largest producer of sulphur, with an output of about 5 million tonnes a year, of which 7.5 per cent is exported. It also has large reserves of other industrial materials, including limestone, dolomite and glass sands. The mineral industry contributes about 3.5 per cent of total industrial sales and accounts for about 5 per cent of employment. Besides sulphur, important exports of the sector include portland cement, phosphatic and crude fertilisers, and mineral manufactures, including glass. Polish exports of coal and sulphur to Russia are envisaged under the Polish-Russian trade agreement concluded in December 1991 (Chapter IV (2)(xii)).

434. The average tariff on imports in the product group is 13 per cent, with rates ranging from 3.5 per cent to 40 per cent. As in most other industrial sectors, tariff escalation is a prominent feature of the structure: rates on raw materials are normally below 10 per cent, whereas manufactured products, such as glass, have rates up to 40 per cent.

(vii) Chemicals (Table AV.17)

435. Based on an abundant supply of domestic raw materials, particularly coal and sulphur, Poland's diversified chemical industry accounts for some 8 per cent of domestic industrial sales. In the past, the sector was highly dependant on trade links with the former CMEA and thus has come under substantial adjustment pressure with the downturn of activity in former CMEA partners. The sector's transition to an output and organizational structure guided by price signals is aided by the seeming international competitiveness of important sub-branches, particularly in organic chemicals (Chapter V (3)). A number of the sector's products, including certain organic and inorganic chemicals, plastics and pharmaceuticals are exported in substantial quantities. To boost exports
of pharmaceuticals to Russia, the Polish/Russian trade agreement of December 1991 specifies the product as an item to be purchased from blocked Polish payments for imports of Russian oil and gas (Chapter IV (2)(xii)).

436. Pharmaceutical products sold on the domestic market must be registered by the Ministry of Health. Medicaments are subject to clinical tests over a period of two to three years.

437. On imports of chemicals to Poland a simple tariff average of 14.3 per cent applies, with rates ranging from 5 to 45 per cent. However, dispersion of rates is reasonably low, with most rates grouped fairly tightly about the sectoral average. The August 1991 lifting of tariff suspensions brought an increase in tariff averages, with rates prior to the change averaging 3.9 per cent on chemicals and 5.5 per cent on plastics. The present tariff structure is somewhat biased against luxury items, with perfumes at the higher range of tariffs, up to 45 per cent, while pharmaceutical and medical imports bear rates more in the order of 10 per cent.

(viii) Non-electrical machinery (Table AV.18)

438. This category includes: machinery for agriculture, textiles and clothing, pulp and paper, construction, mining and power generating; machine tools; office machines; pumps; and heating and cooking equipment. The sector, together with other parts of the engineering industries, such as electrical and transport equipment, accounts for some 25 per cent of Polish industrial output and around 30 per cent of industrial employment. Its size stems in large measure from past close CMEA links, with some 70 per cent of Polish imports to socialist countries during the CMEA period stemming from engineering industries. Indicative of the international competitiveness difficulties of these industries is that they used to contribute only some 20 per cent of Poland's exports to developed, market-economy markets, while engineering products were close to 40 per cent of Poland's imports from these markets.

439. Since 1989, the output of the engineering sectors has declined by about 40 per cent, partly because of a contraction in domestic demand, but mainly because of a more than 50 per cent decline in exports to the former CMEA area. Imports from the former socialist countries have been largely replaced by those from western industrialized countries, with deliveries from the EC up by 57 per cent in 1991. The sector still faces serious adjustment difficulties and it, together with the steel complex, being dominated by large State-enterprises, is at the centre of political and social pressures to safeguard employment and soften the competitive pressure from imports.
440. Imports of machinery products are subject to tariff rates ranging from 0 to 20 per cent. The simple tariff average for the sector is 15.2 per cent, which represents a sharp rise in tariff protection compared to the period between August 1990 and August 1991, when as a result of tariff suspensions, the machinery sector as a whole was protected by an average rate of 3.9 per cent. Tariff dispersion in the sector is low, with almost all rates grouped fairly tightly about the average, although imports of office machines, including computers, are subject to a tariff of 20 per cent.

(ix) Electrical machines and apparatus (Table AV.19)

441. This product category includes telecommunication apparatus, tools and other electrical apparatus. In 1991, imports of telecommunication and sound equipment were 6.5 per cent of total Polish imports, with higher levels expected in the near future as Poland's telecommunications net is modernized. In 1991, exports of electronic goods increased by 41 per cent in real terms, to a total value of some US$115 million; major markets include the former CMEA countries and the EC. Basic consumer electronics and data processing equipment are the principal exports of the sector, with Poland's educated labour force readily adapting to such production, in the context of smaller scale private ventures.

442. Imports of most electrical machinery and apparatus, including telephones, are subject to a tariff of 15 per cent. Consumer electronic imports, including video recorders and television receivers, normally face tariffs of 30 per cent, with the higher rates designed in part to assist domestic producers in establishing a domestic market presence for acquiring competitiveness to meet export demands.

(x) Transport equipment (Table AV.20)

443. Poland has a diversified transport equipment sector, producing electric and diesel locomotives, rail coaches, goods wagons, trams, passenger cars, buses, trucks, trailers, tractors, motor-cycles, ships and aircraft. With the loss of CMEA markets, production declines, already noticeable during the 1980's as international competitiveness slipped, accelerated, such that output of passenger cars fell back from 266,000 units in 1990 to 167,000 units in 1991 and that of buses and lorries was virtually halved over the same period. In 1991, exports of road motor vehicles fell to 1.9 per cent of Poland's total exports, compared to 3.3 per cent in 1990. Reacting to market liberalization, imports of such vehicles have risen, mainly by private persons, to some 6.7 per cent of total Polish imports. In October 1992, Fiat concluded a substantial investment contract with Polish car producers, while General Motors and
Volkswagen were actively engaged in negotiations concerning similar capital engagements.

444. Poland is an important producer and exporter of cargo ships and fishing vessels. However, again partly in consequence of difficulties in former CMEA markets, production has fallen sharply in the last few years.

445. Fairly high import tariffs, averaging 20 per cent, protect the transport sector. In 1991, under pressure from both foreign investors and the domestic car industry, tariffs were increased on small motor vehicles, to 25 per cent, and on passenger cars, trucks and buses, to 35 per cent. In July 1992, temporary duty-free import quotas were introduced covering parts for assembly of new vehicles and equipment used by factories involved in industrial assembly of new vehicles (Chalter IV.(2)(iii)). Under the EC-Poland Interim Agreement, a duty-free import quota is expected to be introduced for 30,000 cars (Chapter IV (2)(iii)). The Interim Agreement provides for slower liberalization in the car sector than in most other industrial sectors, with full free trade in vehicles between the parties to be achieved only in 2002. Aircraft imports face a tariff of 15 per cent, and tariff rates on imports of ships and boats range from 15 to 35 per cent.

(xi) Other products (Table AV.21)

446. This category includes items such as rubber, rubber products, professional, scientific and controlling instruments, photographic apparatus, clocks and watches, photographic and cinematographic supplies, fire arms, office and stationary supplies, musical instruments, toys works of arts etc.

447. Importation of most of these products is subject to higher than average industrial tariffs, with peaks of 45 per cent on watches and clocks and 35 per cent on toys. The latter rate appears to be in line with a more general strategy of allowing Polish producers the relative safety of a domestic market to acquire competitive skills for export competition. Imports of works of art and collectors' pieces are duty free; rubber and rubber products are subject to tariff rates of between 5 and 15 per cent. Imports and exports of firearms, ammunition, tanks and other armoured vehicles are subject to licensing requirements; trade in the items requires a separate permit from the Ministry of Foreign Economic Relations.
VI. TRADE DISPUTES AND CONSULTATIONS

(1) GATT Dispute Settlement

448. Poland to date has not made use of the dispute settlement procedures under Article XXIII of the General Agreement or those of the Tokyo Round Codes. It has never been subject to a complaint under Article XXIII, nor under the Codes. There are no recent instances of Poland's involvement in disputes under the Multifibre Arrangement.

449. Questions related to Poland's participation in the GATT have been discussed in general GATT fora or in the Working Party established under Poland's Protocol of Accession to the GATT.

450. The annual consultations (not held since 1978) between Poland and the CONTRACTING PARTIES in the Working Party concentrated, beyond the issue of Polish import commitments, on such subjects as developments in Poland's exports and balance of payments with contracting parties, or on action taken by individual contracting parties, under Paragraph 3 of the Protocol to remove remaining quantitative restrictions on imports from Poland (Chapter II(5)(i)).

451. Paragraph 7 of the Protocol lays down a specific system of bilateral consultations between Poland and individual contracting parties. In 1982, the United States requested consultations with Poland under this provision, with reference to the lack of fulfilment of Poland's import commitment under its Protocol of Accession. The United States subsequently suspended m.f.n. treatment for imports from Poland; Poland challenged the U.S. action in the GATT Council (Chapter II(5)(i)). The United States reactivated m.f.n. treatment in 1987.

(2) Other Disputes

452. Under Article 39 of the Interim Agreement between the European Communities and Poland, each of the two parties may refer to the Joint Committee, established by the Agreement, any disputes relating to the application or interpretation of the Agreement. Parties are obliged to carry out the decisions taken by the Joint Committee. The Joint Committee draws up its decisions and recommendations by agreement between the two parties. If a dispute can not be settled through the Joint Committee, the

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dispute may be settled with the involvement of three arbitrators, one appointed by each party, and the third by the Joint Committee. Arbitrators' decisions are taken by majority vote. After the ratification of the Association Agreement, the dispute settlement functions will be exercised by the Association Council.