

## POLAND'S NEGOTIATION POSITION IN THE AREA OF EMPLOYMENT AND SOCIAL POLICY

### 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.

Poland accepts and will implement in full the *acquis communautaire* in the area of 'Employment and social policy' by 31 December 2002 and will not request any derogations or transition periods, with the exception of Council Directives 89/655/EEC and 89/656/EEC. In respect to those directives Poland, while accepting the minimum standards for the improvement of working conditions, and particularly of work environment, will request a transition period until December 31, 2005. Until that date Poland will not have implemented provisions of those directives in regard to machinery in operation in businesses before 31 December 2002. Furthermore, due to the fact that Poland will have to improve working conditions in workplaces where exposure of workers to biological agents occurs, Poland reserves the right to request a transition period in regard to Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (as amended by directives: Council Directive 93/88/EEC, Commission Directives 95/30/EC, 97/59/EC, 97/65/EC).

Currently, the Polish law has been harmonised to a considerable extent with the *acquis communautaire* in this area. With exceptions mentioned above, Poland is prepared to implement the provisions of regulations, directives, decisions, recommendations, and resolutions and to participate in the Community action programmes.

### SPECIFIC ISSUES

#### 1. LABOUR LAW

The *acquis communautaire* in the area of 'Labour law' consists of ten directives concerning:

- ❖ collective redundancies (Council Directive 75/129/EEC);
- ❖ protection of employee rights in case of transfer of enterprises (Council Directive 77/187/EEC);



- ❖ protection of employee rights in case of employers' insolvency (Council Directive 80/987/EEC);
- ❖ duty to inform employees on the conditions of labour contract or labour relationship (Council Directive 91/533/EEC);
- ❖ certain aspects of the organisation of working time (Council Directive 93/104/EEC);
- ❖ protection of juveniles at work (Council Directive 94/33/EC);
- ❖ conditions of posting of workers in the framework of the provision of services (Directive 96/71/EC of the European Parliament and of the Council);
- ❖ part-time work (Council Directive 97/81/EC);
- ❖ improvement of safety and hygiene at work of workers employed under fixed-time employment contract or temporary employment contract (Council Directive 91/383/EEC);
- ❖ European Works Councils (Council Directive 94/45/EC).

The Labour Code of 26 June 1974 constitutes basic Polish legislation regulating employment relationships. Its extensive revision of 1996 has basically approximated the Polish law with the *acquis communautaire* in this respect. However, full harmonisation will require further amendments to the Polish law. They will have been completed by 31 December 2002.

By 31 December 2002, at the latest, Polish legislation will have been harmonised with:

- ❖ Council Directive 77/187/EEC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, through an amendment to the Act of 23 May 1991 on trade unions;
- ❖ Council Directive 91/533/EEC on an employer's obligation to inform employees on the conditions applicable to the contract or employment relationship, through an amendment to the Labour Code;
- ❖ Council Directive 97/81/EC on part-time work, through an amendment to the Labour Code and other relevant acts;
- ❖ Council Directive 93/104/EEC concerning certain aspects of the organization of working time, through an amendment to the Labour Code.

Polish legislation will have been aligned with Council Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies by 31 December 2002, through an amendment to the Act of 28 December 1989 on special conditions for the termination of employment due to reasons relating to employer and the Act of 14 December 1994 on employment and combating of unemployment.

By 31 December 2002, Poland will have aligned its legislation with:

- ❖ Council Directive 94/33/EC on the protection of young people at work, through an amendment to the Labour Code and adoption of a regulation on the scope and conditions of short-term and occasional work in households and family businesses;
- ❖ Directive 96/71/EC of the European Parliament and of the Council on the posting of workers, through the adoption of a regulation on the conditions of employment of posted workers and through the lifting of:
  - the Resolution of the Council of Ministers of 3 May 1989 on the principles of compensation and other benefits for employees posted abroad (export of construction works and related services);

- the Resolution of the Council of Ministers of 27 December 1974 on certain rights and duties of employees posted abroad (export of construction works and related services);
- ❖ Council Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship, through an amendment to the Labour Code and the Act on employment and combating of unemployment;
- ❖ Council Directive 94/45/EC on the establishment of European Works Councils or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, through the adoption of an act on European Works Councils.

Polish legislation is in full compliance with Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.

## 2. SOCIAL DIALOGUE

Under article 118b of the Treaty establishing the European Community the Commission is required to undertake measures to develop a dialogue between employers and employees at the European level. If the social partners so desire, such dialogue may lead to the conclusion of agreements.

To meet this obligation, the European Commission has issued decisions establishing sectoral joint committees. They provide a forum for discussions between social partners (employee and employer organisations at the European level) on Community social policies in certain areas (fisheries, agriculture, inland navigation, railways, road transport, maritime transport, civil aviation, telecommunication services, postal services). A Standing Committee on Employment has also been established.

Poland supports the idea of the European social dialogue and appreciates the importance of participation in this dialogue by Polish social partners.

## 3. EQUAL TREATMENT OF WOMEN AND MEN

Article 119 of the Treaty establishing the European Community provides that each Member State shall implement the principle of equal pay for working women and men. Furthermore, the *acquis communautaire* in this area consists of Council Directives dealing with:

- ❖ the application of the principle of equal pay for women and men (75/117/EEC);
- ❖ the implementation of the principle of equal treatment of women and men in access to employment, professional training, promotion and in working conditions (76/207/EEC);
- ❖ the application of the equal treatment principle to women and men who are self-employed (86/613/EEC);
- ❖ the introduction of improvements to occupational health and safety of female workers who are pregnant or recently gave birth or are breast-feeding (92/85/EEC);
- ❖ parental leave (96/34/EC);
- ❖ burden of proof in sex discrimination cases;
- ❖ equal treatment of women and men in social insurance (79/7/EEC and 86/378/EEC).



The Advisory Committee on Equal Opportunities for Women and Men has been established by Commission Decision 82/43/EEC. Furthermore, the Council has issued a number of resolutions and recommendations particularly on equalising opportunities for women through, *inter alia*, affirmative action. Council Decision 95/593/EC introduced the 'Medium Term Community Action Program on Equal Opportunities for Women and Men (1996–2000)', which deserves special attention.

The existing Polish legislation generally reflects the requirements of the Treaty establishing the European Community and the relevant directives on equal treatment of women and men. The corresponding Polish acts will merely require some development.

By 31 December 2002 the following directives will have been fully transposed into Polish law:

- ❖ Council Directive 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for women and men, through an amendment to the Labour Code;
- ❖ Council Directive 76/207/EEC on the implementation of the principle of equal treatment for women and men as regards access to employment, vocational training and promotion as well as working conditions, through amendments to the Labour Code and the Act on employment and combating of unemployment;
- ❖ Council Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, through an amendment to the Regulation of the Council of Ministers of 28 May 1996 on parental leaves and parental benefits.

By 31 December 2002 Poland will have brought its laws into full conformity with the following EC directives:

- ❖ Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast-feeding, through an amendment to the Labour Code;
- ❖ Council Directive 86/613/EEC on the application of the principle of equal treatment between women and men engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood and with Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for women and men in matters of social security. To this aim:
  - in December 1998 the Sejm (Parliament) amended the Act on the social security system of 13 October 1998,
  - in 1999 a new Act on financial benefits in case of sickness and maternity will replace the Act of 17 December 1974 on such benefits, which will be abolished,
  - in 2002 the Code of Civil Procedure of 17 November 1964 will be amended.

Furthermore, by 31 December 2002 Polish legislation will have been brought into conformity with Council Directive 97/80/EC on the burden of proof in cases of sex discrimination. This alignment will be effected through an amendment to the Labour Code.

In Poland there are no professional social insurance systems in the understanding of Council Directive 86/378/EEC on the implementation of the principle of equal treatment for women and men in occupational social security schemes and of Directive 96/97/EC, which amended it. Consequently, there is no need to transpose these directives into Polish law.

#### 4. FIGHT AGAINST RACISM AND XENOPHOBIA

The *acquis communautaire* in this area consists mostly of declarations and resolutions. Particular attention should be paid to Regulation 1035/97/EC setting up the European Center for Monitoring of Racism and Xenophobia. The tasks of this Center include: collection and analysis of information, research, publication of documents, formulating conclusions and opinions for the EC and the Member States.

Polish policies on fighting racism conform to the objectives set out by those resolutions and recommendations. Poland is ready for active participation in the works of the European Center for Monitoring of Racism and Xenophobia.

#### 5. EMPLOYMENT

The Amsterdam Treaty and other subsequent documents of the European Union set out the objective of attaining high levels of stable employment. This implies promotion of cohesive employment policies in all Member States to increase their effectiveness by various measures including development of an integrated employment strategy. EU Employment Guidelines are an instrument in achieving this objective. The 1998 Employment Guidelines called for:

- ❖ increased employability,
- ❖ development adaptability of businesses and employees to new market requirements,
- ❖ development of entrepreneurship,
- ❖ increased equal opportunities for women and men in the labour market.

The *acquis communautaire* in this area also contains decisions dealing with employment in industry sectors covered by the Treaty establishing the European Coal and Steel Community and decisions on co-operation in labour market statistical surveys.

Polish labour market policies and responsibilities of labour market administrative structures generally reflect the priorities of the EC 1998 Employment Guidelines. Polish labour market policies are based on a number of Government programs, and in particular on the 'Program for the promotion of productive employment and combating of unemployment'. The priorities of this Program include: strengthening of employment promotion policies, acceleration of education reform, development of rural areas, strengthening of regional development policies, increasing competitiveness of enterprises, strengthening of labour market institutions.

Objectives of Polish labour market policies exceed those of EC Employment Guidelines, some common priorities have different coverage. This results from the fact that certain challenges are unique to Poland, i.e., restructuring of several industries (including agriculture) and demographic trends.

Detailed information on Polish employment policies, labour market institutions and their effectiveness will be provided by the Employment Policy Review is to be conducted in Poland by the Commission in 1999.

#### 6. EUROPEAN SOCIAL FUND

The principal objectives of the European Social Fund are set out in article 123 of the Treaty establishing the European Community. They are to finance projects aiming at:



- ❖ increased employability for persons in danger of exclusion from the labour market;
- ❖ increased adaptability of workers to the new challenges of the labour market (through different measures including systematic development of life-long education);
- ❖ education, development of scientific research and transfer of technologies;
- ❖ promotion of equal opportunities for women and men.

Specifics of the Fund's functioning are to be found in the relevant EC regulations. Regulations also deal with the principles of co-ordination of all EC structural funds.

Organisational preparations have already been undertaken in Poland to facilitate the absorption of structural funds assistance after accession. The Polish Government has made a decision concerning the co-ordinator of those preparatory actions. Also, it was decided that ministries whose competence covers the objectives promoted by respective structural funds will be responsible for organisational preparations for the absorption of the assistance from those funds. It is stipulated that the minister for labour policies will be responsible for the European Social Fund.

The preparatory measures undertaken in Poland enjoy SPP support (Special Preparatory Program for structural funds). The program is used to strengthen central and regional public administration which will deal in the future with programming, monitoring and implementation of regional policies and to develop strategies or program documents.

## **7. SOCIAL INSURANCE, ELDERLY PERSONS AND SOCIAL MARGINALISATION**

The *acquis communautaire* in this area consists of decisions, recommendations and resolutions. Of particular importance is Council Recommendation 92/441/EEC on common criteria concerning sufficient resources and social assistance in social protection systems. Council Recommendation 92/442/EEC on the convergence of social protection objectives and policies defines objectives of such protection (income guarantees allowing for life in dignity, access to health care, support for social and economic integration, guarantees of adequate living conditions for the retired, establishment and development of social protections for self-employed persons).

The objectives of Polish policies in this regard are similar to those contained in the *acquis*.

## **8. DISABLED PERSONS**

Problems of people with disabilities are covered by recommendations, resolutions and conclusions which promote equality of opportunity for the disabled and measures aiming at their professional activation.

Polish policies as well as legal acts concerning disabled persons fully conform to the *acquis communautaire* in this respect.

## **9. THE FOUNDATION OF DUBLIN**

The European Foundation for the Improvement of Living and Working Conditions (The Foundation of Dublin) is regulated by EC regulations. The purpose of the Foundation is to work for the improvement of living and working conditions through exchange of information, experience, and documentation. The Foundation deals with:

- ❖ man at work;
- ❖ organisation of work and – particularly – with job design;

- ❖ problems peculiar to certain categories of workers;
- ❖ long-term aspects of improvement of the environment.

Due to the subject-matter of the regulations covering the Foundation, there is no need to transpose them into Polish law. Poland declares its readiness to actively participate in the works of the Foundation.

## 10. PUBLIC HEALTH

Article 129 of the Treaty establishing the European Community provides that the Community shall contribute towards ensuring a high level of human health protection.

Poland has declared its willingness to participate in Community action programs on:

- ❖ prevention of the spread of AIDS and other communicable diseases, within the framework of public health actions (1996–2000);
- ❖ promotion of health protection, information, education, and training, within the framework of public health measures (1996–2000);
- ❖ monitoring of the state of public health, within the framework of public health measures (1997–2001);
- ❖ prevention of drug addiction, within the framework of public health actions (1996–2000);
- ❖ combating of cancer, within the framework of public health measures (1996–2000).

The area of 'Public health' also includes Council Directives on labelling of tobacco products (89/622/EEC) and on tar yield in cigarettes (90/239/EEC). The former directive requires that tar yield and nicotine levels are shown and labels warning of the danger of tobacco use are put on packages of tobacco products. The latter directive sets standards on tar yield of tobacco products.

By 31 December 2002, Poland will have brought the Polish law in accord with Council Directive 89/622/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products. Council Directive 90/239/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum allowable tar yield of cigarettes, will have been transposed by 30 June 2002 in respect to maximum allowable tar contents in cigarettes, and by 31 December 2002 in its entirety.

The standards contained in the directives will be transposed into Polish law by an amendment to the Act of 9 November 1995 on the protection of public health against the effects of tobacco use, and to the Regulation of the Minister of Health and Social Protection of 5 December 1996 on the contents, patterns and methods of providing objective information on the risks entailed in tobacco consumption, tar and nicotine yield as well as the maximum allowable yield of harmful substances of tobacco products and the method of determining their content.

## 11. SAFETY AND HYGIENE AT WORK

Of basic importance in this area is article 118A of the Treaty establishing the European Community and Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work ('Framework Directive'). The purpose of Council Directive 89/391/EEC is to ensure better protection of workers at



work through various kinds of protective measures. The directive contains rights and duties of workers and employers as well as obligations of the state.

The 'Framework Directive' provides legal basis for the development of the so-called specific directives. Council Directives issued hitherto contain minimum standards in regard to:

- ❖ workplace (Council Directive 89/654/EEC);
- ❖ work equipment (89/655/EEC);
- ❖ personal protective equipment (89/656/EEC);
- ❖ manual handling of heavy loads (90/269/EEC);
- ❖ work with display screen monitors (90/270/EEC);
- ❖ safety on temporary and mobile construction sites (92/57/EEC);
- ❖ safety and/or health signs (92/58/EEC);
- ❖ work involving exposure to carcinogens (90/394/EEC);
- ❖ work involving exposure to biological agents (90/679/EEC, with amending directives);
- ❖ work safety in extraction industry (92/91/EEC, 92/104/EEC);
- ❖ work conditions in sea fishing (93/103/EEC).

Other directives, not related to the 'Framework Directive', have also been issued, relating to:

- ❖ conditions at work during which workers are exposed to biological, chemical, and physical agents (Council Directive 80/1107/EEC, with amending directives and directives containing maximum allowable limits); Council Directive 80/1107/EEC provided legal basis for the following specific directives:
  - ➔ Council Directive 88/364/EEC on the protection of workers by banning certain specified agents and/or certain work activities;
  - ➔ Council Directive 82/605/EEC on the protection of workers from the risks related to exposure to metallic lead and its ionic compounds at work, exposure to asbestos Council Directive 83/477/EEC and vinyl chloride monomer Council Directive 78/610/EEC;
- ❖ protection of workers from the risks related to exposure to noise at work (Council Directive 86/188/EEC);
- ❖ minimum safety and health requirements for improved medical treatment on board vessels (Council Directive 92/29/EEC).

The Commission has decided to create certain advisory committees: a Committee for Occupational Exposure Limits to Chemical Agents, a Committee of Senior Labour Inspectors, a Mines Safety Commission.

The Labour Code (Part X) is the basic law in Poland regulating safety and hygiene at work. Its 1996 amendment has essentially approximated the Polish law to the Community law in this respect. Further legislative works are in progress aimed at bringing the Polish legislation into full conformity with the standards set out in Community directives. Those works will be completed by 31 December 2002.

Polish law currently fully conforms to the following directives:

- ❖ Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work;
- ❖ Council Directive 80/1107/EEC (as amended by Directive 88/642/EEC) on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work;



- ❖ Council Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace;
- ❖ Council Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment;
- ❖ Council Directive 88/364/EEC on the protection of workers by banning of certain specified agents and/or certain work activities;
- ❖ Council Directive 86/188/EEC on the protection of workers from the risks related to exposure to noise at work;
- ❖ Commission Directive 91/322/EEC on establishing indicative limit values.

Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp, has been replaced by Directive 94/9/EC. Transposition of Directive 94/9/EC of the European Parliament and of the Council into Polish law will have been finished by 1 July 2003 (the date of transposition for current Member States), in accordance with the Poland's negotiation position in the area of 'Free movement of goods'.

Poland will have adjusted its laws to Council Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work by 31 December 2001. To this effect:

- ❖ a bill on chemical substances will be passed;
- ❖ the Regulation of the Minister of Labour and Social Policy of 26 September 1997 on general provisions concerning safety and hygiene at work will be amended;
- ❖ a regulation will be issued on technical conditions for use of lifts and lifting devices;
- ❖ the following Polish Norms will be adjusted:
  - PN-92/N-01255: Safety colours and safety signs;
  - PN-92/N-01256/01: Safety signs and fire protection;
  - PN-92/N-01256/02: Safety signs: escape;
  - PN-92/N-01256/03 (amended by PN-N-01256-3/A1): Safety signs: protection and hygiene of work at the workplace;
  - PN-86/N-08014: Safety sound signals at the workplace.

By 31 December 1999 Council Directive 90/269/EEC on the minimum health and safety requirements for the manual handling of loads where there is a risk of injury – of the back in particular – to workers, will have been transposed into Polish law. It will require abolition of the Regulation of the Ministers of Labour and Social Welfare and of Health of 1 April 1953 on safety and hygiene at work of workers engaged in manual lifting and carrying of loads. A new regulation on safety and hygiene at work with manual lifting of heavy loads will be issued.

By 31 December 2002 Poland will have brought its legislation into compliance with Council Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work, and with Council Directive 97/42/EC amending Directive 90/394/EEC, through relevant executive acts connected with the Labour Code.

By 31 December 2002 a number of executive regulations to the Labour Code will have to be issued in order to adjust Polish legislation to Council Directive 78/610/EEC on the approximation of the laws, regulations and administrative provisions of the Member States pertaining to the protection of the health of workers exposed to vinyl chloride monomer.



By 31 December 2002 Poland will have introduced into its legal system provisions of Council Directive 82/605/EEC on the protection of workers from the risks related to exposure to metallic lead and its ionic compounds at work, through executive regulations to the Labour Code.

By 31 December 2002, Poland will have aligned its laws with Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, through executive regulations to the Labour Code.

The Regulation of the Minister of Labour and Social Policy of 17 June 1998 on the maximum allowable concentrations and intensities of harmful agents in working environment will have to be amended in order to harmonise the Polish legislation with Commission Directive 96/94/EC establishing a second list of indicative limit values by 31 December 2000.

By 31 December 2002 Poland will have aligned its legislation with Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (as amended by directives: Council Directive 93/88/EEC, Commission Directives 95/30/EC, 97/59/EC, 97/65/EC). This will be achieved through:

- ❖ amendment to the Labour Code;
- ❖ issuance of a regulation on the protection of workers from hazardous biological agents.

Considering the present poor state of medical equipment used to protect workers from exposure to biological agents (at health care providers, in particular) and high costs of purchase of new equipment (especially new autoclaves), it may prove necessary to introduce a two-year transition period for full implementation of the protections required in medical facilities where such hazards occur. Final decision in this respect will be made after further analysis of financial consequences of such replacement.

By 1 January 2000 Polish law will have been adjusted to Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites, through a new regulation on safety and hygiene of construction work.

By 31 December 2002 Poland will have transposed the provisions of Council Directive 92/91/EEC concerning the minimum requirements for the improvement of safety and health protection of workers in the mineral-extracting industries, by:

- ❖ amendment to the Act of 4 February 1994 – Geological and Mining Law;
- ❖ amendment to the Regulation of the Minister of Industry and Trade of 11 January 1995 on safety and health protection, conduction of movements and technical fire-control in underground mining facilities.

To transpose Council Directive 92/104/EEC on the minimum requirements for improvement of safety and health protection of workers in surface and underground mineral-extracting industries into Polish law by 31 December 2002, the following measures will be undertaken:

- ❖ amendment to the Act of 4 February 1994 Geological and Mining Law;
- ❖ amendment to the Regulation of the Minister of Industry and Trade of 14 April 1995 on safety and health protection, conduction of movements and technical fire-control in underground mineral-extracting industries;

- ❖ amendment to the Regulation of the Minister of Industry and Trade of 12 October 1994 on safety and health protection, conduction of movements and technical fire-control in surface mineral-extracting industries.

By 31 December 2002 Poland will have transposed into its legislation the following directives:

- ❖ Council Directive 93/103/EEC on the minimum safety and health requirements for work on board fishing vessels, through a new regulation on safety and health requirements for work on fishing vessels;
- ❖ Council Directive 92/29/EEC on the minimum safety and health requirements for improved medical treatment on board vessels, through a new regulation on safety and health requirements for improved medical treatment on board vessels.

The alignment of the Polish legislation will mainly be done by issuing new regulations. The procedure of their adoption is less time-consuming than for parliamentary legislation. New regulations will allow for long application periods to facilitate adoption of new solutions by employers and thus ensure better implementation of Community standards into practice.

### **Request for a transition period**

Poland requests a transition period until 31 December 2005 in regard to Council Directive 89/655/EEC and Council Directive 89/656/EEC. By that date Poland will not have implemented the provisions of those directives in regard to machinery in operation in businesses before 31 December 2002.

Poland fully accepts the letter and spirit of those directives, appreciating their importance in ensuring safety of workers and creating the best possible protections of their lives and health. However, premature implementation of both directives may bring about cumulative increase of expenses, especially in small and medium enterprises, which in turn may lead to a decrease in their competitiveness and may undermine their ability to effectively participate in the Single Market after Poland's accession to the European Union. Therefore, Poland requests that the provision of article 4 of Council Directive 89/655/EEC – as applied to EU Member States – be applied to it. Consequently, all equipment installed in all businesses after 31 December 2002 will have to meet the requirements of both directives. However, in regard to equipment already operative in businesses by 31 December 2002 a three-year transition period will be applied until 31 December 2005. During that period such equipment will be allowed to operate in businesses. After 31 December 2005 the provisions of both directives will be fully implemented. The requested transition period will allow for a more even distribution of implementation costs, as the equipment in question will be eliminated through natural replacement. At the same time it will allow for actual implementation of the provisions of Council Directives 89/655/EEC and 89/656/EEC.

In respect to other equipment, Poland will have approximated its law to Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work by 31 December 2002 through adoption of a regulation on work equipment.

With the exception of aforementioned reservation, full compliance of the Polish legislation with Council Directive 89/656/EEC on the minimum health and safety requirements



for the use by workers of personal protective equipment at the workplace, will have been achieved by 31 December 2002, through:

- ❖ passing a bill on individual protections at work;
- ❖ amendment to the Regulation of the Minister of Labour and Social Policy of 26 September 1997 on general provisions concerning safety and hygiene at work;
- ❖ adoption of a regulation on minimum standards of work safety and health protection relating to individual protections at work.

*/Adopted by the Council of Ministers of the Republic of Poland, 25 May 1999/*

## ADDENDUM TO POLAND'S NEGOTIATION POSITION IN THE AREA OF EMPLOYMENT AND SOCIAL POLICY

### SYNTHESIS

In connection with entry into force of the new *acquis communautaire* in the area of 'Employment and Social Policy' Poland expresses its readiness to comply with provisions of the new acts of the *acquis communautaire* and declares that Polish legislation will be aligned with new Community laws by 31 December 2002 and does not request any transition periods.

After an analysis of the new *acquis communautaire*, the time schedule was developed for full alignment of Polish legislation with Community laws within the aforementioned time-frame.

### SPECIFIC ISSUES

#### 1. LABOUR LAW\*

Implementation into Polish legislation of the provisions of Council Directive 99/70/EC concerning the framework agreement on fixed-term work requires an amendment to the Labour Code. The amendment will be passed by the Sejm in the fourth quarter of 2001 and will enter into force on 1 January 2003.

Provisions of Council Directive 99/63/EC concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST), will be implemented through amendment to the Act of 23 May 1991 on work on seagoing merchant vessels. The draft amendment will be prepared in the third quarter of 2001 and its adoption by the Sejm is envisaged for the end of the third quarter of 2002. The amended act will enter into force on 1 January 2003.

Implementation of the provisions of Council Directive 98/50/EC amending Council Directive 77/187/EEC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses requires amendment to the Act of 23 May 1991 on trade unions.

\* The numbering of sub-chapters reflects the numbering sub-chapters in the Negotiation Position.



The draft amendment will be adopted by the Council of Ministers in June 2001 and will be submitted to the Sejm. After passing by the Sejm, the amendment will enter into force on 1 January 2003. Once this amendment is fully effected, Polish legislation will be fully aligned with Council Directives 77/187/EEC and 98/50/EC.

Transposition of the provisions of Council Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies requires amendment to the Act of 28 December 1989 on special conditions for the termination of employment for reasons relating to employer and amending some other acts, as well as amendment to the Act of 14 December 1994 on employment and combating of unemployment. The draft amendment to the Act on special conditions for the termination of employment for reasons relating to employer is subject to works in the Sejm. The amendment will be passed in the fourth quarter of 2001 and will enter into force on 1 January 2003. Draft amendment to the Act on employment and combating of unemployment was adopted by the Council of Ministers on 9 January 2001. It was transmitted to the Sejm on 18 January 2001. It is expected that the bill will be passed into law in the first half of 2001.

Provisions of Council Directive 98/23/EC on the extension of Council Directive 97/81/EC on the framework agreement on part-time work concluded by UNICE, CEEP and the ETUC to the United Kingdom of Great Britain and Northern Ireland, do not require transposition into Polish legislation.

## **2. SOCIAL DIALOGUE**

Commission Decision 98/500/EC on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at the European level, does not require transposition into Polish legislation.

It is envisaged that bodies for social dialogue will be established basing on the sectoral dialogue committees, as referred to in this decision. Works on the establishment of legal foundations and detailed specification of the operational scope of those committees commenced in 1999 and are currently well advanced.

## **3. EQUAL TREATMENT OF MEN AND WOMEN**

Provisions of Council Directive 98/52/EC on the extension of Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex to the United Kingdom of Great Britain and Northern Ireland, do not require transposition into Polish legislation.

## **5. EMPLOYMENT**

Provisions of Council Resolution concerning the EC 1999 Employment Guidelines as well as Council Resolution concerning the EC 2000 Employment Guidelines were reflected in the Polish Government documents adopted in the current year.

The National Strategy for Employment and Human Resources Development for the years 2000-2006, adopted by the Council of Ministers on 4 January 2000, covers the priorities of the European Employment Strategy and provisions of annually drafted EU Employment Guidelines.

On 20 June 2000 the Council of Ministers adopted the National Action Plan for Employment for the years 2000-2001. The plan, for its duration, operationalises 'The National Strategy for Employment and Human Resources Development for the years 2000 – 2006'.

The National Action Plan covers a complex of actions grouped in accordance with twenty two EC 2000 Employment Guidelines. Measures which should be undertaken for the implementation a given task, envisaged dates for completion of those measures, institutions responsible for the implementation and the related costs are ascribed to each task. Provisions included in Council Decision 99/207/EC on the reform of the Standing Committee for Employment abrogating Council Decision 70/532/EEC, do not require transposition into Polish legislation.

## 6. EUROPEAN SOCIAL FUND

Conditions enabling application of the provisions of Council Regulation 1260/99/EC laying down general provisions on the Structural Funds and of the provisions of Council Regulation 1784/99/EC of the European Parliament and of the Council on the European Social Fund are specified in:

- ❖ the Act of 26 November 1998 on public finances;
- ❖ the Act of 14 December 1994 on employment and combating of unemployment;
- ❖ the Act of 12 May 2000 on supporting regional development;
- ❖ the Regulation of the Council of Ministers of 1 August 1999 on the rules, conditions and procedures governing support from National Budget for programmes initiated by regional self-government bodies.

Preparations of organisational structures for the absorption of ESF assistance were presented in Poland's Negotiation Position in the area of 'Employment and Social Policy', in the report on the state of implementation of the commitments assumed in the Negotiation Position in the area of 'Employment and Social Policy', as well as in the Negotiation Position in the area of 'Regional Policy and co-ordination of structural instruments'.

## 7. SOCIAL SECURITY, ELDERLY PERSONS AND SOCIAL MARGINALISATION

Provisions of Commission Decision 91/544/EEC on the Liaison Group on the Elderly, do not require transposition into Polish legislation.

## 8. DISABLED PERSONS

Provisions of Council Regulation of 17 June 1999 on equality of employment opportunities for people with disabilities are fully covered by the Act of 27 August 1997 on occupational and social rehabilitation and employment of disabled persons, as well as in the executive acts connected therewith. There is no need to undertake any alignment measures in this area.

In order to align Polish legislation with the provisions of Council Recommendation 98/376/EC on parking card for people with disabilities, the Act of 20 June 1997 – Road Traffic Law will be amended. The draft amendment was adopted by the Council of Ministers on 25 January 2000 and sent to the Parliament on 2 February 2000. It is currently under consideration by the Sejm.

Moreover, the Minister of Transport and Maritime Economy will issue a Regulation on parking card for people with disabilities. This regulation will enter into force on 1 January 2003.

## 10. PUBLIC HEALTH

Provisions of Decision 2119/98/EC of the European Parliament and of the Council setting up a network for the epidemiological surveillance and control of communicable diseases



in the Community are currently fully applied in Poland. The Sanitary Inspection provides for a system of epidemiological surveillance and control of selected communicable diseases and poisonings. The obligation to report communicable diseases ensues from the Act of 13 November 1963 on fighting communicable diseases and from Regulation of the Council of Ministers – issued on the basis thereof – of 20 December 1963 on determination of a list of communicable diseases. A bulletin informing about communicable diseases and poisonings in Poland is published annually. Moreover, information on occurrence of communicable diseases is submitted to World Health Organisation and sent to certain countries, with reciprocity. To improve the network effectiveness, a new act will be prepared on prevention, diagnostics, treatment and eradication of communicable diseases. The law will incorporate new approaches to regulation and management of such diseases in public administration and healthcare. It is planned to modernize the registration of occurrence procedure in line with the relevant experience of EU Member States.

## **11. SAFETY AND HYGIENE AT WORK**

In order to align Polish legislation with provisions of Council Directive 99/38/EC amending for the second time Council Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work and extending it to mutagens, it is necessary to amend the Regulation of the Minister of Health and Social Welfare of 11 September 1996 on carcinogens at work and on the health protection of workers from the risks related to it. The draft amendment will be prepared by 31 December 2000 and the amendment will enter into force on 1 January 2003.

Provisions of Council Directive 98/65/EC amending Council Directive 82/130/EEC on the approximation of the laws of the Member States concerning electrical equipment for use in potentially explosive atmospheres in mines susceptible to firedamp will not be implemented into Polish legislation. Relinquishment of the implementation of Council Directive 82/130/EEC was agreed upon with the European Union during the screening session and the relevant entry was included in Poland's Negotiation Position in the area of 'Employment and Social Policy'. As a consequence, no alignment works will be carried out as regards Council Directive 98/65/EC. Polish legislation will be aligned with the relevant *acquis communautaire* in the area of equipment for use in potentially explosive atmospheres, through implementation of Council Directive 94/9/EC (ATEX) on the approximation of the laws of the Member States concerning protective devices and systems for use in potentially explosive atmospheres (the negotiation area of 'Free movement of goods').

In order to effect full compliance of Polish legislation with provisions of Council Directive 98/24/EC on the protection of the health and safety of workers from the risk related to chemical agents at work, the Labour Code will be amended and the Minister of Health will issue Regulation on the protection of the health and safety of workers from the risk related to chemical agents at work. Amendment to the Labour Code will be adopted in the fourth quarter of 2001 and will enter into force on 1 January 2003. The draft regulation of the Minister of Health will be submitted for inter-ministerial consultations by 31 December 2000. The regulation will be issued in the fourth quarter 2001 and will enter into force on 1 January 2003.

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



## AMENDMENT TO THE POLAND'S NEGOTIATION POSITION IN THE AREA OF EMPLOYMENT AND SOCIAL POLICY

### SYNTHESIS

Poland amends its Negotiation Position in the area of 'Employment and Social Policy' as adopted by the Council of Ministers on 25 May 1999, in that it herewith withdraws its request for a transition period in regard to Council Directive 89/656/EEC on the minimum health and safety requirements for the use of personal protective equipment at the workplace.

Poland will not request a transition period in regard to Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (as amended by directives: Council Directive 93/88/EEC, Commission Directives 95/30/EC, 97/59/EC, 97/65/EC).

### SPECIFIC ISSUES

The present withdrawal of the request for the transition period in regard to Council Directive 89/656/EEC on the minimum health and safety requirements for the use of personal protective equipment at the workplace relates to the results of a cost evaluation study carried out under the leadership of a French expert within the framework of a Polish-French twinning agreement implementing a PHARE'99 project 'Further Adoption and Implementation of EU Health and Safety Legislation' (PL/99/IB-SO-01). The study concluded that the costs of implementation of Council Directive 89/656/EEC will be low. Current Polish law almost entirely complies with the standards provided for in the said directive.

Compliance of the Polish legislation with Council Directive 89/656/EEC on the minimum health and safety requirements for the use of personal protective equipment at the workplace, will have been achieved by 31 December 2002, through:

- ❖ an amendment, in the first half of 2002, to the Regulation of the Minister of Labour and Social Policy of 26 September 1997 on general provisions concerning safety and hygiene at work;



- ❖ adoption, in the first half of 2002, by the Council of Ministers, of a regulation on the standards for personal protective equipment, the procedure for conformity evaluation thereof and on the markings thereon.\*

A cost evaluation study was conducted to verify and supplement earlier cost evaluations of the implementation of Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (as amended by directives: Council Directive 93/88/EEC, Commission Directives 95/30/EC, 97/59/EC, 97/65/EC). In particular, implementation costs were evaluated in the following four sectors: veterinary, pharmaceutical, cosmetics and biotechnological. It has been found that all the concerned businesses or entities have already been equipped, to a higher or lower degree, with the protections required under the directive. Full compliance will require only limited organizational adjustments and/or equipment acquisitions.

Consequently, by 31 December 2002, Poland will have transposed into Polish law Council Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (as amended by directives: Council Directive 93/88/EEC, Commission Directives 95/30/EC, 97/59/EC, 97/65/EC). Full compliance will have been effected, through:

- ❖ an amendment to the Labour Code of 26 June 1974 (with subsequent amendments), which will be passed by the Sejm in the third quarter of 2001;
- ❖ an issuance, in the fourth quarter of 2001, of a regulation by the Minister of Health on the protection of workers from hazardous biological agents.

*/Adopted by the Council of Ministers of the Republic of Poland, 20 February 2001/*

\* The Negotiation Position of 25 May 1999 indicates that full transposition of Council Directive 89/656/EEC will also require the adoption of an act on individual protections at work. That act was supposed to have contained an authorization to issue the present Regulation of the Council of Ministers. Instead, such authorization was provided for in the Act of 28 April 2000, on the system of conformity assessment, accreditation, and on amending of several other acts. Thus, the adoption of the act on individual protections at work has become unnecessary.