SUMMARY INFORMATION SHEET ON AID MEASURES IN FORCE ON 1ST MAY 2004 (EXISTING AID)

1. GENERAL ASPECTS

Country: Poland

Title of the aid measure (English):

The restructuring of the State Treasury liabilities in respect with granted sureties and guarantees;

Title of the aid measure (Original language):

Restrukturyzacja wierzytelności Skarbu Państwa z tytułu udzielonych poręczeń i gwarancji;

Legal basis (precise reference):

The Act of 8 May 1997 on sureties and guarantees granted by the State Treasury and by certain legal persons (Journal of Laws of 2003 No 174, item 1689, as amended);

The Ordinance of the Council Of Ministers of 2 September 1997 on the conditions and the procedure of the sale of State Treasury liabilities in respect of granted sureties and guarantees, conversion of such liabilities into stocks (shares), spreading their repayment into instalments and writing off liabilities in whole or in part (Journal of Laws of 1997 No 106 item 683), replaced by the Ordinance of the Council of Ministers of 17 February 2004 on the conditions and the procedure of the sale of the State Treasury liabilities in respect of granted sureties and guarantees, conversion of such liabilities into stocks (shares), spreading their repayment into instalments and writing off liabilities in whole or in part (Journal of Laws of 2004 No 26 item 230);

Ministry or other administrative body responsible for the measure and its implementation:

The Council of Ministers, Ministry of Finance;

Person(s) to contact:

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Level at which the measure is administered:

Central government;

When did the measure enter into effect?

11/09/1997 – the date of entry into force of the Ordinance of the Council of Ministers of 2 September 1997 on the conditions and the procedure of the sale of the State Treasury liabilities in respect of granted sureties and guarantees, conversion of such liabilities into stocks (shares), spreading their repayment into instalments and writing off liabilities in whole or in part,

24/02/2004 – the date of entry into force of the Ordinance of the Council of Ministers of 17 February 2004 on the conditions and the procedure of the sale of the State Treasury liabilities in respect of granted sureties and guarantees, conversion of such liabilities into stocks (shares), spreading their repayment into instalments and writing off liabilities in whole or in part;

What is the duration of the measure?

Unlimited duration;

2. DESCRIPTION OF THE MEASURE

Which transport sector is eligible:

The whole transport sector is eligible;

What are the main aim(s) and objectives of the aid?

The main purpose of the aid measure is to regain the biggest possible part of liabilities created with respect to granted by the State Treasury sureties and guarantees (in case of conversion into stocks or shares and in case of arrangement into instalments) and to enable firms in difficulty to recover their long-term viability;

Form of the measure:

Scheme;

What are the instruments (or forms) of aid?

A conversion of the receivables into stocks and/or shares,

B write-off of receivables in total or in part,

C spreading the receivables into instalments;

For each instrument of aid please give a short description of the conditions applying to the instrument.

A Conversion of the receivables into stocks and/or shares;

The Minister of Finance may convert liabilities, in whole or in part, into stocks (shares) in debtor's company provided that the debtor has fulfilled the following conditions:

1) he has repaid to the State Treasury at least 50 % of the amount of the main liability and his financial and economic situation indicates that there is no possibility to repay the remaining amount of liability;
2) he keeps accountancy according to rules defined by separate regulations;

3) he has executed or is executing an agreement concluded under bankruptcy proceedings or improvement proceedings or an agreement concluded with creditors pursuant to separate regulations;

4) he has not led to withdrawal from or termination of the agreement referred to in p. 3;

5) he has no taxes and other levies overdue;

6) he has no payments as contributions to the Social Security Fund and the Labour Fund overdue;

7) he has discharged or is discharging obligations arising out of the concluded agreements of the repayment of the State Treasury liabilities;

8) he is running an enterprise of a particular importance to national economy or in a region of high unemployment risk and conversion of liabilities into stocks (shares) will enable him restore long term viability.

B The Minister of Finance may cancel receivables in total or in part, after the acceptance of the Council of Ministers, provided that the circumstances of the case indicate that it is not possible to regain the liabilities in the bankruptcy, liquidation or improvement proceedings under way.

The Minister of Finance may upon authorisation of the Council of Ministers write off a liability in a part not exceeding 50 % of the amount of the liability, if the vindication of the full amount of the liability would result in liquidation or bankruptcy of:

1) the enterprise of a particular importance to national economy or for a region of high unemployment risk and writing off is made within the framework of restructuring the enterprise which enables it restore long term viability;

2) the enterprise providing public services which fulfils basic collective needs of local government community and, in the area concerned, there is no entity which might take over the activities of that enterprise; that writing off shall be made within the framework of restructuring an enterprise.

Writing off concerning certain liability may be granted only once.

C The Minister of Finance may decide to spread the payment of receivables into instalments in whole or in part, if debtor:

1) has repaid to the State Treasury or the entity to whom the State Treasury provided surety or guarantee, at least 20 % of the amount of the main liability;

2) is not able to make a single repayment of the liability on account of his financial and economic situation.

Arrangement of the repayment of liabilities into instalments shall be made within the framework of the restructuring of the debtor.

Spreading repayment of liabilities into instalments may be made for a period up to 10 years.

The agreement on the arrangement of the repayment into instalments sets the interest rate on the repayment. The interest rate may not be lower than the product of 1.6 of an average profitability of 52-week debentures issued by the State Treasury, sold at the last tender in the month preceding the month wherein the agreement was concluded and each following month of repayment of liabilities in instalments accordingly.

Budget: give the overall budget made available for the measure:

There are no estimation on budget available for the measure, but the maximum possible amount depends on sureties and guaranties granted by the State Treasury;

Is the budget adopted annually?

No;

Specify the eligible beneficiaries (i.a. their character and estimated number).

The eligible beneficiaries are existing and potential debtors of the State Treasury in respect of the execution of the agreements on sureties or guarantees irrespective of the type of economic activity conducted by them, including transport sector;

Is the aid available on non-discriminatory basis, open to all potential beneficiaries, irrespective of nationality?

Yes;

What are the eligible costs?

The amount of liabilities with respect to granted by the State Treasury sureties and guarantees;

What is the maximum aid intensity?

The pre-conditions for granting aid on the basis of the measure are:

- repayment to the State Treasury of at least 50 % of the amount of the main liability (conversion of the receivables into stocks and/or shares);

- repayment to the State Treasury or the entity to whom the State Treasury provided surety or guarantee, of at least 20 % of the amount of the main liability (spreading the receivables into instalments).

Specify the criteria according to which the amount of aid and/or the aid intensity has been calculated.

The Minister of Finance shall carry out the activities having made an analysis of the financial and economic situation of the entity being debtor of the State Treasury in respect of the execution of the agreement on surety or guarantee. According to § 3 of the Ordinance on the conditions and the procedure of the sale of the State Treasury liabilities in respect of granted sureties and guarantees, conversion of such liabilities into stocks (shares), spreading their repayment into instalments and writing off liabilities in whole or in part these activities may not be carried out in a way, which would violate the regulations regarding the conditions of the eligibility and the monitoring of state aid for entrepreneurs.

Does the measure provide “operating aid”?

No;

If the measure relates to services of general economic interest or public service obligations, please specify by what means this task has been entrusted to the undertaking and how compensation is calculated.

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May the aid in question be cumulated with any other aid measures in operation and if so, does the measure contain provisions limiting the cumulation of aid?

Yes, the measure can be cumulated with other aid measures. The Ordinance of the Council of Ministers of 17 February 2004 does not contain any provisions limiting the cumulation of aid.

Does the aid measure fall within existing exemption regulations or guidelines? If so, please specify.

Community Guidelines on State aid for rescuing and restructuring firms in difficulty (*Official Journal C 288, 09.10.1999, p. 0002-0018)*;

Enclosure:

The Ordinance of the Council of Ministers of 17 February 2004 on the conditions and the procedure of the sale of the State Treasury liabilities in respect of granted sureties and guarantees, conversion of such liabilities into stocks (shares), spreading their repayment into instalments and writing off liabilities in whole or in part (Journal of Laws of 2004 No 26 item 230).