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Poland's negotiation position
TAXATION

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POLAND'S NEGOTIATION POSITION IN THE AREA OF TAXATION

SYNTHESIS

As a definition of the time–frame for the process of harmonisation and implementation of the Community law, the Government of Poland has adopted 31 December 2002 as the date on which Poland will be prepared for accession to the European Union.

In the pre–accession period Poland will accept and implement the *acquis communautaire* in the area of 'Taxation'. This signifies that by the stipulated date Poland will prepare its institutions, infrastructure and procedures with the aim of achieving implementation capacity for EU legislation in the area of tax policy. Poland will undertake the necessary measures leading to implementation and application of the *acquis* in the area of 'Taxation' in compliance with the above declaration, with the reservation for a possibility of requesting a transition period in relation to:

- ❖ article 12 item 3 of Sixth Council Directive to maintain the application of the reduced VAT rate for restaurant services for the period of 5 years, i.e. until 31 December 2007,
- ❖ article 12 item 3 of Sixth Council Directive to maintain the application of the zero VAT rate for certain book categories and specialist periodicals for the period of 5 years, i.e. until 31 December 2007,
- ❖ article 2 of Council Directive 92/79/EEC to apply the minimum incidence of excise duty rate for the taxation of cigarettes, lower than 57% of the maximum retail price of cigarettes for the period of 5 years, i.e. until 31 December 2007,
- ❖ article 8 item 4 of Council Directive 92/81/EEC to maintain the application of reduced excise duty rates for ecological fuels for the period of 5 years, i.e. until 31 December 2007.

Moreover Poland requests:

- ❖ exclusion from application of article 17 of Sixth Council Directive of the right to tax deductions on purchased passenger cars and other vehicles with maximum permissible capacity of up to 500 kg and on services of hire, lease and other similar services relating to passenger cars and other vehicles with maximum permissible capacity of up to 500 kg,
- ❖ facility to impose excise duty on aviation fuel with subsequent refund of the duty to entities which used the fuel in aircraft engines – pursuant to article 8 paragraph 1 b of Council Directive 92/81/EEC.

Simultaneously Poland reserves for itself the right – similarly to EU countries – to apply 10,000 EURO turnover limit qualifying for taxable persons' exemptions, pursuant to article 24 item 2–6 of Sixth Council Directive.
In the pre–accession period Poland expresses readiness to co–ordinate its activities with the European Union and to provide – on mutuality basis – information about newly introduced regulations in the area of taxation and to carry out consultations related to Poland's progress at the current stage of tax system reform and in its efforts to prepare for EU membership. Poland will harmonise its legislation with the *acquis communautaire* and will fully implement it as early as possible and before the stipulated date of its accession to the EU, with certain exceptions listed above.

SPECIFIC ISSUES

The negotiation area of 'Taxation' covers six sub–areas:
❖ Value Added Tax (VAT),
❖ excise duties,
❖ administrative co–operation and mutual assistance,
❖ miscellaneous,
❖ direct taxation,
❖ state aids of fiscal nature.

1. VAT

1.1. Scope of taxation

The scope of VAT taxation is currently compliant with the provisions of article 2 of Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis for assessment (Sixth Council Directive 77/388/EEC as amended).
In Poland tax on goods and services is applied to:
❖ sale of goods and payable provision of services carried out in the domestic territory,
❖ import of goods into the territory of Poland.

1.2. Territorial application

For full alignment of the Polish legislation relating to the territorial range to the provisions of article 3 of Sixth Council Directive it is necessary to introduce exemptions from the application of VAT regulations, as defined by the article, and appropriate provisions relating to such notions as:
❖ Member State territory,
❖ Community territory,
❖ third country territory.

The relevant provisions in the area will be introduced not later than 6 months before Poland's accession to the EU.

1.3. Taxable persons

Categories of VAT payers specified in Polish legislation are in principle compliant with categories included in Sixth Council Directive.
Sometimes Polish legislation in the area uses different terminology. This, however, does not pose any discrepancies between the essential contents of those provisions and related provisions in force in EU countries.
Therefore modification of Polish legislation in the area is not necessary.
Polish legal acts determining categories of tax–payers require – before Poland's accession to the EU – modifications in the area of intra–Community clearings.

The relevant provisions in the area will be introduced not later than 6 months before Poland's accession to the EU.

1.4. Taxable transactions

Full alignment of Polish legislation with provisions of articles 5–7 of Sixth Directive requires extension of the definition of taxable transactions to assignment of intangible property (transfer of copyrights, patents, licences, rights to trademarks), as well as to the sale of land for building purposes and the transfer of title to property in exchange for compensation on demand of an appropriate body.

The above amendments will be introduced in 2001 by provisions of the new Act on tax on goods and services and excise duty.

1.5. Place of taxable transaction

The Polish VAT legislation links the chargeability of tax with the actual place of transaction subject to this tax.
Full alignment of Polish legislation with provisions of articles 8–9 of Sixth Directive requires adoption of detailed provisions relating to the place of taxable transaction and related to such activities as services connected with real estate, transport, advertising, consulting and banking services and the hiring of movable tangible property and relevant regulations relating to intangible property.

Implementation of the provisions of Sixth Directive in the area will not cause any problems in Poland.

Harmonisation of law in the area will be effected in 2001.

1.6. Tax liability and tax payability

Regulations currently in force in Poland related to definition of chargeable event and chargeability of tax are within the limits of those terms laid down in Sixth Council Directive.
Full alignment of the regulations in the area requires introduction of definitions of chargeable event and chargeability of tax in transactions between EU Member States.
The solutions will be introduced not later than 6 months before Poland's accession to the EU.

1.7. Taxable amount

Polish legislation in the area of determination of taxable amount is within the limits laid down by provisions of article 11 of Sixth Directive.
Full alignment of Polish legislation with the *acquis* in the area requires introduction of an amendment related to determination of taxable amount for import of goods and consisting in inclusion into that amount of transport and insurance expenses to the first point of destination in Poland. Currently only transport and insurance expenses to the Polish border or port are included into the taxable amount.
The above amendments were included into draft amendment to the Act on tax on goods and services and excise duty currently going through parliamentary procedure. The amendments are to enter into force in 2000.

1.8. VAT rates

The Act of 8 January 1993 on tax on goods and services and excise duty provides for three rates: standard VAT rate of 22%, a reduced rate of 7% and zero–rate (equivalent to tax exemption with the right to deduct) for exports. The amount of the rates is in compliance with EU regulations. It has to be stressed that for several years Poland has been gradually adapting the rates to the requirements of Sixth Directive.

Application of zero–rate in exports and similar transactions as well as in international transport (as equivalent to tax exemption with the right to deductions) will be discussed in the area of VAT exemptions.

Polish regulations currently in force provide for the scope of application of 0% and 7% rates that goes beyond what is permitted by provisions of Sixth Directive.

The necessary changes of rates in the following brackets: from 0% to 7%, from 0% to 22%, from 7% to 22% are illustrated by the following table:

Change bracket		Group of goods or services
from 0% to 7%	1)	basic means of production for agriculture, forestry and fisheries (excluding machinery and farming tractors), including: fertilisers, chemical components of feed mixtures, pesticides, veterinary preparations, lime for fertilisers, lime fertilisers, fishing nets, bran, ground grain, industrial feeding stuff,
	2)	sale of housing in multi–family buildings provided as part of a social policy (in the remaining scope – 22%).
from 0% to 22%	1)	sale of new housing,
	2)	machinery for agriculture, gardening or forestry including spare parts,
	3)	tractors and tractor trailers for farming including spare parts,
	4)	platinum and gold for state reserves and services relating to the refining of precious metals for those reserves,
	5)	fire–fighting equipment for fire fighters,
	6)	services of storage of reserves for defence–related purposes,
	7)	services of printing books, newspapers and periodicals.
from 7% to 22%	1)	goods for children, including clothing, footwear, school accessories, toys and some kinds of sport equipment, cosmetics for infants, baby carriages, furniture for children,

2) basic building materials, works related to infrastructure accompanying construction of housing, construction and renovation of housing, construction and renovation of facilities for science, education, culture and art., sacral buildings, facilities for health–care, physical education, temporary housing etc.,
3) some products related to health–care (e.g. eye–glasses, lenses for eye–glasses, syringes, blood pressure measuring devices, x–ray films, dressing products,
4) repair services for farming equipment,
5) musical instruments,
6) restaurant services,
7) other minor services (press advertisements of natural persons, geodetic, cartographic services, services related to mountain rescue, tyre recapping, patent agents and some legal services, drilling services, services related to construction and maintenance of roads and bridges, other specialist services for construction).

Regardless of the above, in the area of health care products some medical and sanitary products, except for the rehabilitation equipment, should be covered by 22% VAT rate, whereas rehabilitation equipment and equipment for the sole use by disabled persons including repair services should be covered by 7% VAT rate.

Before its accession to the EU Poland will accept and fully implement regulations relating to permissible application of reduced VAT rates with one exception.
Poland requests a transition period of five years following its accession to the EU for the application of reduced VAT rate for restaurant services.
The income level of the Polish society is referential for the pricing level on restaurant services. Experience and analyses point to the fact that application of 7% rate for food and introduction of 22% VAT rate as regards restaurant services will have an extremely adverse effect on the scope, quality and profitability of those services.

Poland also requests a transition period of five years following its accession to the EU for the application of zero–rate VAT for certain book categories and specialist periodicals.

Introduction of a higher VAT rate on all book categories and specialist periodicals could result in their price increase. The income level of the Polish society is still much below EU standards, thus creating barriers in access to e.g. education.

In the areas where Poland currently applies the rates of 0% or 7% against what is permissible in the legal provisions of the EU Council, removal of the discrepancies will be effected gradually in the years 2000–2002.
In the gradual process of reaching the target tax rates, for some periods parking rates of e.g. 3%, 12%, 17% will be applied.

Moreover it needs to be stressed that the supply of medicine is currently taxed at 4%, but on 1 January 2000 the rate will be increased to 7% (in accordance with regulations already in force).

1.9. Exemptions

Polish legislation relating to exemptions from the tax on goods and services is currently largely coherent with the *acquis communautaire*.
Groups of goods and services for which 7% and 22% VAT rates should be introduced in place of the current tax exemption are listed below:

Change bracket	Groups of goods or services
Exemptions which should be taxed at 7%	
	1) farming products – unprocessed or low–processed (excluding those at used in industry) including: raw meat, eggs, poultry, fish, milk, products of field cultivation and gardening, other products of breeding, forestry and hunting, 2) services of undertakers and cremation services together with the supply of goods related thereto, 3) works of art, object with museum value, 4) services of libraries.
Exemptions which should be taxed at 22%	
	1) unprocessed and low–processed farming products (including plant materials used in brush–making, dyeing and tanning industry, unprocessed leather, sew–mill scraps, unbleached linen), 2) some farming services related to purchase and storage of farming products, 3) products of folk handicrafts and art, 4) services of consulting for agriculture, some legal and notary services, 5) preventive meals and meals supplied through plant–based canteens and buffets, as well as in milk bars.

Regardless of the above, 7% or 22% VAT rate should be introduced for certain groups of goods and services depending on their character.

They include the following goods and services:

- services relating to culture, art and sport, including:
  - admission to shows, concerts, performances, sport events, reception of radio and televisions broadcast services, use of sporting facilities and premises – 7%,
  - other services (e.g.: services related to artistic and literary creation, services provided by writers and composers, services related to promotion of sport events, services provided by individual sportsmen and referees on own account) – 22%,
- some municipal services, including:
  - water supplies – 7%,
  - urban transport services – 7%,
  - services related to street cleaning and refuse collection – 7%,
  - other services relating to maintenance of urban squares and streets – 22%,
  - laundering services – 22%,
- benefits for employees from special funds:
  - holidays accommodation and children camps: accommodation – 7%, catering – 22%,
  - other occasional benefits, depending on the kind of supplied goods – 7% or 22%,
- donation of fixed assets for the benefit of public schools, local government units, healthcare facilities, educational facilities – exemption, 7% or 22% depending on the kind of donated goods and on the donator,
- remuneration earned by the self–employed pursuant to commission contracts and other similar contracts – 22% VAT rate, 7% or exemption, depending on the subject of the contract and turnover volume,

- sale and donation of second–hand goods by taxable persons not carrying out business activities and thus fully exempted from VAT – 7% or 22% depending on the kind of goods,
- fees and other similar remuneration pursuant to agency contracts and commission contracts relating to the provision of services exempted from VAT – 7% or 22% depending on the kind of goods or services concerned.

Before its accession to the EU Poland will accept and implement in full all regulations related to exemptions laid down in Sixth Council Directive.

Tax regulations compliant with Sixth Council Directive will be introduced gradually in the years 2000–2002.
Parking VAT rates, e.g. 3%, 12%, 17% will be applied temporarily in the process of gradual achievement of target tax rates.

In Poland 0% VAT rate, equivalent to tax exemption with the right to deduct as laid down in provisions of Sixth Council Directive, is applied to export of goods and provision of services in the area of international transport. In the area of international transport services, the scope of application of this rate is broader than permitted by provisions of Sixth Council Directive. Zero–rate taxation includes transport services related to import of goods as commissioned by a foreign person.
However, in the area of export of goods the application scope of zero–rate taxation is narrower in Poland than that of exemptions with the right to deduct as provided in Sixth Council Directive. This refers to supply of goods to be placed in a duty–free zone or duty–free warehouse.
Elimination of those discrepancies will be non–problematic. The relevant modifications will be introduced in 2001 by provisions of the new Act on tax on goods and services and on excise duty.

1.10. Deductions

The general principles of the right of deduction of input VAT provided in the Polish legislation are coherent with provisions of Sixth Directive.
Taxable persons are allowed to decrease the amount of tax due by the amount of input VAT related to taxable sale.
However, in specified cases taxable persons do not have the right to deduct. This includes purchase of passenger cars and other vehicles with maximum capacity of up to 500 kg, as well as use of such vehicles under hire, lease or other similar contract.

Poland accepts in full and will implement before its accession to the EU provisions of Sixth Council Directive relating to deductions with the exception of the right do deduct input VAT for purchased passenger cars and other vehicles with maximum capacity of up to 500 kg as well as services of hire, lease and other similar services related to passenger cars and other vehicles with maximum capacity of up to 500 kg. In this part Poland requests the possibility of exclusion of the right for deductions of input VAT on the purchased passenger cars and other vehicles with maximum capacity of up to 500 kg (with the exception of cases when resale of those vehicles is the subject of taxable person's business operations), as well as abrogation of the right for deductions of input VAT on the services of hire, lease and other similar services relating to those vehicles. Passenger cars and other vehicles with maximum capacity of up to 500 kg are commonly used by taxable persons for private purposes. Simultaneously there are no mechanisms in place enabling identification of the extent to which those vehicles are used for private purposes. Introduction of the facility to deduct input VAT on those vehicles would significantly increase the scale of such practices. Therefore Poland requests a derogation consisting in abrogation of the right to deductions in the above–described scope.

1.11. Persons liable to pay taxes

Categories of persons and subjects liable to pay the tax on goods and services in Poland are identical with categories of persons and subjects indicated in provisions of Sixth Directive.
Full alignment of regulations in the area requires introduction of the definition of a person liable to pay tax in internal transactions between the Member States.
The above modifications will be introduced not later than 6 months before Poland's accession to the EU.

1.12. Obligations of persons liable to pay taxes

The general principles of obligations laid upon payers of tax on goods and services in Poland are coherent with provisions of article 22 of Sixth Directive. Full alignment of Polish legislation with provisions of Sixth Directive will consist in introduction into Polish legislation of legal regulations defining obligations of tax–payers in transactions between EU Member States and terms for meeting those obligations. This refers to introduction of regulations related to drawing up collective declarations for transactions concluded within the Union, submission of the tax return form including all transactions carried out in the previous year, drawing up collective lists of purchasers identified for the purposes of tax on goods and services to whom goods were supplied under specified conditions.
Those solutions will be introduced not later than 6 months before Poland's accession to the EU.

1.13. VAT refunds

Polish legislation does not provide solutions parallel to those included in Eighth Council Directive 79/1072/EEC of 6 December 1979 and Thirteenth Council Directive 86/560/EEC of 17 November 1986.
Alignment of Polish regulations requires introduction of VAT refund to taxable persons not established within the country.
The relevant regulations will be introduced in 2001.

1.14. Special schemes

1.14.1. Special schemes for small and medium sized undertakings

Poland applies a special scheme of exemption from VAT for taxable persons where the annual turnover does not exceed 18,700 EURO (80,000 PLN). This exemption threshold is higher from the one permitted by article 24 of Sixth Directive and set at 5,000 EURO. Lowering the turnover threshold which qualifies taxable persons for VAT exemption down to the level permitted by directive would result in administrative costs of taxation of such entities much exceeding the income from taxes.
Giving due consideration to Polish situation and costs related to tax–related services for entities with such small turnovers, Poland reserves for itself the right – similarly to other EU Member States – to apply the exemption threshold of 10,000 EURO. Under Polish

conditions such threshold is an absolute minimum for economic viability of clearing the taxable persons with small turnovers through the system of Value Added Tax.
This threshold also makes allowance for regulations relating to determination of VAT–related payments into European Union budget.

Moreover Polish legislation grants exemptions, irrespectively of the annual turnover, for taxable persons:

- ❖ paying income tax in the form of the so–called income card,
- ❖ being an establishment with the protected labour status, i.e. economic entities meeting certain threshold for the number of employed disabled persons and being facilities of their occupational activity.

The above exemptions are not permitted by provisions of Sixth Directive.
As regards exemptions applied to the protected labour establishments, removal of the existing divergence was included in the draft amendment to the Act on tax on goods and services and excise duty, currently going through parliamentary procedures. It is expected that the changes will be effected in 2000.
Elimination of VAT exemption for taxable persons paying income tax in the form of the so–called income card will be effected until the end of 2002.

Poland does not apply flat–rate schemes for small and medium sized undertakings, application of which is optional according to provisions of Sixth Directive.

1.14.2. Flat–rate scheme for farmers

Polish legislation in the area of VAT does not provide for any special taxation scheme for farmers, as defined in article 25 of Sixth Directive.

Currently farmers are exempted from VAT taxation in the following scope:

- ❖ field and meadow crop products, horticultural products, animals for slaughter, fish, forestry products are exempted from VAT due to objective exemptions farmers are not allowed do deduct input VAT included in the prices of goods and services purchased for the purposes of farming activity (e.g. gas, electricity, coal, building materials, heating and fuel oils) or eligible for refund of tax difference,
- ❖ basic agricultural inputs (mainly machinery, equipment and tools for farming, farm tractor together with assemblies and parts, fertilisers, nutritive fodder, pesticides) are zero–rated,
- ❖ farmers are not covered by the obligation of registration for VAT purposes, they are not obliged to keep tax records or submit tax return forms.

Currently Polish legislation is not fully aligned with the provisions of Sixth Directive in the area of VAT taxation for agriculture, turnover of farming products and means of agricultural production.

Full alignment with provisions of Sixth Directive requires:

- ❖ introduction of 7% VAT rate on unprocessed agricultural products in place of the exemption,
- ❖ increase of taxation on agricultural means of production from:
  - ➜ 0% to 7% on fertilisers, industrial feed, crop protection chemicals etc.,
  - ➜ 0% to 22% on agricultural machines and tractors,
- ❖ increase of VAT rate on repair services related to farm machines and tractors from 7% to 22%,

- removal of exemptions on agricultural services,
- introduction of solutions provided in article 25 of Sixth Directive into Polish agriculture.

Poland intends to introduce a flat–rate system for all farmers based on the rules laid down in article 25 of Sixth Directive.
In order to limit the adverse results on pricing and to prepare farmers to the new system, implementation of VAT taxation in agriculture will have been effected gradually by the end of 2002.

1.14.3. Special schemes for travel agents

Full alignment with the provisions of article 26 of Sixth Directive requires introduction of modifications in the area of the taxable amount for taxable persons operating as travel agents in their own name, and namely basing taxable amount solely on the profit margin, i.e. difference between the amount due to be paid by a tourist for a travel service (exclusive of VAT), and the price paid by the travel agent for goods and services supplied by other taxable persons for the direct benefit of the purchaser of the travel service decreased by VAT amount.
The above change will be effected in 2001.

1.15. Simplification measures

Polish legislation contains specific regulations to combat tax evasion and tax avoidance and to secure simplification of tax–collecting procedures, such as subjection of tax deduction to the condition of making the payment for goods or services, receipt of the goods and correct labelling of sales documents.
Poland recognises the necessity to align those procedures with the requirements of article 27 of Sixth Directive also after its accession to the EU.

1.16. Transitional arrangements

Poland is of the opinion that upon Poland's accession, the EU should enact a directive twin to Council Directive 94/76/EC of 22 December 1994 amending Council Directive 77/388/EEC by the introduction of transitional measures applicable, in the context of the enlargement of the European Union on 1 January 1995, as regards value added tax.
This directive regulates the rules for treatment of goods introduced into the territory of the Community or one of its new Member States before accession date and of goods which were earlier covered by transit procedures or were covered by the procedure for temporary admission to sale as well as of goods in relation to which it was proven that they were traded freely in the territory of one of new Member States or of the Community.

1.17. Transitional arrangements relating to taxation of trade between Member States

Until accession to the EU, Poland remains a third country towards EU Member States. Currently Polish legislation does not provide separate regulations of the issue of taxation of goods and services supply between taxable persons from different Member States in the territory of those countries. Sale of goods and provision of services carried out in the territory of Poland, both by taxable persons from Member States and from third countries, is covered by the same taxation rules.

Full alignment with provisions of Sixth Directive in the area will require the following modifications:

❖ introduction of new tax return forms for taxable persons supplying goods and services to other Member States,
❖ introduction of new rules for calculation and collection of taxes on goods imported into Poland from another Member State or sale of goods to another Member State.

Introduction of those solutions will not be possible before Poland's accession to the EU and depends on abolition of customs borders. The above solutions will be introduced into Polish legislation not later than 6 months before Poland's accession to the EU.

1.18. Transitional arrangements applicable to second–hand goods, works of art, collectors' items and antiques

At present Polish legislation does not provide for any special arrangements applicable to second–hand goods, works of art, collectors' items and antiques.

Full alignment with the provisions of article 26a of Sixth Directive requires introduction of special arrangements applicable to second–hand goods, works of art, collectors' items and antiques and in particular:

❖ defining the following terms:
  ➔ work of art,
  ➔ collectors' items,
  ➔ antiques,
  ➔ second–hand goods,
❖ introduction of reduced VAT rates for imports of works of art, collectors' items and antiques and for some cases of the sale of works of art,
❖ introduction of special regulations consisting in basing the taxation on the profit margin for taxable persons operating in the area of resale of second–hand goods, works of art, collectors' items or antiques.

Introduction of solutions coherent with provisions of article 26a of Sixth Council Directive will be effected in 2001, *via* regulations of the new Act on tax on goods and services and excise duty.

2. EXCISE DUTY

2.1. Alcoholic beverages

In Poland excise duty rates on alcoholic beverages exceed the Community minimum level as provided for in Directive of 19 October 1992 on the approximation of the rates of excise duty on alcohol and alcoholic beverages (Council Directive 92/84/EEC) as illustrated by the table below:

Item	Kind of beverage	Minimum rates in EURO	Excise duty rates in Poland	
			in PLN	in EURO
1	Beer	0.748 EURO/hl °Plato	5.45 PLN/hl/ % per weight	1.28 EURO/hl/ % per weight
2	Wine	0 EURO/hl	220 PLN/hl 110 PLN/hl	51.52 EURO/hl 25.76 EURO/hl

3	Fermented beverages	0 EURO/hl	from 66 PLN/hl to 220 PLN/hl	from 15.46 EURO/hl to 51.52 EURO/hl
4	Intermediate products	45 EURO/hl	from 66 PLN/hl to 220 PLN/hl 5677 PLN/hl 100% of spirit	from 15.46 EURO/hl to 51.52 EURO/hl 1329.51 EURO/hl 100% of spirit
5	Ethyl alcohol	550 EURO/hl 100% of spirit	5677 PLN/hl 100% of spirit	1329.51 EURO/hl 100% of spirit

2.1.1. Beer – rate structure and level

Excise duty rate on beer (CN 2203) in Poland is at 5.45 PLN/hl for every percentage of extract by weight i.e. 1.28 EURO/hl/% by weight (1 EURO = 4.27 PLN). This amount exceeds the Community minimum rate as provided for by Directive 92/84/EEC and set at 0.748 EURO/hl/°Plato.
In Poland beverages with alcohol strength over 0.5% being a mixture of beer and non–alcoholic beverages are not treated as beer and are included into CN 2206 code.
Alcoholic beverages of alcohol strength above 1.5% are taxed at 220 PLN/hl, i.e. 51.52 EURO. However, beverages with alcohol strength between 0.5% and 1.5% are exempt from duty.
Alcohol–free beer (i.e. one with less than 1.2% alcohol contents) is exempt from duty.
Alignment of the Polish legislation currently in force with provisions of the mentioned directives requires effecting of the following changes:
- ❖ introduction the Plato scale,
- ❖ determination of taxable amount and excise duty rate for beverages being a mixture of beer and alcohol–free beverages.

Alignment of Polish legislation will not cause any problems. The relevant modifications will be introduced in 2002 at the latest.

2.1.2. Wine – rate structure and level

Excise duty rate for wine (CN 2204, 2205) is determined on the basis of the amount of hl and it amounts 110 PLN/hl i.e. 25.76 EURO/hl. Excise duty rate is uniform irrespective of kind and origin of wine.
The rate level and the taxable amount for excise duty on wine in Poland are convergent with requirements defined in Council Directives 92/83/EEC, 92/84/EEC and do not require modifications.

2.1.3. Fermented beverages, other than wine and beer – rate structure and level

Excise duty rates for fermented beverages other than wine and beer (CN 2206) in Poland are determined per amount of hl and are as follows:
- ❖ fermented beverages from fruit and fruit juices – 89 PLN/hl (i.e. 20.84 EURO/hl),
- ❖ honey liquor – 66 PLN/hl (i.e. 15.46 EURO/hl),
- ❖ other fermented beverages – 220 PLN/hl (i.e. 51.52 EURO/hl).

Rates and taxable amounts are coherent with relevant directives. However, the directives provide for a single rate for all non–sparkling beverages in this group. Full harmonisation of Polish legislation requires introduction of uniform excise duty rate on all fermented beverages. The introduction of a single rate for all fermented beverages should not entail major problems and will be introduced not later than in 2002.

2.1.4. Intermediate products – structure and level of excise duty rates

Excise duty rates for alcoholic beverages with alcohol strength between 1.2% and 22% (with the exception of beer, wine and fermented beverages) are as follows:

- all beverages with alcohol strength between 1.2% and 1.5% – exempted from excise duty,
- fermented beverages from fruit and fruit juices with addition of ethyl alcohol with alcohol strength not more than 18% – 89 PLN/hl, i.e. 20.84 EURO/hl,
- honey liquor with addition of ethyl alcohol with alcohol strength not more than 18% – 66 PLN/hl, i.e. 15.46 EURO/hl,
- beverages other than those mentioned in items 2 and 3 with alcohol strength between 1.5% and 18% – 220 PLN/hl, i.e. 51.52 EURO/hl,
- intermediate products with alcohol strength between 18% and 22% – 5677 PLN/hl of 100% of spirit.

Harmonisation of Polish tax regulations with the *acquis* requires:

- taxation of intermediate products with alcohol strength between 1.2% and 1.5%,
- introduction of taxation based on the amount of hl for intermediate products with alcohol strength between 18% and 22%,
- introduction of single excise duty rate for all intermediate products.

Full alignment of the Polish legislation in this area will be effected in 2002 at the latest.

2.1.5. Ethyl alcohol – rate structure and level

All spirit products with alcohol strength over 1.5% are taxed on the basis of the amount of hl of 100% spirit; the rate is set at 5677 PLN/hl of 100% spirit, which is equivalent to 1329.51 EURO/hl of 100% spirit. Hence the excise duty rate applied in Poland is much higher than the minimum rate (550 EURO/hl of 100% spirit).
Full harmonisation of Polish legislation with requirements set out in relevant directives requires solely taxation of spirit products with alcohol strength between 1.2% and 1.5%. The alignment will be effected in 2002 at the latest.

2.1.6. Exemptions from excise duties

In Poland exemptions from excise duties are applied to alcohol used for production of:

- vinegar and medicines,
- samples for analyses,
- articles for medical purposes in hospitals and pharmacies.

Denatured alcohol, alcohol used for the production of concentrates and flavours for food production and alcohol used in the manufacturing of articles not for consumption are partly exempt from excise duty.
On the other hand, alcohol used in the manufacturing of food products, scientific research and in the manufacturing of the components which are not covered by excise duty is not exempt from excise duty.

Full alignment of Polish legislation with provisions set out in Council Directives 92/83/EEC and 92/84/EEC requires introduction of exemption from excise duties on the following types of spirit:

- denatured,
- used for production of concentrates and flavours for food production with alcohol strength lower than 1.2% and for production of food products (if conditions defined in article 27 item 1 f of Council Directive 92/83/EEC are met),

- used for the production of goods not including alcohol or components not covered by the excise duty,
- used for scientific purposes.

The relevant exemptions will be introduced in 2002 at the latest.

2.2. Tobacco products

2.2.1. Taxation scope

The following tobacco products are subject to excise duty in Poland include:
- cigarettes,
- cigars and cigarillos,
- smoking tobacco (fine cut tobacco for hand–made cigarettes and smoking tobacco sold in other forms).

The taxation scope for excise duty on tobacco products in Poland is coherent with taxation scope for excise duty on tobacco products as set out in article 2 of Council Directive 95/59/EC. Polish tax regulations do not include definitions of tobacco products, as provided in articles 3–7 of Council Directive 95/59/EC.
Definitions of those products are included in regulations defining commonly used technical standards.
As regards excise duty taxation on tobacco products, full alignment with Council Directive 95/59/EC requires introduction into Polish tax regulations of definitions for tobacco products, as worded in the relevant directive.
Introduction of definitions of tobacco products into Polish tax regulations will be effected by the end of 2002 at the latest.

2.2.2. Structure and level of excise duty rates on cigarettes

In Poland excise duty covers 4 groups of cigarettes, for which specific rates are used, expressed as a fixed amount per 1000 pieces. Ad valorem rate expressed as a fixed percentage of retail selling price is not applied in Poland.
Specific rates of excise duty on cigarettes are as follows:

		PLN/1000 pieces	EURO /1000 pieces
❖ for foreign brand cigarettes produced in Poland and imported cigarettes	–	97.40	22.81
❖ for domestic cigarettes of length exceeding 70 mm with filter	–	83.40	19.53
❖ for domestic cigarettes of length not more than 70 mm with filter	–	65.60	15.36
❖ for domestic filterless cigarettes	–	63.70	14.92

The rates were converted at the exchange rate of EURO = 4.27 PLN.

Polish system of excise duty on cigarettes, based on specific rates only is not coherent with Council Directives: 92/79/EEC and 95/59/EC.

Full alignment of the Polish tax system with regulations provided for in the mentioned above directives requires the following changes in the area of structure and level of excise duty rates:

- introduction of a mixed (specific/*ad valorem*) excise duty rate for all cigarettes,
- adjustment of the minimum incidence of mixed excise duty (specific/*ad valorem*) to the level of 57% of the retail–selling price of cigarettes of the price category most in demand.

Introduction of a mixed excise duty rate (specific/*ad valorem*) is to be effected in 2000. However, Poland is unable to reach swiftly the minimum incidence of excise duty (specific/*ad valorem*) at the level of 57% of the retail–selling price of cigarettes of the price category most in demand.
In Poland the incidence of excise duty for the retail–selling price of cigarettes of the price category most in demand i.e. *Klubowe* is at the level of 41%.
Those cigarettes enjoy over 50% share in retail sales.

The difference between the current and target level is 16%. Meeting the requirement of reaching 57% level of excise duty incidence within the short period of harmonisation i.e. by 2002 would lead to several inter–related market occurrences which can come down in streams, although their intensity can flatter and namely:

- steep increase of excise duty and as a result a very high increase of retail price for all cigarettes brands. In relation to the cigarettes of the price category most in demand i.e. *Klubowe* cigarettes – the excise duty will increase by 188.7% and will result in retail price increase of 106.9%. Price rises for cheaper cigarettes will be much higher;
- decrease of legal cigarettes sale i.e. of cigarettes with the excise duty bonds. Such a high price increase can result in decreased sales in 2002 by over 33% against 1998. This ensues from significant price–sensitivity. That, however, will signify satisfaction of demand from other, illegal sources rather than decreased cigarette consumption;
- development of organised cigarettes smuggling on a mass scale;
- drop in profitability of the tobacco industry and related industries – due to the sharp decrease in demand for domestically manufactured cigarettes, the producers will be forced to limit the output and thus hamper their business operations and reduce employment. As a result the price of the change will be paid by persons employed in manufacturing, trade and services, who will join the group of the unemployed or move to the so–called 'grey zone'. This will also constitute a serious threat to about 60 thousand families making their living on domestic tobacco cultivation;
- inflation level increase due to the rapid growth of cigarette prices;
- decrease of budget income resulting from the significant decrease in the sales of cigarettes.

Considering the above threats, alignment of Polish legislation with excise duty levels in force in the EU should be effected gradually.
Poland is of the opinion that it requires a 5–year transitional period to reach the minimum incidence of excise duty at the level of 57%. Such adjustment period is desired from the point of view of market stability, state budget income, industry and commerce.

2.2.3. Structure and level of the excise duty rates on tobacco products other than cigarettes

In Poland tobacco products other than cigarettes are subject to both specific and *ad valorem* excise duty rates are applied to.
The taxation of cigars and cigarillos is based on a specific duty rate. It is expressed as a fixed and equals 97.40 PLN/1000 pieces i.e. 22.81 EURO/1000 pieces.
Smoking tobacco is subject to an *ad valorem* excise duty.

For smoking tobacco manufactured domestically the duty is at the level of 60% whereas for imported smoking tobacco in net packaging not exceeding 500 g the duty is at the level of 150%.
As regards *ad valorem* duties, rates for domestically manufactured smoking tobacco are based on turnover i.e. manufacturer's selling price inclusive of excise duty decreased by due VAT and for imported smoking tobacco – on customs value increased by due customs duty.
Full alignment with Council Directive 92/80/EEC requires the unification of the taxable amount in case of *ad valorem* duties. Poland will introduce a uniform system for excise duty so that the taxable amount is based on price less VAT and excise duty. That will enable reaching consistence of rates for domestic and imported goods. The modification will be introduced not later than in 2002.

2.2.4. Exemptions or refunds of excise duty for tobacco products
Exemptions or refunds of excise duties for tobacco products as defined in article 11 of Council Directive 95/59/EC are not applied in Poland. Those exemptions and refunds are of optional and not obligatory character. Therefore Poland will consider the possibility of introduction into its tax regulations of excise duty exemptions or refunds for tobacco products as worded in the above directive.

2.3. Mineral oils

2.3.1. Scope of taxation
In Poland excise duty is applied to the following mineral oils labelled by code CN 2710:
- petrol engine fuels,
- aviation fuels,
- fuel oils,
- heating oils,
- propane–butane gas used in car engines and to fill in tourist gas cylinders not exceeding 5 kg in weight.

Other mineral oils listed in Council Directives 92/81/EEC, 92/82/EEC and 94/74/EC are not subject to excise to excise duty.
Full alignment with the mentioned above directives requires introduction of excise duty on other products which can be used as engine fuels or heating oils.
Relevant modifications will be introduced not later than in 2002.

2.3.2. Structure and level of excise duty rates on fuels
The following excise duty rates are applied in Poland (as of 1 September 1999):
- leaded petrol – 1219 PLN/1000 l, i.e. about 286 EURO,
- unleaded petrol – 1127 PLN/1000 l, i.e. about 264 EURO,
- fuel oil (regardless of purpose) – 806 PLN/1000 l, i.e. about 189 EURO,
- heating oil – 100 PLN/ 1000l, i.e. 23 EURO.

The rates were converted at the exchange rate of EURO = 4.27 PLN.

Excise duty in the same amount as for fuel oils is applied to heating oils if un–dyed and used for other purposes than heating.
Excise duty is applied to propane–butane gas used in car engines and to fill in tourist gas cylinders (not exceeding 5 kg in weight in the amount of 100 PLN/1000 l, i.e. about 200 PLN/1000 kg i.e. about 47 EURO/1000 kg.

Reduced excise duty rates are applied in Poland to some kinds of fuels:

- ❖ leaded petrol manufactured with the use of anhydrous spirit from 4.5% to 5% – in the amount of 120 PLN on every tonne of the fuel, i.e. about 28 EURO,
- ❖ diesel fuels with low sulphur content (not more than 0,05%) – in the amount of 45 PLN/1000 l, i.e. 11 EURO,
- ❖ fuel oils with contents of components from recycled lubricating oils – in the amount of 513 PLN/1000 l, i.e. 120 EURO.

Alignment with provisions of Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils will require an increase of excise duty rates for:

- ❖ unleaded petrol – by 23 EURO/1000 l, i.e. by 10 gr. /l,
- ❖ leaded petrol – by 51 EURO/1000 l, i.e. by 22 gr. /l,
- ❖ fuel oil – by 56 EURO/1000 l, i.e. by 24 gr. /l,
- ❖ propane–butane gas – by 53 EURO/1000 kg, i.e. by 23 gr. /kg.

Moreover it is necessary to change the taxable amount basis for propane–butane gas from 1000 litres to 1000 kg.
The relevant modifications will be effected gradually by the end of 2002 at the latest.

However, due to socio–economic factors Poland is unable to repeal the currently applied reduced excise duty by 2002. Those reduced rates are of pro–environmental character and apply to fuels which are more environment–friendly due to their reduced emission of harmful substances into the atmosphere.
Waste materials e.g. waste lubricating oils are used in the manufacturing of those fuels. Every year in Poland, 100 thousand tonnes of waste lubricating oils are collected and recycled to render 35 thousand tonnes of full value fuel components. Unification of excise duty rates would result in a complete desistance from collecting waste oil, which would thus cease to be recycled and start contaminating the environment.
Similarly negative result will cause abolition of reduced rates on petrol with a share of anhydrous spirit. Currently in Poland almost 110 million litres of anhydrous spirit, which constitutes about 46% of the total production of raw spirit, is used in the manufacturing of fuels. A particularly important aspect is the fact that spirit for fuel–related purposes is manufactured from farm raw materials, which cannot be used for food production. Abolition of reduced rates for petrol with share of spirit would result in winding up of almost half of the existing distilleries and thus in a largely increased unemployment.
With the above in mind, Poland considers maintenance of reduced excise duty rates on ecological fuels to be necessary for the period of 5 years i.e. until 31 December 2007.

2.3.3. Exemptions from excise duty

In Poland mineral oils used for marine engines and fishing boats are exempted from excise duty.
There is no direct exemption for aviation fuels but taxable persons using aviation fuel in engines applied in means of air transport receive excise duty refund.
The excise duty refund scheme is actually equivalent to excise duty exemption for aviation fuels.
Such provisions precludes tax evasion consisting in sales of aviation fuels for the use in car engines.
Poland requests the possibility of application of excise duty for aviation fuel with later refund of the duty to entities which used the fuel in aircraft engines. This will prevent tax evasion.

2.3.4. Labelling and tinting of engine fuels

In Poland it is obligatory do tint heating oils red, of which 60% or more per volume distil at 350°C, in case of sales of oils for heating purposes.
There are no regulations in Poland relating to labelling of any other mineral oils.
On 1 October 1999 fiscal markings were introduced in the form of chemical admixtures added to heating oils for heating purposes.
Poland accepts and will implement in full Council Directive 95/60/EC, in case those provisions become obligatory.

2.4. Holding and movement of excisable goods

2.4.1. Movement of excisable goods on which the duty was paid

In accordance with the excise duty regulations currently in force, the excise duty liability is incumbent on manufacturer and importer of excisable goods. The liability arises when the taxable person releases excisable goods. In case of imports the excise duty liability ceases when the customs debt arises.

Moreover excise duty liability arises in case of excessive loses or intentional shortages. An important provision in the area of excise duty is the obligation to put excise duty fiscal markings (the obligation covers cigarettes and alcoholic beverages except beer).

Full alignment of Polish legislation with provisions of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, requires introduction of the following amendments:

- legislative
  - development of regulations allowing for free movement of excisable goods supplied for consumption with duty paid in a Member State, if they are destined for commercial purposes in another Member State, and the excise duty is collected again in accordance with regulations of the destination country;
  - development of rules for excise duty refund,
- administrative document for the movement under duty–suspension arrangements of products subject to excise duty, in compliance with Commission Regulation 92/3649/EEC of 17 December 1992 on the accompanying administrative document for the movement under duty–suspension arrangements of products subject to excise duty, supplied for consumption in a Member State, shipping determination of conditions and rules for excise duty refund if the duty was paid in the first country,
- creation of control system (including computerised control) enabling the tax administration bodies to determine that products subject to excise duty were received by the customer and the duty was paid; such control system constitutes the basis for the proper functioning of excise duty refund system.

Poland will effect full alignment with provisions of the directive not later than 6 months before its accession to the EU.

2.4.2. Manufacturing, processing and warehousing of products subject to excise duty under duty–suspension arrangements

At present Poland does not operate tax warehouses system where goods are subject to excise duty.

Full alignment of Polish legislation with the provisions of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, requires introduction of the following amendments:

- legislative
  - development of regulations on procedures enabling suspension of the excise duty, setting out rules for granting permits and general operating conditions of excise duty warehouses and other entities carrying out business activities authorised to receive goods with suspended excise duty, rules and conditions for manufacturing, processing and holding products subject to excise duty in those warehouses,
  - designation of tax administration bodies authorised to grant permits for holding activities or receipt of products subject to excise duty under duty–suspension arrangement,
  - development of the rules and operating conditions for the system of guarantees securing production, processing and holding of good and securing haulage of goods on which excise duty was not paid;
- in tax administration – consisting in designation of the relevant taxation body for collection of excise duty;
- development of the computerised system for registration of economic entities managing tax warehouses – in compliance with SEED system in force in the EU;
- establishment of tax and customs control system (computerised information exchange) for the movement of products subject to excise tax under tax warehouse arrangements;
- introduction of new model forms for excise tax return;
- introduction of registers drawn up by excise duty payers for movement of goods.

Poland foresees introduction of tax warehouses system not later than 6 months before its accession to the EU.

2.4.3. Movement of products subject to excise tax under duty–suspension arrangements

Poland has a system of customs warehouse for the holding of imported products subject to excise duty with the exception of products labelled with excise bands.
Works have been already undertaken to introduce regulations enabling suspension of excise duty collection.
Full harmonisation of Polish legislation with provisions of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products requires introduction of the following changes:

- legislative
  - development of regulations determining procedures allowing duty suspension, including customs procedures,
  - definition of the rules and cases of the movement of products subject to excise duty under duty–suspension arrangements,
  - definition of rules for guarantees for the transport of products under duty–suspension arrangements;
- definition of rules for the movement of products under duty–suspension arrangements through the introduction of the uniform accompanying administrative document for the movement of products under duty–suspension arrangements AAD – in compliance with Commission Regulation 2719/92/EEC of 11 September 1992 on the

accompanying administrative document for the movement under duty–suspension arrangements of products subject to excise duty and definition of procedures accompanying the movement of products subject to excise duty under duty–suspension arrangements;

- ❖ introduction of the subject as a tax representative and definition of conditions and rules of its operations;
- ❖ application of computerised procedures and information exchange concerning movement of goods between warehouses within the country and between countries.

Poland will introduce the tax warehouses system not later than 6 months before its accession to the EU.

2.4.4. Excise duty refunds

Refunds as provided in article 22 of Council Directive 92/12/EEC are not applied in Poland. Full alignment with the provisions of Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, requires introduction of the following modifications:

- ❖ legislative – consisting in the development of regulations relating to refund of excise duty paid in one Member State and collected again in another Member State,
- ❖ modification of rules and principles for the purchase of excise duty labelling bands, as well as provision of the facility to return the bands if not used or if damaged.

Poland will introduce the refund system not later than 6 months before its accession to the EU.

2.4.5. Excise duty exemptions

The excise duty is refunded in Poland to diplomatic missions, consular offices and their personnel and to other persons granted an equal status under legal acts, international agreements or customs, if they are not Polish nationals and do not have permanent residence on the territory of Poland.
The refund scheme is carried out under the principle of mutuality.
Exemptions are applied to international organisations, pursuant to international conventions establishing such organisations.

Full alignment with Council Directive 92/12/EEC requires enactment of regulations concerning excise duty exemptions for NATO forces and accompanying civil staff or for supply of messes or canteens of those forces, in compliance with this directive.
Full harmonisation will be achieved by 2000.

3. ADMINISTRATIVE CO–OPERATION AND MUTUAL ASSISTANCE

3.1. Mutual assistance between the Member States

As regards Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and Council Directive 79/1070/EEC extending the mutual assistance to indirect taxation, it needs to be pointed out that information exchange in the scope of direct taxation is already secured on the basis of bilateral agreements on the avoidance of double taxation. The extension of the exchange to indirect taxation will require slight modifications in the current regulations.

Amendments to the relevant legislation will be effected not later than 6 months before Poland's accession to the EU.

3.2. VIES

The implementation of the provisions of Council Regulation 92/218/EEC requires legislative changes concerning the availability and exchange of information concerning indirect taxation.

Poland accepts and will implement in full Council Regulation 92/218/EEC. Currently we have VAT taxable persons who are registered and have a unique identification number – as required by the regulation. According to Polish legislation we are able to confirm the fact of granting VAT identification number and relate it to basic registration data, i.e. the name of the taxable person, address, according to the article 4 item 2 of Council Regulation 92/218/EEC. All data available to tax administration are subject to the protection as information covered by fiscal secret scheme, according to with article 9 item 1 of Council Regulation 92/218/EEC.

The main problem relating to application of the above Council Regulation is the launch of a centralised data–base.

Poland is currently in the process of building a Wide Area Network (WAN) including tax services and fiscal control.

The first stage is to develop an analytical and project study, the outcome of which will be:
- ❖ identification of needs,
- ❖ technical and economic analysis of various solutions for WAN,
- ❖ proposal for architecture of the transmission system,
- ❖ proposals for specification of relevant conditions of network implementation order.

Subsequent stages are as follows:
- ❖ carrying out tenders for the construction of the network,
- ❖ construction of the network,
- ❖ launch and operation.

Poland has the funds to construct the Wide Area Network. Works on VIES system implementation will be completed not later than 6 months before Poland's accession to the EU.

3.3. FISCALIS

As regards Decision 98/888/EC of the European Parliament and of the Council Polish legislation is already in conformity with the *acquis* in this area and does not require any changes.

A training programme compatible with preparations for EU membership will be created within the framework of PHARE 99 programme. Also activities aiming at improvement of the command of foreign languages need to be intensified.

The Ministry of Finance has 3 training centres with over 400 training places. Revenue Boards have 10 training centres for 1,600 persons. The centres can provide accommodation for 411 persons. In 1998 over 5,000 persons participated in central training programme. Apart from the central training programme there are many training sessions on taxes at the level of revenue boards and tax offices.

3.4. Fiscal SCENT (Secure Customs Enforcement NetWork)

Launch of the operations of the system is related to the implementation of Wide Area Network construction project. VIES system implementation will take into account the operations of Fiscal SCENT system.
Poland will be ready to secure full operability of the system before 31 December 2002.

3.5. Assistance in the recovery of claims

Recovery procedures in the area of public and legal liabilities, including liable taxes, are subject to provisions of the Act on administrative recovery procedures. Recovery of tax–related claims is carried out by tax offices, which act as both a creditor and recovery body. The basis for recovery is a recovery title drawn up by the creditor and transferred to the recovery unit (recovery department).

The following recovery measures are available to the recovery body:
- ❖ recovery from money,
- ❖ recovery from remuneration for work,
- ❖ recovery from pensions and retirement pensions as well as benefits from social insurance,
- ❖ recovery from bank account,
- ❖ recovery from deposits of physical persons,
- ❖ recovery from other liabilities, including recovery from liabilities ensuing from clearings between economic entities, from securities, from shares in companies etc.,
- ❖ recovery from movables.

If those measures do not provide the desired outcome and the debtor owns real estate, it is possible to recover claims from the real estate through executioners established in courts. Hence a tax office must turn to court executioner, enclosing the recovery title, with the request to effect recovery from real estate.
Implementation of the provisions of Council Directive 76/308/EEC into Polish legislation will not cause any difficulties.
The relevant amendments to the Polish legislation will be effected not later than 6 months before Poland's accession to the EU.

4. MISCELLANEOUS

4.1. Exemptions for travellers within the Community

Until accession to the EU Poland is a third country *vis–a–vis* EU regulations which are of internal character and concern the final stage of taxation. At present there are no separate regulations in Polish legislation which are relating to travellers from the Member States travelling within the Community. Hence they are covered by the same exemptions as travellers from the third countries.

Full alignment with the provisions of Directive 69/169/EEC will require following modifications:

- limitation of exemption to exemption from excise duty of personal luggage of travellers from the Member States travelling within the Community,
- raising of value limits for travellers below the age of 15,
- alignment of quantitative allowances for imports of certain goods with standards ensuing from EU directives.

The above amendments will be effected not later than 6 months before Poland's accession to the EU.

4.2. Exemptions for travellers in international travel

Polish legislation exempts from tax on goods and services and from excise duty import of goods brought by the traveller in the luggage, provided for certain conditions are met. In case of import of goods traditionally treated as gifts there is a value–related limit equivalent to 70 EURO. There are also quantitative allowances on some goods. The allowances are convergent with those in force in the Member States. The above regulations concern travellers from both Member States and third countries.

Full alignment of regulations in the area of exemptions for travellers from third countries with the provisions of Directive 69/169/EEC will require introduction of the following modifications:

- raising of value–related limit for travellers below the age of 15,
- introduction of quantitative allowances for cigarillos, perfume, toilet water, coffee extracts and concentrates, tea as well as tea extracts and concentrates.

The above amendments will be effected not later than 6 months before Poland's accession to the EU.

4.3. Import of small consignments of goods and means of transport

Provisions of Council Directive 78/1035/EEC on the exemption from VAT and excise duty of imports of small consignments of goods of a non–commercial character send from third countries by natural persons to other natural persons of value not exceeding 45 EURO are not reflected in Polish legislation.

Full alignment with the above mentioned directive requires introduction of the above exemption from VAT and excise duty including relevant quantitative allowances on some goods and value–related thresholds.
The above amendments will be effected not later than 6 months before Poland's accession to the EU.

Polish legislation provides for exemption from the tax on goods and services and from excise duty for the import of means of transport for a definite period of time; it also provides for exemption from the tax on goods and services and from excise duty for the import of the means of transport which constitute migration property of citizens. The exemptions are applied to import from both Member States and third countries. Polish legislation provide for a broader treatment of the above exemptions.

Full alignment with the provisions of Council Directives 83/182/EEC and 83/183/EEC will require introduction of the following changes:

- limitation of exemptions relating to means of transport so that they apply solely to excise duty on import of means of transport between the Member States,
- shortening the time framework for imports for a definite period of time, from 2 years down to 6 months,
- shortening from 2 years to 12 months of the period of time during which means of transport exempted from duty as migration property cannot be resold.

The above amendments be effected not later than 6 months before Poland's accession to the EU.

5. DIRECT TAXATION

5.1. Indirect taxes on the raising of capital

Polish legislation does not provide for tax on capital input into capital companies, as defined in Council Directive 69/335/EEC. The Act on stamp duty which is in force in Poland provides for the duty to pay stamp obligation on certain activities which are covered by tax on the raising of capital in the Member States. It must be stressed that stamp duty covers a much broader scope of activities than the above tax. In general differences consist in:

- different tax rates – Polish regulations provide for maximum tax rate on the raising of capital of 2% contrary to maximum rate provided by *acquis* – 1%,
- different method for calculation of the taxable amount – contrary to the *acquis* Polish regulations do not provide for the possibility to decrease the taxable amount by expenses and liabilities related to the raising of capital,
- absence in Polish legislation of institutions and taxable activities as provided for in article 4 of the directive, i.e.:
  - transformation of a company, enterprise, association or legal person not being a capital company into a capital company,
  - increase of capital company's assets by contribution of any kind of assets not for acquisition of shares in company's capital or assets but for acquisition of the same rights as those vested in partners like voting right, share in profits or in assets remaining after winding up,
  - transfer from a third country into a Member State of the actual managing head office of a company, enterprise, association or legal person, the statutory seat of which is in the third country and which – for the purposes of application of capital tax – is recognised as capital company in this Member State,
  - transfer from a third country into a Member State of the statutory seat of a company, enterprise, association or legal person, the actual managing head office of which is in the third country and which – for the purposes of application of capital tax – is recognised as capital company in this Member State,
  - transfer from a Member State into another Member State of the actual managing head office of a company, enterprise, association or legal person, which – for the purposes of application of capital tax – is recognised as capital company in this another Member State but is not recognised as a capital company in the first Member State,
  - transfer from a Member State into another Member State of the statutory seat of a company, enterprise, association or legal person, the actual managing head office of which is in a third country and which – for the purposes of application of capital tax – is recognised as capital company in the second Member State but is not recognised as a capital company in the first Member State.

It is assumed that those incompatibilities will be removed by 31 December 2002.

5.2. Taxation applicable to mergers, divisions, transfers of assets and exchanges of shares

As regards Council Directive 90/434/EEC on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares it needs to be stressed that the Polish Act on income tax of legal persons introduced amendments which are partly compliant with requirements of the directive, namely:

- ❖ raising of capital in a company is exempted from tax,
- ❖ in case of mergers, the principle of deferred tax was introduced on:
  - ➜ income of shareholders of a company taken over by the title of stocks assigned by the taking over company, in the part exceeding costs of acquisition of stocks in the taken over company at the time of merger. For taxation purposes the income will be calculated not earlier than at the moment of sale of stocks,
  - ➜ income on surplus value acquired by the taking over company on the taken over company's assets exceeding the usual value of stocks granted to stockholders of taken–over companies for business entities in Poland.

Full harmonisation of Polish legislation with the directive requires:

- ❖ amendment to regulations on companies consisting in supplementing the existing regulations on company mergers, winding up or transformation with such terms as 'division', 'transfer of assets' and 'exchange of assets' in various Member States,
- ❖ extension of the existing regulations on deferred taxes.

Future regulations have to cover not only transactions between Polish companies and companies form EU Member States but also between companies seated in Poland. Otherwise the latter would be unfairly discriminated against.

The relevant amendments to the legislation in the area will be effected by the end of 2002.

5.3. Parent companies and subsidiaries

Incompatibilities between Council Directive 90/435/EEC on subsidiaries and Polish regulations will be removed by the end of 2002.
The Act on income tax of legal persons will be amended by the end of 2001.

5.4. Arbitration Convention

Bilateral agreements on the avoidance of double taxation include provisions relating to methods of determination of profits and their taxation in associated enterprises. However, not all agreements include the provision eliminating the possibility of double taxation of associated enterprises. Moreover they do not regulate precisely the procedure for communication between the two concerned countries, giving a significant freedom in this area to the countries.
Accession to Convention 90/436/EEC on the elimination of double taxation in connection with the adjustment of profits of associated enterprises regulates those issues in relations between Member States in a consistent and comprehensive way.
Poland intends to accede to the Convention in 2001.

5.5. Code of Conduct for business taxation

Poland will observe rules included in the Code of Conduct for business taxation 98/C2/01 in the context of harmful tax–related competition.
Moreover it must be pointed out that Poland intends to incorporate into its regulations relating to income tax, Commission Recommendation 94/79/EC of 21 December 1993 on the taxation of some parts of income earned in a Member State by persons residing in another country.
The relevant amendments to legislation will be introduced by 2002.

6. STATE AID OF FISCAL NATURE

As regards legislation regulating taxation constituting the basis for granting State aid, Poland will not introduce any regulations that might be incompatible with the *acquis communautaire*.
Poland accepts and will implement the *acquis communautaire* in full in the area by 2002 and does not request derogations or transition periods in the area, with potential reservations of provisions developed in the area of 'Competition policy' being the subject of a separate negotiation position.

/Adopted by the Council of Ministers of the Republic of Poland, 19 October 1999/

ADDENDUM TO POLAND'S NEGOTIATION POSITION IN THE AREA OF

TAXATION

SYNTHESIS

Poland accepts and will implement the entirety of the new *acquis communautaire* adopted in 1999 as presented by the EU in the area of 'Taxation' by 31 December 2002, with the exception of Council Directive 99/81/EC of 29 July 1999 amending Council Directive 92/79/EEC on the approximation of taxes on cigarettes, Council Directive 92/80/EEC on the approximation of taxes on manufactured tobacco other than cigarettes and Council Directive 95/59/EC on taxes other than turnover taxes which affect the consumption of manufactured tobacco, where Poland reserves the right to request a transition period of five years, i.e. until 31 December 2007.

SPECIFIC ISSUES

Alignment measures ensuing from the new *acquis communautaire* adopted in 1999 and presented to Poland by the Community side, in most part will not require any changes to be made to legal provisions in force, with the exception of Council Directive 99/81/EC of 29 July 1999 amending Council Directive 92/79/EEC on the approximation of taxes on cigarettes, Council Directive 92/80/EEC on the approximation of taxes on manufactured tobacco other than cigarettes and Council Directive 95/59/EC on taxes other than turnover taxes which affect the consumption of manufactured tobacco. In its essence such position ensues from the reservation already made by Poland in its position paper in the area of 'Taxation' relating to possibility of requesting a transition period of five years, i.e. until 31 December 2007, regarding application of the minimum excise duty rate on cigarettes at the level of 57%.

/Adopted by the Council of Ministers of the Republic of Poland, 6 February 2001/

AMENDMENT TO POLAND'S NEGOTIATION POSITION IN THE AREA OF TAXATION

SYNTHESIS

Poland renounces the request for a transition period in relation to article 12 item 3 of Sixth Council Directive to maintain the application of the zero VAT rate on certain book categories and specialist periodicals for the period of 5 years, i.e. until 31 December 2007, and requests a transition period of 5 years in relation to article 12 item 3 of Sixth Council Directive to apply the super-reduced VAT rate at 3% on the books carrying the ISBN code (International Standard Book Number) pursuant to separate legal regulations, and on specialist periodicals.

Poland renounces the request for a transition period in relation to article 8 item 4 of Council Directive 92/81/EEC to maintain the application of reduced excise duty for ecological fuels for the period of 5 years, i.e. until 31 December 2007, and requests a one year technical transitional period in relation to article 8 item 4 of Council Directive 92/81/EEC to maintain the application of reduced excise duty for ecological fuels.

Poland renounces the request for a transition period in relation to article 2 of Council Directive 92/79/EEC to apply the minimum incidence of excise duty rate for cigarettes, lower than 57% of the maximum retail price of cigarettes for the period of 5 years, i.e. until 31 December 2007, and requests a transition period in relation to article 2 of Council Directive 92/79/EEC to apply the minimum incidence of excise duty for cigarettes, lower than 57% of the maximum retail price of cigarettes for the period of 3 years, i.e. until 31 December 2005.

SPECIFIC ISSUES

In relation to the Common Position submitted by the European Commission (CONF-PL 57-00 of 27 September 2000) three crucial issues have arisen regarding the necessity of modification of Poland's Negotiation Position in the area of 'Taxation'.

In its Position Paper in the area of 'Taxation' Poland requested a transition period in relation to the application of the zero VAT rate on certain book categories and specialist periodicals for the period of 5 years, i.e. until 31 December 2007. In its Common Position the European Union denied this request, as The Member States lay strong emphasis on the fact that there should be no prejudice against *acquis communautaire* regarding the application of the zero rate.

With regard to the aforementioned Position Paper, in view of the impossibility of obtaining such derogation Poland renounces its request for a transition period with regard to application of the zero VAT rate on books and specialist periodicals, and requests a transition period of 5 years in relation to application of the VAT rate at 3% on books, carrying the ISBN code pursuant to separate legal regulations, and on specialist periodicals.

In spite of the fact that the zero VAT rate is currently applied to books, the annual price index for the books exceeds the inflation rate. In 2000 the prices index for the books is estimated at 14% (with the inflation rate at 8.5%). In 2000, books – beside fuels and medicines – constituted one of the non-foodstuffs with the highest rise in price. Such increase in price should be explained on the one hand by the imperfection in the organization of the book market and on the other – by structure of buyers. In 2000, not a single book was bought by 80% of persons with primary education and 73% of those with basic vocational education, 73% of inhabitants of rural areas and 72% of those evaluating their own financial situation as 'bad'. The rise in book prices in Poland is unfavourable for libraries, which – due to decreasing budget of self-government administration – in 1999 purchased 15% less books compared with the previous year. The index of purchase of new books for libraries decreased to the critical value of 5.6 vols. per 100 inhabitants. According to the recommendations of the International Federation of Library Associations and Institutions the average index of purchase of new books for libraries should not be less than 30 vols. Such an index has been maintained by the EU countries.

Prices of books seem to be a considerable obstacle for prospective buyers and is strongly connected with a decrease in the readership, and with the situation of the book and bookshop trade as well. In a survey conducted by the National Library covering pupils and students, 54% of inhabitants declared reading one book and merely 41% declared purchasing one in 2000. According to the figures collected by the Central Statistical Office (CSO) in the school-year 1999/2000 even 11% of the families with children attending school gave up buying indispensable school text-books because of their financial situation. Moreover, according to figures collected by CSO (relating to the year 1999) average monthly expenditure on a whole group of goods i.e. periodicals, books, stationery, drawing and painting articles amounted to 9.14 PLN per one person in a household.

In view of the above, the level of taxation regarding books carrying the ISBN code and specialist periodicals requires application of the super-reduced rate at 3%.

In its Position Paper in the area of 'Taxation' Poland also requested a 5-year transitional period to maintain the application of the reduced excise duty on ecological fuel. The transition period relates only to petrol manufactured with anhydrous alcohol, gas oil with a low sulphur content, gas oil containing components obtained from spent oils regeneration and petrol containing ethyl butyl ether.

After examination of the EU Common Position, Poland renounces the request for 5-year transition period and requests application of the procedures set out in article 8 (4) of Council Directive 92/81/EEC on the harmonization of the structures of excise duties on mineral oils concerning the components obtained from spent oils. Pursuant to the Community legislation on gas oil manufactured with the components obtained from the regeneration of spent oil is not covered by the Community environmental policy.

In its Position Paper in the area of 'Taxation' Poland requested a transition period of 5 years to achieve the EU minimum excise duty rates on cigarettes i.e. to apply an overall minimum excise duty rate of 57% of retail-selling price for cigarettes of the price category most in demand. In its Common Position of 27 September 2000, the EU took negative approach to the aforementioned request, because the Members States attach great importance to observance of the rules of minimum taxation of the excise duty to minimize risk of fraud, double taxation and also to observance of the rules of the Treaty provisions of free competition.

It is worth underlining that since the screening in the area of 'Taxation' held in April 1999 in Brussels, Poland has made make a considerable progress in the alignment of the Polish taxation system with the EU requirements including following directives: Council Directive 92/79/EEC on the approximation of taxes on cigarettes and Council Directive 95/59/EC on taxes other than turnover taxes which affect the consumption of manufactured tobacco.

In its Position Paper Poland committed itself to adopt the mixed system of taxation for cigarettes during 2000. On 1 June 2000 the mixed system of taxation (specific/ad *valorem*) for cigarettes was introduced.

Moreover, recently Poland has made a considerable progress in the part relating to achievement of the EU minimum requirements in incidence of excise duty on cigarettes lately, as exemplified in the table below.

Description	1999	2000	2001
average excise duty increase rate (in %)	27.0	28.0	20.0
share of excise duty in retail price of the most popular category of cigarettes (in %)	41.0	49.7	51.3

The very high level of increase of the excise duty on cigarettes caused the real decrease in the budget revenues from excise duty. The budget revenue from excise duty on tobacco products increased only by 0.2% in 2000 which signifies real decrease in the revenues since average annual excise duty increase rate amounted to 28%.

According to the above table, share of excise duty in retail price of the most popular category of cigarettes amounts to 51.3% now. Thus the difference between the presented and the target tax charges amounts only to 5.7%. Meeting the requirement of achieving a 57% excise duty charge over a short period of time, i.e. by the year 2003, means that excise duty for the most popular price category will increase by over 100%. This will cause a 70% increase in retail price against the excise duty and price levels quoted in the year 2000 for the cigarette category concerned. The high level of increase of tax charges does not result in a directly proportional increase in the budget revenue, as in 2003, when the tax charge is scheduled to reach the full level of 57%, excise duty will increase over 100%, while budget revenue from excise duty will increase by only 60%. The very high increase of excise duty and retail price on cigarettes in a short period of time would lead to several inter-related market occurrences such as:

- a decrease of the legal cigarettes sale. It is estimated that the sale of cigarettes will reach the level of 60.4 billion pieces and will decrease by 31.5% in relation to sales in 1999 and by 17.5% in relation to the year 2000;
- a drop in profitability of the tobacco industry and related industries;
- a further employment reduction in the tobacco industry and tobacco cultivators. The majority of tobacco manufacturer are located in the eastern part of the country where the highest structural unemployment is observed;

Job reductions in the tobacco sector will contribute to considerable deterioration of the already difficult situation on the labour market. It should be noted that these job reductions will be accompanied by a comparable decrease in employment in wholesale and retail distribution;

- an increased profitability of operations on the grey market related to the rapid increase of the excise duty as well as increased prices on cigarettes in Poland. However, it should be noted that cigarettes produced in Poland are to be marked with excise duty stamps. This should reduce the potential threat of smuggling into the EU Member States, because the end users buying these cigarettes should be aware of their illegal origin. Considering the above, the approximation with the EU excise duty rates should be achieved gradually. Taking into account the progress that Poland has made in adjusting its excise duty system in the tobacco sector and in particular a significant increase of the share of the excise duty in retail prices, the transition period could be shortened to 3 years, i.e. until 31 December 2005. To meet the requirement of achieving of 57% of excise duty charge until the end of 2005, the excise duty will increase by 65% for the most popular category of cigarettes.

Considering this increase, the retail price will grow by ca. 49 % in this period. The transition period would ensure quite smooth adjustment to the EU requirements. It should also be stressed that the VAT rate on goods and services in Poland is relatively high as it amounts to 22%. Thus the total share of excise duty and VAT tax in the retail price of cigarettes is 67.7% and is close to the share of these taxes in many EU Member States.
However, we should also bear in mind some other consequences relating to the rapid increase of excise duty.
It has to be emphasised that the mixed system applying a percentage rate of excise duty, allows the producers of cigarettes to minimise the tax burden. A lower retail price means lower tax burden. Hence we can observe 'price wars' between the leading cigarettes producers. The higher excise duty increase the greater encouragement for the producers to conduct 'price wars' consisting in lowering retail prices which constitute the basis for calculating the percentage excise duty, and, as a result, the greater threat for the revenues of the budget.

Moreover, by reaching the minimum share of excise duty in the retail price of cigarettes as required by the directive we will not meet the main objective of the EU policy in this area, i.e. levelling of the retail prices of cigarettes.
It is expected that the high level of increase of excise duty will stimulate competition. Thus an excessive increase of excise duty may cause increasing differences in the level of retail prices on cigarettes in the EU market, which will not be conducive to lifting of barriers to free competition.

Taking account of the above arguments, Poland requests a 3-year transition period and considers this request to supported the fact that Poland did make a substantial progress in the excise duty harmonisation on tobacco products. It should be also noted that some derogations for EU Member States concerning the aforementioned tobacco products were adopted.

/Adopted by the Council of Ministers of the Republic of Poland, 29 March 2001/

AMENDMENT TO POLAND'S NEGOTIATION POSITION IN THE AREA OF TAXATION

1. Request for a transitional period until 31 December 2008 regarding application of minimum excise duty rate at the level of 64 EUR per 1000 units of cigarettes

Poland requests a transitional period in relation to Article 2 of Council Directive 92/79/EEC to apply the minimum incidence of excise duty for cigarettes, lower than 57% of the maximum retail price of cigarettes, for the period of 3 years following the date of Poland's readiness for the accession, i.e. until 31 December 2005.

In case the currently drafted Council Directive amending Directive 92/79/EEC, Directive 92/80/EEC and Directive 95/59/EC regarding structures and rates of excise duty on manufactured tobacco becomes a part of the *acquis communautaire*, Poland reserves the right to modify its negotiation position and to request a transitional period until 31 December 2008 regarding application of minimum excise duty rate at the level of 64 EUR per 1000 units of cigarettes in relation to the drafted amendment to Article 2 of Council Directive 92/79/EEC.

State of play

The mandatory combined excise duty structure for cigarettes, as stipulated by provisions of Directive 95/59/EEC, has been in force in Poland since 1 June 2000. Under this system excise duty is composed of two elements:

- an *ad valorem* element – calculated as a percentage of the maximum retail selling price; currently at the level of 25% as provided for in a relevant legal act;
- a specific element – calculated per 1000 units of cigarettes; currently at the level of 50 PLN as provided for in a relevant regulation.

Table 1 specifies the current level of excise duty for the cigarette brand most in demand – *'Klubowe'* and another popular cigarette brand – 'Marlboro'. Moreover, the table includes calculation of excise duty in EUR per 1000 units of cigarettes.

Table 1. Excise tax as included in prices of two cigarette brands: '*Klubowe*' and 'Marlboro'

	Klubowe cigarettes	Marlboro cigarettes
Current retail selling price in PLN per 20 units Including:	3.80	6.00
VAT	0.69	1.08
ad valorem excise duty (25% of the retail price)	0.95	1.50
Specific excise duty	1.00	1.00
Costs	1.16	2.42
Overall excise duty expressed as a percentage of the retail selling price of 20 units	51.32	41.67
Overall excise duty expressed in EUR as per 1000 units	26.35	33.78

If excise duty on manufactured tobacco is increased by approx. 13% annually, Poland's request for a transitional period until 31 December 2005 to achieve the EU minimum excise duty rates on cigarettes, i.e. to apply an overall minimum excise duty rate of 57% of retail-selling price for cigarettes of the price category most in demand, will allow for full harmonisation without destabilising the domestic tobacco market. When the overall minimum rate of 57% for excise duty is achieved in 2005, the forecast retail selling price for cigarettes of the price category most in demand will amount to 5.49 PLN per 20 units, i.e. 44.5% above the 2001 level (3.80 PLN per 20 units).

Figures listed in Table 1 indicate that the current share of the excise duty in the retail selling price of cigarettes in the most popular price category expressed in Euro is more than twice less than the stipulated amount of 64 EUR.

Economic consequences of excise duty introduction at the level of 64 EUR per 1000 units of cigarettes

An analysis of price-related outcome ensuing from introduction of the stipulated excise duty rate for two cigarette brands – '*Klubowe*' and 'Marlboro' – is presented in Table 2. Calculations of price levels were based on the following assumptions:

- overall excise duty in retail selling price for cigarettes of the price category most in demand is equivalent to 64 EUR per 1000 units (1.28 EUR per pack),
- manufacturing costs are fixed,
- exchange rate amounts to 3.70 PLN per 1 EUR.

Table 2. Price structure of two cigarette brands: *'Klubowe'* and 'Marlboro' at excise duty equivalent to 64 EUR per 1000 units

	Klubowe cigarettes	Marlboro cigarettes
Current retail selling price in PLN per 20 units Including:	7.19	9.25
VAT	1.30	1.67
Overall excise duty	4.74	5.16
Costs	1.16	2.42
Exchange rate PLN/EUR	3.70	3.70
Overall excise duty expressed as a percentage of the retail selling price of 20 units	65.84	55.80

Introduction of the excise duty equivalent to 64 EUR per 1000 units for cigarettes of the price category most in demand will almost double their price, which would result in several adverse developments:

- considerable social dissatisfaction related to significant adverse impact upon real purchasing power of income,
- significant decline in demand for domestic cigarettes,
- relative disproportionate loss of revenues for the state,
- collapse of the production of domestic cigarettes, large-scale redundancies in the tobacco industry,
- sudden decline in the number of tobacco breeders in Poland.

Economic consequences of excise duty introduction in the minimum amount of 64 EUR per 1000 units of cigarettes

Consumption of cigarettes in Poland is considerable and amounts to 90 billion units annually, which is equivalent to average annual consumption of about 2400 units *per capita*. Drop in the number of smokers is relatively slow and is mostly related to non-smoking fashion among the younger generation, whereas long-time smokers rarely quit. Therefore it can be assumed that the rise of prices will result in overall limitation of smoking rather than giving up the habit by individuals. Hence the more significant the price increase is, the more violent the demand-related response becomes.

The related changes in purchasing power of an average salary are presented in Table 3.

Table 3. Changes in purchasing power of an average salary (1997-2000)

Year	1997	1998	1999	2000
Average monthly salary in PLN[1]	1066	1233	1387.1	1566.1
Average price of 20 units of cigarettes in PLN	2.76	3.26	3.74	3.9
Real wages expressed in units of cigarettes	7725	7564	7418	8031
Percentage increase of real wages measured in units of cigarettes	-1.5	-2.1	-1.9	8.3
Nominal salary increase (%)	21.9	15.7	12.5	12.9
Real wages increase (%)	6.1	3.5	4.8	2.5
Nominal increase in prices of cigarettes (%)	23.8	18.1	14.7	4.3

Therefore, from the social point of view it is important to introduce an adequately long transitional period. Minimum duration of such a period can be estimated since – as shown in Table 3 – except for year 2000 average prices of cigarettes increased slightly faster than real wages salaries at the rate of approx. 1.5%. Probable cigarette prices can be estimated assuming the 4.25% increase in real wages (see: Table 3). For the sake of those calculations, a gradual inflation decrease was assumed from the level of 5.5% in 2001 down to 2.5% in 2012. Table 4 forecasts tendencies in cigarette price increase.

Table 4. Forecast of increase in cigarette prices

Years	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Average annual inflation (%)	5.5	4.5	4.4	3.9	3.5	3.5	3.0	3.0	2.5	2.5	2.5	2.5
Prices of cigarettes expressed in PLN per 20 units	4.34	4.78	5.27	5.78	6.31	6.90	7.50	8.16	8.83	9.56	10.3	11.2

Table 5 compares price forecasts for the most popular cigarette brand with price forecasts for the very same cigarette brand inclusive of excise duty at the rate equivalent to 64 EUR per 1000 units. This simulation has been carried out under the following additional assumptions:

- original level of cigarette manufacturing costs corresponds to manufacturing costs of 'Klubowe' brand;
- manufacturing costs of cigarettes will rise at inflation rate;
- Polish zloty (PLN) will slowly rise in value until Poland's entry into the Euro zone.

[1] The effect of difference between the net and gross salary was eliminated for the sake of above calculations.

Table 5. Forecast prices of a popular cigarette brand inclusive of excise duty equivalent to 64 EUR per 1000 units

Years	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
inflation (%)	5.5	4.5	4.4	3.9	3.5	3.5	3.0	3.0	2.5	2.5	2.5	2.5
devaluation (%)	–	6.9	1.6	0.4	0.4	0.4	0.4	0.4	0.0	0.0	0.0	0.0
exchange rate PLN/EUR	3.70	3.96	4.02	4.03	4.05	4.07	4.08	4.10	4.10	4.10	4.10	4.10
Excise duty in PLN per 20 units	4.74	5.06	5.14	5.16	5.19	5.21	5.23	5.25	5.25	5.25	5.25	5.25
Costs in PLN per 20 units	1.16	1.21	1.27	1.31	1.36	1.41	1.45	1.49	1.53	1.57	1.61	1.65
VAT in PLN per 20 units	1.30	1.38	1.41	1.43	1.44	1.46	1.47	1.48	1.49	1.50	1.51	1.52
Price in PLN per 20 units	7.19	7.66	7.82	7.90	7.99	8.07	8.15	8.23	8.27	8.32	8.37	8.41
Share of the overall excise duty (%)	65.8	66.1	65.8	65.3	64.9	64.5	64.2	63.8	63.4	63.1	62.7	62.4

Comparison of figures from both tables leads to a conclusion that:
If average salaries increase in real terms at the rate of about 4.25% annually and if average cigarette prices increase approx. 1.5% faster than real wages *per annum*, prices will reach the required level in the years 2008-2009.

It shall be emphasized that aforementioned estimations have been accompanied by very prudent assumptions:
- absence of significant devaluation impulses before the date of accession,
- social approval of decline in the purchasing power of salaries as expressed in cigarettes,
- slow increase of manufacturing costs of tobacco businesses.

Factors determining the dynamics of demand for cigarettes

Legal sale of cigarettes (those labelled with excise bands) in Poland was maintained at the level of 90 billion units annually for several years since the introduction of the Tax Reform in 1993. The declining tendency in demand for cigarettes has been in place since 1997, resulting in a related drop in the sales and production of cigarettes. For 3 years – until 1999 – this drop amounted to over 2% *per annum* and resulted not only from fast rate of increase of the excise duty (annual average between 10% and 27%, thus considerably exceeding the level of inflation) and retail selling prices of cigarettes, but also from decreasing number of tobacco smokers. Their decisions to give up smoking resulted both from financial reasons, health-related ones and non-smoking fashion. Cigarette smuggling was hardly present in that period since it was largely eradicated due to introduction of excise bands on cigarettes.

A serious change of demand was noted in 2000. Sale of cigarettes decreased by as much as approx. 17% (from 88 billion units in 1999 down to 73.1 billion units) while the excise duty increased by 28% – as scheduled. This rapid fall in the sale of cigarettes was not entirely generated by declining demand for cigarettes, since demand was partly satisfied through purchases from other, including illicit, sources, e.g. cigarettes from smuggling.

The declining sales of cigarettes result in measurable financial losses:

- revenue losses for the state budget (unpaid excise duty and VAT) were estimated at 1.6-2 billion PLN in 2000,
- lost revenues of manufacturers, vendors and tobacco breeders.

Due to shrinking market for cigarettes, their production became limited thus resulting in redundancies. Over 1200 persons lost their jobs in tobacco industry alone in 2000, due to 17% drop in production of cigarettes thus worsening unemployment figures. Moreover, the drop in the production of cigarettes resulted in decreased demand for tobacco raw material threatening the source of subsistence for families of tobacco breeders.

Indispensable policy with regard to cigarette taxation

Appropriate structuring of the pace of excise duty increase and the resulting increase in cigarette prices is required in the years to come with a view to reducing the scale of smuggling and checking the decline in production and legal sale of cigarettes. It is estimated that annual increase of excise duty at the level of approx. 15% will not result in gross disturbances on the domestic market. Correlation between the rate of excise duty increase and the period allocated to approximation with the standard amount equivalent to 64 EUR per 1000 units of cigarettes is presented in Table 6.

Table 6. Dynamics of excise duty increase and the period allocated to approximation with the standard amount equivalent to 64 EUR per 1000 units of cigarettes

Harmonization period (years)	5	6	7	8	9	10
The required minimum percentage increase rate of the excise duty *per annum* (from the current level of 1.95 PLN/20 units to the target value of 5.25 PLN/20 units	21.9	17.9	15.2	13.2	11.6	10.4

Forecast results of the introduction of excise duty equivalent to 64 EUR per 1000 units of cigarettes in 2007

The currently drafted Council Directive amending Directive 92/79/EEC, Directive 92/80/EEC and Directive 95/59/EC regarding structures and rates of excise duty on manufactured tobacco assumes that the minimum rate of excise duty equivalent to 64 EUR per 1000 units of cigarettes will be reached by 1 July 2007.

The burden of excise duty equivalent to 64 EUR per 1000 units would rapidly worsen competitiveness of Polish cigarettes in relation to cigarettes from East-European countries and might thus result in a repeated wave of such adverse developments as serious drop of legal sales and increased scale of smuggling. It is estimated that assuming a fixed EUR/PLN exchange rate after 2005, the drop in annual legal sale of cigarettes will be at the 2000 level, i.e. 17%. In such case, the sales would amount to 46.8 billion units in 2007, i.e. 30% below the sales forecast for 2005 (68.0 billion units). The decline in the sales of cigarettes can be considerably more substantial in case EUR/PLN exchange rate increases. This could lead to a substantial decline in the sales of cigarettes – even by as much as 25% *per annum*. This signifies that sales of cigarettes may drop to mere 38 billion units in 2007. Given such forecasts of decreased sales, increased excise duty and the resulting decreased retail selling prices, the real budget revenues are bound to drop.

Hence, if cigarettes are burdened with excise duty equivalent to 64 EUR per 1000 units in 2007, the scenario would be as follows:

- a substantial increase in the excise duty rate; with regard to cigarettes of the price category most in demand, excise duty would increase from the minimum incidence level scheduled for 2005 (amounting to 57% of the retail selling price) by 51.4% to 139.9% – depending on the assumed level of EUR/PLN exchange rate;
- significant increase in the retail selling price; the price of the most popular category of cigarettes will increase, depending on the assumed level of EUR/PLN exchange rate, by 38% to 99.6% against the price level of 2005;
- drop in legal sales of cigarettes by 30%-44% against the sale forecasts for 2005;
- drop in real budget revenues from the shrinking market as a result of excessive taxation burden related to increased excise duty.

Therefore, if the currently drafted Council Directive amending Directive 92/79/EEC, Directive 92/80/EEC and Directive 95/59/EC regarding structures and rates of excise duty on manufactured tobacco becomes a part of the *acquis communautaire*, Poland reserves the right to modify its negotiation position and to request a transitional period until 31 December 2008 regarding application of minimum excise duty rate at the level of 64 EUR per 1000 units of cigarettes in relation to the drafted amendment to Article 2 of Council Directive 92/79/EEC and considers such a request to be economically and financially fully justified.

2. Request for a transitional period until 31 December 2007 to continue to apply the zero VAT rate on certain categories of books and specialist periodicals

In response to warning signals received recently from producers, distributors and promoters of books and periodicals, the Polish Government has conducted an in-depth analysis of the situation in the market of books and periodicals in Poland. This analysis confirmed emergence and progressive reinforcement of adverse tendencies across last year, resulting in steady increase of prices for books and a related serious decline in demand and purchases by libraries and individuals. This adverse development is even more alarming since it largely concerns scientific books and academic manuals. The government intends to take a remedial action aimed at hampering and reversing of the growing adverse tendencies. In this regard, the government of Poland has made the decision to request a transitional period until 31 December 2007 allowing for application of the super-reduced zero VAT rate on books and specialist periodicals. The zero VAT rate will restrain – at least to a certain degree – the short-term growing tendency of prices. Given the current situation, it is also the sole way to effectively counteract the dramatic decline in the sales of books in Poland and to prevent adverse long-term social outcome of this development.

Average increase of prices of books and periodicals according to data of the Main Statistical Office (GUS) – the Document No. UD-I-U-611-2080/2001 of 14 December 2001.

	9 months of 2001 (9 months 2000 = 100)	6 months of 2001 (6 months 2001=100)
BOOKS		
Total	108.4	109.4
For educational purposes	109.0	110.5
Other	106.0	105.7
PERIODICALS		
Total	118.3	119.3
For educational purposes	106.4	106.4
Other	118.6	119.7

The data quoted above indicate systematic increase of prices of books and periodicals. The prices of educational periodicals, to which zero VAT rate is applied, increased by 6.4%, whereas prices of the remaining periodicals increased by almost 20% despite being covered by 7% VAT rate.

Academic publishers

Average prices of books in the years 1999-2000 applied by academic publishers with breakdown into two categories – scientific books and manuals – are presented in the table below. The data is derived from a book by Jolanta Walewska 'A Report on the market of academic and educational books' (publishing house: C.H. Beck, Warsaw 2001).

	1999		2000	
	Scientific book	Academic manual	Scientific book	Academic manual
10-20 PLN	85.7%	85.7%	28.6%	42.9%
21-30 PLN	0%	14.3%	57.1%	42.8%
31-40 PLN	0%	0%	14.3%	14.3%
41 PLN and more	14.3%	0%	0%	0%

Conclusion: similarly to 1998, most publishers – 85.7% – applied prices from the lowest bracket (10-20 PLN) both to scientific publications and academic ones in 1999.

A pronounced change of the pricing structure was observed in 2000. The prices of medium level bracket (21-30 PLN) were dominant since they were applied to scientific books by 57.1% of publishers and to academic manuals – by 42.8% of publishers. Hence the number of publishers applying the medium price range (21-30 PLN) increased significantly – by 57.1% in case of scientific books and by 28.5% in case of academic manuals. In the higher price range (31-40 PLN) the increase in both categories amounted to 14.3%. Despite the fact that the interviewed publishers quoted the 19-24 price bracket as the average price of all books they published, it is clear that the percentage of expensive scientific books and academic manuals increased considerably. Poland considers this to be a highly adverse development from the social point of view.

About 300-500 readers do not gain access to educational books in large municipal libraries every day, since – due to high prices – libraries stock only 1 or 2 titles of academic manuals and scientific publications.

Purchase of items by public libraries in 2001.
Estimate data collected through voivodeship public libraries

	Voivodeship	Purchase of books in 2001 against 2000	Increase in prices of books in 2001 against 2000	Periodicals purchased in 2001 against 2000	Increase in prices of periodicals in 2001 against 2000
1	Lubuskie	57.23%	120.06%	92.08%	109.71%
2	Lubelskie	88.00%	113.00%	100.00%	129.00%
3	Łódzkie	70.14%	145.21%	100.54%	92.37%
4	Małopolskie	42.20%	122.20%	100.00%	108.50%
5	Mazowieckie	56.29%	134.00%	97.48%	102.05%
6	Opolskie	101.28%	107.13%	91.24%	129.49%
7	Podkarpackie	72.69%	112.48%	99.37%	90.98%
8	Kujawsko-pomorskie	73.44%	127.89%	82.60%	140.47%
9	Pomorskie	100.41%	137.61%	91.64%	122.68%
10	Śląskie	53.48%	141.19%	92.35%	85.02%
11	Świętokrzyskie	70.00%	109.25%	64.60%	114.00%
12	Warmińsko-Mazurskie	56.12%	120.75%	81.87%	130.69%
13	Podlaskie	81.52%	112.14%	97.04%	109.59%
14	Zachodniopomorskie	50.92%	151.52%	90.00%	114.00%
15	Wielkopolskie	125.00%	115.00%	75.29%	136.00%
16	Dolnośląskie	89.25%	106.00%	88.92%	105.28%

Values for the year 2000 were assumed as referential 100%.

The aforementioned figures indicate a significant drop in purchase of books by public libraries in 2001 resulting mainly from price increase. This tendency was not reversed despite purchases made directly at publishers and at wholesale companies, where prices and discounts can be negotiated. Libraries have to give up purchases of expensive scientific books and valuable titles, which seriously endangers educational future in Poland.

Public libraries had also to significantly limit purchases of periodicals. Considerable increase of prices in 2001 resulted from combination of two following factors: introduction on 1 January 2001 of 7% VAT rate on all periodicals except specialist ones and temporary introduction of 22% VAT rate on printing services.

Purchase of items by public libraries in voivodeships most threatened by poverty

Voivodeship	Percentage of population threatened by poverty	Number of purchased volumes per 100 inhabitants	Comments	IFLA rate per 100 inhabitants	National rate per 100 inhabitants	National average rate of books purchase per 100 inhabitants
Świętokrzyskie	62.90%	4.1	In Kielce – 2.9	30	18	5.5
Warmińsko-mazurskie	62.20%	4.0	Ca. 50% of public libraries purchased 0-3 books. Ca. 30% of communal libraries purchase 1 title of a periodical	30	18	5.5
Kujawsko-pomorskie	59.50%	4.7	In Toruń 2.2 books (an academic centre)	30	18	5.5
Lubelskie	63.00%	5.8	Books purchases are barely present in 15 communes (total 220), 0-2 titles of periodicals are purchased in 41 communes, whereas demand is high, especially for education and study purposes of the youth	30	18	5.5
Podlaskie	59.50%	4.6	In Białystok 5.1 books/ 100 inhabitants. Not even 1 title of a periodical was subscribed to in 10 communes of the voivodeship	30	18	5.5
Pomorskie	53.50%	4.45	In Gdańsk – 3.1 (a powerful academic and cultural centre)	30	18	5.5
Podkarpackie	61.60%	6.0	8 commune libraries did not purchase a single title of a periodical, and 8 libraries purchased 3 titles (this constitutes nearly 10% of all commune libraries)	30	18	5.5

The disproportions of social access to books become deeper. This access depends on place of residence, financial standing and educational status. 60% of Poland's countryside inhabitants and 63% of people in bad material situation did not read a single book in 2000. A parallel tendency was observed with regard to purchase of books. About 73% of rural residents and 72% of those who assessed their own financial standing as a poor one did not purchase a single book.

Various actions have already been undertaken to remedy the situation described above. The programme for promotion of readership is implemented through support to valuable activities –

including instilling in children and youth of readership culture and reading habit (as well as promotion of Polish book illustration for the youngest – a regular exhibition PRO POLONIA), the action promoting readership 'The most beautiful places of the world'. The programme enjoyed broad response from local communities. The action promoting readership 'Readingmania', supported and co-financed by the state budget, proved an instant success. Poland does not neglect readership among the blind, those with impaired sight or the disabled. There are plans for launching co-operation with the Ministry of National Education and Sport with regard to educational paths connected with reading culture.

Prospects for amending the current situation in the scope of general readership, particularly in rural areas and in environments threatened with unemployment and poverty, will be dependent upon increased revenues of local governments and allocation of more funds to purchase of new publications (co-financing of purchase of new publications from budgetary funds) and to subscription of press, upon stabilisation of prices for books and periodicals and subsidies to educational publications. We also expect improvement of Poland's macro-economic situation by 2007 and the resulting improvement of financial standing of household budgets – individual recipients of press and books.

Public libraries should become regional information centres (following the example of European libraries) and centres for knowledge on the European Union. A number of public libraries (voivodeship and poviat ones) already now actively fulfil this function. One should appreciate their activities in the process of preparing the public opinion for accession to the EU.

The aforementioned activities have already resulted in increased interest in readership. Programmes of public libraries, NGOs and the public media for the development and shaping of literary interests and those implanting desirable reading habits will be initiated and supported on ongoing basis. The planned creation of a rich offer of literary education should excellently serve the idea of society's humanization in times, when valuable books and literature face growing competition from technical carriers and media of information.

/Adopted by the Council of Ministers of the Republic of Poland, 28 December 2001/