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## **RE: OECD EXPERT MEETING ON ADMINISTRATIVE SIMPLIFICATION**

### **Introduction**

Administrative procedures frequently result in significant delays, uncertainties and costs for businesses. Accordingly, the simplification of the legal framework for undertaking and conducting business has become a significant aspect of international competitiveness. Reducing or eliminating unnecessary requirements can help create a competitive business environment, that is favourable to the development of domestic norms and contribute to attracting foreign investors. The Polish government has recognised the need to establish a business friendly environment and has taken steps to address shortcomings in this area. A specific task force was set up in 1997, within the Economic Committee of the Council of Ministers, to review existing laws that affect business and eliminate unnecessary barriers to conducting business and minimise the risk of corruption. The Business Activity Law, which was adopted at the end of 1999, has reinforced the legal environment in which businesses can operate. It has reduced the number of activities subject to licensing. In some cases, licenses have been replaced by permits, which has contributed to smoothen the process for undertaking and conducting business.

Creating an environment conducive to business activity in Poland means also improvement of the climate for conducting business activity, adaptation of the transport and the telecommunication infrastructure to the needs of a modern economy and imposition of an investor incentives system according to the national treatment rules. Within the improvement of the climate for conducting business activity has been foreseen:

- the reviewing compatibility of legislation with the economic policy, taking into account the need for stabilisation of the business law,
- continuation of work on alignment of Poland's legal system with the EU system,

- improving the procedures in administration and state apparatus, including civilian courts,
- simplification and acceleration of administrative procedures for foreigners (amongst others in granting visas, residential permits and job permits for foreign investors employees)-respecting the reciprocity principle.

The conditions for undertaking and conducting business could be improved by a thorough review of administrative procedures with a view to eliminating unnecessary requirements and reducing the cost of managing administrative procedures. Change in procedures is however not sufficient by itself, as firms experience difficulties with being aware of effective requirements. Reduction of administration burdens goes along with an increase in transparency. The creation of a central registry of procedures, easily accessible, which would identify all procedures in details, would permit to reduce discretion of officials, and create a more stable and predictable business environment.

### **Are there explicit programmes aimed at reducing administrative burdens?**

The aim of the public administration reform was to improve regulations connected with administration. For this reason the reform was broadly prepared, introducing many transitional provisions – adapting the present regulations to newly designed ones.

There is programme aimed at reduction of administrative barriers and formalities for small and medium-sized enterprises. It has the form of a governmental document adopted by the Council of Ministers on May 11<sup>th</sup> 1999 entitled “The direction of the government action towards small and medium-sized enterprises until 2002”.

The State attaches great importance to the development of SMEs. The document envisages activities in the area of SMEs export promotion on foreign markets, development of an information system for data collection, facilitating access to export credits from banks.

Also action for changes in the tax system are envisaged, facilitating access to external financing sources, e.g. through development of a credit guarantee system.

Legal instruments for SMEs include:

- law dated November 19<sup>th</sup> - 1999 the Business Activity Law (Dz.U. No 101, item 1178), where the entire Chapter 6 deals with SMEs;
- law dated November 9<sup>th</sup> 2000 on establishing the Polish Agency for Enterprise Development (Dz.U. No 109, item 1158); the Agency is subordinated to the minister with the authority over the economic affairs; the Agency’s objective is to participate in

implementation of the economic development programmes, in particular relating to the support to SMEs, exports, the social and economic cohesion, etc.;

- the law dated June 30<sup>th</sup> 2000 on the conditions for admissibility and monitoring of public aid for entrepreneurs (Dz.U. No 60, item 704).

Also the aim of the public administration reform is to eliminate administrative barriers. After launching this reform, which was carried out through imposition of three laws on June 5<sup>th</sup> 1998, i.e.:

- the law on the voivodship self-government (Dz.U. No 91, item 576 with subsequent amendments),
- the law on governmental administration in the voivodship (Dz.U. No 91, item 577 with subsequent amendments),
- the law of self-government in *poviats* (Dz.U. No 91, item 578 with subsequent amendments).

about 63% of the tasks formerly in the competence of the governmental administration were transferred to the self-government.

The following shift of tasks took place:

the commune (*gmina*) performs the local public tasks under the following four categories of infrastructure:

- technical (roads, waterworks, public transport, sewage treatments plants),
- social (schools, health protection),
- public order and safety,
- land use and ecology (land management)

the *poviat* – on the basis of the law on self-government in *poviats* – executes public tasks at the level above the communal level (such tasks, which could not be performed by the commune due to various considerations).

As a result of decentralisation better conditions were created for local development and for improvement of the standard of living (more and better quality services for the local people). In addition, the local community was more involved into local issues and into addressing these issues (stimulating creativity of the population).

### **Are specific reforms underway to reduce the burdens of business licences and permits?**

Such a reform has already been effected. The basic legal acts in this respect is the law dated November 19<sup>th</sup> 1999 – the Business Activity Law (Dz.U. No 101, item 1178 with subsequent amendments. The law provided a new legal framework for enterprise functioning in Poland. Pursuant to the provisions of the Law business activity shall be based on the principle of freedom to undertake and conduct business, equal rights of entrepreneurs, fair competition and consumer rights protection, as well as observance of fair practices in trade. These principles have their roots in the Constitution of the RP, which sets the basis of the economic system of the State. In particular, a possibility of limitation to economic freedom only by way of a law and only in the public interest is expressed in Art. 22 of the Constitution. The law broadens the scope of economic freedom by reducing the state intervention as compared to the legal system existing so far. **The number of areas of activity subject to licensing was reduced from about 30 to 8 in following sectors:**

- exploration or identification of minerals, excavation of minerals from deposits, non tank storage of substances in mounds and storing waste in underground excavations,
- manufacturing and trading in explosives, weapons and ammunition and goods and technology for military or police usage,
- manufacturing, processing, storing, transmitting, distributing and trading in fuels and energy,
- protecting persons and property,
- air transportation and performing other air services,
- building and operating or only operating toll motorways and expressways which are under the Act of Toll Motorways,
- managing rail lines and providing rail transport,
- broadcasting of radio and television programmes.

**In 12 areas licences were replaced by permits.** The law determines a list of areas subject to licensing and regulates general principles of granting licences and permits. **Any control was abolished as regards 11 areas of business:**

- processing and trading in precious metals and stones,
- processing and trading in non-ferrous metals,
- trading in cultural artefacts dating back to before 9 May 1945,
- passport services,

- transferring audio or audio-visual recordings onto tapes, discs,
- cassettes, video cassettes and video discs,
- producing, writing, distributing and disseminating movies, conducting bazaars,
- marine transportation and managing other marine ports besides those ports of fundamental importance for the national economy,
- tourist services, except for organising tourist events and intermediary services in executing contracts to render tourist services under contract by clients,
- professional sports, except for activity in sphere of professional sports competition,
- exploration and excavation of mineral resources located in the waste left over after mining works and after the processes of enriching minerals.

### **Conclusions:**

The regulatory reform in Poland is very deep connected with programmes aimed at reducing administrative burdens with special reference to small and medium sized enterprises and with reducing the burdens of business licences and permits. The aim of this activity is to create in Poland the better climate for conducting business activity and to simplify and accelerate of administrative procedures for foreigners (amongst others in granting visas, residential permits and job). Over the past decade regulatory reform has turned the Polish economy into a market oriented economy open to international competition. Strong growth of imports has reflected the increased openness of the domestic market and highly improved business environment in Poland. The public administration reform has eliminated administrative barriers and created the improved business environment in Polish regions (communes and poviats). The Polish economic policy (also regarding the support for SME-s and creating good business opportunities,-equal for foreign and domestic investors) has geared towards liberalisation through multilateral, regional and bilateral agreements and adaptation of the domestic business activity law to requirements resulting from these agreements (with special reference to OECD, WTO and EU regulatory framework).