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VADEMECUM

OF THE FAST TRACK - AUCTION PROGRAM

IN THE REPUBLIC OF POLAND

A presentation of topics relating to the divestiture of small and medium size state-owned enterprises through competitive tenders.

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TABLE OF CONTENT

SECTION ONE -	OVERVIEW OF THE EXISTING FAST TRACK - AUCTION PROGRAM IN POLAND
SECTION TWO -	COMPETITIVE TENDERS IN A MARKET ECONOMY
SECTION THREE -	GLOBAL PERSPECTIVE ON PRIVATIZATION
SECTION FOUR -	MARKETING ANALYSIS: MEASURING DEGREE OF INVESTOR INTEREST
SECTION FIVE -	FIRM VALUATION
SECTION SIX -	ADVERTISING THE SALE OF STATE-OWNED ENTERPRISE (SOE)
SECTION SEVEN -	INVESTOR VERIFICATION
SECTION EIGHT -	NEGOTIATIONS
SECTION NINE -	LEGAL ISSUES IN THE AUCTIONING OF SOEs
SECTION TEN -	CONTACT LIST: HELPFUL CONTACTS FOR POLISH STAFF PREPARING SOES FOR DIVESTITURE THROUGH COMPETITIVE TENDERS

SECTION ONE

OVERVIEW OF EXISTING FAST TRACK PROGRAM

VADEMACUM

WORKING MANUAL for FAST TRACK PRIVATIZATION

1. Introduction
2. Privatization in Perspective
3. Fast Track Privatization
 - a. framework
 - b. results and examples

1. Introduction

Privatization is not a passive process.

The FAST TRACK approach to privatization is a ready tool for Founding Bodies to assist State Owned Enterprises (SOEs) in dire need of an investor. Based on article 37 of the Privatization Law of July 1990, the FAST TRACK was developed within the department of Small and Medium Privatization in the Ministry of Privatization (MoP). During the implementation of the Fast Track approach, the MoP oversees a coordinated system of advertising and valuation structured to accelerate the sale of SOEs through the liquidation "asset sale" method of privatization.

Throughout the development of the privatization program in Poland, there has been a tendency to devote resources to financially stable firms with established investor interest. While the FAST TRACK approach does not exclude such firms from participating in the process, it is intended to serve small and medium size firms in need of immediate capital infusion and technology. Although these firms may be in a cash crisis at the time of sale, they possess assets which would be valuable to the proper investor. It is the opinion of the MoP that it is in the social and economic interest of the state to sell the company while it still exists as an operating business entity. The alternative for many of these firms is to proceed through liquidation through article 19 of the State Owned Enterprise Act.

The FAST TRACK approach is not a method of privatization, such as public offerings, trade sales, various forms of liquidations, or mass privatization. Rather it is a framework for Founding Bodies to generate competitive interest in the sale through liquidation of an SOE. Through national and local advertising, the FAST TRACK approach to privatization is one which enables Founding Bodies to quickly identify and invite investors to present proposals for the purchase of the firm(s).

It is a strategic choice to send a firm through the FAST TRACK approach, FAST TRACK is not suitable for all firms in need of an investor. Some selection is required. The FAST TRACK approach is designed to serve companies which (1) are being liquidated with the agreement of the worker's council, (2) have clearly defined ownership regarding land and buildings, (3) have under 500 employees and (4) have a net book value between 2 billion and 30 billion zloty.

When considering the FAST TRACK approach as an option in privatization, it is important to realize that it is a process which allows the Founding Body to negotiate for conditions other than price for the enterprise. This is possible because

the firm is not advertised for sale, rather the advertisement is an invitation to negotiate. Thus, business plans can be judged by their treatment of employees, added technology and licenses and other non-monetary aspects of investment. These factors are weighed in the decision to sell the SOE.

Proceeding with the FAST TRACK approach does not exclude other options should there be a lack of investor interest. Until the final purchaser of an enterprise is identified, the MoP will not formally issue authorization for the liquidation of the enterprise. As a result, should the advertisements not generate sufficient demand for the SOE, the MoP can put on hold the application for liquidation while the Founding Body considers alternative methods of privatization.

Employee/management partnerships are invited to propose their offers for negotiations in the auction system. In the case of similar offers, these partnerships should receive preferential treatment by the negotiating committees.

When a SOE has an investor, either domestic or foreign, the best route for privatization is not the FAST TRACK. The MoP expects that investors will either seek to create a new company through the liquidation called "Contribution into Company"

The FAST TRACK process can be broken down into four stages which are mentioned briefly here and outlined in detail later in the chapter. Stage One - Initiation, requires a strategic decision on the part of the vovioda to apply to the FAST TRACK program. Usually firms directed toward this project are facing liquidation through article 19 of the State Owned Enterprise Act and are in need of an investor. The application process requires many of the same documents as are needed for liquidation.

Stage Two - Green Light for FAST TRACK, is when the Ministry gives preliminary approval to proceed with liquidation and appoints a representative from the delagatura to organize negotiations. Stage Three - Negotiations, contains the first estimation of the exit price, initial contacts with investors as well as the negotiation process itself. Stage Four - Transfer of Ownership is the stage where final prices are set and final approvals are given.

2. Privatization in Perspective

In January 1990 the government launched a radical stabilization plan composed of five key reforms: 1) deregulation of prices 2) introduction of a convertible currency 3) introduction of wage controls 4) setting of realistic interest rates and 5) balancing the budget. The second half of 1990 was characterized by intensive legislative and preparatory efforts paving the way for privatization of large, medium and small State Owned Enterprises (SOEs). Privatization has been the most complex and protracted of the reform measures. The ultimate goal of the program is to promote an efficient economy through reducing state involvement in the

industrial and business service sector. In order to achieve this aim the Polish program attempted to be flexible, fair and, wherever possible, decentralized.

The scale of the privatization task was unprecedented - 8,000 SOEs to be privatized in a matter of years. There was no experience in the world which would show Poland the path toward the market. Much of the reform program had to be created by piecing together related experiences of other governments around the world.

Privatization in Poland is governed by the "Act on Privatization State Owned Enterprises" of July 13th 1990 and in some cases, the State Owned Enterprise Act of 1981 and the bankruptcy law emanating from the Presidential decree of 1937. For the majority of Polish SOEs, there are two paths to privatization:

A. Privatization through Transformation

B. Privatization through Liquidation

A. Privatization through Transformation

Privatization through Transformation is usually employed with large SOEs but is not necessarily limited to these companies. The Transformation process puts the MoP in total control of the privatization.

Privatization through Transformation occurs in two stages. The first is when the SOE is transformed to a limited liability company or a joint stock company owned by the State Treasury and operated by the Commercial Code. During Transformation the MoP is the sole representative of the State Treasury (therefore the SOE). The second stage is the actual privatization through either of three methods: Public Offering, Trade Sale, a combination of Public Offering and Trade Sale or Mass Privatization.

In choosing a method of privatization, strategic considerations on behalf of the MoP the company are essential. The initial question the MoP must ask is, what goals should be accomplished through privatization? During the Transformation process, the MoP is responsible for establishing the aims it wishes to achieve and the strategy it will employ in the privatization process. There are several possible goals:

1. creation of a private enterprise
2. generation of revenue
3. public participation/domestic ownership
4. creation (enhancement) of financial markets
5. speed in privatization
6. introduction of new (foreign) capital & technology

The Public Offering method is well publicized. Early examples include ExBud, Tonsil and Prutnik. Since the first historic round there have been additional offerings, such as Swarzenc. Public offerings are an important tool in the government's privatization strategy because they simultaneously generate public involvement in privatization and capital for the Treasury (thus reducing the government debt) and they have created the need for various capital markets such as the stock exchange. Also, public offerings are a vehicle for maintaining domestic ownership. Most importantly, of course, public offerings produce private companies.

One of the drawbacks of public offerings is their expense and the time it takes to complete the process. Also, public offerings are not practical for firms other than those that are large and well known.

Privatization through trade sale is an effective method for incorporating foreign investment and technology into Poland. Some examples include the sale of 80% of the detergent manufacturer Pollena Bydgoszcz to Unilever, 66 2/3% of the lighting company Polam Pila to Phillips, 80% of the potato processor POL-BAF to Basic American Foods and 80% of the pulp and paper machinery company FAMPA to Beloit Corp. An example of a trade sale mixed with a public offering is the sale of 40% of Wedel to PepsiCo.

Trade Sales create private enterprise while enhancing domestic capital markets (Polish banks and investment institutions can be used). A Trade Sale is a fairly simple process which creates a private company and generates revenue for the treasury at the same time. Thanks to the Sector Approach (described below) the time needed to accomplish a trade sale has been greatly reduced, yet speed is sacrificed when the terms of an agreement are at stake.

A Trade Sale typically involves the following steps: appointment of an adviser by the Ministry of Privatization (frequently this will be the sector adviser under the sectoral privatization program, see below); the adviser prepares the company for privatization and drafts the information memorandum; the adviser organizes a public invitation to negotiate (this includes advertisements in the press as well as direct contact with foreign investors); investors who respond to invitations receive the information memorandum and are asked to submit an investment proposal composed of two elements (1) price they are willing to pay and (2) plan they have for the company being sold, including any investment/employment they are willing to commit to; the adviser then analyses the investment proposals and selects a short list of investors for final negotiations.

The investors on the short list are given to the company being sold to conduct due diligence. Following due diligence potential investors are requested to submit a binding offer. These offers will frequently be the subject of further discussion and negotiations until agreement is reached with one of the investors.

The Ministry of Privatization has created this process to provide a clear and structured framework for foreign investment in Poland.

The Mass Privatization program does not privatize companies on an individual basis; in groups of twenty each, 200-400 companies will be privatized using this method. The goal of the program is to transfer control and management of these companies to newly created funds called National Wealth Management Funds (NWMF). The NWMF will be operated by Western Banks and consulting firms; however, they will be owned by the Polish government until a time when these funds will be offered to the public. Companies are selected for Mass Privatization on the basis of size (some of the largest have been chosen), annual sales (usually over 10 million per year), ability to demonstrate profit and willingness to be privatized through this method.

The chief strategic considerations which led to the creation of the Mass Privatization program was the MoP's desire to accelerate the privatization process and use foreign know-how yet maintain domestic ownership.

B. Privatization through Liquidation

Privatization through Liquidation was created as a method of giving medium and small firms and their Founding Bodies control over the method through which they will privatize. As much as possible the preparation process for privatization is decentralized. The strategic decisions for this type of privatization rest in the hands of the firms and the (usually) local officials.

According to the Privatization Law of State-Owned Enterprises, an SOE may convert its assets to private hands through three types of liquidation:

- o Asset Sale;
- o Joint Venture;
- o Management/ Employee Buy-Out.

The Liquidation regulations give ultimate amount of flexibility regarding terms of payment. Preference is given to 100% cash offers, which are given a 1.25 weight when compared to other offers. Non-cash offers must consist of a 40% cash downpayment for the enterprise, plus a loan for the remaining 60% of the enterprise price. The Ministry of Privatization understands domestic lack of capital, and believes both monetary (i.e., direct credits) and non-monetary (i.e., allowance of time for financing) benefits should be granted to investors whenever possible.

Leasing to own SOEs is the most common form of purchase. The interest rate for the leasing of enterprises is determined by Ministry of Finance regulations, passed on November 10, 1990. The interest rate is equal to 75% of the present interest rate (i.e., the rate equivalent to the discount rate in the United States), but

can be no less than 30% per annum. Additionally, the minimal cash level paid for an enterprise (i.e., the 40% cash downpayment) must be greater than the minimal amount of cash required to let an enterprise's assets through liquidation. Under Article 38 of the July 13, 1990 Privatization Law, an enterprise's assets can be let only if the amount of share capital or the equity capital of the company is not less than 20% of the joint value of the founding fund and the fund of the liquidated enterprise.

Loan payments are divided into a maximum of 16 payments paid over four years. There is a one year grace period on the repayment of principal. Additionally, during the first four quarters of the loan, the interest payments can be deferred such that the purchaser pays only 1/3 of the interest payments. The remainder is added on to the principal value of the loan; however, interest is not charged on this increment. During the second year, 50% of the interest payments can be deferred. All assets of the state-owned enterprise are used as collateral for the loan, although other forms of securitization are possible (i.e., bank guarantees, third party guarantees). Finally, if the firm is purchased at "brutto" book value (i.e., without liabilities), a higher price must be paid to factor this in.

STAGE ONE - INITIATION

o ELIGIBILITY

The FAST TRACK program is an accelerated privatization of an SOE through the "asset sale" under article 19 of the State Owned Enterprise Act of 1981. Normally a Founding Body considers directing an SOE to the FAST TRACK program once an SOE has already requested privatization through liquidation yet does not have the capital investment required to proceed on its own. Often these SOEs are on the brink of being forced to enter bankruptcy (article 19 of the State Owned Enterprise Act of 1981) and thus discontinue as ongoing concerns. When this is the case, Founding Bodies suggest the consideration of sale through FAST TRACK.

The following criteria must be met for a firm to be eligible for the FAST TRACK program:

- A. agreement between Worker's Council, management and Founding Body to enter FAST TRACK program.
- B. clearly defined land and asset ownership.
- C. net book value between 2 billion and 30 billion zloty.
- D. under 500 employees.

o STRATEGIC DECISION and APPLICATION for FAST TRACK:

If the SOE in need of an investor meets the above criteria, the Founding Body drafts compiles the following information:

- A. statement of agreement for entering the FAST TRACK program between the Worker's Council, management and the Founding Body;
sample statement page xx
- B. list of assets, including a demonstration of the property ownership status;
sample asset list page xx
- C. analysis of enterprise value: usually net book value of assets (not including intangible assets

such as goodwill, trademarks, patents, copyrights, joint ventures with other enterprises);

sample analysis page xx

D. a completed MOP questionnaire;

sample questionnaire page xx

E. instructions to liquidate directed toward the SOE liquidation team;

sample instructions page xx

to initiate the auction process these documents are submitted to the MoP at the following address:

Mr. Krzytof Glogowski
36 Krucza
Warsawa

STAGE TWO - GREEN LIGHT FOR FAST TRACK

o PRELIMINARY APPROVAL from MoP

Once the MoP receives the information from the Founding Body, three events take place to further the process:

A. the MoP decides whether the enterprise should be liquidated through Article 19 or Article 37;

NOTE: if the enterprise has leased over 50% of its assets prior to liquidation, it should be privatized through article 19 of the State Owned Enterprise Act;

NOTE: if the enterprise is not paying regular/annual dividends to the State Treasury (which amount to approximately 8% of total net assets), it should be privatized through article 19 of the State Owned Enterprise Act;

B. the MoP informs the Founding Body of its approval to proceed toward liquidation of the enterprise through article 37;

NOTE: this is not final approval, final approval will not be granted until a terms of sale are negotiated);

C. the MoP appoints a representative from the Delegatura to advise on negotiation, assist in the

preparatory process and help establish an exit price.

Until completion of the sale, the role of the MoP is to assist by providing information and directing the national advertising campaign.

STAGE THREE - NEGOTIATION

o NEGOTIATION COMMISSION FORMS and PREPARES for SALE

Once the SOE has been accepted for the FAST TRACK program, the Founding Body sets up a Negotiations Commission which is composed of up to three representatives of the Founding Body, the local delegatura, a member of Workers' Council and others as is appropriate.

The Negotiation Commission should prepare for negotiations by completing the following steps:

- A. draft information prospectus for interested investors;
sample document, page xx
- B. establish an estimated value of the SOE, called an "exit price";
please see pages xx to xx
- C. place local advertisements in conjunction with the MoP national advertising campaign, which specifies a period of 14 days for due diligence on the part of the investors.
see sample advertisement on pages xx

During the due diligence period, the Negotiations Committee is responsible for:

- D. responding to questions from interested investors
- E. providing "information prospects" to investors

At the end of the 14-day period, the Negotiations Committee is responsible for:

- F. receiving proposals from investor (proposals should include the price, business plan and intended form of payment);

- G. adjusting the "exit price" by comparing the original estimated value and the offers of investors;
- H. choosing, through direct ballot, an investor with whom the sale will be negotiated (once the investor of first choice has been identified, the investor has 7 days to accept the offer to negotiate. The investor demonstrates willingness to negotiate through a good faith deposit of 5% of estimated sales price);
- I. initiating and completing the negotiation process resulting in price, business plan and method of payment agreed upon between the Negotiating Commission and the investor;

see chapter xx for discussion on negotiation

STAGE FOUR - TRANSFER OF OWNERSHIP

- o Legal and financial matters are settled completing transformation of ownership from State to private hands.

Once negotiations are completed the Founding Body must:

- A. take a final inventory count and reaffirm the book value (if there is significant variation from the sale price compensation either way can be negotiated);
- B. document final approval by the Worker's Council;
- C. notify the MoP of the identity of the investor and that an agreement has been reached.

Once the MoP is aware that an agreement has been reached, the MoP will:

- D. give final approval for the liquidation of the SOE by signing the liquidation instructions drafted in Stage #1

by the Founding Body;

- E. inform the Founding Body of the approval for liquidation.

When the Founding Body receives the approval of the MoP, it will then:

- F. sign the sale contract (this can occur the same day the MoP gives final approval for the liquidation of the enterprise - note: the court must also approve the contract);
- G. the Founding Body eliminates the company from the books.

SECTION TWO

COMPETITIVE TENDERS IN A MARKET ECONOMY

II. Competitive tenders in a market economy

This section will present the theory behind a competitive tender in a market economy. Particular attention will be paid to corporate auctions in the United States.

Some of the questions addressed in this section include: What is a corporate auction? What are the mechanics involved in the process of selling an enterprise through a competitive tender? What can auctions accomplish? Who benefits from the sale of an enterprise through an auction? What are the drawbacks? What types of problems does a seller and/or a buyer face as a result of ownership transfer through a process of competitive tender?

Practical application will also be presented in order to demonstrate and explain some of the logistical and legal issues and problems that arise in U.S. competitive tenders.

A. The theory behind auctions

Auctions provide a familiar and simple method for reallocating resources from sellers to buyers. They are particularly appealing when a seller does not know or is uncertain how much each buyer values the resources being sold. Despite this incompleteness of information, characteristic in the emerging market economies, auctions can perform quite well with respect to two major objectives:

- o capital goods get into the hands of those who value them the most (i.e., use them best) - the goal of efficiency;
- o the recipients pay only slightly less than their valuations - the goal of raising revenue.

By inducing buyers to compete against each other, auctions tend to fulfill these two objectives better than do the most common alternatives to auctions: price-setting by the seller (where the seller simply fixes a price and sells to the first taker), and haggling between the seller and individual buyers.

B. Use of auctions in a market economy - U.S. perspective

Mergers and acquisitions in the U.S. economy have changed greatly over the past decade. As collateral for acquisition loans, bidders offer merely the target-firm's cash flow, rather than hard assets. In order to maximize the sellers' price, deal-makers have increasingly turned to corporate auctions as an accepted way of selling middle market businesses.

Proponents of auctions point to the speed and control which an auction can give the seller. Critics point to the tensions, the awkwardness, the tendency to overpay and the business risks. One thing is certain: in order to avoid failure, purchasers and sellers should understand what a corporate auction is, and what auctions can and cannot accomplish.

What is a corporate auction:

The term "auction" is often misunderstood. Traditional auctions of property, such as art and antiques, allow each bidder to know how much other potential investors are bidding. Most corporate auctions do not happen that way, especially if the seller is not a publicly traded company (its shares are not openly traded on the stock exchange).

As is the case with the fast track - auction program in Poland, the U.S. seller or its advisors carefully control the flow of information about the seller, about other bids and about required terms and conditions.

There are many types of corporate auctions in the United States. Following is an theoretical example of a corporate auction:

The seller and its financial advisors prepare a 20 to 50 page written corporate profile describing the target company and draft a list of potential bidders which have expressed interest in the firm. The seller's attorney drafts a nondisclosure letter (discussed in detail in Section VIII Negotiations of the Vademecum), for each potential bidder to sign, which reduces the chance that a bidder subsequently misuses sensitive information about the seller.

The attorney representing the seller approaches all potential bidders simultaneously. This process can take from several weeks to several months.

Each potential bidder first gets a one or two page description of the targeted company, which in certain cases remains disguised, along with a confidentiality letter. The advisor speaks with each potential bidder to measure the level of interest. Those who pass this initial screening, sign the

nondisclosure letter and receive a copy of the 20 to 50 page corporate profile, along with an outline of the auction process.

Potential bidders are given several weeks to request additional information, briefly visit the seller's facilities and develop a preliminary bid by a stated deadline. In a so-called quite auction, the seller selects several finalists by quizzing preliminary bidders on their price, the terms and their financial condition. The seller may decide to tell potential bidders that there is a minimum bid price, and may explicitly discourage certain form of payment for the acquisition. Each finalist is then asked to submit a bid which conforms to an outline specified by the seller. Finalists are later encouraged to up their bids.

In an outright auction, the competition is rougher. The seller's attorney may even draft an entire purchase/sale contract, leaving only the price and certain other key terms blank. The contract is sent to all serious bidders when the auction starts. This turns the tables on potential bidders. Before auctions, owners of private businesses rarely found themselves in such control of the divestiture process.

The outright auction continues as the seller selects finalists and pushes for improvements to each contract submitted by a finalist. In the end, the seller and the winning bidder have agreed to a deal and are bound by its terms. This differs from a quiet auction, in which the winning bidder and the seller initially agree merely to a non-binding outline of the eventual deal. In the quiet auctions, it is therefore in the interest of the seller to continue discussions with more than one party as long as possible, leaving little time between the non-binding bid and the legally binding contract. Conversely, since bidders don't want sellers to seek a better bid, bids usually expire quickly.

With either an outright auction or a quiet auction, the time between an initial bid and an agreement can be as little as a couple of weeks, although a month or two is more common.

What can auctions accomplish:

Clearly the seller benefits more, from an auction, than a buyer. Auctions increase the seller's control over many elements of negotiations:

- o information flow;
- o deal terms;
- o the final sale price.

The seller can also compare bids for the firm which might otherwise emerge months or years apart. The seller can even insist that all bids be expressed in the same format, to ease the comparison. Additionally, the seller minimizes the time during which sale rumors may circulate among customers, suppliers and employees (negative effect of a firm's divestiture on employee morale, relations with suppliers and creditors is discussed in Section VIII - Investor Verification of the Vademecum).

There is one way in which auctions can help a potential purchaser: by sometimes demonstrating to unreasonable sellers that their business is worth less than they had hoped. Most of the time, though, disappointed sellers will simply decide to take their companies off the market. Owners of private firms have the right to do this, while management of a public firm (whose shares are openly traded on the stock market), may be forced to proceed anyway.

What are the drawbacks of auctions:

Auctions can cause problems. The unnatural time constraints placed on bidders erode the courtship process, reducing the chance for both buyer and seller to make the deal work. These time constraints characteristic of U.S. auctions also tempt bidders to cut back on needed due diligence of the targeted firm, at just the time when lack of information, and pressure to raise bids and soften terms, make due diligence particularly important.

In addition, the seller who chooses to conduct an auction faces the risk of a taint. If no one steps up with an acceptable bid, the would-be seller is left with employee morale problems, and will likely face a lengthy period during which potential bidders view the company as "damaged merchandise."

Auctions also deprive sellers of one important type of negotiation leverage: the implicit threat to the bidder that, unless the bid is satisfactory, the seller can later resume its search for another interested party. Once an auction is complete, no such threat remains, since the auction presumably uncovered all probable bidders.

In conclusion, auctions create complexities for everyone involved. The many surprises contained in any deal are compressed into a short time period, multiplying the risks to both sides of the negotiation table. As a result, when using corporate auctions as a vehicle for company divestiture, it is important to plan ahead.

C. Use of Competitive Bidding in the Nascent Market Economy of Poland

Why auctions and public tenders

Privatizing productive assets in an emerging market economy like Poland is a task to which auctions seem especially well-suited.

Enterprise value: A major problem besetting privatization is how to determine, after many years of centralization, what are the most efficient private uses for particular capital. How can legal owners of the divested state property ensure that the capital goods get into the hands of those who value them most.

Transparency of the divestiture process: Another key problem which privatization teams face is skepticism and often open resentment by the local community, both business and individual, that the divestiture process may merely continue the "business as usual" process of keeping the country's major enterprises under the control of small cadre of influential business and government leaders.

For political goals of privatization to be achieved, this perception must be overcome. Although public relations campaigns can help to overcome some negative attitudes, the ultimate determinant of support for the program will be proof, or at least substantial evidence, of an open and fair process.

The experience of several privatization experts indicate that local investors often take a "wait and see" attitude toward a privatization program. When the process is transparent and demonstrated to be fair and open, these investors will become enthusiastic and eager to participate in future divestitures. The signals which the local community receives at the outset of privatization are therefore critical to the program's long-term viability.

In analyzing the use of auctions in an emerging market economy of Poland, it is necessary to establish the intended priorities of the Founding Body. As described in the outset of this section, there are two major theoretical objectives of divestiture through a competitive bidding process:

- o goal of achieving efficiency: the capital goods sold through the auction process get into the hands of those who value them the most (i.e., use them best);
- o goal of raising revenue.

Although raising revenue through the sale of productive assets is of importance in view of Poland's increasing budgetary constraints, the goal of achieving economic efficiency in the distribution of capital through auctions is generally the more urgent objective.

This is especially the case with the above mentioned restrictions on foreign participation in the fast track - auction program. To the extent that assets are sold to one's own citizens and keeping capital in domestic hands is increasingly becoming a political priority, the price they pay for these assets may be regarded as merely a transfer payment.

Auction methods used in emerging market economies

There are two major forms of divesting state-owned assets through the means of a competitive tender:

1. Public Auction

A public auction consists of convening a public forum, at a pre-specified date and location, at which companies or simple assets are bid on by any interested, and usually pre-qualified, buyers. As a rule, the assets or companies to be sold are described in public announcements, and there is often an opportunity to inspect these assets prior to the auction.

For simple assets, such as machinery, the highest bidder will generally be awarded the sale immediately.

When a company is auctioned, it is not unusual, and typically to the government's benefit, to hold a non-binding auction in which the top bidder or bidders are asked to enter into negotiations with the government so that the best total "package" of critical sale elements can be obtained including price and future plans of operation.

- o rationale for selection of this privatization method: as a general rule, public auctions are reserved for selling off individual assets, as well as smaller or less important SOEs, especially those which are defunct, in the government's portfolio. This is probably the most straightforward method of private placement.
- o The advantages of a public auction are that it is simple and fast, and also tends to generate personal competition among the bidders present which can drive the price higher than would be obtained through sealed bids.
- o One of the main disadvantages of public auctions is that, especially in a small business community, collusion among the bidders can occur, with all agreeing to hold their bids extremely low in the initial auctioning in the

expectation that the government's target price will come down as a result.

Even without collusion, as these SOEs tend to be the least desirable, there may very well be only a few qualified buyers at the auction, and perhaps only one for whom the particular SOE is strongly suited to his line of business, and therefore saleable to him at a "reasonable" price.

2. Public Tender

The public tender is essentially an invitation to bid on a given SOE. In contrast to the public auction, a tender is usually in the form of a sealed bid which is submitted to the Founding Body. In the tender invitation document prepared by the Founding Body, a description of the enterprise and its assets is included, along with any special requirements such as employee retention, joint-venture arrangements, local participation, production profile restrictions.

- o rational for selection of this privatization method: tenders are generally required to divest larger or more complex enterprises in which the specific conditions for sale necessitate detailed proposals from investors. They are also used quite often used for small businesses divestitures, as governments tend to want time to consider offers, which would rule out public auctions where the sale is consummated "on the spot."
- o One of the main advantages of public tenders in contrast to public auctions is the fact that they provide opportunity for additional screening of and negotiations with potential investors. Certain enterprises cannot be divested on the basis of a direct public auction.

Public tenders also provide for some procedural restrictions on collusion among various bidders. This barrier to collusion has obvious limits. The relative small size of the business community provides for contacts among the various bidders in a competitive tender. Collusion thus remains an possibility.

Problems with auctions in emerging market economies:

It is important to realize at the outset some of the problems resulting from staging auctions in nascent market economies such as that of Poland.

- o **Type of enterprises for the auction program:** The first question is what type of enterprises should be channeled for privatization through the auctions system. In

certain cases, competitive tenders may be counterproductive as a vehicle for attracting potential investors.

Should the SOE intended for ownership transfer be of potential interest to investors and the exit price established by the Founding Body matching up with the financial performance of the enterprise, then a competitive tender may be the appropriate method of divestiture.

Using competitive tenders in the case of companies with limited investor interest and experiencing significant financial difficulty may be counterproductive. Potential investors may be discouraged from competing in the auction process. In such a case, direct negotiations with an individual investor may be a more constructive method of locating a buyer for the enterprise.

- o **Financial constraints:** The problem of thin capital markets poses a problem. How many bidders are you likely to get? What is the probability that they will collude? In an emerging market economy it is only prudent for the government to do a bit of homework in setting its own reservation price below which bidding cannot proceed and in estimating a reasonable initial offer price (sometimes called the "exit price"), for the private sector so as to enhance its own negotiating position.

In sum, in the case of the evolving market economy of Poland, the pure market mechanism of divestiture through a competitive tender will often fail because it will not generate a large number of informed and competitive bidders. This is especially the case in the present situation in Poland where participation in the fast track - auction program is restricted to domestic capital.

- o **Rate of return on investment:** Where a large capital investment is concerned, the uncertainty associated with its return may be considerable. Financial constraints of the investor, characteristic in economies without a well-functioning capital market, create at least two related problems:
 - the buyer with the highest valuation may not be able to pay the winning bid without external sources of funding,
 - the return on invested capital may be insufficient to repay the loan - the buyer may go bankrupt.

A possible solution to this risk is the introduction of tax/subsidy schemes by the State, which would have the effect

of reducing the variability of the return on capital and hence also the risk of bankruptcy.

In the case of Poland, the creation of such subsidy schemes for participants in the fast track - auction program is not plausible in the near future. It would most likely also be counter productive eliminating the underlying principal of the auction program in Poland: investment of new, private capital into the business cycle.

It follows from the problems faced by competitive tenders in an emerging market economy that the government or its representative will need to take an active role in valuing the assets and setting the price of the SOE. Once again, the importance of allocating the enterprise to the most efficient investor should be a priority in establishing the "winning" sale price in the bidding process.

- o **Investor verification:** In view of the limited size of the Polish capital market and budgetary constraints of the central authorities, it is important to stress the responsibility of verifying the investors ability to meet the financial obligations resulting from his bid in the auction. The issue of investor verification is discussed in greater detail in Section VII - Investor Verification of the Vademecum.

Appropriate value of the auctioned enterprise:

The greatest risk faced by buyers in a competitive tenders is their uncertainty about the value of the assets they are bidding for. Such uncertainty can seriously distort buyers valuation of the sold enterprise and so interfere with efficiency.

A high-bid auction process (highest bidder is the recipient of auctioned capital), such as the public tenders of the fast track - auction program in Poland, makes much greater demands on public knowledge about the value of the enterprise than open-exit auctions. In the case of high-bid auctions, individual bidders present their bids in sealed envelopes and are not aware of other participants' proposals (assuming no collusion takes place).

In the case of open-exit auctions, such as the public auctions previously discussed, participating investor are aware of bids presented by other participants in the auction. The investor can thus base his proposed value of the firm (and the resulting bid), on the commonly held belief about the value of the enterprise.

With little knowledge of other bidders' behavior, the more risk-averse a buyer is, the more he wishes to insure himself

against the eventuality of losing, that is, bid as close to their valuations as possible. This phenomenon tends to work against efficiency - it means that a buyer may win the auction not because his valuation is highest but because he is especially risk-averse.

The problem of overbidding resulting from uncertainty about enterprise value is acute in situations where the divestiture of an SOE attracts a greater number of bidders as opposed to the 2 - 3 bidders in the case of the fast - track auction program in Poland. Nevertheless, lack of knowledge about the true value of the enterprise in the context of the fast track - auction program results in the sale price being based on the level of enterprise indebtedness without adequately taking into consideration the value of firm's fixed assets, work force, location and market share.

Section V - Firm Valuation of the Vademecum presents various methods of enterprise valuation and discusses the importance of establishing the value of the enterprise.

Role of enterprise management in the auction process:

Management of the enterprise can assist the Founding Body in presenting the firm to potential investors and establishing the true value of the enterprise. It should be the function of the Founding Body, however, to act as an active intermediary between the management and employees of the enterprise and any potential investors. Actual negotiations techniques are addressed in greater detail in Section VIII - Negotiations of the Vademecum;

Sale of complementary assets

Items that are likely to be complimentary should be auctioned simultaneously. Inefficiencies may occur if capital is auctioned off one item at a time. A potential bidder may be reluctant to enter a strong bid for a portion of enterprise assets if he thinks he may not be able to secure additional assets (equipment), necessary to begin operation of the enterprise. As a result, auctions should aim at the divestiture of enterprises as going concerns as opposed to individual assets. For example, companies which have previously leased a significant portion of their fixed assets to third parties should not be presented for the auction program.

SECTION THREE

GLOBAL PERSPECTIVE

PRIVATIZATION

GLOBAL PERSPECTIVE

Throughout the world, privatization policies are being formed and implemented by countries such as the United Kingdom and Canada to developing countries such as Egypt and the Phillipeans. The scope of these projects varies greatly as do the techniques of privatization. Countries recently emerged from communist economies may be facing unprecedented challenges, yet there may also be useful lessons in the experiences of other governments undergoing less dramatic economic transition.

The purpose of the GLOBAL PERSPECTIVE is to consolidate examples of the privatization experince in other countries so that the Founding Body representative is able to refer to strategic considerations of their counter-parts around the world. At the same time, many of these countries have an active interest in investment in Poland. Therefore each country is presented as a contact for the Founding Body to pursue when searching for investment. Attached are the analysis of the privatization experience of 28 countries along with relevant investment considerations.

Summarized in the following pages are examples of the varieties of privatization methods employed around the world. These include the simple abolition of state monopoly rights (which permits competition), the sale of non-essential assets (such as worker housing), the use of management contracts for the operation of state-owned enterprises, the sale of majority or minority interests in a state-owned enterprise; and the total liquidation of a state-owned enterprise followed by the sale of its assets.

When transactions have involved selling shares a combination of methods have been used to divest of these shares. Private sales (trade sales), invitations for bids from pre-qualified bidders have been frequently employed, fixed price offerings to the public have occurred and it isnormal to make shares available at preferential prices to workers and small buyers.

A common characteristic of privatization programs has been the shifting perspectives and goals of governments engaged in such programs. The initial decision of governments to develop a privatization program has typically been generated by an acute shortage of revenue; but later events have usually demonstrated that there was very little agreement inside the government on what enterprises should be divested and how the proceeds should be used. The selection of enterprises and the means of divestiture have usually entailed a considerable struggle, as it became apparent that the distribution of costs and benefits of divestiture could be greatly affected by such decsions.

etc...

Egypt
Commercial Attache: Mr. Hegzi

Experience With Privatization:

Egypt is in a situation similar to Poland. After years of controlling almost all sectors of business in the country, the government has now set out on a program of privatization. Egypt is currently trying to attract foreign capital to invest in newly privatized countries.

Egypt began its privatization program in early 1991. The government has sought to decontrol most prices and has a goal of complete agricultural price liberalization by the fiscal year 1992-93; energy prices should also be totally deregulated in the next few years.

Authorities in Egypt do not seek extremely rapid privatization of all sectors and companies. Rather, the commercial attache stressed the importance of moderation in Egypt's approach to denationalization. Since 1989, Egypt has aggressively pursued a policy of opening its economy to foreign investment and trade.

Holding companies have been created in the process of Egyptian privatization. Much privatization is occurring at the local level. Local founding bodies determine the value of small and medium sized firms. These companies are then advertized in the newspaper and sold at a public auctions. The Egyptian office of privatization is under the auspices of the prime minister.

Contacts, International Experiences:

Egypt is currently competing on the international market to attract foreign investors for its own companies. However, contact between Poland and Egypt could be beneficial for both countries and Egyptians might potentially be interested in investing in Poland if provided with information about opportunities.

The commercial attache can communicate with the prime minister (indirectly) via modem and can thus send to Egypt, to be distributed to Egyptian chambers of commerce and business associations, information about Polish investment opportunities.

Through a Polish commercial affairs office, we could try to get further information about Egypt's privatization program. We could also try to obtain the addresses of chambers of commerce and business associations in Egypt for the vovoidship officials to contact directly.

Portugal
Commercial Attache: Ernesto Martins

Experience With Privatization:

The 1974 revolution in Portugal overthrew the right wing dictator and replaced him with a communist government. This government proceeded to swiftly nationalize almost the entire economy: banks, agriculture, industry. In November of 1975, the communists lost control of the government, but the enterprises that they had claimed remained in the hands of the Portuguese government. The process of reprivatization which was initiated in 1975 has been much more complicated and difficult than nationalization and still continues to this day, almost 20 years later.

Most Portuguese enterprises, however, have been privatized, with the exception of gas, railroad, cement, oil, grains, and some food enterprises. Sometimes the old owners, who often fled Portugal after the 1974 revolution, simply came back to reclaim their businesses and land and privatization was accomplished in this way. Auctions have been used in the privatization process. Often, however, particularly when small businesses are involved, shares of firms to be privatized are simply sold on the stock market.

Portugal has been received much aid from the European Community. Europe has an interest in keeping Portugal's economy healthy so that an influx of unemployed Portuguese laborers does not overwhelm the economies of its neighbors. European assistance has been applied to diverse sectors in Portugal. Portugal has been very open to foreign investments, without which it could not have made the economic progress that it has achieved.

Contacts, International Experiences:

Portugal has recently established a Portuguese-Polish Chamber of Commerce: Camara de comercio e Industria Luso-Polaca; Sede Provisoria, Rua Antonio sergio, 90; 2750 Cascais; tel.: (01) 3960630; fax (01) 3978167; telex 14572. This Chamber of Commerce was established in January, 1992, to promote and facilitate economic relations between the two countries. Enterprises which wish to privatize and seek investors could address their offers to this body.

Portuguese companies might be interested in investing in the following sectors in Poland: civil construction, food, textiles, metals and machinery, naval construction, packaging, and banks. The commercial attache cautioned that Portuguese companies selling and manufacturing consumer goods would be unlikely to invest in Poland while there is a chaotic free market on the streets where, he said, consumers can buy anything cheaper than in a store. This situation must somehow be regulated, he continued, before Portuguese investors would feel that they could realize any profit in Poland.

Vovoidship officials might also contact Ernesto Martins, Portuguese
Government Trade Representative in Poland, Swietokrzyska 30 apt.
149, 00-116 Warsaw; telephone: 24 95 11; telex: 814330 icep pl.

Norway
Commercial Attache: Lars Chr. Lindstad

Experience With Privatization:

The Norwegian government still dominates and directs almost all economic activity in the country. However, this does not imply that the firms are not competitive on an international market or profitable. Rather, many state-owned companies have mandates to cover a certain amount of their costs through their earnings. Furthermore, state companies implement private business practices.

Privatization is coming to Scandinavia and state companies are trying to diversify as they seek to join the private sector. However, Norway has not yet implemented a large-scale privatization program. Rather, companies seek to merge alliances and decentralize businesses in order to become more competitive on the international market on which Norway depends for its economic livelihood.

Contacts, International Experiences:

Norwegians cite Poland's size, geographical proximity, large market, and commercial links to Norway as reasons for preferring to invest in Poland rather than other ex-Comecon countries. Norwegian firms have invested a little less than \$30 million in 60 joint ventures in Poland. They have also sent technical information to Poland and have established agreements on cooperation outside joint ventures such between NOT, the Polish engineering association, in Katowice and a similar Norwegian organization.

Norwegian companies are most interested in investing in the energy and maritime sectors in Poland. They are also interested in the polytechnical and food industries.

Problems that Norwegian companies have encountered in investing in Poland include: a lack of clear legislative framework for privatization, confusing practices in privatization, an overwhelming bureaucracy which greatly slows the decision-making process, instability and inconsistency in the government and a perceived lack of guarantees and/or continuity. Poland is currently believed to be a high-risk investment for Norwegian companies.

The most successful international efforts have been arranged on a firm-to-firm and business-to-business level. The fewer authorities and bureaucrats who are involved, the commercial attache noted, the more likely the effort is to realize its goals. Vovoidships must find their place in the international market, the attache stressed, and then try to communicate with other professionals in their field who might be interested in investments in Poland.

Polish companies interested in contacting potential Norwegian investors or professional societies can direct their requests to:

Lars Chr. Lindstad, Commercial Secretary, Norwegian Trade Council,
u. Fr. Chopina 2 A, PL-00-559 Warszawa; telephone: 29 09 36; fax:
28 09 38; telex: 813738 nora pl.

Norwegian investments in Poland have been financed either through international funds or through private capital investments. There is a joint Scandinavian bank representative in Warsaw. That address is: Scandinavian Banking Partners, Warsaw Representative Office, Jana Pawla II 73, 01-038 Warszawa; telephone: 38 10 40 and 38 42 02; fax: 38 42 02.

Thailand
First Secretary: Charnvit Buathongchan

Experience With Privatization:

As businesses in Thailand have always been privately run, Thailand has no real experiences with privatization (with the exception of public utilities and a few other large state-run enterprises).

Contacts, International Experiences:

Thailand would very much like to invest in Poland. In November 1991, a Polish delegation visited Thailand. Thai investors are extremely interested in the Polish textile industry and representatives from 17 Thai companies will be attending the faire in Poznan in March 1992. Thai investors are actively looking for opportunities in Poland. They would like to find partners and wish to invest in manufacturing and in privatization.

The Thai chamber of commerce organizes groups of interested investors. CP Intertrade, a Thai trading company which has branches in the United States, China and Portugal, is planning to visit Poland and is interested in investing here.

Thai companies express concern about the unreliability of Poland's banking system. The Polish bank PKO has, however, signed an agreement with the Thai Military Bank in Bangkok in order to encourage international business between the two countries. Potential Thai investors are also very worried about the Polish tax laws and are uncertain about their ability to transfer their profits back to Thailand. In Thailand, they say, there are many more incentives for investors than there are in Poland and the tax laws are such that foreign investors can be sure that they will be able to keep their earnings. In Poland, on the other hand, investors do not feel comfortable with or certain about the laws governing taxes and the transfer of profits. Furthermore, high rents in Poland (particularly Warsaw) have discouraged both wholesalers and potential investors.

Thai companies have expressed interest in investing in textiles, agriculture and construction in Poland. Vovoidship officials can directly contact the Thai Chamber of Trade and Commerce in Bangkok with inquiries and offers. That address is: Board of Trade of Thailand, 150 Rajbopit, Bangkok 10200, Thailand; phone: (66 2) 221-0555, 221-1827; fax: (66 2) 225-3995; telex: 84309 BoT TH. Vovoidship officials can also communicate through the Thai embassy in Warsaw. The contact there is: Charnvit Buathongchan, First Secretary, Royal Thai Embassy, ul. Staroscinska 1 B m. 2-3, 02-516 Warszawa; telephone: 49 26 55, 46 64 14, 49 47 30, and 49 14 06.

Korea
Director Korea Trade Center: Jang-Kyun Kim

Experience With Privatization:

Korea was occupied and controlled by Japan for 36 years. When Japan was defeated at the end of World War II, it withdrew from Korea and the ownership of Korean companies and interests. At that time, Korea was not very developed economically and produced very few consumer goods and no high technology. With economic and military aid from the United States (totalling \$2 billion and \$8 billion respectively), Korea sought to rebuild and expand its economy.

Korea's success has largely been due to hard work. The main focus of the Korean program was: self-help, diligence and autonomy for the workers. Koreans sought to become internationally competitive and stressed global involvement in their efforts. 1960 marked a turning point in Korea's economic development.

Contacts, International Experiences:

Korea would like to stimulate economic activity involving small and medium-sized businesses. Korean companies have already invested in several joint ventures in Poland including companies which produce paper pads, personal computers, chemicals, and televisions. Korean investors have already spent approximately \$20 billion in Poland and other investments are still in the process of being negotiated.

A survey of Korean investors in November and December of 1991 showed that Koreans found conditions for investment best in Hungary, next best in Poland and worst in Czechoslovakia. Koreans cite geographical advantages to investing in Poland: it opens up the varied markets of Germany, the former Soviet Union, Czechoslovakia and the Middle East to them. Polish workers, they add, are well educated and highly trained while salaries in Poland are comparatively low, providing further impetus for potential investors. However, investors consider all possible international investments before deciding upon Poland, and, Jang-Kyun Kim stressed, there is a great deal of competition from other countries to pull potential investors away from Poland.

Potential investors from Korea are concerned about the current tax laws in Poland which, from their perspective, often do not leave them a large enough profit margin to make financial activity here worthwhile. They also express unease with the trade unions and the problems and unrest these have been perceived to be causing. Furthermore, Korean companies find that Polish production lines are often not well organized and would require a large capital investment to become more streamlined and efficient. The banking system in Poland has also caused Koreans much frustration and they have expressed concern about guarantees and the transferability of money. Banks must additionally improve their services in order to please the Korean customer who currently finds them inefficient and

rude. Finally, Koreans worry about government and ministerial stability and continuity and complain that frequent changes and inconsistent policies could adversely affect Polish economic reform efforts.

Korean companies have expressed an interest in investing in the following small and medium-sized plants in Poland: condom and surgical glove manufacturing, laundry and toilet soap manufacturing, toothpaste manufacturing, detergent manufacturing, sunflower seed oil processing, potato starch manufacturing and processing, P.E. film capacitor manufacturing, oil filter manufacturing, P.P. woven bag manufacturing, disposable syringe and needle manufacturing, towel manufacturing, instant noodle, rice bran oil, bottling (filling and capping, asphalt mixing, oxygen, ice making, cold storage, pvc pipe manufacturing, and velcro magic tape manufacturing. Korean companies have also indicated that they would like to invest in any kind of machinery.

Vovoidship officials should directly contact Jang-Kyun Kim with inquires and requests for information and investors and he will direct them to the appropriate Korean government agencies, organizations, or potential investors. His address is: Korea Trade Center, Warsaw, St. Mokotowska 4/6, 00-641 Warsaw; telephone: 25 35 36 and 25 35 47; fax: 25 29 35; telex: 813488 kotra pl.

Great Britain and Ireland (Northern)
First Secretary (Commercial): Michael A. Corbett

Experiences With Privatization:

Great Britain has had an extremely positive experience with privatization. The process, initiated in 1979, has produced dramatic gains for industry, employees, consumers and the citizens who purchased shares of the companies being de-nationalized. Furthermore, privatization has greatly increased the efficiency of resource allocation within the British economy.

In 1979, the government controlled a great number of large enterprises including: coal, steel, electricity, gas, railways, docks, canals, trucking, telecommunications, aircraft, shipbuilding, car manufacturing, oil, and silicon chip production. The overall performance of most of these industries was poor and in some cases there were even negative returns on capital. Furthermore, the political cycle of the government officials responsible for the companies was much shorter than the business cycle and thus frequent political changes did not allow consistent and effective long-term policies to be implemented.

The British financial community at first resisted the proposed privatization program. Their concerns were proven irrelevant as ordinary people, whom they thought would not understand equity or share ownership, responded in an overwhelmingly positive way to the sales of shares of companies to be privatized. The capital market in Britain proved to be much larger and more dynamic than the financial community had thought at first. Indeed, privatization has exceeded the expected capacity of the equity market by £ 5 billion.

Additionally, the British experience has shown that by extending the ownership of companies to private individuals, these people begin to feel more direct responsibilities to and rewards from the firms' activities; this then influences general public opinions and attitudes. Furthermore, privatization in Britain has freed the government from its ownership concerns, which had began to dominate its politics, to pursue more regulatory functions. No longer directly involved in the management of enterprises, the state has found that it can more effectively protect the consumer and the electorate.

The British government has continued to participate in endangered sectors to protect these industries. It has also sought to maintain certain prices and services through a system of licenses which stipulate that certain essential services and facilities must be provided in particular industries even if their provision proves uneconomic.

Privatization in Britain was accomplished through a mixture of competitive tenders and fixed price stock sales; this system sought

to appease all types of potential investors as larger companies preferred tenders while smaller investors generally sought to purchase fixed-price stocks. In order to truly succeed in Britain, the process of privatization had to be accompanied by educational and cultural reforms; entrepreneurship had to become something that was no longer frowned upon and students needed to be able to learn about the principals and practices of a market economy. Also important to the British experience were: special provisions made to encourage employees to purchase shares of their companies, readily accessible and easily understandable information about the process, a clear understanding of how prices were determined, and effective and broad publicity of both the process itself and the companies which were for sale.

Contacts, International Experiences:

There are currently two schemes by which the British government seeks to encourage investment in Poland. One involves a pre-investment feasibility study (PIFS). British companies bear up to 50% of the cost for these studies up to L 550,000. The second scheme organizes the training of investment personnel once the investment has been made. The Polish partners can be trained and learn British know-how either in the United Kingdom or in Poland. Thus far, many feasibility studies have been undertaken but few have led to actual investments in Poland.

British investors are concerned that the instability and uncertainties of the Polish government pose too many risks to make undertaking an investment worthwhile. Some are choosing to go to Hungary and Czechoslovakia where they feel the investment climate is better and the governments are more stable and consistent. Once in Poland, British firms worry that the ground rules and legislation will change and that they will find themselves dealing with different people, policies and economic conditions than those under which they chose to invest in Poland. Additionally, the British complain that valuations in Poland tend to be arbitrary and opaque and they are dubious about the process of determining the final sum. Furthermore, potential British investors cite an overwhelming Polish bureaucracy as another obstacle to realizing potential projects in Poland. The tax rates in Poland pose yet another hinderance for potential British investors.

There are strong historical and cultural ties between Britain and Poland (not to mention a large Polish emigre community living in England) and thus British investors have continued to come to Poland. However many more would come, Corbett explained, if there were not so many disincentives for investors here. So far, British companies have invested in 170 joint ventures in Poland, mostly in small companies, but in some medium-sized enterprises as well. New British investors generally look to the Warsaw region (although Corbett encourages them to seek opportunities elsewhere as well). Usually British firms do not have a problem identifying potential Polish partners as they often will have met representatives of these Polish companies at exhibitions and gatherings in the U.K. or

Poland. Trade missions are another popular means of establishing international contact.

British companies have expressed interest in the following sectors in Poland: agricultural machinery, food packaging, food processing (at the small and medium-sized level). British firms would also like to use Poland as a manufacturing base for less sophisticated technology.

There are various regional development organizations within the U.K., in Northern Ireland, Scotland, and Wales, for example, which seek to bring outside investors into the regions. Polish vovoidships could establish contact with these regional boards. The Northern Ireland Development Board, for example, sends a trade mission to Poland annually. Corbett might be able to get us the names and addresses of these contacts.

Vovoidship officials can also contact Michael Corbett with inquiries and requests. His address is: British Embassy, Aleja Roz 1, Warszawa; telephone: 28 0 01/5; fax: 21 71 61; telex: 813694 Prod Pl.

Colombia
Ambassador: Carlos Bula-Camacho

Experience With Privatization:

Colombia is going through a period of economic opening. There are two branches to this process: the elimination of taxes on imports, and privatization of banks and large industries.

Colombian banks were nationalized in 1982-83. They are now being reprivatized with the idea that the Colombian government will retain control over the central bank and two or three specialized banks but that the rest will be turned over to private owners.

According to the ambassador, privatization in Colombia is not the result of political changes or the pressure of any particular group; rather it represents a pragmatic solution to the general economic situation in the country and the world. Colombia hopes to proceed with privatization under good or at least normal economic conditions, Bula-Camacho stressed, not in panicked times when companies might be undervalued or sold too hastily.

Colombia has not employed a system of public auctions in its privatization efforts. Rather, stocks in the various industries to be privatized are sold to competitive bidders. Foreign investors are also permitted to purchase stocks in Colombian companies. Firms may not be sold to a single investor, however. Colombia has thus created a stock market for its privatization program.

Colombia has only undertaken the privatization of large industries, Bula-Camacho commented, as there is no perceived interest in the private purchase of medium or small enterprises. In some sectors, such as public communications, actual privatization may not occur but state monopolies will be eliminated.

In Colombia, public and governmental opinion is deeply divided over the issue of privatization, and this has posed problems for the process. Critics of privatization fear that the process will unnecessarily cost the state great sums of money as well as future revenues. They are also afraid that money which has been invested in state-owned companies for many years will simply be lost.

Contacts, International Experiences:

The ambassador expressed great interest in receiving information about our project and in becoming part of a privatization network. He also hoped that we could meet with the a Colombian coffee exporter who is coming next month in the hopes of expanding his European market to Poland.

Brazil
Commercial Attache: Cesar Leiti

Privatization Experience:

Brazil has joined its Latin American neighbors in initiating the process of privatization. Brazil has a fairly large program, but it has not proceeded at the same level or speed as Mexico's program. Brazil has privatized some big and successful companies with success. Most of the investors have been Brazilian, not because there is an anti-foreign attitude in Brazil but rather because some Brazilians have both the money and the desire to invest in their own country.

Leiti cited the example of a steel company which was recently auctioned for \$1.4 billion, of which 90% was Brazilian money. This is because the firm is profitable, Leiti says, citing a net gain of \$300 million in the process. The only foreign investor which has bought a large amount of Brazilian company holdings has been Japan. Although foreign investors are unsure of Brazil's political and economic stability, Leiti says that they stand to gain much through Brazil's capital market which offers interests of 30%.

The Brazilian government has accepted junk bonds in the process of privatizing industries. The government has thus issued, against its debt, papers which can be used in auctions. In this way, some Brazilians have become creditors of the Brazilian government and debt has been used to fuel the privatization process.

Most banks in Brazil are private with the exception of a central/national bank, the Banco de Brazil, which is owned by the government, and some state-owned banks (i.e. Sao Paulo, Rio)

The Brazilian government initiated its privatization efforts in order to trim a rather large and heavy bureaucratic structure. It has tried to sell companies that are doing well financially. Those companies that are not doing well financially and which undergo privatization, Leiti said, can be bought for very good prices. In some cases, federations of workers of a company, such as a railroad company, will buy the company despite its financially questionable state. They do this in the hopes that by thus personalizing the company they can invest large amounts of time and effort into making it profitable. There is talk that Brazil may privatize its oil company which has been state-owned since the late 1940s. The government has been privatizing all sorts of companies, regardless of size, as well as property. Most of these are being sold on the stock market.

Contacts, International Experiences:

Two Brazilian companies are interested in possible joint ventures in Poland. The first is a tobacco exporter, a branch of BAT, who comes to Poland to visit often and is looking to export Hollywood cigarettes. The second is a food packaging industry whose

representatives will visit Poland at the end of February. Brazilian companies hope to use Poland as a point of departure for the huge, still undeveloped markets of the former Soviet Union. They also see Poland as a convenient place from which to reach other East European markets such as Czechoslovakia, Hungary, and Bulgaria.

Brazil has the third largest community of Polish people outside Poland, after the former Soviet Union and the United States. Poles are active in all arenas of Brazilian life. Two Polish-Brazilian chambers of commerce, one in Rio and the other in Parana, have even been created in order to boost commercial and financial ties between the two nations. Brazil is also Poland's second biggest creditor in the Club of Paris where a Brazilian delegation recently renegotiated Polish debt.

Germany
Commercial Attache: Dr. Bernd von Muenchow-Pohl

Experience With Privatization:

In the former GDR, most privatization is done through a shopping list system where potential investors look through catalogues of companies, listed by cities and sectors, and obtain statistics (number of employees, etc.) about the companies. Interested investors can then contact a regional office to request more information about the companies.

Germany has used public auctions to privatize companies. The companies which have been auctioned have been bigger companies with larger assets. These companies have been advertized in international papers before they were auctioned. Auctions, however, are the exception rather than the rule and most small and medium sized businesses, including those broken from conglomerates, are bought off the shopping list.

The majority of former East German companies have already been sold. Some issues have arisen during the sales of these companies, including the problem of environmental clean-up and responsibility. Germany established a precedent by forcing an East German company to clean itself up ecologically before privatization so that the purchasers would not have to deal with this liability and responsibility.

Most privatization decisions are made through the Treuhandanstalt. The fifteen branches of this can have significant input on certain issues, particularly pertaining to their localities, however final decisions are made more centrally.

Contacts, International Experiences:

German investors have been extremely frustrated by the indecisiveness and uncertainty of Polish government policy. When faced with enough obstacles, these investors, he said, are turning away from Poland to Czechoslovakia and Hungary where they are not encountering bureaucratic and political problems of this magnitude.

The high turnover rate in the Polish government and in the voidships leaves German investors uneasy; they are never certain that the person that they are dealing with presently will still be in the same position in two or three months or that the policies and attitudes of the officials will be constant. The Germans are also frustrated that the top level Polish managers and officials have not set out a clear, discernable or constant policy or methodology regarding privatization. The illogical and, from the German perspective, unreasonable, way that Polish firms are being appraised create yet another roadblock to privatization. Von Muenchow-Pohl emphasized that the Poles must come to understand that there is competition among various countries and interests for investors and that they will eventually lose out if they do not

work hard to change these glaring problems.

Von Muenchow-Pohl thought that direct contact between vovoidship officials and local German officials could be beneficial to all parties involved. He debated the various options for levels and bodies of Germans to contact, including: chambers of commerce (which he thinks are the ideal patrons for the vovoidships), regional offices, big-city or state-level authorities, trade unions, and the umbrella organizations for business associations and chambers of commerce located in Bonn and Cologne. He added that several German cities already have established links between their chambers of commerce and those of Polish cities. He gave the example of a Krakow-Muenster cooperative effort which basically provides people in Krakow with professional training. However, he said, groups and officials have not yet been brought together on a vovoidship level.

Von Muenchow-Pohl seemed to like the idea of bringing a few select Polish vovoidship officials to Germany to meet with local German officials involved in privatization. He said that this must be done very carefully, however. He mentioned that the politicization of the proposed German-Polish border development basically killed the project. For this reason, he said, the Poles must initiate the request for a visit. Those who participate should speak either English or German and should perhaps have some things in common with the German areas and companies they are to visit. Von Muenchow-Pohl said he would be interested to put these two groups together for a few days in order to see what kinds of discussions arise. Von Muenchow-Pohl continued by saying that it might be interesting for the Poles to meet with people in former East German companies as well in order to discuss the types of day-to-day problems they have encountered. The Polish vovoidship representatives might also meet directly with potential investors during this visit.

France
Commercial Attache: Christian Saillard

Experience With Privatization:

France has only attempted to privatize very large companies by selling the enterprises on the stock market. Because this method can succeed only if potential investors have confidence in the companies whose stocks they are buying, the French have only attempted to privatize firms which are in good financial health. Saillard said that he would send a request to Paris for documentation of French privatization efforts.

Contacts, International Experiences:

The French embassy in Warsaw has received many requests from various Polish companies that wish to initiate joint ventures with French investors. However, most of these requests are ill-prepared and not at all thought out; the companies (and sometimes they are not even companies, just groups or even individual land-holders) that initiate the requests do not include specific information about themselves, their productive capacity, and, most importantly for the French, the place of their product within the general market. Saillard said that he has never seen a complete request that would provide a French investor with all the information he would need and want about a Polish company. Occasionally, companies which are serious about the request will, when asked, provide further information.

The French embassy does not know what to do with the inadequate information that the Poles have been providing. Saillard has tried, through various publications and agencies, to distribute this information to potential French investors, but this has never produced any results; interested French investors generally come to Poland and companies and people that do not make the trip do not seem to respond to information that they receive in France about Poland.

Proper promotion of investment opportunities in Poland is essential to increasing French financial interests and ventures in Poland. The French have created a Center for the Promotion of Investments (CPI) in Poland and it has been operating in Warsaw since January. The purpose of the CPI is to centralize and sort through all the Polish requests for joint ventures and then to try to match the more serious offers to potential French investors. The CPI thus serves as a match-making service but does not involve itself further in the legal or functional aspects of the privatization process. The CPI is funded by France and its services are provided free of charge to both the Polish and French companies it seeks to link.

There is also another agency of this type, the ACIN(?) (Agency for International Cooperation) which is composed of 2500 French organizations. The most interesting Polish offers have been sent

to the ACIN directly. However, this has not produced optimal results largely because the Poles and the French have very different attitudes towards marketing and production; the Polish companies are mainly focused on production while potential French investors seek good marketing techniques. Also, information about potential joint ventures in Poland has yet to be put together and efficiently advertized and distributed to interested French parties.

The financing for French investments in Poland is not easy to find. Although several large French banks have offices in Poland, these represent general savings banks which only have small investment sections. The large French investment banks, on the other hand, are not very active in Eastern Europe; they have tended to hesitate rather than involve themselves in this arena as they feel that Eastern Europe currently presents too many uncertainties, instabilities and risks. Saillard has been sending a monthly bulletin to French banks, to 250 selected French executives, which in two or three pages explains the general situation and opportunities in Poland. This bulletin has never produced any further inquiries or investments.

French companies are hesitant to invest in Poland for various reasons. For example, many companies have preferred to concentrate their attention and investments within the European Economic Community. Also, the French perceive enough political instability and inconsistency in the Polish government to deter them from actively pursuing joint ventures. The French encounter additional problems when they try to get adequate information from and about vovoidships. Finally, big French investors generally take a lot of time to evaluate the situation in a particular country and/or company before investing.

Mailings, have not proven an effective or efficient way of contacting potential French investors. Neither does Saillard think that contacting French chambers of commerce would be worthwhile as they are too numerous and their work does not generally correspond to or overlap with that of Polish vovoidship officials. Any studies undertaken by the French of proposed privatization efforts in Poland must be concretely supported--and indeed inspired--by a actual company and interest. The French government did a few studies in the past which bore no real fruit and it has decided to limit itself now to studies which in its estimation will lead to concrete results. Real enterprises that know and can judge the market, and not just consulting firms, must also be involved before a study can be initiated.

Saillard expressed a great interest in meeting with us again after we have finished our embassy visits to learn about what other countries are doing and to talk about the implication of the information we will have obtained. He also agreed to attend a meeting/reception with vovoidship officials in order to establish more direct local ties.

Chile
Commercial Attache: dr. Alfredo Lastra Norambuena

Experiences With Privatization:

After the 1973 coup d'etat, Chile implemented a large-scale privatization program. Privatization was accomplished rather swiftly as the previous owners of small companies which had been given to the workers under the Allende government simply reclaimed their property and their businesses.

Larger companies, such as copper, underwent a slower process of nationalization and were privatized with relative ease by selling shares on the stock market. Some of the previous foreign owners, such as ITT (the telephone company) and American copper investors, returned to reinvest in their former Chilean interests. Because the banking system worked well and the firms had been nationalized slowly, the values of the companies were easily determined and well-known and privatization proceeded relatively smoothly. Indeed, most formerly state-owned enterprises were in private hands within six months.

Contacts, International Experiences:

Chileans are wondering why they should be interested in investing in Poland. They do not rule out activity here, but need to be convinced that opportunities here present them with potential advantages.

A private Chilean Trading Company had been operating in Poland but it closed down and left a month ago. Further information on this company and its reasons for leaving should be forthcoming.

As Chile is doing well economically, Chilean companies have begun to look toward expanding their efforts in international endeavors. Chilean companies tend to invest internationally in their own sectors and similar businesses or in complementary enterprises. For example, Chilean companies have invested in paper mills and supermarket chains in Argentina, in printing in Brazil and in computer software in Peru and Mexico. They might be interested in investing in agriculture and agro-industries in Poland.

Potential Chilean investors are worried about the Polish banking system and the obstacles it presents in such areas as transferring money and obtaining letters of credit. Potential investors are additionally worried about labor legislation and the power of unions in Poland. They also express concern about Polish tax laws and distribution networks.

Vovoidship officials can address inquiries, offers, and requests to dr Alfredo Lastra Norambuena, Doradca Handlowy, Ambasada Chile, ul. Morszynska 71B, 02-932 Warszawa; telephone: 642 63 73 and 40 90 41; telex: 814542 emnch.

Canada
First Secretary (Commercial) and Consul: Lynda E. Watson

Contacts, International Experiences:

Canadian companies do not usually express an interest in investing in Poland. Rather, they first come to Poland to do business here and, once in Poland, decide to invest.

Both the potential Canadian investors and their Polish partners or interests are generally naive and ill-informed at first. The Poles must learn about the market place and western business customs, tools, and sources of help, and the Canadians have a lot to learn about the actual conditions and situation in Poland.

Most Canadian firms are somewhat successful in the end. Only straight exporters tend to leave Poland when they find that they cannot accomplish what they had intended. Other companies tend to look for new methods and approaches to solving their problems and, once they have invested a considerable amount of time and effort in Poland, are reluctant to simply walk away from a frustrating situation. The process can be long, however, taking a minimum of one and an average of two years between the first naive Canadian visit to Poland and the final signing of an agreement. Most Canadian investors successfully identify their Polish partners through persistent investigation of various avenues for professional contacts including agents, trade journals, word of mouth, magazines, networking, and foreign trade organizations.

Canadian companies have shown an overwhelming interest in the construction sector in Poland. Construction accounts for at least 50% and as much as 75% of Canadian joint ventures and semi-permanent partnerships in Poland. Canadian firms interested in construction do not always seek alliances with other firms and will often pursue partnerships with city governments and municipalities where they deem this more appropriate and effective.

Canadian companies involved in construction in Poland have learned to distrust Polish contractors as they found a lack of cost or quality control among the contractors. However, Canadian investors have found individual Polish tradesmen to be quite qualified although the process of construction in Poland takes much longer than it does in Canada due to a lack of money for materials, problems with management and scheduling, and unforeseen obstacles. Furthermore, some Canadian companies trust local materials and individuals while others prefer to import.

The greatest impediment for Canadians doing business in Poland is the attitude of the Polish staff--even at the managerial level. Canadians have become frustrated because their Polish counterparts have not been educated about the workings of a marketplace or the roles and responsibilities of producers and consumers in a free market economy.

Canadian retirees who worked at the senior president and vice presidential levels in Canada can volunteer to participate in the Canadian Executive Overseas Services Program which places them in Polish companies that have requested such advise and assistance for up to three months. The 72 volunteers who have served in Poland thus far have encountered extreme difficulties with Polish business attitudes. They become frustrated as the business plans they develop are ignored and as only after their three month terms are ending do they find the people with whom they work ready to begin considering how to implement the advise or business plans that the volunteers have been giving. Fifty more volunteers are expected to come to Poland in the near future.

Questions of ownership also pose serious problems for potential Canadian investors who have begun to feel that privatization is being held up on a political level; they have begun to question the dedication of the Poles to privatization as they feel that politics have begun to distract officials from the real issues at hand. Potential investors in Poland have begun to look to Hungary and Czechoslovakia where they perceive more consistent policies and clear commitment to privatization. At the local level, Watson emphasized, privatization is not always controlled by the federal government and could proceed in a more rational, constant manner.

Canadian investors have also expressed frustration that vovoidship officials who have the authority to negotiate taxes or to write off paper debt have not taken the initiative to do so. Vovoidship officials, the Canadians feel, should evaluate their priorities and, when it is within their power to do so, create incentives rather than disincentives for potential investors.

There is a distinct lack of proper marketing skills in Poland, the Canadians have found, and rather than simply "offering" goods and companies for sale producers must learn to take the action and initiative to "sell" to increasingly demanding and critical investors and consumers. A service mentality is missing in Poland, and this has adversely affected relations with foreigners in every domain and at every level. Furthermore, the lack of good information on opportunities in Poland has hindered potential Canadian investors and they have begun to think that the Poles are withholding or disguising information, an idea which is totally unacceptable in the western business world.

Prices in Poland seem arbitrary and unreasonable to Canadian businessmen. This is improving, but the Canadians stress that the Polish people must come to understand the implications of supply and demand curves in order to determine fair market values.

Watson provided examples of Canadian economic development corporations and industrial commissions whose job is to package and sell their cities and regions. She emphasized the importance of public relations skills and of highlighting comparative advantages. Good information is attractive, anticipates questions well, is translated into several languages, and provides data which are

relevant to target groups. Canadian business people want to know more information about Polish vovoidships and cities than is currently provided. For example, they would like to know what kind of services are available, what companies' business plans are, what these companies intend to do, and what the opportunities and advantages of these enterprises in this region are. Watson emphasized that Polish firms and vovoidships should actively recruit investment rather than simply offering to accept it. One particularly interesting example Watson provided was a Canadian city which gave one-page well-designed summaries of industries currently seeking foreign strategic partners and the kinds of investors they wanted. These companies marketed themselves much in the same way that a person looking for a job would sell him/herself on a curriculum vitae.

Investors, Watson said, like to deal with people who seem to understand their interests and concerns. Furthermore, they are more likely to pursue opportunities with people they feel share their attitudes and ideas.

Watson suggested that some people from Poland spend a few weeks with Canadian development corps staff in order to learn about how Canadians promote their cities and attract foreign investment.

Canadian companies have already expressed interest in the following sectors in Poland: telecommunications, environment (particularly equipment), food processing and packaging, and energy (conservation, oil and gas exploration, processing, enhancement, methane, coal). They have also expressed fragmented interest in a variety of industrial matters and consumer products. Canadian companies have also shown an interest in pulp and paper and steel, but industries in these sectors are hard-pressed world-wide. But, Watson emphasized, there are opportunities for Canadian investment in every sector.

A significant number of Canadian investors are individuals rather than companies, some of whom--but not all--are of Polish decent. Rarely do Canadians seek to simply buy Polish companies as they hope to use Polish partners to better access the Polish market. However, if there are enough disincentives to foreign investment and business participation, this situation could change.

Polish firms interested in hosting a Canadian volunteer should contact: Anna Jancewicz, Canadian Executive Services Overseas, Representative in Poland, ul. Wspolna 37/39 m. 16, 00-519 Warszawa; telephone/fax: (22) 21 90 92.

Vovoidships could send information, requests and offers to: Investment Canada, P.O. Box 2800, Station "D", Ottawa, Ontario, Canada K1P6A5. They could also send information directly to Lynda Watson at: Canadian Embassy, ul. Jana Matejki 1/5, 00-481 Warsaw; telephone: 29 80 51; fax: 29 64 57; Telex: 813424 CAA PL. Watson emphasized, however, that she has neither the money, time nor resources to provide companies with a match-making service.

Vovoidship officials interested in learning more about Canadian regional promotional techniques should contact: Industrial Development Association of Canada (IDAC), 1645 Pierre Place, Mississauga Ontario, L5J3G6; telephone: 416-822-9771. 350 communities are members of this association.

Argentina
Commercial Secretary: Carlos J. Albisetti

Experiences With Privatization:

Argentina began its privatization program at the end of 1989. By the end of 1992 or the beginning of 1993, it expects to have privatized all of its large federally owned companies. State and local governments also own smaller companies and these too are undergoing privatization albeit a bit more slowly than the large federal concerns.

Large companies have been sold on the Argentine stock exchange to both domestic and international investors. Albisetti provided the example of the southern Argentine telephone company (there are two national companies) of which 60% of the capital was put into a holding company and sold through international bidding (to Citibank and a Spanish company), 10% was sold to the employees, and 30% was offered for international bidding in December, 1991. The base price of the stock of this company had to be augmented as they found there was a greater demand than expected for shares of this company.

Shares of large federal Argentine companies have been offered on the stock exchanges in New York, London, Chicago as well as in Argentina. There is an Argentine investment fund on the New York stock exchange. Argentine enterprises have also been successful in attracting institutional investors from the United States.

There has been no opposition to foreign investment in Argentina and indeed the government has been actively soliciting it. The Argentine government has decreed that all bidding must include a foreign operator in order to ensure proper management and that the service that the company provides really will improve after privatization. In all cases, however, foreign investment in Argentina involves domestic concerns (joint ventures, etc.) and is not simply the purchasing of Argentine capital and companies by international interests.

Argentina has supplemented its economic process of privatization with a political process of changing regulations and the control of certain sectors. Changes in ownership alone, Argentines believe, will not make a difference if regulations are not changed as well.

Argentina has tried to use revenues generated through its privatization process to pay off its foreign debt. Indeed, most foreign investment in Argentine companies has involved the purchase of titles of foreign debt.

State and municipal governments have undertaken small-scale privatization of energy, water and service sectors. These companies are sold through public auctions rather than through direct negotiations. The Argentine federal government must approve both the initiation of the privatization process for a particular

firm and the final investment deal. As the parliament is dubious about direct negotiations, public offerings have proven a more politically viable solution to privatization.

Argentina does not have a problem with unemployment, which has greatly eased the process of privatization. Indeed, if the Argentine economy continues to grow, the business community estimates that it will need to begin importing labor within the next year or two.

Contacts, International Experiences:

As Argentina has been involved in a large privatization program itself and has been competing to attract international investors to its own program, Argentine investors have not been active in the Polish market. There have, however, been two very successful Argentine investments in Poland in firms which sell cars through a system of prepayment.

Viewing Poland as a good opportunity to gain access to the expanding European Community market, Argentine companies could potentially become interested in investing in Polish companies. Argentine investors would probably be most interested in the food, pharmaceutical and medicine sectors.

Argentine investors do not find bureaucracy or inflation in Poland particularly daunting. In Argentina the situation is quite similar and companies have simply adapted and learned how to operate under such conditions. The lack of available office space, particularly in Warsaw, has posed a large problem for Argentine investors, however.

There is a large Polish community in Argentina and 200,000-300,000 Argentine citizens are of Polish decent. There is a very active Argentine-Polish chamber of trade which represents powerful private interests. Its address is: Camera de Comercio Argentino-Polaca, Cordoba 632, 8 p, (1054) Capital Federal; fax: (541) 112924; telex: 23818.

Other organizations that vovoidship officials could contact directly in Argentina with questions, requests and offers include: Union Industrial Argentina (Argentine Industrial Union), Av. L.N. Alem 1067, Capital Federal; telephone: 313-2012; and Sociedad Rural Argentina (Rural Society of Argentina), Florida 460, Capital Federal; telephone: 322-3431.

Albisetti, the Argentine commercial secretary, can also be contacted directly. His address until approx. May, 1992 is: Argentine Embassy, Commercial Section, ul Zgoda 6, Warsaw; telephone: 27 83 42 and 26 80 31 ext. 235; telex: 817560 cone pl. After May 1992, his address will be: Argentine Embassy, ul Jana Styki 17, Warsaw; telephone: 17 60 28/9; fax: 17 71 62.

Albisetti also provided a long list of chambers of commerce

representing various sectors in Argentina with which vovoidship
officials could establish direct contact.

Morocco
Counselor: Abedlлатif Saadi

Experience With Privatization:

Morocco adopted a new law on privatization in April 1989. In 1990 it adopted rules for applying this law and prepared a list of companies to be privatized, however it has not yet commenced with the actual process of privatization. Morocco intends to privatize mainly large, state-owned companies. The government plans to retain control over certain strategic sectors including railroads, airplanes, phosphate and energy.

Morocco has used the British example of privatization in formulating its own nascent program. Most large state-owned companies will probably be privatized through the selling of their shares on the stock market.

Morocco is open to foreign investment but has not been actively soliciting it.

Contacts, International Experiences:

Moroccan companies have not yet expressed any interest in investing in Poland. As Morocco needs capital itself, it has not been able to export any except to a few African countries for mainly political reasons. Furthermore, the Moroccan government controls foreign exchange and must approve international transactions.

Saadi did not entirely rule out the idea of eventual Polish-Moroccan joint ventures. However, the lack of information on the part of both the embassy and potential Moroccan investors pose great obstacles. Moroccan companies, if provided with enough information, could become interested in the following sectors: textiles, agriculture and food industries, machinery, metallurgy, electronics, tourism, chemistry and phosphate based-products.

Ireland
First Secretary: Mairtin O'Fainin

Experiences With Privatization:

Ireland still has a significant state sector. In the past ten years, only two major state enterprises, a life insurance company and a sugar company, have been privatized. There is no public policy for privatizing the rest of the state sector. Ireland's state-owned companies have been significantly restructured, however, and operate commercially without subsidies. The political climate in Ireland currently urges reconsideration of the potential merits of privatization for the nation's economy.

Since the 1950s, Ireland has aggressively sought foreign investment. The Industrial Development Association has worked to create an environment which is very attractive to foreign investors.

Contacts, International Experiences:

Irish firms have not yet expressed a great interest in investing in Poland. The sectors that they might find most attractive and/or interesting for future investment include general food processing and the meat and dairy industries. Large Irish companies have visited Poland to research investments in these areas. Dairy investors, however, found that Polish companies were inefficient and needed much restructuring.

Irish companies were initially interested in investing in Poland in order to prevent Poland from posing a threat to Irish agricultural products in the EC market. However, after initial research showed the inefficiencies of Polish enterprises, the Irish were reassured that in the short and medium term Poland would pose no threat to them on the EC market and that in the longer term investments would not be worthwhile either.

Ireland has traditionally exported service companies. One such company has been set up in Poland to sell, through a Polish subsidiary, astro satellite system equipment which has been manufactured in Great Britain and Ireland. There are significant numbers of Irish consultants in Poland, including a 20 person restructuring team. Irish professionals are also working in Polish agricultural extension, training, and unemployment policy. Two Irish banks have also established links in Poland. One has set up a management team in Poznan and might possibly invest in the Polish bank there as well.

There are very few multinational Irish firms which invest overseas. Thus far, these companies have not expressed an interest in investing in Easter Europe. Bureaucratic obstacles and a general uncertainty about the political and economic stability of Poland have made these potential investors hesitant to initiate any projects. O'Fainin said that he has received many calls from people

asking about the changing Polish attitudes towards foreign investment and what they perceive to be increasing nationalist and isolationist tendencies in the new Polish government.

O'Fainin provided a list of Irish companies which are members of the Ireland Poland Economic Association. Other useful addresses include: Confederation of Irish Industry, Confederation House, Kildare Street, Dublin 2; telephone: (01)779801; fax: (01) 777823; telex: 93502. The Chambers of Commerce of Ireland, 7 Clare Street, Dublin 2; telephone: (01) 612888; fax: (01) 766043; telex: 90716. Industrial Development Authority, Wilton Park House, Wilton Place, Dublin 2; telephone: (01) 686633, 688444, 602244; fax: (01) 603703; telex: 93431.

South Africa
First Secretary Trade: Riaan Le Roux

Experiences With Privatization:

South African industrial development was accomplished through the active involvement and direction of the state. The government decided to privatize some of these industries in order to free up resources for more pressing human concerns such as the severe shortage of housing in South Africa.

Some of these privatization efforts have been extremely successful. The media and public have largely supported the idea of privatization and consumer confidence has been high. The 1988 privatization of the state steel company, for example, was two times oversubscribed. South Africa has tried to limit its privatization efforts to companies which are in good economic health and can weather the first difficult years without the protection of the state umbrella. The basic philosophy behind South African privatization has been to privatize only when an effective organizational gain is expected; South Africa has sought to avoid simply transferring public debt to the private sector.

Contacts, International Experiences:

Although South Africa is searching for investment and the country is not an exporter of capital, there are some South African companies which are very interested in investing in Poland. South Africans see Poland as a spring board for access to markets within the European Community, Middle and Eastern Europe and the former Soviet Union. They fear that the EC will turn Europe into a fortress and they hope to secure continued access to this citadel through strategic investments.

South African companies are mainly interested in manufacturing and services. One South African company has bought a small factory in Poland which manufactures fire extinguishers. South African investors might also be interested in the after sale servicing of equipment, particularly mining machinery, and domestic appliance and security equipment manufacturing. At the Poznan faire last year, South African companies expressed an interest in assembling appliances in Poland from heavy parts produced in Poland or Europe and more sophisticated technology imported from South Africa. One South African country is looking to initiate a joint venture with a manufacturer of mining equipment 140 km from Warsaw which it could then use as a base to serve the rest of Europe.

Thus far, South African companies have not encountered any great difficulties in investing in Poland; rather they have found that a great desire to initiate projects here and the persistence to do so has helped them find solutions to any bureaucratic or other problems involved in initiating projects. In fact, the deal for the fire fighting equipment factory took only two months to complete. However, South African investors have found the Polish

banking system to be quite limiting.

Le Roux would like to bring representatives of small businesses in South Africa to Poland to investigate possible joint ventures.

Interested vovoidship officials could contact Riaan Le Roux directly at: South African Embassy, ul. Belwederska 18 A, 00-762 Warszawa; telephone: 41 55 01, 41 87 28, and 41 89 61; fax: 41 99 85. For information on major industrial projects, venture capital and promotion in South Africa, vovoidships could contact: Industrial Development Corporation of South Africa Limited, 19 Fredman Drive, Sandton, P.O. Box 784055 Sandton 2146, Republic of South Africa; telephone: (011) 883-1600; fax: (011) 883-1655; telex: 4-27174 SA, 4-27201 SA.

Finland
Commercial Counsellor: Juha Metsantahti

Experiences With Privatization:

Most Finnish companies have always been privately owned. A few large national companies have been sold on the stock exchange to private investors.

Contacts, International Experiences:

Approximately 50 Finnish companies have already invested in Poland. Many of these are representative offices for firms in Finland but some are also joint ventures. Only one Finnish company has invested in privatization in Poland. Finnish firms have thus far invested a total of \$2.9 million (USD) in Poland.

Finnish companies have expressed considerable interest in participating in Polish privatization. However, after experiencing great obstacles and problems with investments in the former Soviet Union, Finnish firms have become cautious and skeptical about investments in Poland. Finnish investors experienced in the former USSR experienced great difficulties in determining the owners of companies to be privatized and in deciphering what the actual laws on privatization were. They also experienced great frustration in trying to secure approval from the appropriate ministries and generally in trying to sort through a ubiquitous, overlapping and confusing bureaucratic structure. Some Finnish firms found that once they sent money to the former Soviet Union, as a consequence of the forementioned problems, they had no company to show for their investment and no way of retrieving their money.

Finnish companies, due to linguistic and cultural ties, have been shown a greater interest in investing in Hungary than in Poland. However, Finnish investors might be interested in the following areas in Poland: the food industry, food technology (not yet available in Poland), medium sized metal works, furniture, textiles, and large construction companies. Finnish firms have sometimes found that Polish companies undergoing privatization seem to have attitudes against the process which befuddle potential investors. Finnish investors have also experienced difficulties in obtaining information about which Polish companies are to be privatized.

There is a databank of potential Finnish investors in Helsinki. Vovoidship officials could contact Juha Metsantahti directly with questions and information about this databank or about Finnish participation in Poland. His address is: Embassy of Finland, ul. Fr. Chopina 4/8, 00-559 Warszawa; telephone: 29 40 91; fax: 21 60 10; telex: 813731 fintr pl, 814286 finl pl.

Pakistan
Third Secretary: Ayaz Muhammad Khan.

Experiences With Privatization:

In 1990, the new Pakistani government initiated a program of decentralization and privatization. The present prime minister of Pakistan, unlike his predecessors, is a business tycoon who advocates industrialist policies and privatization. He hopes to accelerate Pakistan's economic development and to wipe out the vestiges of post-1971 policies of centralization.

Pakistan began privatization by giving a major state-owned commercial bank back to its previous private owners. More banks are expected to be privatized in 1992. The government has also lifted all restrictions to foreign investment in Pakistan and has created incentives for international business, including assured transferability of all profits. A number of foreign firms have already invested in Pakistan, including a large Korean company.

The Pakistani government has asked private citizens to invest the money that they have been saving in banks in stocks of newly privatized companies. Thus far, the response to this request has been overwhelmingly positive; a great deal of capital has been mobilized, cottage industries have emerged, and people have been realizing substantial profits. Additionally, private Pakistani citizens can now invest abroad freely and foreign investors are able to buy stocks in Pakistani firms. Five new commercial banks have opened in Pakistan in the process of privatization.

As Pakistan's economy is 75% based in agriculture, most of the privatization and decentralization has occurred in this sector. Public auctions which are open to all bidders, including foreigners, have been used to sell enterprises.

Privatization in Pakistan has resulted in increased productivity and efficiency as well as increased inflation and unemployment. Workers have become disillusioned with privatization due to the consequent increases in unemployment and inflation. The government has tried to counter these negative attitudes by ruling that workers should not be fired unless it is absolutely necessary. The government has also sought to create a set of coherent, effective industrial labor laws. Trade unions are permitted to operate in Pakistan within certain legal limits. There has always been inflation in Pakistan and thus although privatization has aggravated this situation, it is not perceived to be as serious a problem as unemployment.

Overall, Khan esteems that the Pakistani public response to privatization has been quite positive, despite the social and economic problems the process has caused. He noted that privatization in Pakistan seems to be proceeding more easily than it is in Poland and that Pakistani people have generally appreciated the results of a more open economy and the increased

quality of the products available to them, albeit at higher prices.

Contacts, International Experiences:

There has not yet been any Pakistani interest in investing in Poland. Potential investors have been wary of the unstable political and economic situation in Poland and have expressed uncertainty about the permanence of the changes being initiated. Pakistani investors have also preferred to stay closer to home and have sought more cooperation and collaborations with Japan and Korea rather than with Eastern Europe. Furthermore, potential investors feel that as a result of the comparatively small purchasing power of Eastern Europeans, there is not as much to be gained here as there is in other parts of the world, including Western Europe.

Khan said that he has received a few inquiries from Pakistani companies, but that these were for investments of not more than \$2 million. Khan cited several potential obstacles to Pakistani investors in Poland including: a weak banking system, a telecommunications system which needs much improvement, a lack of knowledge on the part of Poles as to the regulations regarding privatization, unfamiliarity of Poles with international trade terminology and practices, the language barrier, a lack of information about opportunities in Poland, and bureaucratic complexities which create obstacles to establishing joint ventures.

Australia

Senior Trade Commissioner and Commercial Minister: Tony Clegg

Experience With Privatization:

Australia is pursuing privatization at the state and federal levels in order to increase efficiency and productivity and to lower government expenditures. The government has adopted a modified UK model for its privatization program. The program has sought to sell profitable state-owned enterprises to private investors. This policy has been quite controversial, however, as the public has begun to question the necessity of selling firms which are generating income within the public sector.

State owned utilities have been converted into holding companies before they are privatized. Most companies will be privatized through the sales on the stock market and the public issuing of shares. Larger companies have been asked to play a management role in the process of privatizing some enterprises.

Australia has also been pursuing a general policy of lowering protections and barriers and in five to ten years it expects to be one of the most open markets in the world.

Contacts, International Experiences:

The Australian government has sought to encourage both international investment in Australia and Australian investment abroad. Australians view Poland as well-positioned for investment as it borders both the European Community and the former Soviet Union and thus provides access to both of these markets. Australians also cite a relatively low cost and well educated labor force, and greater cultural ties than they have to their Asian neighbors, as other incentives to invest in Poland.

Australian companies have expressed interest in investing in the following sectors in Poland: telecommunications, mining and mining equipment, food processing, transportation, and textiles. Australian firms have already set up joint ventures in telecommunications and the second largest brewery in Poland is the recipient of Australian investment.

Australian companies have encountered problems in knowing exactly who they were dealing with in Poland and who exactly those individuals actually represented. Furthermore, Australians have discovered that many Polish people and ministries claim to have authority that they do not have and that it is difficult to research and verify the parties who are actually responsible for a particular deal or decision.

Investors have also complained about bureaucratic obstacles and the slow decision making process they have found in their dealings with Polish officials. Furthermore, some Australian firms have encountered blatant corruption in Polish privatization efforts.

One example Clegg cited was of an Australian firm which had won a deal in a fair bidding process and had paid a \$2 million deposit. Only then did the Australian company discover that the Polish government official responsible for the transaction had resigned from the government to join a German firm and had taken the project in question with him. If this happens too often, Clegg noted, the Polish privatization process will lose its credibility in the eyes of potential Australian investors.

Furthermore, social issues have troubled potential Australian investors who do not know how to delicately lay off 30,000 unnecessary employees in order to make Polish companies more efficient and profitable. The arrangements and responsibilities for payments to the people who would lose their jobs in such a transaction are unclear to potential Australian investors. Similarly, Australian firms are confused as to what should be done with unwanted appendages, such as excess trucks or transportation fleets. In Australia, good managers would simply eliminate these unneeded, inefficient appendages; however, Australian investors in Poland find they must be concerned about obligations regarding future employment of the people and resources involved.

Polish financial institutions have also posed problems for Australian investors as has a lack of informational materials on opportunities in Poland. They have encountered difficulties in locating potential partners and in finding out who should be addressed concerning particular issues or problems, including questions of ownership. Australians have also found Polish policy making to be extremely simplistic and short-sighted. As a result, some companies have preferred to invest in East Germany which they perceive to be more stable and consistent. Finally, the great distance between Australia and Poland poses an obstacle to investment which, Clegg notes, can be overcome if Poland offers dynamic enough opportunities.

Australia offers several types of aid to Poland. One program, the APTEE, run by ADEP, sends senior technical managers to Australia for six months of study at an Australian university and two months of training in an Australian enterprise similar to their own company in Poland. This program is advertised annually and candidates must be nominated by their employers. Selection criteria used by the embassy in screening applicants include: a solid technical background in the field (this does not have to be engineering, indeed economists with solid backgrounds are accepted into the program), a senior managerial--but not necessarily executive--position, and business activity in sectors which have relatively strong Australian counterparts.

Australian companies looking to establish links with similar Polish companies might also be interested in supplementing investment with training both in Australia and in Poland. Furthermore, Australia's National Industries Extension Scheme provides Australian small businesses with access to better management, subsidies and the use of consultants. Interested Polish officials might want to contact

this organization to find out more about how this management assistance is provided in Australia.

Vovoidship officials can contact Tony Clegg directly with requests, inquiries and offers and he will direct them to the appropriate groups or individuals in Australia. His address is: Australian Embassy, 3/5 ul. Estonska, Saska Kepa, Warsaw; telephone: 17 60 81/6; fax: 17 67 56; telex: (63) 813032.

Malaysia
First Secretary: Rohani Walat

Experience With Privatization:

Malaysia privatized public services in the early 1980s in an attempt to limit government expenditures. Privatization has occurred at federal, state and local levels through a process of competitive tenders. Property in Malaysia clearly belongs to one of these levels of government, and the level which privatizes a firm receives the income generated from the sale. Foreign investment in the privatization process has been welcomed by the Malaysian government, but Malaysia has enough domestic capital to successfully privatize regardless of the extent of international support and participation.

Malaysia has only sought to privatize publicly owned monopolies which are already in good financial condition. There is a Malaysian national investment fund which finances investments in companies. Privatization in Malaysia has not resulted in increased unemployment.

Contacts, International Experiences:

Malaysian investors were initially attracted to Poland because of the low cost of labor but they have decided not to undertake projects as they perceive Polish workers to be undisciplined and inefficient. Malaysian companies tried to invest in Poland but became frustrated and currently express no interest in pursuing further projects. Rather, Malaysian companies have preferred to participate in Czechoslovakia and Hungary where they feel workers are more organized and productive than their Polish counterparts.

Potential Malaysian investors have also been confused about the process of valuation in Poland and they feel that the prices determined are generally unfair. They have become disgruntled by the lack of information on investing in Poland.

Malaysian companies offered Poland technical aid in machinery, but the Poles have not responded to these gestures of assistance and potential investment. Malaysians perceive government stability to be an important precondition for investments.

Philippines
Third Secretary and Vice Consul: Charlie Pacana Manangan

Experiences With Privatization:

The Philippines have been privatizing since the revolution in 1986 which overthrew Ferdinand Marcos. Since that time, Philipinos have sought to usurp control over many large companies from Marcos' cronies who financially drained the country's financial institutions. Most Philippine financial institutions have been successfully converted into viable interests since 1986.

Bad loans have been shifted to different corporations so that companies to be privatized will not have to bear this burden as well. Privatization in the Philippines has been open to international bidding and foreign consultants have been called in to restructure companies in order to make them more internationally competitive and viable.

Although the Philippine government has sought to attract foreign investors, the perceived lack of political and economic stability in the country has posed great obstacles to large scale international participation. In 1991, the Philippine government passed a new foreign investment law which sought to further relax conditions for international ventures, to allow full equity for foreign companies, and to make the Philippines competitive with Thailand and Malaysia in attracting foreign capital.

The public attitude towards privatization in the Philippines has been very positive. Initially, problems such as unemployment, were encountered, but the process has increased productivity and the public has witnessed an overall bettering of the economic situation. Natural disasters such as floods, earthquakes and volcanoes have considerably slowed full realization of the benefits of privatization. The full impact of the political and economic reforms in the Philippines is expected to be reflected in the June 1992 presidential elections.

Contacts, International Experiences:

As the Philippines are relatively poor and politically unstable, few companies have expressed interest in international investments. Only a small group of potential investors have inquired about opportunities in Poland, including one in banking and one in international commerce.

A trade mission from the Philippines visited Poland in October to make preliminary inquiries into privatization and investments. In exchange, a Polish mission visited the Philippines in late November-early December 1991. The group of Philippine visitors to Poland included representatives of cigarette, textile and ceramic companies. The major export industries in the Philippines are electronics and textiles.

Philippine businessmen have felt generally uninformed about opportunities in Poland and have many misconceptions about Polish market conditions. Direct contacts between Philippine businessmen and their Polish counterparts have been sought and encouraged.

Interested vovoidship officials could establish direct contact with the Philippine Chamber of Commerce and Industry: ODC Building Mkti, Manila; phone: 817-6781, 817-1649, 817-1652. Officials can also contact the Charlie Pacana Manangan at the Philippine embassy in Warsaw: ul. Gornoslaska 22 m. 5, 00-484 Warsaw; telephone: 625 13 57, 625 13 03; fax: 39 12 05 87.

The Netherlands
Second Secretary: Bert Van Der Lingen

Experience With Privatization:

The economy of the Netherlands is mostly private. Some public services are undergoing privatization, however, and are being transformed into public companies whose major shareholder is the state. These public companies are then forced to operate commercially.

Contacts, International Experiences:

Dutch chambers of commerce have a considerable amount of direct contact with Polish organizations. Ties between Dutch provinces and Polish vovoidships have also been established. For example, a delegation from is coming to Poznan this month as part of a cooperation agreement to develop trade between the two regions. Of the approximately 800 communities in the Netherlands, 120 have already established sister city relations with Polish cities (the Hague with Warsaw, for example). More than 200 independent Dutch organizations are devoted to cultural and unitarian contacts with Polish counterparts.

In general, Dutch companies have been extremely interested in investing in Poland and in becoming involved in the privatization process. Indeed, Dutch firms are the fourth or fifth largest foreign investors in Poland. Several working visits of potential Dutch investors to Poland have needed to be prolonged to accommodate the real interest expressed on the Dutch side. However, given the position of the Netherlands in international commerce and investment, this participation could be much higher.

Dutch companies cite bureaucratic blockades as obstacles to investment in Poland. They have found Polish regulations to be generally confusing, unclear and inconsistent. A stable source of comprehensible information which does not fluctuate with political tides is something would provide an incentive for increasing Dutch investment in Poland.

Investors from the Netherlands have also found the practical implication of investment proposals to be befuddled. They have become frustrated as they feel that certain proposals have been considered and treated in a political rather than strictly economic and financial context. Investors have also expressed frustration that once they have reached an agreement with a potential Polish partner, the process has been held up for political or bureaucratic reasons at one of the various ministries which must approve privatization agreements.

At the vovoidship level, Dutch investors have found that while some vovoidships are eager to cooperate with foreign investors, others do not really want to privatize. Xenophobic attitudes in ceratin areas have frustrated and deterred Dutch companies which seek to

invest in Poland.

Dutch firms have found Polish valuations to be rather arbitrary and unfair. Furthermore, potential investors are not sure of what to do with appendages to Polish firms such as catering, supply or sports services. Holding on to these services will greatly diminish the value of the companies in the Dutch businessmen's minds and will eventually completely deter any investment. Similarly Dutch firms have found that while projects in Poland often look superficially neat and easy to realize, the details can be quite messy and consuming.

Dutch companies have also found problems entering Poland to establish their own production facilities. They find the lack of information about who to address concerning privatization confusing and frustrating. They have also been deterred by the language barrier as they have difficulty in finding Polish officials with whom they can communicate in either English, German or French. Additionally, the lack of services and adequate infrastructure including transport, sewage and telecommunications in Poland has further frustrated many potential Dutch investors.

Investors from the Netherlands have found that it is not extraordinary for Polish negotiators to retract from a given position--even after signing letters of intent or even contracts. In some cases the Poles have chosen to strike new deals without showing any concern or respect for previous contracts or obligations. This attitude, the Dutch say, is a serious deterrent to conducting business in Poland.

Inconsistent and quickly changing government policies regarding trade and licensing have also created disincentives for potential Dutch activity in Poland. Although they find the Polish market to be generally quite dynamic, potential Dutch investors have been put off by such inconstancies. If Poland cannot address these issues, Dutch investors, particularly those interested in small and medium sized firms, will increasingly turn to Czechoslovakia and Hungary where they perceive conditions to be better and more stable.

Potential Dutch investors are interested in the following sectors in Poland: food processing and packaging, environmental technology, trade infrastructure, transport, telecommunications, and housing.

In the housing sector, the Dutch feel that there is a great potential for Polish production but that currently the Polish market lacks quality and a consistent supply of materials. By the end of 1992, the Dutch hope to issue a special Polish version of an export guide which contains all Dutch construction companies in the materials sector. Four to five major Dutch companies are already involved in building projects in Poland.

Vovoidship officials can contact Bert Van Der Lingen directly with inquires, offers and requests. His address is: ul Chocimska 6,

00-791 Warsaw; telephone: 49 23 51/2; fax: 48 83 45.

Switzerland
Commercial Attache: Josef Arreger

Experience With Privatization:

Switzerland has no real experience with privatization.

Contacts, International Experiences:

Although there are many Swiss investors in Poland, Arreger feels that there is the potential for increased Swiss economic participation. There is one big Swiss-Swedish joint venture in Poland, ABB Ltd., which is producing power plant equipment in Poland. The Swiss participants estimated that it would take two years to train the Poles and were happily surprised to discover that the Polish workers satisfactorily completed this training in only six months.

Swiss investors have found regulations regarding Polish labor concerns to be an obstacle to investment. Potential investors are also concerned about the extent to which they must share decision-making power with Polish partners or the government.

The Swiss cite the overall pessimistic mood, reputation for political instability and uncertainty, negative media messages aggravated by a lack of real and reliable statistics, and slow decision-making process in Poland as obstacles to investment. Problems with ownership and with realizing privatization plans have also made potential investors wary and skeptical about undertaking projects in Poland.

Furthermore, the Swiss have begun to question Polish commitment to privatization as they have found confused and conflicting attitudes even among firms which have initiated privatization procedures themselves. Swiss investors also feel that the Poles must learn that foreign investment is not necessarily a threat to their national interest and indeed can increase the assets of their nation.

Many Swiss investors have realized great success in Poland and have been largely satisfied with business in Poland once they were able to establish themselves. Swiss investors have been involved in a wide range of activities and sectors in Poland. They are potentially interested in the following areas: the chemical industry, pharmaceutical, textiles and textile machinery, tool-making, light industry, food processing, and manufacturing elevators.

Switzerland provides financial aid, technical assistance and export credits to Poland. In the last three years, this aid has totalled 170 million Swiss Francs but this may decrease as Switzerland expands its assistance programs to all of Eastern Europe and the Soviet Union. The program in Poland is quite strong and has been

received quite positively. A few examples of the use of this Swiss assistance include the financing of a wholesale market in Poznan, a flower market in Lodz, training foreign language teachers (in German and French), and aid to the agricultural sector in general. Switzerland also offers regional development projects which are aimed at a holistic approach to economic development in a city or region.

Switzerland's aid policy dictates that the potential recipients of such assistance must initiate the request. These requests are then considered and evaluated by the appropriate Swiss officials. Inquiries about Swiss financial, technical or export credit assistance can be addressed to: Paul Levenberger, Counsellor of the Embassy, Bureau of the Coordinator, Ambasada Szwajcarii, Al. Ujazdowskie 27, 00-540 Warsaw; telephone: 628 04 81/2.

Vovoidship officials can also seek direct contact with the Swiss government agency for export promotion and commercial development (Office Suisse D'Expansion Commerical--OSEC). Their addresses are: CH-8035 Zurich, Stampfenbachstrasse 85; telephone: 01 365 51 51; fax: 01 365 52 21; telex: 817 272; and: CH-1001 Lausanne, Avant-Poste 4; telephone: 021 20 32 31; fax: 021 20 73 37; telex: 455 425.

There is also a Swiss-Polish Chamber of Commerce and Industry (Schweizerisch-Polnische Industrie-und Handelskammer--SPIHK). The addresses and contacts for this organization include: Deputy Director: M. Adam Leszczynski, Al. Ujazdowskie 13, 00-567 Warsaw; telephone: 694 21 62; fax: 21 47 92; General Director: M. Edward Wojtulewicz, Impexmetal, Lucka 7/9, 00-842 Warsaw; Dr. Michel Hopf, c/o OSEC, Stampfenstrasse 85, 8006 Zurich; and Dres. Stasmm Hen Sarasin Ablgrech, Hen Hug Hopf, Advokatur und Notariat, Lautengertenstr. 12, 4010 Bale.

Vovoidship officials can also contact Josef Aregger or Urs Schmid at the Swiss Embassy: Al Ujazdowskie 27, 00-540 Warsaw; telephone: 628 04 81/2.

Indonesia
Commerical Attache: Soetito

Experiences With Privatization:

Indonesia has undertaken a large privatization effort. It has privatized sectors including road construction, housing, agriculture, timber, oil, gas, forestry, railways, airlines, mining and real estate. Potential investors are limited to consideration of projects of their own economic class and size. Some firms have been sold on the stock market. There have also been joint ventures between the government and private companies. Competitive tenders have also been used to privatize Indonesian enterprises. The Indonesian government has been deeply involved in the privatization process.

Contacts, International Experiences:

An Indonesian investor would like to start a joint venture with a pencil production factory with the hopes of reaching both Western and Eastern European markets from a Polish production base. The potential investor has found ownership and labor issues in Poland both confusing and frustrating. The investor also expressed frustration about how long the negotiation and privatization process was taking and about the lack of clear information as to the true status of the company.

Indonesian investors are attracted to Poland as they feel that sooner or later it will become a member of the European Community. There is potential Indonesian interest in investing in Poland's textile sector. However, Indonesian firms are wary of political instability in Poland.

Indonesia imports machines and electronics from Poland and has tried to export garments and consumer goods. However, Indonesian firms have come to feel that it is difficult to do business in Poland as the Polish government has cited old regulations in its decision not to permit the sale of certain Indonesian goods (which are sold throughout the world, in Western Europe, the United States, Australia and the Middle East) in Poland.

Indonesian interests would welcome direct contact with local Polish concerns. The Indonesian embassy's address is: ul. Wachocka 9, Warsaw; telephone: 17 51 79.

Spain
Commercial Attache: Emilio Lopez Vinuela

Experience With Privatization:

Spain has used a variety of techniques, including public auctions, to privatize companies. Most firms, however, were sold on the stock market. Foreign investment has played an extremely important role in ensuring the success of Spain's privatization program. Neighboring European countries also greatly aided the Spanish economic transformation. Spain receives \$15 million per year in foreign investments.

Contacts, International Experiences:

Only one Spanish firm has been involved in Polish privatization. Potential Spanish investors have been deterred by the very slow and unclear processes of negotiations and decision-making in Poland. Furthermore, a Spanish motorcycle manufacturer which is currently operating in Poland is considering shutting down its operations due to bureaucratic obstacles and uncooperative Polish attitudes towards foreign investment.

Spanish companies feel that there are many opportunities for investment in Poland but they are discouraged by anti-foreign attitudes, unfair valuations, and difficulties in getting Polish employees to work as hard as would be normally expected of their counterparts in Spain. Spanish firms have found that it is preferable to invest in joint ventures in Poland than to engage in pure export activities.

Spanish enterprises have expressed interest in the following sectors in Poland: transportation, building, and tourism. Lopez Vinuela is less optimistic than he was in 1990 about the potential of Poland's privatization program. He feels that reform will take longer than was initially forecast or hoped for but that eventually it must occur.

Hungary
Commercial Attache: dr Gabor Siklosi

Experience With Privatization:

See attached sheets.

Foreign investors in Hungary research accounting standards, market shares and opportunities for profit in evaluating potential projects. Investors have been thinking only in large figures. Investors have been largely afraid of safe investments and have preferred to engage in joint ventures and partnerships. Lack of money has also created an obstacle to realizing investments in Hungary.

Contacts, International Experiences:

Hungarian investors might be interested in establishing joint ventures with Polish manufacturers or in creating Hungarian companies in Poland in order to get around import restrictions. Hungarian enterprises are also interested in cooperating with Polish firms.

Hungarian investor interest will be affected by economic conditions in both Hungary and Poland, the attitudes of people working in enterprises, and the creation of Foreign Trade Associations. Hungarian companies will probably prefer to enhance trade with Poland rather than to invest in Polish firms.

The Hungarian state budget no longer finances trade promotions. Polish enterprises might be able to cooperate with the Hungarian Chamber of Commerce, however.

The Hungarian embassy in Warsaw has been trying to put Hungarian investors in touch with Polish enterprises for the past two years. The embassy will communicate the information it receives to various vovoidships or commercial groups. There has been considerable interest in matching Polish and Hungarian vovoidships.

The Hungarian embassy contact in Poland is: dr Gabor Siklosi, ul Swolezerow 10, 00-464 Warsaw; telephone: 41 17 91 and 41 52 01; fax: 41 43 64 and 41 30 24.

Sweden
Commercial Counselor: Bo Emthen

Experience With Privatization:

Sweden's economy, although very often labelled as "socialist", is extremely market oriented. Over 90% of small and medium sized enterprises are in private hands. Under the new liberal government, however, Sweden has begun to address the issue of privatizing some of the larger conglomerates which have traditionally been owned by the state.

Contacts, International Experiences:

The Swedish consulate in Warsaw will retain, through Swedish funds, the assistance of a Swedish consulting firm to monitor Swedish investor interest in Poland. Ethen believes that there are approximately 200 small and medium sized companies which would potentially consider undertaking projects in Poland.

Tunisia
Commercial Attache: Amel Ben Abdallah

Experience With Privatization:

The Tunisian government has been debating privatization and economic restructuring since 1986. The government has assumed a global strategy of privatizing companies in order to both solve budgetary problems and generally energize the Tunisian economy.

In 1986, the Tunisian government directly controlled 165 public enterprises and indirectly controlled 143 others. A law on privatization was passed in 1987 that decreed that non-strategic companies should be privatized. Thus only commercial and industrial sectors will be affected by the Tunisian privatization program.

The 1987 law created three bodies to restructure the economy: A technical restructuring commission, a ministerial commission, and a commission for financing. The technical restructuring commission is charged with defining the conditions and techniques for division, transfer and sale.

The ministerial commission takes the work done by the technical commission and proceeds to execute these projects with the Ministries of Planning and Finance. The ministerial commission is composed of: the director of the enterprise to be restructured, the minister of social affairs, the minister of Public Functions and Administrative Reform, and the director of the Central Bank of Tunisia.

The commission for financing follows the stock market to aid in economic transformation. This commission assists in valuing the firms to be privatized and then in selling their shares on the stock market.

Privatization in Tunisia is seen as a necessary component of economic opening and internationalization. Since 1987, Tunisia has also been seeking to encourage investment, liberalize its import policies, liberalize prices, encourage exports, and protect industrial ownership. Concerns about the impact that these reforms will have on unemployment and social well-being have inspired Tunisia to undertake a moderate, unhurried approach to privatization.

Contacts, International Experiences:

A few Tunisian investors have participated in joint ventures with Polish firms to produce textiles and sewing machines. Tunisian investors might also be interested in the Polish tourism sector. An almost complete lack of information about opportunities in Poland presents a great obstacle to Tunisian investment.

Vovoidship officials can directly contact the following Tunisian

ministries: Ministry of the Economy, 7 rue de l'Arabie Saoudite, 1002 Tunis; telephone: (1) 289 801 and 892 313; fax: (1) 782 742; telex: 14 341 Tn; Ministry of Regional Planning and Development: Place de la Monnaie, 1000 Tunis; telephone: (1) 650 552 and 348 976; fax: (1) 351 666; telex: 15 117 tn; Ministry of Tourism and Artisans, Avenue Mohamed V, 1002 Tunis; telephone: (1) 341 077; fax: (1) 350 997; telex: 14 381 Tn.

Tunisian organization for economic assistance and promotion include: the Agency for the Promotion of Industry "API", 63 rue de Syrie, 1002 Tunis; telephone: (1) 792 144; fax: (1) 782 482; telex: 14 166; Agency for the Promotion of Agricultural Investments "APIA", 62, rue Alain Savary, 1003 Tunis; telephone: (1) 288 400 and 288 091; fax: (1) 782 353; telex: 14 280; Center for Export Promotion, 28, rue de Ghandi, 1000 Tunis; telephone: (1) 350 043 and 350 344; fax: (1) 353 683; telex: 14 716 Tn.

Amel Ben Abdala is the contact at the Tunisian embassy in Warsaw. Her address is: ul. Mysliwiecka 14, Warsaw; telephone: 628 63 30.

Japan
Second Secretary: Satoru Takahashi

Experience With Privatization:

After World War II, Japan sought to reprivatize industries which are now some of the largest enterprises in Japan: telecommunications, railroads, salt and alcohol production, and cigarette and tobacco production. Shares of the telecommunications company were sold on the stock market. However, insufficient response to the price of shares was determined through a valuation by the Ministry of Industry and Trade, necessitated a lowering of the price of stocks by 30% in order to realize privatization of the company. The whole privatization process took about three to four years to complete.

The problems encountered in privatizing this company made both the public and the government more critical and wary of privatization. Shares of the other large public companies have consequently not been sold on the stock market.

There are no provincial governments in Japan and thus the federal government is the owner of public enterprises.

Contacts, International Experiences:

Japanese investors have been very cautious in their approach to undertaking projects in Poland and have preferred to focus their attention on trade firms. Four or five large investors have had bad experiences negotiating deals in Poland. Takahashi cited the example of the Pilkington-Sandomierz negotiations where Asahi felt its bid was not fairly treated. This and similar situations experienced by other Japanese businesses in Poland have been widely publicized in Japan and have significantly discouraged most potential investors.

Currently, Japanese products do not come to Poland directly. Rather, they first pass through a European Community country before arriving in Eastern Europe. These trade regulations aggravate Japan's sense of extreme distance from Eastern Europe and have reinforced preferences for pursuing economic activity closer to home.

Furthermore, the Japanese are profoundly concerned about Poland's external debt. The Japanese found Poland's actions at the Club of Paris meeting to be particularly discouraging and as a result Japan is highly critical of offering Poland any new credits. Japanese companies cite these as reasons for their increasingly cautious and skeptical attitudes towards investing in Poland.

Two Japanese institutions have offered credits to Poland: the Exim Bank of Japan and the Overseas Economic Cooperation Fund (OECF). However, these institutions and the Japanese government have begun to perceive increasingly difficult macroeconomic conditions in

Poland.

Japan has largely supported Hungary's economic reforms and policies and Japanese officials were generally pleased with Hungary's negotiations at the Club of Paris meeting; Japanese investors have been ten times as active in Hungary as they have been in Poland. Czechoslovakia has not been as interested in Japanese investment as Hungary and thus Japanese participation there has not been as significant.

Japanese investors have been interested in all sectors of the economy and all types of enterprises. The great distance between Japan and Poland, however, has generally caused small or medium sized Japanese companies to be considerably less active in Eastern Europe than they are in Southeast Asia. However, even small and medium Japanese investors have been extremely active in Hungary.

A lack of information about opportunities in Poland has posed a serious obstacle to Japanese investment here. Takahashi feels that German, British and French investors have more information about opportunities and conditions in Poland than Japanese groups have been able to acquire.

Hungary, which has done a much better job of informing the Japanese about investment opportunities and of establishing direct communications with Japanese businesses, has reaped the profits of these efforts in the amount of Japanese capital it has been able to attract. Japanese businesses are active in small, medium and large scale Hungarian enterprises in almost all sectors including: automobiles, cameras, and computer software and hardware.

Ireland has also been extremely successful in its campaign to attract Japanese investment. Ireland has provided Japanese companies with a great deal of information about investment opportunities and has even established its own promotional agency in Tokyo with a staff that speaks fluent Japanese.

Nine representatives of large Japanese interests have come to Poland to investigate business conditions, but not necessarily investment, opportunities. These representatives have relayed their experiences and impressions back to Japan, influencing the perceptions and opinions of many other potential investors.

Japanese investors are interested in whatever sectors Poland decides that it would like to develop. The Japanese ambassador has had conversations with Polish government officials in this regard but has not yet received any firm or clear response to Japanese offers. Japan might be interested in helping Poland to develop its agricultural, telecommunications or transportation sectors, for example.

Polish businessmen and vovoidship officials can communicate directly with Jetro, the commercial counselor at the Japanese

embassy in Warsaw. His address is: ul. Willowa 7, Warsaw;
telephone: 49 87 81.

SECTION FOUR
MARKETING ANALYSIS

BEST
AVAILABLE

MARKETING

Marketing a pre-liking enterprise begins with a clear principle of business - does it have a market for its enterprise and its products. If not, the enterprise will fail. It is the risk of utilizing scarce time and resources in marketing an enterprise that has little chance of future economic development or viability on the market. Understanding the marketplace and the environment in which a business operates is an ongoing task that relies first of all on receiving up-to-date relevant information and, secondly, understanding how to use this information.

With this in mind, section A will provide: a) an introduction to an information distribution mechanism through which voivodeships and enterprises can learn of specific investment offers; b) information on which sectors investors from a number of foreign countries are specifically interested as well as the privatisation program those countries may have had; c) information on potential institutional investors.

Independent of issue connected with investments are the tools that may assist in the development of an enterprise's activities. To address this, Section B provides information on credit lines in Poland and business assistance groups.

Finally, Section C contains information on the privatisation experience of numerous countries around the world. The information emphasizes the fact the privatisation of government enterprises is not merely a Polish phenomenon associated with the recent political changes. In many cases, the auction process is also utilised, providing the opportunity to compare the Polish experience.

SECTION A

Locating investors with which to initiate the privatisation process or partners for joint-ventures begins with making the first contact. To facilitate the matchmaking process, the Information Centre of the Ministry of Privatisation has established a data bank on potential investors. Rather than attempt to match partners in Warsaw as is often done, the information received will be sent to the 49 voivodeships via the delegatures of the Department of Privatisation Coordination. The contact information will be updated monthly.

Please note that the information contained in the data bank, based on the questionnaire, is basic. Its purpose is twofold: a) to provide the Polish side with an idea of what type of investor interest is being expressed; b) serve as an introduction to a potential investor. With the information, voivodeships and enterprises alike are encouraged to initiate contact with the potential investor themselves.

SECTION B

In section B, basic information has been provided on credit lines and credit guarantees from several types of organisations, such as: Polish and foreign banks; international financial institutions; and investment funds. The list should be utilized as a reference only as not all institutions informed the Information Centre of their activities. Furthermore, the specifics of credit lines, such as requirements, interest rates, etc., are apt to change. Contact information for banks and other relevant institutions can be found in the last last section of the booklet under "Adresy".

There are a number of organisations based in Poland able to assist both Polish enterprises and government institutions in all areas of business and economic development. Such assistance may range from advice on how to encourage local entrepreneurship in a given area to the design and development of a restructuring plan for a medium size company. Once again, interested parties are encouraged to contact the organisations themselves to learn more about their activities and discuss potential areas of cooperation.

All of the above information will be updated monthly. However, this does not mean that it will be all inclusive, hence voidships and enterprises should endeavour to utilise other information sources.

In summary, the preparation of a company for privatisation cannot take place in a vacuum. Information on market interest in a company and available resources for general restructuring and enterprise development is indispensable to the process. Understanding and utilising such information is also a prerequisite to success in the marketplace.

DATA BANK ON POTENTIAL INVESTORS

DATA BANK ON POTENTIAL INVESTORS

INFORMATION CENTRE, MINISTRY OF PRIVATISATION

Republic of Poland

00-525, ul. Krucza 36, Warsaw

Fax (482) 6251114, tel.: (482) 6281190

Project Number:

Name of Company:

Country:

Sector:

City:

Telephone:

Street:

Fax:

PO Box:

Director:

INVESTMENT INTEREST

Sector:

Area of Poland:

Type of Investment:

Comments:

PREVIOUS CONTACTS IN POLAND

Comments:

INFORMATION ON POTENTIAL INVESTORS

Yearly Sales: (mln \$) - min:
max:

Fixed Assets: (mln \$) - min:
max:

Exports: (mln \$) - min:
max:

Comments:

BANK I KREDYTY W POLSCE

1. KREDYTY BANKÓW
 - * BANKÓW POLSKICH
 - * BANKÓW SA A UDZIAŁEM KAPITAŁU ZAGRANICZNEGO
2. KREDYTY INSTYTUCJI RZĄDOWYCH I KREDYTY BANKOWE OBJĘTE GWARANCJAMI RZĄDOWYMI
3. KREDYTY Z MIĘDZYNARODOWYCH INSTYTUCJI FINANSOWYCH
4. KREDYTY Z FUNDUSZY ZAGRANICZNYCH

UWAGA: MATERIAŁ OPRAWOWANO WEDŁUG DANYCH NADESŁANYCH DO CENTRUM INFORMACJI, MPW.. NIE WSZYSTKIE INSTYTUCJE NADESŁAŁY NA CZAS SWOJE MATERIAŁY.

KREDYTY BANKÓW POLSKICH

BANK	LINIE KREDYTOWE	KRYTERIUM	PRZEDSIĘWZIĘCIA
POLSKI BANK ROZWOJU SA	ZŁOTOWE Dewizowe	FIRMY PRYWATNE (MALE I ŚREDNIE) PRZEDSIĘWZIĘSTWA SPECJALIZOWANE (JEDNOSOBOWA SPÓŁKI SKARBU PAŃSTWA) PRZEDSIĘBIORSTWA SPYWATYZOWANE I PRYATYZUJĄCE SIĘ REALIZUJĄCE RESTRUKTURYZACYJNE PROGRAMY INWESTYCYJNE	TEJ WIE PRZEDSIĘWZIĘCIA INWESTYCYJNE
BANK ŚLĄSKI W KATOWICACH	ZŁOTOWE Dewizowe	PODNIĘTY GOSPODARSTW LEGITYMUJĄCE SIĘ ZDOLNOŚCIĄ KREDYTOWĄ I DOBRĄ ZDOLNOŚCIĄ PŁATNICZĄ, JEDNOSTKI GOSPODARSTWA W SZYBKOŚCI FORM WŁASNOŚCI	FINANSOWANIE WYDATKÓW INWESTYCYJNYCH ZWIĄZANYCH Z REALIZACJĄ WYKONANIE PRACOWNICZYCH INWESTYCYJNYCH-REKONSTRUKCJI KAPITAŁOWYCH I INWESTYCYJNYCH I KAPITAŁOWYCH, BUDOWA WYKONANIE PRAC INWESTYCYJNYCH NA KAPITAŁOWYCH
BANK GOSPODARSTWA PRACOWNICZEGO	ZŁOTOWE	OSOBY PRACUJĄCE	WYKONANIE PRAC INWESTYCYJNYCH REKONSTRUKCJA KAPITAŁOWYCH INWESTYCYJNYCH KAPITAŁOWYCH I KAPITAŁOWYCH I KAPITAŁOWYCH, BUDOWA WYKONANIE PRAC INWESTYCYJNYCH NA KAPITAŁOWYCH
BANK PRZEMYSŁOWO- HANDLOWY W KRAKOWIE	ZŁOTOWE Dewizowe	PODNIĘTY GOSPODARSTW REKONSTRUKCJI WYKONANIE FORM WŁASNOŚCI I MAJĄCE ZDOLNOŚCI KREDYTOWĄ I FINANSOWANIE PRZEDSIĘWZIĘCIA	FINANSOWANIE INWESTYCYJNYCH PRZEMYSŁOWYCH I BUDOWY PRACOWNICZYCH, KAPITAŁOWYCH I KAPITAŁOWYCH KAPITAŁOWYCH

BEST
AVAILABLE

KREDYTY UDZIELANE PRZEZ BANKI SA A UDZIAŁEM KAPITAŁU
ZAGRANICZNEGO

BANK	WIDOK I OPISY WIDOK	KWANTYFIKACJA	OSTRZEŻENIA
BANK CREDITANSTALT SA W WARSZAWIE	ZŁOTOWKOWE MIN. 250 MLN. ZŁOTYCH DENEWIZOWE MIN. 20 TYS. USD MAX. 500 TYS. USD		KREDYT DENEWIZOWY MOŻE BYĆ PRZEKONWERTOWANY TYLKO NA WYDATKI FUNDUSIOWE W DENEWIZACH
BAIFFERBANK CENTRALBANK SA	ZŁOTOWKOWE DENEWIZOWE MIN. 500 TYS. USD MAX. 1 000 TYS. USD		0 KREDYT MOŻA UŻYĆ SIĘ PRZEDSIĘBIEMSTWA POSIADAJĄCE RACHUNEK W TYM BANKU; WYMAGA SIĘ PRZEDSIĘSTAWIENIA BILANSU NA ISTOTNIEJ SĄ LATA DZIAŁALNOŚCI GOSPODARSTWA PRZEDSIĘBIEMSTWA. KREDYT SA PRZEKONWERTOWA SA NA EURO
BANK AMERYKANCKI W POLSCE SA	ZŁOTOWKOWE DENEWIZOWE MIN. 100 TYS. USD MAX. 500 TYS. USD		EXPORT INWESTYTOR LUB SPÓŁNOŚĆ GOSPODARSTWA
CEZBANK (POLAND) SA	ZŁOTOWKOWE DENEWIZOWE	GŁÓWNE DLA DZIEŁYCH PRZEDSIĘBIEMSTWA BANKOWYCH	

BEST AVAILABLE

KREDYTY INSTYTUCJI RZĄDOWYCH I KREDYTY BANKOWE OBJĘTE GWARANCJAMI RZĄDOWYMI

KREDYT/WALUTA	INSTITUCJA	KRYTERIUM	PRZEKAZANIE	BANK I PRZEKAZANIE
HISPANIA DOLAR AMERYKANSKI MAREK NIEMIECKA	BANQUE DE BARCELONE	POLSKO HISPANSKI PARTNERZY HANDELNI	DOSTAWY DO POLSKI FIDELITY I UPRADZEK, TEFEL, STACJA, TELEFON ORGANIZACJONOWY ORAZ TECHNOLOGIE I USLUGI SPECJALISTYCZNYCH KONTAKOWYCH WYKONANIE	BANK HANDELOWY W WARSZAWIE, BANK POLSKI B-20197
BELGIA BANK BELGIJSKI (SFO)	GENERALE BANK BRUXELLES		DOSTAWY DO ENERGETYKI I USLUGI PRZEKAZANIA TELEKOMUNIKACJI	BANK HANDELOWY W WARSZAWIE, BANK POLSKI B-20197
NIEMCY DOLAR AMERYKANSKI	MESSERSCHMIDT LANGENBACH STROCENTRALE FRANKFURT N/M, SOCIETE GENERALE ELBAESSIGHE BANK FRANKFURT N/M, KREDITANBALT UND HYPOTHEKAREN FRANKFURT N/M, DEUTSCHE HANDELS UND KREDITANSTALT	WSZYSTKIE KREDYTY UDZIELANE W RAMACH GWARANCJI HERMESA WYMAGAJA GWARANCJI BANKU HANDELOWEGO	DOSTAWY WIELKIE GWARANCJE NA KREDYTY PRZEKAZANIE NA POLSKOAMERYKANIE DOSTAWY I ORGANIZACJE PRZEKAZANIA USLUGI PRZEKAZANIA TELEKOMUNIKACJI WYKONANIE	BANK HANDELOWY W WARSZAWIE SA
SWYCARCJA	UNION BANK OF SWITZERLAND		DOSTAWY DO POLSKI DOSTAWY ENERGETYCZNE I USLUGI USLUG TECHNOLOGICZNYCH I INFRASTRUKTURY WYKONANIE, ORGANIZACJA WYKONANIE DOSTAWY POLSKO- SWYCARCZANSKIE	BANK HANDELOWY W WARSZAWIE SA, BANK POLSKI B-20197

KREDYTY INSTYTUCJI RZADOWYCH I KREDYTY BANKOWE OBJETE
GWARANCJAMI RZADOWYMI

PAIS/PAJETA	ROZPOWODAWCA	KREDYTOR/RODZAJ	OPIS/CEL	BANK I ROZPOWODZICIEL
DANIA	DANSKI FUNDUSZ INWESTYCYJNY DLA EUROPEJ CENTRALNEJ I PODCYFOWEJ	POLSKO DANECA FIRMA JOINT-VENTURES Z UDZIALEM DANECA LUB WIELU PARTNERÓW POLSKICH	FINANSOWANIE PROJEKTÓW ROZWOJU PRZEMYSŁU, GOSPODARSTWA SYSTEMU KRAJOWEJ INFRASTRUKTURY USŁUG - PRYMATYWIZACJI I RESTRUKTURYZACJI, ROZWOJU PRODUKCJI LUB MODERNIZACJI ZAKŁADÓW	BANK RZECZYPOSPOLITEJ EKSPORTU UDZIAŁA INFORMACJI O MOŻLIWOŚCIACH I WARUNKACH KREDYTOWANIA
FRANCJA	CREDIT NATIONAL	POLSKO FRANCUSKIE JOINT-VENTURES	FINANSOWANIE OZCZYSTKI WZTAŁO- PARTYKONOWO FRANCUSKIEJ LUB POLSKIEJ W WZTAŁO- PARTYKONOWO, CZĘŚCIŁO WZTAŁO- PARTYKONOWO, TAKI WZTAŁO- PARTYKONOWO LUB WZTAŁO- PARTYKONOWO	BANK HANDELOWY W WARSZAWIE OR BANK PARYŻA OR BANK RZECZYPOSPOLITEJ EKSPORTU
FRANCJA	BANKI I FIRMY FRANCUSKIE GWARANTOWANE PRZEZ CAFAGE SOCIETE GENERAL	INWESTYCJE FRANCUSKIE W POLSKIE (SPRĄTNY FRANCUSKIE I SPRAKT POLSKO FRANCUSKIE)	FINANSOWANIE DO ODA WZTAŁO- PARTYKONOWO NA TAKI WZTAŁO- PARTYKONOWO LUB WZTAŁO- PARTYKONOWO WZTAŁO- PARTYKONOWO	BANK HANDELOWY
FRANCJA	BANQUE NATIONALE DE PARIS	INWESTYCJE FRANCUSKIE W POLSKIE (SPRĄTNY FRANCUSKIE I SPRAKT POLSKO FRANCUSKIE)	FINANSOWANIE OZCZYSTKI WZTAŁO- PARTYKONOWO LUB WZTAŁO- PARTYKONOWO	BANK HANDELOWY W WARSZAWIE, BANK ROZPOWODZICIEL EKSPORTU

BEST
AVAILABLE

KREDYTY INSTYTUCJI RZADOWYCH I KREDYTY BANKOWE OBCZE
GWARANCJAMI RZADOWYMI

KRAJOWALTA	PREWOZLODANCA	ROZWIADKOWA	SPEDYTOROWE	BANKI ROZWIADKOWE
WLOCHY COLAS AMPIERANGI	INSTITUTO MOBILIARE ITALIANO (IPI)	MALE I SPEDITE TIPYI COLONIE I PUBBLICE	FINANSOWE PONTIFICIA NA PUBBLICE POCHODZENIA WLOSKIEGO ZAPROSZE PONTIFICIA ROLNOSC, ELEKTROMONTAZOWE CHEMICZNE FARMACEUTYCZNE I BODOWLANE I MOZLIWOSCIA ROZWIADKOWE NA TUNE RZADOWE	BANK HANDELOWY W WARSZAWIE

BEST
AVAILABLE

<p>DLA INWESTORÓW W WALCIE WIELU WYBORU UŻYCIANE PRZEZ BANK ECU</p>	<p>FUNDUSZ KAPITAŁOWY DLA MAŁYCH PRZEDSIĘBIORSTW PRYWATNYCH</p>	<p>PRZEDSIĘBIORSTWA PRYWATNE MOŻE SIĘ KAPITAŁU WALEM DO 3500 FUNDUSZY, SPÓŁNIECIE LUB PRZEDSIĘBIORSTW PRYWATNYCH TAKI TO BYŁ PRZEDSIĘBIORSTWA MAŁE ZAPROJEKTY NIE WIĘCEJ NIŻ 100 FRACJONING</p>	<p>PROJEKT INWESTYCYJNE ZŁOŻONE W SEKTORZE KOSZTÓW I WYKONANIA A PRZEMIAŁOWY PRZEMIAŁOWY PRODUKCYJNA W SEKTORZE WYTWARZANIA, BUDOWNICTWA, REMONTÓW, NAPRAW, KONSERWACJA I USŁUGI W TYM ZAKRESIE BUDOWY I ZWIĄZANYCH Z TYM WYDATKÓW, ZAKUPU MATERIAŁÓW I WYKONANIA, WYKONANIE WYKONAN DLA REALIZACJI ZAKUPU SERWISOWYCH</p>	<p>RODZAJ BANK RODZAJ BANK KAPITAŁOWY I REZERWY W KAPITAŁACH, CZĘŚCI W KAPITAŁACH</p>
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BUSINESS ASSISTANCE GROUPS

UNITED STATES DEPARTMENT OF COMMERCE

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CESO jest organizacją skupiającą 3000 Kanadyjskich ekspertów wolontariuszy, w znaczeniu mierze emerytowych, którzy spełniają określone wymogi profesjonalne i służą swoim czasem, wiedzą i doświadczeniem pracując społecznie dla zainteresowanych przedsiębiorstw.

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W ramach pomocy rządu Kanadyjskiego dla Europy Środkowej i Wschodniej CESO rozpoczęło działalność w Polsce.

W pierwszym roku działalności konsultanci CESO pracowali na rzecz ponad 50 polskich przedsiębiorstw - dużych i małych, zarówno państwowych jak prywatnych, które doceniły korzyści płynące z tego typu współpracy.

Tematyka i zakres prac są ustalane i precyzowane z klientem polskim w biurze CESO w Warszawie. Stanowi to podstawę do wyszukania odpowiedniego eksperta w Kanadzie. Zakres usług jest bardzo szeroki - CESO korzysta z usług konsultantów ze 150 branż przemysłu i infrastruktury gospodarczej.

Klient polski pokrywa jedynie koszty związane z zakwaterowaniem i wyżywieniem.

Serdecznie zapraszamy wszystkich do współpracy.

CESO
ANNA JANDEWICZ - Przedstawiciel w Polsce
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00-519 WARSZAWA
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w godz. 09.30 - 14.30

FUNDACJA INTERNATIONAL EXECUTIVE SERVICE GROUP

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Od 1990 roku ponad 100 ekspertów pracowało na rzecz polskich przedsiębiorstw w okresach od dwóch tygodni do trzech miesięcy, wykonano ponad 50 badań marketingowych.

Wszelką informację dotyczącą pomocy można uzyskać w Fundacji International Executive Service Corps:

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- * organizacji szkoleń dla polskich przedsiębiorstw w zakresie administracji i zarządzania.

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SECTION FIVE
FIRM VALUATION

Module 2 -- Valuation

- o What is the role of valuation in the privatization process?
- o What are the information needs of each valuation technique?
- o What criteria can be used for judging the appropriateness of each valuation technique used in Poland?
- o What are the most critical factors affecting valuation results and price ranges?
- o What is the relationship between valuation and negotiating price?

MODULE 2: VALUATION

INTRODUCTION: THE ROLE OF VALUATION IN THE PRIVATIZATION PROCESS

Simply stated, if ownership of an enterprise is to be transferred, then a value for the transaction must be agreed upon by the buyer and seller. Each assesses the financial and overall business condition of the company from his own point of view and enters into a negotiation process to arrive at not only a common value or price, but a set of conditions to ensure the viability of the business and fairness to the employees.

In this module, we shall focus our attention on the valuation process. The process begins with understanding the financial condition of the company through the company's financial statements. Because the basis for much of the historical information is changing and does not present a suitable framework from which to project future performance, the focus should be on understanding the most recent statements. Module 2 introduced to you the concepts required to understand these statements.

Future performance of the company is dependent upon trends, risks and opportunities which must be appreciated in order to develop a realistic view of the range of possibilities for the enterprise. Also important to the issue of future performance of the company is the management of the enterprise -- the goals and objectives they set, and how well they execute relative to their competition. For privatization to proceed effectively, management and the new owners must be able to envision that their excellent performance can be translated into a high long-term return on investment for their shareholders.

The result of the valuation process must be a well-conceived range of values for the enterprise. It must allow an appropriate balance to be struck in privatization between:

- 1) providing fair returns for the investor/management (returns proportionate with the risks involved)
- and
- 2) appropriate price to the government and benefits to the enterprise, including:
 - a. new investment
 - b. employment
 - c. competent and responsible management

In the sections which follow we shall focus on various techniques used in Poland to establish values for enterprises. Blank spaces which appear in the text or as part of examples will

be filled in during the workshop. The source of information for these examples have been included at the end of this module in the form of financial statements for ABC, Inc.

VALUATION TECHNIQUES

Various techniques may be used to estimate the value of a firm. "Asset-Based" techniques are based on the value of the firm's assets, independent of the financial performance of the firm. "Earnings-Based" techniques estimate firm value based on the financial performance of the firm as an ongoing enterprise. This section introduces six commonly-used valuation techniques, three of which are Asset-Based, and three Earnings-Based. The objective is to distill these techniques to arrive at a market value for the firm. Market value is defined as the price a willing buyer will pay for the firm. The quality of the results is a function of the accuracy of the inputs used and assumptions made.

A. ASSET-BASED VALUATION TECHNIQUES

The three techniques discussed in this section -- book value, liquidation value, and replacement value -- estimate the value of a firm as the value of the firm's total assets less the value of total liabilities.

$$\text{Firm Value} = \text{Total Assets} - \text{Total Liabilities}$$

The fundamental difference in the three techniques is the method used for estimating the value of the firm's assets.

1. Book Value

The book value of a firm is equal to the value of the firm's total assets less total liabilities as represented on the balance sheet. The book value, therefore, is based on the historical cost of fixed assets and the depreciation attributed to these fixed assets. Note: Book value may or may not approximate the market value of the firm, depending on how closely the historical cost and depreciation of the assets on the balance sheet approximate the market value of assets. For example, if a machine is completely depreciated on the balance sheet, then it will be listed as having no net value. However, that same machine may still be capable of producing goods and therefore have a positive market value. To summarize:

Although book value is a commonly used benchmark in assessing firm value, book value is not a reliable indicator of the true market value of a firm.

In addition, as discussed in Module 2, accounting rules in Poland differ significantly from those applied in the West. This means that CSFR balance sheets and income statements must first be reorganized and adjusted to reflect Western accounting standards in order to arrive at a Western book value. Even so, for the reasons we highlighted in Module 2, they are of limited use.

The book value of our sample company ABC, Inc. is calculated as follows:

Year-End 1991 Book Value	Total Assets	Total Liabilities
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In sum, book value is relatively easy to calculate. The reliability of the historical values used, however, is questionable. Book value should therefore be considered cautiously as a measure of the assets' worth.

2. Liquidation Value

The liquidation value of a firm estimates the value of the firm's assets as the cash that could be generated by selling the firm's assets to the highest bidder (either together or piecemeal). "Liquidity" refers to the ease with which assets can be sold for cash. Certain assets, like fixed assets, are less "liquid", or harder to convert into cash, than other assets like accounts receivable. The key assumption behind liquidation value is that the enterprise will no longer continue to exist.

Liquidation Value	Cash Potentially Generated From Sale of Assets	Total Liabilities
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The liquidation value, in theory, accurately reflects the market value of the firm's assets because it uses current market prices to estimate the value of assets rather than their historical cost. Liquidation value can be extremely difficult to estimate accurately in emerging economies, however, due to the lack of reliable market prices for land, buildings, machinery, and other assets.

Example:

Assume we want to examine the liquidation value for ABC. After doing some research, we developed the following guidelines:

	Column 1	Column 2	Column 3
	% To Be Recovered	Balance Sheet Amounts	Liquidation Value Col 1 x Col 2
Cash	100	59	59
Accounts Receivable	80	10	8
Inventory	20	20	4
Net Fixed Assets	80	170	136
subtotal			
Total Liabilities	100	150	150
Total Value			

3. *Replacement Value*

The replacement value of a firm estimates the value of the firm's assets as the cost that would be incurred to replace the assets and productive capacity of the firm.

Replacement Value	=	Cost of Replacing Firm Assets	-	Total Liabilities
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The replacement value, like the liquidation value, has the advantage that it is based on current market prices. Unfortunately, it suffers from the same limitations: it can be difficult to estimate due to the lack of reliable market prices. This is particularly true in Poland for land and buildings because of the lack of market activity. In addition, replacement value is a more useful measure of value for some assets (i.e., fixed assets) than others (i.e., inventory).

In the example below, assume that the increase in Net Fixed Assets in the "Replacement Value" column is due to revaluation of machinery and equipment. The accuracy of such a revaluation is a function of how well-developed the used equipment market is for the specific models utilized by the enterprise. Used equipment research need not be limited to Poland so long as appropriate transportation and installation factors are added to the equipment value.

Example:

Management of ABC, Inc. was asked to prepare a table with replacement values for ABC's assets, which appears in the following exhibit.

What is the replacement value of ABC, Inc.?

	Book Value	Liquidation Value	Replacement value
Cash	59	59	59
Accounts Receivable	10	8	5
Inventory	20	4	15
Net Fixed Assets	170	136	215
Subtotal	259	207	294
Liabilities	150	150	150
Total Value			

B. EARNINGS-BASED VALUATION TECHNIQUES

We now turn to the three "earnings-based" techniques to estimate the value of the firm based on the historical and projected financial performance of the firm as an going concern. These include discounted cash flow, comparable transaction analysis and comparable company analysis. To repeat, the fundamental difference between these three techniques and the "asset-based" techniques just described is that "earnings-based" techniques estimate the firm's value based on expected future earnings. "Asset-based techniques," in contrast, estimate the firm's value based on the value, today, of the firm's assets, less its liabilities.

1. Discounted Cash Flow Analysis

The Discounted Cash Flow ("DCr") technique assumes that the price an investor is willing to pay for an enterprise depends on the amount of cash that the enterprise is expected to generate in the future, and the riskiness, or probability, of actually receiving those cash flows. As mentioned in Module 2, cash flow is defined as: $\text{Net Income} + \text{Depreciation} - \text{Capital Investments}$. DCF analysis requires projecting expected cash flows and converting the cash flows into their present values using a discount rate. The discount rate is a factor that adjusts these cash flows to account for: 1) the time value of money, and 2) the riskiness, or probability, that the expected flows will materialize. The sum of the present value of the cash flows is the net present value (NPV) of the enterprise. In other words, the firm's NPV is what all its future earning power is worth to us today.

The net present value of future cash flows is generally regarded as an accurate measure of firm value because it is able to incorporate a broad range of information into the analysis, including the historical financial performance of the firm, the internal factors affecting company performance discussed in Module 2, and macroeconomic and political (external) factors unique to a particular region. For example, cash flow projections may be adjusted to reflect the strength of competition and industry growth trends, and the discount rate can be adjusted to reflect the risks of operating a business in an emerging economy.

The results of DCF analysis, however, are extremely sensitive to the underlying assumptions of the analysis. The critical factors that influence the results of a DCF analysis are the cash flow projections, the discount rate, and the terminal value.

a. Cash Flow Projections

Cash flow projections are commonly developed by applying expected growth rates to the current level of revenues and costs. Even a moderate variation in these growth rates can have a significant impact on the estimated firm value when projected into the future. Because of this, DCF analysis is generally performed for several different cash flow scenarios in order to identify a range of values that reflect the uncertainty of the cash flow projection.

b. Discount Rate

The discount rate used to convert future cash flows to their present value is also highly influential on the results of the DCF analysis. Due to the difficulty of accurately estimating discount rates, particularly in an emerging economy, it is important to estimate firm value under a variety of discount rate assumptions.

The discount rate is used to compare cash flows, or money, received at different points in time. Discounting future cash flows is necessary because money received in the future is not as valuable as money received today. Because the discount rate allows you to estimate more accurately how much future cash flows are worth to you today, it is a very important part of enterprise valuation.

The discount rate is typically broken down into two basic components: the "time value" of money, and risk. The riskiness of cash flows can in turn be separated into sub-components. Below is an exercise to illustrate the components which are used to arrive at an estimate of a discount rate:

<u>Discount Rate Components</u>	<u>Poland</u>
1. Real "Risk-Free" Return	_____
2. Business Risk Premium	_____
3. Financial Risk Premium	_____
4. Country Risk Premium	_____

Explanation

1) Real "Risk-Free" Rate

The risk-free rate accounts for the time value of money -- that is, the fact that money is worth more to you today than tomorrow, even if there is no risk involved. The return on U.S. Treasury bonds, a virtually risk-free investment, is often used to estimate the risk-free rate. In December,

1991, it was approximately 4% above the rate of inflation.

2) Business Risk Premium

The business risk premium accounts for the riskiness of the firm's investment opportunities. To state it another way, it adjust for risk particular to the firm that investors can not diversify away by investing in other firms.

3) Financial Risk Premium

Financial risk involves the risk to an investor of receiving their funds in a timely fashion, and after all the claims of the debt holders have been met. The more debt a company has, the greater the risk to equity investors, and the higher the financial risk premium.

4) Country Risk Premium

The country risk premium accounts for risk such as national macroeconomic changes that are particular to Poland, and that international investors would not face in other environments.

Note: DCF analysis is commonly conducted in real terms. This means that cash flow projections are adjusted for their purchasing power in the face of inflation. In real DCF analysis a real discount rate is used which excludes the effects of inflation.

c. Terminal Value

Future cash flows are composed of two portions: the value of the cash flows over the projection period, typically five to ten years, and the "terminal value" of all cash flows after the projection period. The terminal value of the firm can constitute a substantial portion of total firm value, particularly in an emerging economy which is expected to experience high levels of economic growth after the five to ten year terminal value projection period. The terminal value of the firm is also difficult to estimate accurately, however, and total firm values should therefore be estimated under a variety of terminal value assumptions.

A reliable DCF analysis will provide a range of values for a firm to reflect the sensitivity of firm value to the factors discussed above. This range may be wide or narrow, depending on the consistency and reliability of the information used to conduct the analysis. In an emerging economy such as Poland, the range should be expected to be relatively wide.

Example:

The terminal value for ABC, Inc., is listed as 276, or 6 times the Operating Cash Flow. (OCF 46)

How was the OCF computed?

What proportion of the total Net Present Value (NPV) is represented by the terminal value?

1. Cash Flow (NPV for 5 years)	-	_____
2. Terminal Value (NPV of 6 x OCF)	-	_____
3. Total	-	_____

2 divided by 3 in % = _____

Notice the difference between:

4 x terminal value at 18% _____
and
6 x terminal value at 14% _____

Difference _____

The DCF analysis for ABC, Inc. demonstrates the sensitivity of the results to key assumptions. Varying the terminal multiple and discount rate results in a range of values from 171 to 291 -- approximately 25% above and below the midpoint. The DCF range would be even broader if the underlying five-year cash flow forecast was varied too.

2. Comparable Transaction Analysis

Comparable transaction analysis, the second of the three earnings-based valuation techniques we will discuss, estimates the value of a firm by examining the price that investors have paid to acquire other firms similar to the firm under valuation. This valuation technique is not widely used in Poland. Because it is used frequently by western analysts and is considered a useful benchmark for firm valuation, however, we briefly review the major steps involved. Comparable transaction analysis involves:

- a. Selection of transactions with target companies that are in a similar line of business and are of a similar size as the firm being valued.
- b. Calculation of valuation multiples for the acquired companies. Three commonly used multiples are the ratio of the price paid for the company to sales, operating cash flow, and net income of the target company. For example, assume the price paid for a company is 200 and

the most recent annual sales for the company is 100. This results in a valuation multiple of 2 times sales.

- c. Calculation of the value of the firm implied by the valuation multiples of the comparable transactions. For example, the average price/earnings multiple of the comparable transactions is multiplied times the current earnings of the firm being valued to arrive at the implied value.

The following Comparable Transactions Analysis for ABC, Inc. illustrates this process. In this example, five transactions are selected that involve target companies considered to be similar to ABC, Inc. Two of the transactions are then eliminated from the analysis based on their dissimilarities with ABC, Inc. with regard to product line and size. Average valuation multiples are then calculated for the remaining transactions and these multiples are applied to ABC, Inc.'s most recent sales, operating cash flow, and net income figures to arrive at the implied value of ABC, Inc.

The advantage of the comparable transactions analysis is that it reflects the price investors have actually paid for other companies that are similar to the firm being valued and is therefore an accurate indicator of market value. The reliability of comparable transactions analysis, however, depends on several factors:

- a. The more similar the target companies are to the firm being valued, the more reliable the results will be. Transactions involving target companies that operate in businesses that are only vaguely similar or are much larger (or smaller) in size than the firm being valued may not be useful indicators of firm value.
- b. The more similar the regional economy of the target companies is to the regional economy of the firm being valued, the more reliable the valuation multiples. Valuation multiples for the acquisition of companies that operate in stable developed regions may not be good indicators of the value of firms that operate in higher risk emerging economies. Valuation multiples will tend to be lower in higher risk economies, although this difference may be offset if the higher risk economy is expected to experience higher growth than the developed economy.
- c. The more reliable the sales, cash flow, and earnings figures of the firm under valuation, the more reliable the comparable transactions analysis. If sales, cash flow, and earnings figures for the firm under valuation are highly volatile or include extraordinary items, the

application of the valuation multiples to these figures will not yield reliable implied firm values.

3. Comparable Company Analysis

The third and final of the earnings based valuation techniques is "comparable company analysis." This technique is also not used frequently in Poland at present. Comparable company analysis estimates the value of a firm by examining the price that investors are willing to pay for shares in similar firms that are traded on public stock exchanges.

Comparable company analysis involves the same steps and caveats as the comparable transactions analysis. The results of the comparable company analysis, however, do not reflect the 20% to 40% premium that investors commonly pay to purchase a controlling interest in a company. Thus, the results of the comparable company analysis tend to be lower than the results of the comparable transactions analysis.

If a majority stake of the firm under valuation is expected to be sold to a single investor, then the comparable transaction analysis may better reflect the market value. If, however, ownership of the firm will be diffused, then the results of the comparable company analysis may better reflect the market value of the firm.

ADDITIONAL CONSIDERATIONS

The analytical methodologies described above are essential for estimating the value of an enterprise. It is also important to understand that additional considerations that may not be fully captured in these valuation techniques above. Following are two examples of additional considerations that may affect firm value.

1. Value of Non-Productive Assets

If the firm possesses assets that are not necessary for production, then the DCF, comparable transaction, and comparable company analysis will not capture the value of these assets. The buyer could operate the firm, realize the expected cash flows, and receive a windfall from liquidating the non-productive assets. The value of non-productive assets, therefore, will add to the value of the firm.

2. Environmental Liabilities

The cost associated with environmental liabilities should be included in the DCF analysis but may not be reflected in the

results of the other techniques. In addition, the costs of environmental compliance can be particularly difficult to forecast. This is a very important issue for foreign investors, as the costs of complying with current or retroactive environmental regulations can be extremely large.

EVALUATION OF RESULTS

Two independent and objective parties can arrive at significantly different estimates of firm value. In evaluating the results of a valuation it is essential, therefore, to identify and understand the factors that have the greatest influence on the estimated value.

The techniques described above will yield a set of estimated values for the firm which may differ significantly and which may or may not be consistent with each other. This section discusses the process of using the results of the various techniques to arrive at a sound range of estimated values for the firm.

A. EVALUATION OF ASSET-BASED RESULTS

1. Review the reliability of the asset-based techniques. In particular, examine:
 - a. Congruity of depreciated book value of assets and market value of assets.
 - b. Reliability of prices used to estimate the liquidation and replacement value of the firm.

The critical factors for replacement and liquidation values are:

- * age of accounts receivable and incidence of bad debt expense.
- * inventory of slow-moving items, for example, what portion of the inventory has not moved (been sold) for greater than 1 year?
- * land and buildings--to what extent have these been marked up with inflation and carefully maintained to retain value?
- * equipment age of equipment, quality of maintenance, technological obsolescence factor, and capacity of the industry in general on all important factors.
- * the value of non-productive assets--how are these carried in the books of account and, what is the appropriate way to receive payment for them?

Note: The liquidation value of a company is considered the

minimum value that the company should be sold for since an investor can always liquidate the firm and receive the value of the assets in cash.

B. EVALUATION OF EARNINGS-BASED RESULTS

1. Review the reliability of the earnings-based techniques according to the criteria in the previous section and identify the techniques that seem to be the most reliable.
 - a. DCF Analysis
 - i. Cash Flow Projection
 - ii. Discount Rate
 - iii. Terminal Multiple
 - b. Comparable Transactions and Companies
 - i. Similarity of Comparable Transactions and Companies
 - ii. Similarity of Economy in Which Comparable Firms Operate
 - iii. Reliability of Firm Sales, Cash Flow, and Net Income Figures
2. Compare the results of the various earnings-based techniques for consistency and identify the valuation techniques that provide results within a reasonable range.
3. Identify a range of values for the firm suggested by the earnings-based techniques, placing the most emphasis on the results derived from techniques that are determined to be the most reliable and the most consistent.

C. FINAL ESTIMATION OF FIRM VALUE

The final valuation range is the range derived from the earnings-based techniques to the extent that range lies above the asset-based results. This range can be wide in an emerging economy such as Poland that is lacking in reliable market information. A range that falls 25% above and below its midpoint is quite common.

SECTION SIX

ADVERTISING

VI. Advertising

This section will address some of the issues relating to the advertising techniques used in selling SOEs. One of the reasons for the poor performance of the fast track-auction program presently in operation in Poland is the poor use of advertising as a tool for attracting investor interest. The vovoidships and the Ministry of Privatization prepared what can be called a successful advertising campaign only in the case of the first tranche of firms put up for privatization through the auction program. Only in the case of this first tranche, were all of the firms successfully privatized.

This section will also try to address a popular notion in the vovoidships that selling SOEs to the local business community makes greater sense and is preferable to sale to foreign investors or Poles from more distant vovoidships.

A. Importance of an over-all privatization strategy for marketing of SOE divestitures

- o the importance of a well-defined privatization strategy for a successful advertising campaign: the major and secondary goals of the government in privatizing an SOE will have a major effect on the marketing strategy, as it will often guide the selection of investors. Uncertainty as to which SOEs will be divested, and when this will take place, will often hinder attracting buyers.
- o implications of a well-defined privatization strategy for the advertising techniques used by the seller: the presence of such a strategy provides marketers responsible for divestiture with information on which sectors should be advertised, what kind of incentives can be provided for the investor, what pool of potential investors should be targeted in the advertising campaign.

B. Attracting Investors

Appendix A, located at the end of this Section, is a schematic representation of the basic investor attracting process for SOE marketing. This sub-section will discuss the fundamental steps in the advertising process which are normally required

regardless of the divestiture methods chosen for a particular SOE. Specific types of activities, materials, or personnel which are specific to a particular form of divestiture will be addressed under the individual headings of auctions and tenders in sub-section "C."

1. Development of promotional materials and avenues

Appendix A to this section describes several different types of media for communicating with the potential investors regarding privatization investment opportunities. Regardless of how the information is disseminated, such as print, audio-video, direct mail, personal contacts and speeches, there are a few key points which the marketer should keep in mind when structuring or developing the program.

- o First, all information should be up-to-date and accurate. This is true of both company and country-specific (in the case of foreign investors), materials and discussions. Presenting the SOE's or country's economic condition in an exaggerated positive light will only serve to cause investor suspicion and lack of confidence in the integrity of the marketers.
- o Second, if international marketing efforts are undertaken, materials will have to be developed in the languages of the targeted countries. This requires a careful and professional translation of existing material, and often necessitates modification of existing materials to speak to the specific concerns of that country's investment community.

2. Follow-up on Investor Leads

Getting the initial attention of targeted investors is only the first step in attracting serious interest in divested SOEs targeted for privatization. Follow-up must be organized and effective in carrying out several key tasks. These include:

- o Informing the potential investor as to the specific investment opportunities which exist and the procedures which must be followed to pursue these opportunities;
- o Qualifying the interested parties to determine if they indeed have, or represent clients who have, the means to make an investment in the divested SOE;
- o Selling the serious, potential bidders on the profit potential of investing in the country's divested SOEs, and therefore the importance of pursuing the opportunity further through a direct to the site of the SOE.

While the last step may seem obvious, it is clearly the most difficult task to accomplish, especially when one considers that the individual assigned to marketing the SOE may be often untrained in the art of selling.

Procedurally, the investor attraction task requires a clear and relatively uniform structure of steps to be followed to ensure that all leads are properly pursued and qualified:

- o Information Dissemination: this would include both brief summaries and detailed description of the enterprise to be divested, as well as any possible sector or industry-specific and regional information. Also important is information on the tax structure, customs, and any appropriate investment incentives;
- o Registration and Qualification of Investors: this critical stage of the process includes first gathering key information on the investor, such as his current line of business, specific investment interests, financial resources. Investor verification is discussed in detail in Section VII - Investor Verification of the Vademecum.

A well developed database of investors can greatly increase the efficiency and effectiveness of future marketing efforts and also identify particular interests or concerns of investors which can be addressed in promotional materials. Information contained in the database can also assist authorities in the selection process of appropriate SOEs for divestiture. The use of investor data bases in selecting SOE for divestiture is discussed in Section IV - Marketing Analysis of the Vademecum.

- o Selling the Program: the basic principle of sales is to follow a progression of informing, qualifying and gaining commitment from the potential client to move to the next stage of the sales process. The goal at this stage of the "buyer attraction process" is to get the investor to make a further commitment to further action. The logical goal would be a personal visit by the investor(s) to the site where the SOEs are located for further information transfer and to actually inspect the SOE he is interested in purchasing.

3. Investor Visits

The format of an individual investment visits varies depending on the specific needs of the interested parties. The key point to be kept in mind when arranging for such a visit is that the investor should be given maximum encouragement to visit the enterprise by making it as easy as possible

For a smaller investor, who may not have the capability or desire to plan and carry out a thorough reconnaissance mission individually, an investment mission can serve as a vehicle for pooling several individuals for the purpose of direct sales.

The structure of an investment mission is typically along the following lines:

A group of five to ten individuals who have a serious interest in investment in a particular region of the country are selected for the mission. The mission is often focused on a particular sector of the economy, and led by a business person or official thoroughly familiar with the business conditions in that particular region. Meetings with appropriate officials are arranged (representatives of the vovoidship, founding body), as are visits to possible investment sites. Most of the initial briefings are given to the whole group, but one-on-one discussions are included to answer specific questions or concerns. Missions tend to last no longer than a week.

4. Reasons for failure of investment mission

Many of the investment missions held in other countries fail to bring the type of results which are anticipated, or at least hoped for, by the organizers. This is generally due to a combination factors:

- o overly optimistic expectations;
- o lack of preparation or expertise on the part of mission organizers;
- o inadequate individualized follow-up and sales effort.

Avoiding these pitfalls by having individuals on the mission who are capable of answering any and all questions, and possibly having decision-makers who can begin to negotiate a sale on the spot, will generally result in a more successful mission.

While it usually takes a few months to conclude a deal, the first 90 days or so are critical to making or breaking potential sales. This immediate post-mission time frame requires maximum responsiveness and updating of all key prospects to move the sales process along.

5. Detailed Information Exchange

As part of the investor visit and subsequent follow-up, detailed information needs to be exchanged with serious

investors. For a privatization program, this includes assisting the investor in preparing his bid or tender offer, and further qualifying the buyer in terms of his ability to meet the requirements of investing.

Any specific pre-conditions, such as joint-venture requirements, employment obligations, investment commitments, need to be addressed with the investor and he should be given adequate time to structure a proposal which meets or counter-offers these conditions.

6. Investor Selection and Post-Sale Publicity

After the deal is finalized, the marketers need to effectively exploit the sale by publicizing it to the investment community. This is particularly true early on in the privatization process. In this way, the promotional process of divesting SOEs becomes a somewhat circular process, with the latest sale becoming a major promotional tool in repeating the successful "sales cycle."

C. The use of advertising in public auctions and public tenders

1. Public Auction

- o The rationale for selection of this privatization method is discussed in Section II - Competitive Tenders in Market Economies of the Vademecum.
- o **Marketing and promotional vehicles:** Publicity concerning auctions is usually limited to newspaper advertisements, direct mail and often direct contact with members of the business community. This is relatively inexpensive, especially since several small SOEs and possible assets (equipment for example), may be auctioned at the same time. As is the case with any privatization program, organized publicity of the entire program via media and regular briefings to a variety of business interests is usually a key factor in generating interest in the overall process.

2. Public Tender

- o The rationale for selection of this privatization method is discussed in Section II - Competitive Tenders in Market Economies of the Vademecum.

- o **Marketing and promotional vehicles:** The experience of SOE marketers would appear to indicate that conditionality for sale of the enterprise, such as employment requirements, restrictions, on certain buyer groups, participation by local investors, should be explicitly described in the request for tenders document prepared by the SOE Founding Body. Given an adequate length of time for response, serious investors will structure their tenders to meet these requirements. often in a creative and innovative fashion. It is also critical that the tender request specifically state that the government:

"has the right to reject any or all of the proposals."

This ensures that the government will not be pressured into accepting a less-than-optimal buyer offer, and also strengthens its bargaining position if the top bidder is asked to enter into negotiations with the government.

- o **Preparation of "Request for Tenders Document" (tender invitation):** The following is an example of the procedures involved in the tendering process, taken from an actual privatization which took place in an emerging market economy:
 - it was decided that an advertisement would run once a week for four weeks in the two leading national newspapers. In addition, one advertisement was to be placed in the leading newspapers in large immigrant communities abroad. Additionally, the country's embassies in major investor-countries received copies of the advertisements (see Appendix B for example).
 - a public announcement was drafted (see Appendix B) to be placed in the newspapers;
 - interested parties were to submit letters of interest to receive the tender invitation (see Appendix B);
 - offers containing information requested in the tender document were to be submitted by a certain date, accompanied by a bank cheque for 10% of the total offer;
 - the Tender Board opened offers in the presence of witnesses and observers at a pre-determined time and place;
 - the Tender Board determined whether an offer met the conditions of the tender document. If not, the privatization committee disqualified the offer. The offers meeting these requirements were ranked based on the price offered. The Tender Board reserved the right

to reject any offer;

- the Tender Board announced successful bidder at a public meeting. Bank checks from those bids not accepted were returned;
- if no offer were accepted, the process was to be repeated again in 90 days, with efforts to distribute the public announcement more widely;
- the privatization committee ensured that the selection results were made known through newspaper announcement.

o Press and Public Relations

The reasons for press coverage and publicity in the tendering process is twofold:

- there is a fundamental objective of offering the SOE to every possible buyer. This both helps to ensure that the "best buyer" will be captured as part of the audience and that the process of divestiture remains as open and as transparent as possible, affording maximum public confidence in the fairness of the process;
- publicity helps to generate enthusiasm in the privatization process which is necessary to facilitate future interest in privatized SOEs among the investment community. The publicity process should not end when the tender is prepared. The identification of the buyer who has been chosen should also be publicized, with regular updates on the (hopefully favorable), performance of the now private enterprise.

o Promotional Materials

The tender invitation (see Appendix B), is a very specific and detailed description of the enterprise for sale and any restrictions or special requirements which the buyer must meet.

As a precursor to distribution of the actual tender invitation or bidding document, several privatization programs have employed preliminary promotional materials to facilitate the dissemination of information on the enterprise to be divested (see Appendix C for examples).

The primary purpose of these brief documents is to generate initial interest. They are rather inexpensive to produce, and therefore good models for use in virtually all cases of competitive tenders.

Interested investors are instructed to contract specific offices to obtain detailed tender invitations which include corporate profiles. These materials greatly expand on the information contained in the more costly information memoranda which contain comprehensive descriptions of the physical assets, financial condition and status of the enterprise.

POSSIBLE SOE MARKETING VEHICLES

PROMOTIONAL VEHICLES

TARGET AUDIENCE(S)

- **Press Releases**
(Announce Program, Appointments of Personnel, Offerings, & Completed Transactions)
- **Meetings:**
 - Talks by Government Officials at Meetings of Chambers of Commerce and Other Business/Banking Groups
 - Video Presentations Describing Enterprises Being Privatized
- **Articles**
About Privatization or Enterprises in Newspapers and Periodicals
- **Mailings**
Brief Company "Profiles" to Potential Investors, as well as Banks, Brokers, and other Organizations Which May Know of, or Contain, Potential Investors
- **Direct Mail**
To Embassies of the Privatizing Country, International Banks, Venture Capital Groups, Known Int'l. Investors, Associations of Overseas Nationals
- **Videotapes**
Shown at Meetings or Receptions Hosted by Embassies in Key Foreign Countries
- **Special Bulletins**
U.S. Foreign Commercial Officer in Each U.S. Embassy has Access to Extensive Network of Newsletters & Bulletins Maintained by U.S. Dept. of Commerce & OPIC. Networks of Potential Investors are Maintained by Regional and Int'l. Development Banks (Listing Attached)

**LOCAL
AND
REGIONAL
INVESTORS**

**FOREIGN
INVESTORS
AND
OVERSEAS
NATIONALS**

APPENDIX B

**SAMPLE PUBLIC TENDER DOCUMENT
AND ADVERTISEMENT**

TENDERS BOARD

PUBLIC TENDER FOOD PROCESSING LABORATORY

The Government of Western Samoa approved the privatisation of the commercial operations of the Food Processing Laboratory. A tender document has been prepared which prescribes the conditions of tender. The tender document can be obtained from the Office of the Director of Economic Development, Box 862, Apia, Western Samoa. Requests for the document may be telexed to 233 Treasury SX or sent by facsimile 21312. A charge of WSS10 will be made for each copy of the tender document. All tenders should be addressed to the Tenders Board, Treasury Department, Private Bag, Apia, Western Samoa and should be received by the Tenders Board on or before 4:00 p.m., Friday, 24th April 1987.

The advertisement of the tender as it appeared in the Samoa Times:

Public Tender

FOOD PROCESSING LABORATORY

The Government of Western Samoa approved the privatisation of the commercial operations of the Food Processing Laboratory.

A tender document has been prepared which prescribes the conditions of tender. The tender document can be obtained from the Office of the Director of Economic Development, Box 862, Apia, Western Samoa.

Requests for the document may be telexed to 233 Treasury SX or sent by facsimile 21312. A charge of WSS10 will be made for each copy of the tender document. All tenders should be addressed to the Tenders Board, Treasury Department, Private Bag, Apia, Western Samoa and should be received by the Tenders Board on or before 4.00p.m., Friday, 24th April 1987.

O/N 17923

TENDER DOCUMENT DRAFT
FOOD PROCESSING LABORATORY

Date : 24th March 1987

At its meeting held on 21st January 1987, the Cabinet of the Government of Western Samoa discussed paper CP (87)2 and approved that:

1. The commercial operations of the Food Processing Laboratory be privatised;
2. Tenders should be called from all interested companies and/or individuals that wish to take over the activities of the Food Processing Laboratory;
3. A committee of officials comprising the Financial Secretary, the Director of Agriculture and the Director of Economic Development to appoint and evaluate all tenders to be received and subsequently submit their report to Government.

To that end, the above-named Committee has prepared the attached tender document to provide interested parties with all known and relevant information of the Food Processing Laboratory to enable them to prepare offers for the Food Processing Laboratory.

All offers must be submitted in a sealed envelope to the Tender Board, Treasury Department before 4:00 p.m. within 30 days of the date of this tender document.

In this tender document, you will find the following:

- The most recent, complete (unaudited) financial statements for the Food Processing Laboratory. Financial statements more recent than 1984 are not available.
- A list of equipment included in this offer.

Food Processing Laboratory is located on land belonging to the Government of Western Samoa. If the offeror plans to occupy the plant at Alafua, the offeror should state a willingness to enter into a long-term (25 years) lease. The offer should include the amount the offeror is willing to pay to lease this property.

If the offeror plans to dismantle the plant and move it to another location in Western Samoa, that should be clearly stated in the offer. No offer will be accepted wherein the equipment would be re-located outside of Western Samoa.

The Government of Western Samoa currently employs 15 persons at the Food Processing Laboratory. It is the desire of the Government of Western Samoa that these employees continue to work at this plant after its sale, at least for a period of six months, during which time each employee will be evaluated regarding continuing employment.

The Food Processing Laboratory is a going concern with the following estimated annual sales:

	Quantity	Value	Estimated Annual Sales
Passionfruit Exports/tonne	81	WS\$2,168	WS\$176,000
Fruit Juice Cartons/litre	200,000	WS\$1.40	WS\$280,000
Bulk/litre			
Bananas Pulp/tonne	80	WS\$1,671	WS\$134,000
Dried/tonne	25	WS\$4,053	WS\$101,000

			WS\$691,000

Frozen passionfruit pulp and seeds, frozen banana pulp and dried bananas are currently exported to New Zealand and Australia.

The Food Processing Laboratory currently purchases from approximately 30 passionfruit growers. The price paid per kilogram is presently 28 sene. The benchmark valuation of this going concern has been made by the Government of Western Samoa based upon a payment to farmers of 32 sene per kilogram in October 1987. Unless there are gross abuses, the Government of Western Samoa does not intend to exercise any price control over the operations of the Food Processing Laboratory. It is believed that in order to increase the volume of the plant farmers will have to be paid for their production in cash and advance contracts will be required. Some agricultural extension services provided by the plant will also be desirable.

The Food Processing Laboratory purchased 3,000 tonnes of passionfruit in 1984, offering a price of 35 sene per kilo.

The Food Processing Laboratory currently purchases its bananas from USP, Annandales, and Phil Williams.

The benchmark price developed by the Government of Western Samoa has been set so that the purchaser can make an adequate profit without Investment Incentives or other protection from taxes.

An inspection of the business may be made by making an appointment with Mr. Clive Pedrana to visit the Food Processing Laboratory in Alafua, Apia, Western Samoa. Please note that equipment for food technology research, other than equipment specifically used for quality control of the above-named products, will be moved to another location and do not constitute equipment offered for sale in this tender document.

The Tenders Board reserves the right to refuse all offers and to re-advertise this tender.

Your offer should include the following:

- Price offered for Food Processing Laboratory as a going concern. A bank cheque amounting to 10% of this amount should be attached to your offer
- Willingness to enter into a long-term lease agreement with the Government of Western Samoa, and the annual lease amount offered with appropriate increases for inflation
- Full disclosure as to ownership and management team
- Assurance that the equipment will remain in Western Samoa
- Assurance that plant personnel will be maintained for a 6-month period, after which time any or all may be dismissed
- The offer is to be based on the understanding that the business shall be subject to all taxes and fees required of such a business operating in Western Samoa. Accordingly an assurance is required that no application will be made to the Government of Western Samoa for incentives under the Enterprise Incentives Act 1984, the Industrial Free Zone Act 1974 or otherwise, in the future.

The sales agreement will be between the Government of Western Samoa and the purchaser for the "business known as Food Processing Laboratory."

APPENDIX C

Company Profiles



BUSINESS OPPORTUNITIES

THE GOVERNMENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA

Announces the commencement of divestment activities in relation to a number of State owned/controlled Enterprises in the Agricultural Sector (fishery, forestry, animal, fruit and vegetable products) and the manufacturing sub sector (stockfeeds, paints, etc.)

Interested parties are invited to apply for relevant Corporate Profiles to the following addresses

**The Chief Executive Officer,
Public Corporations Secretariat,
45-47 Water Street, Georgetown,
GUYANA, SOUTH AMERICA.**

Telephone: 02/67016
02/69476
Telex: GY 2214
Presoll 2208
Fax: (802) 2 63395

**Mr. Joseph Tyndall, C.C.H.,
Minister
Trade and Investment
2490 Tracy Place W.W.
Washington D.C. 20008**

Telephone: 202 265 6900 (Office)
301 229 9426 (Home)
Telex: 023 64170

**Mr Phillip A. D. Alsopp, A.A.,
Deputy High Commissioner
3 Palace Court
Bayswater Road
London W2 4LP**

Telephone: 01 229 7684 6 (Office)
Telex: 051 23945

COMPANY PROFILE

NATIONAL PAINT COMPANY LIMITED

NATURE OF BUSINESS

The company is a wholly owned subsidiary of Guyana Pharmaceutical Corporation (GPC), a state owned enterprise. It manufactures a wide range of paints as well as alkyd resin and other paint products.

BRIEF HISTORY

The company was originally established in 1965 as a subsidiary of British Paints (UK) Limited. In 1976, it was acquired by the Government of Guyana and operated as a division of Guyana Stores Limited until 1979 when it became a division of the Guyana Pharmaceutical Corporation. From January 1, 1981, its status was changed to that of a private limited liability company with the name of National Paint Company Limited and to a wholly owned subsidiary of the Guyana Pharmaceutical Corporation.

OPERATING LOCATION?

The factory is located at 13/14 Industrial Estate, Ruimveldt on the outskirts of Georgetown.

CAPITAL STRUCTURE

The authorized share capital of the company is 30,000 ordinary shares with a par value of G\$100.00 each, of which 2,450 have been issued at par and are fully paid up.

The company carries loan financing of G\$5.499 million which it utilised for the acquisition of an alkyd resin plant commissioned in 1988.

The estimated value of the fixed assets as at December 31, 1988, was G\$6.515 million (Note: US\$1.00 = G\$33.00 from March 31, 1989).

PRODUCTION CAPACITY

The company has an installed capacity of 350,000 US gallons (about 1.3 million litres) of paint per annum. Current production capacity is 300,000 US gallons (about 1.1 million litres) and 1,000 tonnes (about 984 tons) per annum of paints and alkyd resin respectively.

PRODUCTS

The company produces a wide range of paint products as well as putty and soya alkyd resin.

MARKETS

Sales are currently limited to the local market of which the company has a share of approximately 70% of the current consumption per year.

MAJOR STRENGTHS

The company possesses technical and administrative skills to guarantee its continued growth and development. In addition, the machinery and equipment are in excellent condition and well maintained to guarantee continuous production.

The recently installed Soya Alkyd Resin plant produces resin which is one of the main ingredients in the manufacture of oil based paints. Such resin can be readily marketed in the CARICOM region.

**GOVERNMENT OF GUYANA
APRIL 6, 1989**

SECTION SEVEN

INVESTOR VERIFICATION

VII. Investor Verification

This section will address the problem of investor verification faced by the Founding Bodies. Following the publication of invitations to negotiate in the local and nation-wide press, inquiries flow into the office of the Founding Body requesting additional information and access to the SOE.

The Founding Body is then faced with the dilemma of determining the credibility of various potential investors.

Some of the questions we will try to answer are: why is investor verification important? What are the criteria for evaluating the credibility of a potential investor? What type of information should be requested from the investor prior to entering into any contractual obligations? What are the possible sources of information on the investor?

A. Why is investor verification important?

- o To avoid unnecessary disruption at the enterprise level: Presenting an SOE for privatization in general and liquidation in particular creates a significant amount of disturbance at the enterprise level.

Below are listed some examples of the particular turbulence that occurs at the enterprise level as a result of anticipated negotiations.

Management becomes focused on the upcoming negotiations, considering the future of the enterprise, the potential effect on the production profile of the firm, employment, existing contractual obligations. Very often, ownership transfer implies change of management. As a result, management's attention is largely shifted from operations of the enterprise to issues relating to the upcoming negotiations. In summary, management becomes increasingly absorbed with planning strategy for the anticipated negotiations rather than the day-to-day management of the enterprise, the planning of investment projects, expansion, upgrading and introduction of new production lines. The SOE increasingly enters into

• PROFILE •

PLANTA DE PRODUCTOS LACTEOS SULA, S.A. DE C.V.

BUSINESS: Processing plant for milk and milk by-products.

LOCATION: San Pedro Sula, Cortés, Honduras C.A.

OWNER: CONADI: 46%; BANDESA: 46%
Others: 8%

YEARS IN OPERATION: Founded in 1972.

EMPLOYEES: 340 (146 production)

KEY DATA AS OF: 07/20/88

• **RATE OF EXCHANGE USED:**
L. 2.00 = US\$1.00

• **ANNUAL SALES:** US \$19.8 million

• **OPERATING PROFIT:**
US \$ 482.5 thousand

• **BOOK VALUE OF FIXED ASSETS:**
US \$3.05 million

-
- **FACILITIES:** Milk processing plant, including pasteurizing facilities. The company also owns equipment to dehydrate milk (100,000 litres/day) which was purchased new in 1978 and has never been in operation. Generally, the equipment is in good condition. The company leases a second processing plant in Tegucigalpa.
 - **PRODUCTION:** The facilities produce pasteurized milk (70%), fruit juices (5%), various types of cheeses (10%), plus cream and butter (15%). The plant uses 100% of its milk production capacity and 90% of its capacity for cream and butter production. Maximum reception capacity is 85,000 litres of fresh milk per day.
 - **MARKET:** The company has a 43% market share of the total liquid milk market and 75% of the market for cheese. The main competitor is the LEYDE Company which has 40% of the milk and 20% of the cheese markets. Delta Company has 8% of the milk market.
 - **OVERALL EVALUATION:** The company needs to make administrative reforms and production improvements as well as to devise an effective marketing program. Its market appears to be a growing one, however, and the new dehydrating plant is a very attractive investment in view of the scarcity of powdered milk in the country.

• **FOR SALE:** The 92% of the shares owned by CONADI and BANDESA.

• **SALE PRICE:** To be set by the Boards of CONADI and BANDESA in accordance with an evaluation performed by independent appraisers.

* PROFILE *

AZUCARERA CENTRAL, S.A. DE C.V. (ACENSA)

BUSINESS: Cultivation and milling of sugar cane.

LOCATION: Marcovia, Choluteca, Honduras C.A.

OWNER: CONADI: 99.95%; Inversiones del Sur: 0.01%; Others: 0.04%

YEARS IN OPERATION: Founded in 1974; Currently operating.

EMPLOYEES: 1400 permanent and temporary.

KEY DATA AS OF: Sept. 31, 1988

• **RATE OF EXCHANGE USED:**
L. 2.00 = US\$1.00

• **ANNUAL SALES:** US \$15.85 million

• **OPERATING PROFIT:**
US \$(5.45 million)

• **BOOK VALUE OF FIXED ASSETS:**
US \$18.55 million

-
- **FACILITIES:** Owns 1828.98 ha. (4513.41 acres) of land. Machinery and equipment are in good condition, and are maintained with technical assistance from the Schaefer Company. The process is integrated, and the mill operates 5-6 months of the year.
 - **PRODUCTION:** Produces raw and white sugar plus molasses. Milling capacity is 4,500-5,000 tons of cane per day equivalent to approximately 80 short tons of sugar.
 - **MARKET:** By arrangement with the 6 other mills, ACENSA participates in exports to the U.S., under the latter's now reduced quota system. Its share of exports (50% of its sales), as well as its participation in the domestic market, is based on a formula established by the Central de Ingenios (CISA), which allocates shares to each mill based on production achieved. The main producers of sugar are CAHSA, which supplies 24% of the local market, followed by AZUNOSA with 22%, ACENSA with 20%, and AYSA with 12.5%.
 - **OVERALL EVALUATION:** World sugar prices will have much to do with the company's future. Crop diversification, and the production of alcohol, are two endeavors for which the company has good expectations.

• **FOR SALE:** 100% of the assets.

• **SALE PRICE:** Will be set by CONADI's Board upon receipt of a valuation by independent appraisers.

* PROFILE *

INDUSTRIAS CEMENTERA HONDURENA, S.A. DE C.V. (INCEHSA)

BUSINESS: Manufacture of portland and puzzolana cement.

LOCATION: Piedras Azules, 6 kms. from Comayagua City, Honduras C.A.

OWNER: CONADI: 80%; Asland: 10%;
Mali: 1%; Others: 9%

YEARS IN OPERATION: Founded in 1976.

EMPLOYEES: 309 (275 in production)

KEY DATA AS OF: Dec. 31, 1988

• **RATE OF EXCHANGE USED:**
L. 2.00 = US\$1.00

• **ANNUAL SALES:** US \$28.75
million

• **OPERATING PROFIT:**
US \$ 10.9 million

• **BOOK VALUE OF FIXED ASSETS:**
US \$42.90 million

-
- **FACILITIES:** The plant has one kiln with a production capacity of 1,200 MT per day. It is a dry kiln process with a four stage gas pre-heater that uses the exhaust gases to dry the raw materials. The machinery includes the processing equipment, auxiliary and transport equipment. The plant has been in operation for 7 years.
 - **PRODUCTION:** Installed capacity is 392,000 metric tons of portland cement and 532,000 of puzolanic material. There is sufficient raw material for 40 years of operation at full capacity. Presently the plant is operating at 55% of installed capacity.
 - **MARKET:** It has one competitor in the local market, CEHSA, located on the North Coast at a distance of approximately 250 kms. from INCEHSA. That firm has installed capacity of approximately 700,000 MT per year of both types of cement. In 1987, INCEHSA supplied about 2/3 of the local market. Total demand in that time in the local market was 330,000 MT per year. There is one possibility that Guatemala could be developed as an export market due to estimates that show Guatemala running short in 5 years. Moreover, there is the potential to ship to the Caribbean, and possibly to ship clinker to the U.S. market.
 - **OVERALL EVALUATION:** The machinery and equipment of INCEHSA are in top condition as a result of sophisticated and intensive maintenance programs supervised by Asland of Spain and Kawasaki of Japan (the manufacturer of the main equipment). There are raw material reserves for more than 40 years, and as INCEHSA is a very well managed low cost producer with a good local market share and export potential, its outlook is a positive one.

• **FOR SALE:** CONADI's 80% equity investment.

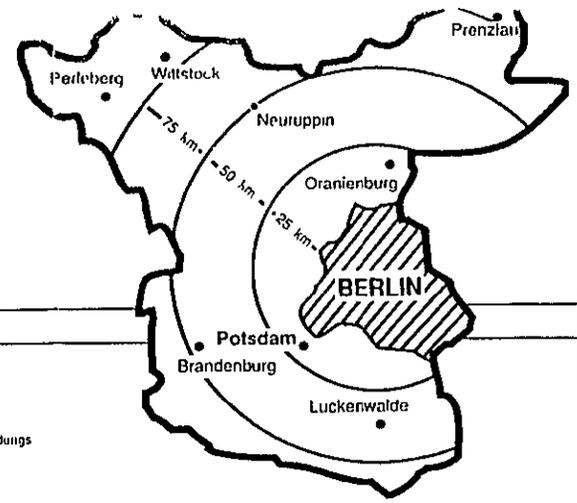
• **SALE PRICE:** To be set by the Board of CONADI upon receipt of a valuation by independent appraisers.

Treuhandanstalt

(The government agency privatising eastern Germany property)

Tender by Treuhandanstalt Potsdam Branch of Industrial and Service Companies located in the region west of Berlin / Germany

Closing Date:
March 18, 1992



Company number, name, location (in brackets, type of business / present number of employees)

Vehicles

- (P 1) Auto Center GmbH Königs Wusterhausen
O 1600 Königs Wusterhausen
(Car dealership, repair / 19)
- (P 2) Autocenter Havelland GmbH
O 1800 Brandenburg
(Car dealership, repair / 10)
- (P 3) Autohaus Hennigsdorf GmbH
O 1427 Hennigsdorf
(Car dealership / 11)
- (P 4) Autotechnik Prignitz GmbH
Wittstock
O 1930 Wittstock (Dosse)
(Spare parts dealership / 30)
- (P 5) AZH GmbH Potsdam
O 1591 Potsdam
(Car dealership, repair / 32)
- (P 6) Fahrzeugwerk Treuenbrietzen GmbH
O 1702 Treuenbrietzen
(Truck bodies / 219)
- (P 7) Maschinenbau GmbH Wittenberge
O 2900 Wittenberge
(Construction of diesel engines / 51)
- (P 8) Pritzwilker Auto Eck GmbH
O 1920 Pritzwilke
(Car dealership, repair / 21)
- (P 9) Spezialanhängerbau und Multicenterstandortszug GmbH + A
O 1762 Trosenbrietzen
(Construction of trailers, repair / 41)
- (P 10) Trebbiner Fahrzeugwerk GmbH
O 1712 Trebbin
(Construction of truck bodies, trailers / 120)
- (P 11) Belziger Hoch und Ausbau GmbH
O 1820 Belgig
(Civil construction installations / 100)

- (P 12) Handels-Service GmbH Tompin
O 2010 Tempin
(Electrical and civil construction, installations / 3)
- (P 13) Hoch und Tiefbau GmbH Gransow
O 1470 Gransow
(Civil construction / 190)
- (P 14) Hochbaugesellschaft Luckenwalde GmbH
O 1710 Luckenwalde
(Civil construction / 150)
- (P 15) Kyritzler Bauhof GmbH Hoch und Tiefbau
O 1910 Kyritz
(Civil construction civil engineering / 92)
- (P 16) PNBau Ingenieurbau Prignitz GmbH
O 2900 Wittenberge
(Civil construction / 110)
- (P 17) Rathenower Bau GmbH
O 1830 Rathenow
(Civil construction civil engineering / 120)

Electrical engineering

- (P 18) Elektroanlagen Vellen GmbH
O 1420 Vellen
(Electrical engineering, repair / 43)
- (P 19) Elektroanlagenbau GmbH Belgig
O 1870 Belgig
(Electrical construction / 40)
- (P 20) Elektro Anlagenbau Kleinmachnow GmbH
O 1532 Kleinmachnow
(Electrical construction / 50)
- (P 21) Elektroschienenreparatur Potsdam GmbH
O 1590 Potsdam
(Repair of electrical engines / 24)
- (P 22) Elektrowarme Belgig GmbH
O 1870 Belgig
(Electrical installations / 176)
- (P 23) Fernwerk Dabendorf GmbH
O 1631 Dabendorf
(Communication electrical measuring / 224)

Woods and forests

- (P 24) Schallgerüstbau Spierenberg GmbH
O 1637 Spierenberg
(Technical engineering, energy supply systems / 211)
- (P 25) Naue & Möbel GmbH
O 1810 Rathenow
(Furniture / 109)
- (P 26) Fluppiger Möbelwerkstätten GmbH
O 1950 Neuruppin
(Furniture / 4)
- (P 27) Seeger'solder Holzverarbeitungs GmbH
O 1540 Falkensee
(Sawmill, wooden constructions / 4)

Foodstuffs

- (P 28) Fischverarbeitung Märkisch Buchholz GmbH
O 1605 Märkisch Buchholz
(Smoked fish, cans / 12)
- (P 29) Furstnberger Mischfutter GmbH
O 1432 Fursenberg
(Animal feed manufacture / 61)
- (P 30) Luckenwalder Schlachtbetrieb GmbH
O 1710 Luckenwalde
(Slaughterhouse, meatprocessing / 108)
- (P 31) Landhandel Jüliebog GmbH
O 1700 Jüliebog
(Storage and trade of agricultural products / 6)
- (P 32) Rangsdorfer Landhandel GmbH
O 1534 Rangsdorf
(Storage and trade of agricultural products / 4)
- (P 33) Schloßbrauerei Wismenburg GmbH
O 1815 Wismenburg
(Brewery and beverage production and trade / 27)
- (P 34) Zentralfabrik Getränke GmbH
O 1614 Zentralfabrik
(Beverage production and trade / 59)

Metal working

- (P 35) ALSTER GmbH Luckenwalde
O 1710 Luckenwalde
(Metal construction car dealership repair / 64)
- (P 36) AWP Käthe und Kilma GmbH Prenzlau
O 2130 Prenzlau
(Fittings valves / 44)
- (P 37) Förderanlagen Falkensee GmbH
O 1540 Falkensee
(Conveying equipment, service / 262)
- (P 38) Land- und Bautechnik GmbH Dannevalde
O 1901 Dannevalde
(General engineering wholesale trade / 12)
- (P 39) Maschinen und Gerätebau GmbH Dreßler/Brandenburg
O 1800 Brandenburg
(General mechanical engineering / 74)
- (P 40) Metallbearbeitung und Rohrleitungsbau GmbH Falkensee
O 1542 Finckenkug
(Heating systems installation services / 30)
- (P 41) Metallverarbeitung GmbH
O 1406 Hohen Neuendorf
(Mechanical engineering / 13)
- (P 42) OHTA GmbH Rathenow
O 1830 Rathenow
(Oven and stove construction / 155)
- (P 43) Rathenower Apparate- und Behälterbau GmbH
O 1830 Rathenow
(Stationary containers water recycling / 262)
- (P 44) Westhavelland Technik GmbH
O 1831 Milow
(Wholesale trade machinery and food / 84)

Textiles, leather goods

- (P 45) Brandenburgischer Kammgarn spinnererei GmbH BRANCA
O 1800 Brandenburg
(Yarn production / 157)

- (P 46) Folienrezepte GmbH Brandenburg
O 1600 Brandenburg
(Technical yarn / 150)
- (P 47) Job Dress GmbH Bekleidungs betrieb Pritzwilke
O 1920 Pritzwilke
(Work wear / 62)
- (P 48) Luwal Schuhfabrik GmbH
O 1710 Luckenwalde
(Production of shoes / 204)
- (P 49) Märkische Konfektion GmbH Zehdenick
O 1434 Zehdenick
(Women's and men's clothing / 106)
- (P 50) Multilod Rathenower Lederwaren GmbH
O 1830 Rathenow
(Leather production / 31)
- (P 51) NEWTEX AG
O 1953 Fehrbellin
(Industrial textiles / 160)

Miscellaneous

- (P 52) Akzenten Silberschmuck GmbH Luckenwalde
O 1710 Luckenwalde
(Jewellery, trade / 30)
- (P 53) HADIS Handel Dienstleistung Service GmbH Prenzlau
O 2130 Prenzlau
(Commercial services / 64)
- (P 54) Ludwigsfelder Dienstleistungen GmbH
O 1720 Ludwigstede
(Commercial and domestic services / 43)
- (P 55) Märkisch Glasbearbeitung und Handel GmbH
O 1434 Zehdenick
(Glass production trade / 30)
- (P 56) Prignitzer Reinigungsmittel GmbH
O 2900 Wittenberge
(Cleaning materials / 11)

Tender conditions

- 1 In accordance with its legal mandate the Treuhandanstalt Potsdam Branch intends to sell the aforementioned companies by means of a tender. All offered companies are in the legal form of a limited liability company (GmbH) or a stock company (AG) and are of small and medium size. They are all located in the region west of Berlin. Bids must be for the total share capital of a company.
 - 2 The tender is public and anyone is entitled to bid.
 - 3 In deciding among the bids, the Treuhandanstalt will take into consideration, among other things, the bid price, the business plan submitted, promises to maintain or create jobs and pledges to invest each of which will be considered part of the bid.
 - 4 Interested parties can obtain company profiles without charge from the Tender Office Potsdam Branch. The Treuhandanstalt is not responsible for the accuracy and completeness of the information. Prospective bidders will receive written authorization from the Tender Office Potsdam Branch to visit the companies on the basis of which additional information will then be provided by company management.
 - 5 Bids are to be submitted in a sealed envelope marked only with the name of the company for which the bid is submitted.
- These conditions are translated from the German language. In case of dispute the German wording will prevail.
- 6 Bids must be received at the Treuhandanstalt Potsdam Branch no later than 2 pm (local time) on March 18, 1992 (the closing date). They will be opened immediately thereafter in the presence of a notary public. Bids must be in Deutsche Mark and shall remain valid for ninety (90) days after the closing date.
 - 7 Bids must be accompanied by a bank of five (5) per cent of the bid's share in the form of a deposit which is not valid for ninety (90) days after closing date. The bid bond will be forfeited if the bidder enters into a bid without observing the required period or refuses to sign a contract in accordance with its bid.
 - 8 The Treuhandanstalt will withdraw the bids within ninety (90) days after the closing date. The Treuhandanstalt will not be bound to accept any bid and may accept a bid other than the highest.
 - 9 In the event that a previous winner has submitted a claim, a bid is null and void either the signature of the bidder or a decision of a court in accordance with applicable law section 20 of the German Civil Code (BGB).
- Other issues for the Tender Office of the Treuhandanstalt that are of interest are Monday through Friday from 9 am until 4 pm in (local time).

For further information (company profiles, visit authorization) please contact:

or: **Central Tender Office**
Tel: +49-30-31542609
Fax: +49-30-31542651

Treuhandanstalt • Potsdam Branch
Am Bürohochhaus 2 • D-1581 Potsdam
Tel: +37-33-86900
Fax: +37-33-8690311

a phase which may be characterized as the state of deep freeze: all important decisions considering the operation of the enterprise are side-tracked until the anticipated negotiations and ownership transfer are concluded.

The workforce of the SOE becomes profoundly affected by the "deep freeze" mentality characteristic of the period preceding negotiations. This may have a considerably negative effect on the morale of the workforce as the period of anticipation lengthens. Will the new owner retain the workforce? If not, how extensive will be the cuts? What effect will privatization have on the working conditions at the enterprise, on wages, on social benefits, on workers' representation?

Finally, the announcement of an SOE's liquidation can negatively impact the number of new orders placed for the products and/or services of the firm. Often, creditors of the SOE have also increased pressure to accelerate repayment of outstanding payables and obligations.

As a result of all of the above mentioned points, a company should enter into negotiations with investors who have presented serious bids for the company in order to minimize the period of uncertainty. Ownership transfer greatly disrupts both management and the firm as a whole, and should not be initiated unless the Founding Body feels confident that the potential investor is able to seriously participate in the negotiations;

- o Need to conduct due-diligence of the buyer: within the nascent Polish privatization market it is not possible to adopt the Western maxim of "let the buyer beware."

Should the new owner of the privatized enterprise default on his payments, the enterprise is returned to the Founding Body. As a result, the responsibility of the selling agent for ensuring the credibility of the investor lies with the Founding Body.

Of particular importance is the need to protect the SOE and its employees from investors with sources of capital inadequate for continuing operation of the firm following privatization. Discussion of this issue is presented in the following subsections.

Even when it has nothing to hide, the Founding Body of the SOE may not wish to disclose information about the company's business operations, customers, suppliers and trade secrets reveal financial information until the potential buyer proves to be a bona fide candidate.

- o Final analysis/role of legal contract: even in a perfect economy, in which well-developed legal structures govern contractual agreements, the credibility and honesty of the investor are the factors which ensure the successful completion of SOE divestiture. The role of the contract is to clearly list the obligations of all parties involved in the ownerships transfer and make known the penalties of not complying with these obligations. In the final analysis, the fulfillment of all contractual obligations in an ownership transfer comes down to trust. The initial choice of negotiation partners is therefore extremely important.

In summary, it is important to obtain enough information, at an early stage of the negotiations, to ensure that valuable time and limited budgets are not expended on casual or non-capitalized investors. It is important to point out, however, that the verification process should not be so rigorous and invasive during the initial contact as to discourage the investor from further discussions.

B. What specific issues relating to the investor need verification?

- o investor motivation: why is the investor interested in the particular SOE at hand?

On the basis of rudimentary documentation on the SOE presented by the Founding Body, contact with the potential investor is initiated. This rudimentary documentation can take the form of one-page reports summarizing the most important facts about the enterprise: production profile, location, size of labor force, net book value, total sales, total liabilities with distinction of long-term debt (for specific examples of promotional materials see Section VI - Advertising of the Vademecum). On the basis of this information provided by the Founding Body the investor should be able to specify why he is interested in the particular enterprise.

- o investor qualifications: does the investor have the qualifications or the necessary assistance of qualified advisors to be able to implement the proposed program?

It is important to develop a sense of the potential investor's background and experience in a particular field. Does the investor know what he is getting himself into by purchasing the enterprise? Does he understand the business in general and the specific production profile of the firm? Does he understand the technological base of the enterprise? Does he have access to skilled assistance who understand the mechanics of the acquired firm?

As due diligence responsibilities rest with the Founding Body of the SOE, the negotiating team must take all the steps necessary to feel confident that the potential investor is qualified to appropriately manage the firm following ownership transfer. Signing and notarizing the contract of sale do not end the relationship between the firm and its Founding Body. This is especially true in the case of a SOE-purchase on the basis of an installment repayment scheme. Should the new owner default on his payments, the enterprise reverts back to the Founding Body.

Ownership transfer alone does not ensure enterprise viability. The new management of the privatized enterprise then faces two major tasks requiring completion to realize a successful ownership transfer:

- the drafting of an appropriate business strategy for the enterprise covering issues such as production profile, intended capital expenditures and investments in the firm, work force expansion or contraction;
- securing appropriate sources of financing for the purchase of the SOE

The next two subsections will address these two issues:

- o Proposed strategic business plan: discovering whether the investor has a viable strategic business plan for the enterprise / verification of the proposed business plan;

The strategic business plan proposed by the

investor should:

- a. define or redefine the company's mission following ownership change. Some of the topics covered should include:
 - reason the organization exists;
 - products and services offered;
 - clientele served;
 - nature and geographic marketing territory of the business;
 - areas of specialization (market niches).
- b. fully and adequately assess the current situation. This section should identify and analyze the company's key results areas. Most companies have from 8-15 key results areas where the firm must achieve success for it to grow and prosper. The company's objectives and tactics can be grouped into these key areas, making it easier to process, prioritized, allocate resources and coordinate with other areas;
- c. indicate what the business should look like in 3-5 years. It is important to make these objectives as quantifiable as possible;

Examples: the proposed strategic business plan should contain the following type of information specifying operational objectives:

- strategic objective: increase revenues;
proposed strategy: increase revenues from new customers, expand sales to existing customers, acquire other related businesses, open new branches, market new products/services, invest in new production lines to achieve projected revenue increases (strategy should preferably include specific projections for the next 3-5 years);
- strategic objective: improve financial condition of the firm;
proposed strategy: establish and maintain the necessary financial condition to

support planned growth by achieving liquidity, solvency and profitability (strategy would preferably include specific projections in the three areas listed above for the next 3-5 years);

- d. map out a course to bring the company from where it is now to where the investor would like to see the firm (achieving the objectives of the investor), recognizing its:
- strengths;
 - weaknesses;
 - opportunities;
 - threats.

It is important to focus on the analysis of the strengths, weaknesses, opportunities and threats of the SOE. Does the investor fully understand the relative strengths, weaknesses, opportunities and threats facing an enterprise? Does the proposed business plan reflect his understanding?

The degree to which the management understands the relative strengths, weaknesses, opportunities and threats facing an enterprise will have implications for its ability to:

- increase revenues;
- improve the financial condition of the enterprise (profitability, liquidity, solvency, credit and collections policies);
- keep pace with competition;
- improve efficiency, productivity and services;
- capitalize on emerging trends in the market;
- improve labor relations, human resources development and training;
- improve internal communications;
- improve distributor or supplier relationships;
- improve public relations, advertizing, promotions;
- improve or enhance products and services;

- capitalize on the firm's existing physical facilities (location, capacity, layout);
- function at peak efficiency within the firm's current organizational structures;

Strengths and opportunities can be exploited by establishing tactics utilizing these comparative advantages to obtain maximum productivity.

Weaknesses and threats can be reduced or eliminated by establishing tactics which limit potential problems.

Tactical objectives listed by the investor in the business plan should aim to support the strategic objectives such as revenue increase, increased liquidity or improved collection policy in the short-term. Examples of tactical objectives might include:

- produce and market a new product (take advantage of perceived opportunities);
- develop and market new services (take advantage of perceived opportunities);
- identify a specific market (traditionally covered by the firm), and develop a target marketing plan to further penetrate that market (capitalize on a strength);
- retain workforce or replace weak workforce (correct a weakness);
- change salary program for workforce from fixed salary to variable salary based on performance (correct a weakness);
- change marketing or advertizing methods (take advantage of an opportunity).

A successful strategic business plan must prioritize all of its objectives and propose realistic time frames for achieving each objective.

The major reasons for failed strategic business plans are:

- some plans are constructed around incorrectly defined strategies;
- some plans do not state goals in quantifiable

terms;

- o Sources of funding: does the investor have viable means of financing the purchase of the enterprise? Through what means is he planning to finance the purchase?:
 - future cash flow from operations of the privatized SOE?
 - sources of capital external to the acquired SOE?;

Should the investor indicate that he is planning to service debt payments resulting from the acquisition with cash flow from operations, the Founding Body should question the feasibility of such an assumption. Will the company require significant capital expenditures in order to obtain positive cash flow from operations following ownership transfer? If so, how much investment would be necessary in the first year of operation as a private enterprise to be able to introduce new production lines or overhaul existing ones in order to improve or maintain performance results?

In summary, good knowledge of the financial condition of the enterprise is necessary to be able to verify the investor's ability to meet payment obligations entailed by the purchase of the enterprise.

It is essential that the Founding Body have access to information about SOE performance. It is equally important for the negotiating team to be able to analyze the information provided about the company's financial performance. Section VI of the Vademecum entitled Firm Valuation addresses some of the important elements of analyzing the performance of a company.

If the investor is planning to bring capital into the firm from external sources, he should be able to present the voidship with documentation indicating the existence of such funds.

There are a number of commercial banks in Poland which have begun to provide venture capital to local investors. Funds denominated in zlotys, however, are available at what are considered by most investors to be prohibitive interest rates. As a result, most investors will probably not be able to meet interest and principal payments on zloty-denominated loans covering the acquisition with internally generated funds. No subsidized credits from the Polish government are

available for privatization as of March 1992.

There are a number of funds and programs provided by foreign banks, governments and multilateral organizations which provide subsidized or market-rate venture capital credits for the Polish private sector. The investor may be able to secure access to such sources in order to finance the purchase of an enterprise through the Fast Track - Auction program. Competition for such credits is intense, however, and the necessary application procedures can take anywhere from two to six months. It is therefore best to require that the investor indicate specific sources of funding already available to him at the time of negotiations. These sources can be verified through a number of means discussed below. Section IV of the Vademecum entitled Marketing Analysis covers potential sources of venture capital in Poland.

The investor may also indicate his intention to create a joint-venture with additional partners who will contribute the necessary capital to service debt payments and finance working capital and capital expenditures. Such "possible" partners may not materialize due to reasons totally beyond the investor's control. Consequently, it is important that the Founding Body require specific, well-documented contacts with other investors who are interested in participating in any shape or form in the newly acquired venture.

C. Methods of investor verification available to the vovoidships:

o various information sources available to the Founding Body include:

- Ministry of Privatization: the Founding Body should contact the Ministry of Privatization as a possible source of information on the investor. The investor may have previously expressed an interest in another privatized enterprise. The Ministry is often the first stop on an investor's search for possible investment opportunities. The respective department in the Ministry (Department of Small and Medium Enterprises in the case of the Fast Track - Auction program), should assist the inquiring Founding Body in any way possible. If no specific information is available in the Department, Ministerial staff may be aware of particular consulting firms that have dealt with investors interested in a specific sector.

- banks: the potential investor should be able to indicate a bank he is dealing with or hopes to deal with in the acquisition of the SOE. The negotiation team representing the Founding Body should be able to contact this bank in order to obtain references on the investor. Does the investor currently hold any accounts with the bank? How long has he used this particular financial institution? Has the bank issued any guarantees or letters of credit on behalf of the investor? Can the investor count on the support of the bank in the acquisition of the SOE? What is the investor's history with the bank?
- consulting firms: in case the potential investor is a legal entity, he should be able to provide some financial information covering his operations and financial performance. The Founding Body may want to retain the assistance of a consulting firm to conduct a limited due-diligence on the investor based on the information provided. What is the investor's field of operation? Does the investor carry obligations towards creditors which may significantly effect his ability to both manage the acquired SOE and, in a timely manner, service any resulting payments to creditors?
- embassies (commercial attaches): in the case of foreign investors, offices of the commercial attache in respective embassies may be a potential source of information on the investor. The commercial attache is often the first person contacted by the foreign investor upon his arrival in Warsaw. Should the commercial attache be unfamiliar with the particular investor, he may be able to directly obtain the appropriate information from the respective country or direct the Founding Body to the appropriate organizations in that country which may help in the process of investor verification.
- o contracts and terms of agreement (described in greater detail in Section IX - Legal Issues of the Vademecum);

Following a thorough verification of the investor, the best means of insuring a successful and trouble-free transfer of ownership is a well-drafted contract of sale which clearly defines the rights and obligations of all parties involved.

Appropriate addendum to the contract should outline any additional commitments on the part of the investor covering investment, employment and profile of production. The negotiation teams representing the Founding Body should be aware, however, of the legal constrictions which limit the investor's commitments and promises.

For a detailed commentary of this process please see Section IX Legal Issues of the Vademecum.

VIII. Negotiations

This section will present the negotiation process in order to help Founding Body staff prepare for upcoming negotiations with potential buyers of small and medium size enterprise. These negotiations can be part of a fast track - auction program or a negotiated sale with an individual investor.

At the outset, it is important to put the topic of negotiations in a theoretical framework. What is the purpose of a negotiation process in a market economy? What are the attitudes and expectations of various parties engaging in the negotiation process?

After identifying the role of negotiations in ownership transfer, this section will present the chronology of events in a negotiation process in order to highlight the many stages of the process and responsibilities of various participants.

A. Negotiations in a market economy

The main purpose of negotiations is to establish the purchase price for an acquisition.

It is important, however, to carefully consider some of the other objectives the negotiating commission representing the Founding Body may want to achieve through negotiation with potential investors. Numbers representing final sale-price may not be the most important factor to the Founding Body. For example, investor commitments to such issues as employment levels, additional investment in the firm in the form of capital expenditures and training may be of equal or greater significance to the legal owners and the community at large.

The Founding Body must prioritize the objectives it hopes to achieve through the negotiations. By doing so, it prepares a plan for the negotiations and a course of action for the negotiators to follow.

Planning is the cornerstone of effective negotiation. The best plan is never prepared while sitting at the bargaining table. The negotiator and his organization must know what they want and why before detailed tactics can be selected.

Without such a plan, it is not an exaggeration to say the negotiator is like a sailor without a course. He will be driven wherever the winds blow, needing to expend most of his energy just to stay afloat.

Planning has three dimensions: strategic, administrative and tactical.

- o Strategic planning is concerned with the long-term goal.
- o Administrative planning involves getting men and information where they are needed so that the negotiations go smoothly.
- o Tactical planning simply seeks to get the best possible results at the bargaining table.

a. Strategic planning

Problem: to select and negotiate with the source or sources that optimize the Founding Body's overall competitive position and objectives;

Nature of problem: decide which strategic goals are most important, how much is wanted and how to best achieve major objectives.

Factors: Fact-finding: although a negotiator can learn much about an opponent at the table, the bulk of his information should be researched ahead of time.

It does not do any good to plan for a negotiation that never occurs. Therefore an important step in the seller's plan is to assure that the negotiations do take place and that they begin in a manner that creates the greatest chances of success. The following suggestions are to the point:

- A proposal initially presented by an interested investor is never the best that can possibly be attained for it represents a compromise resulting from time and energy limitations.

The Founding Body should make it clear to the buyer how the purchase price fits into the seller's strategic plans. Section V of the Vademecum (Firm Valuation), addresses the issue of deriving a sale price on the basis of conducted valuation of an SOE. The buyer may learn that the seller is less interested in immediate profit than in some other long-range goals. Someone representing the seller has to decide which strategic goals are important and which are not.

It is important for the negotiating commission to identify issues other than price that are of primary significance to the Founding Body. These should be made known to the potential investor at the very outset of the negotiation process (at the time of tender invitation). This is to ensure that the investor has a strong sense of issues the Founding Body wants to see in the submitted proposal.

- Changes to a proposal are perfectly proper. The seller should feel free to ask the investor if the submitted proposal is responsive and what can be done to clarify its content.
- The Founding Body should identify potential "deal brakers" at the outset of the negotiation process. These issues should be addressed early on the negotiation process in order to foster a feeling of mutual understanding of priorities.
- A negotiated purchase is not the same as an advertized or low-bidder purchase. In a negotiated procurement it is permissible for a buyer to inform the seller that his price is too high. It is also permissible for a seller to change his proposal in response to information developed at the negotiation.

b. Administrative planning

Problem: to organize people, power and informational resources and to optimize negotiation performance;

Nature of problem: organization, acquisition and development of people, power and informational resources.

1. Organization of the negotiations: The negotiation process does not take place in a vacuum. It is an integral part of the entire process of divestiture of an SOE. As a result, it is useful to analyze the negotiation process in the context of the overall chronology of various steps comprising the divestiture process.

Proper organization of the entire divestiture process by the Founding Body including the period preceding, during and after the negotiations is crucial for the success of the negotiations.

Appropriate steps and necessary documentation in the negotiation process are presented in sub-section C entitled Procedural arrangements.

2. Drafting of the negotiation team: Preparation of the negotiation team is just as important as developing a negotiation strategy and procedural arrangements.

In general, people who negotiate the sale of a company should know a good deal about that business. They should also know how to buy, how to sell and how to conduct diplomacy.

According to many experienced negotiators, the following seven traits of a negotiator are the most important:

- planning skill: goal-striving, initiative;
- ability to think clearly under stress: problem-solving;
- general practical intelligence;
- verbal ability;
- product knowledge;
- personal integrity / reliability;
- ability to perceive and exploit relative strengths.

In addition, the negotiator must think well of himself. This feeling of self-worth should come from a history of getting things done satisfactorily and faith in one's ability to understand and resolve the fundamental values being negotiated. The ideal negotiator should have a high tolerance for ambiguity and uncertainty as well as the open-mindedness to test his own assumptions and the opponent's intentions.

3. Use of available information: The negotiating team knows more about the SOE than the buyer is ever likely to know. This is an important source of power that should not be forgotten or simply dismissed lightly. Information about the enterprise should be used by the negotiating team not only to analyze the ability of the potential investor to manage the acquired firm (as discussed in Section VII - Investor Verification), but also as a tactical maneuver to reduce the opponent's level of aspiration and probability of success while raising his satisfaction level.

c. Tactical planning (operational)

Problem: to optimize realization of negotiation potential;

Nature of problem: determining of sub-goals, persuasive

arguments and appropriate means of reaching strategic goals; testing intent of opponent.

1. Tactics: Tactics are at best but tools of strategy. The unexperienced negotiator confuses one with another. The skilled planner knows the difference and therefore concentrates on strategy before he considers the details of maneuvers and techniques. These he selects to fulfill the main objective of the negotiators mission: to reduce the opponent's level of aspiration and probability of success while raising his satisfaction level.

Examples of tactics:

- timing maneuvers: are important because they are a basic source of power. Events governing time may be real or imaginary. In either case time limits do not exist for practical bargaining purposes unless they are thought to be credible;
- inspection: in negotiation, the question of truth is always a factor. Both parties present arguments that require substantiation. Credibility is important and can be enhanced in a variety of ways. For example, when the buyer is advised that he may review a seller's books, the effect is to increase his faith in the integrity of the seller's position;
- third-party assistance: in a negotiation it makes sense to find third parties who are friends. Bargaining power can be strengthened by various association maneuvers;
- amount (price): a negotiator can state his price in terms of "take it or leave it," or he can show certain degree of flexibility indicating willingness to trade price for the SOE for other commitments from the investor;
- flexibility: a negotiator should maintain a flexible attitude throughout the meeting by questioning his tactics in a disciplined manner;

Conflicts need to be resolved through patient bargaining and compromise rather than through dramatic confrontation.

2. Techniques: Techniques are the fine-tuning mechanisms by which goals are reached. Among the most familiar techniques

are agenda, questions, concessions, commitments, threats, deadlock.

Examples of techniques:

- Agenda: can be designed to play a significant role on the negotiations. It can clarify or hide motives. It can establish rules that are fair or biased. It can keep negotiations on track or permit easy digression. Problems should simply be included in the agenda where they can best be solved. In general, those that can be solved easily deserve priority, for they generate a climate of success around the negotiations. Because problem-solving depends on open discussion and value-sharing, the agenda should also consider whether certain problems should be treated separately and solved at a different place and time than bitterly fought issues.
- Concession and compromise: Concession is one area of negotiations where good theory and good practice emerge. Each concession has an effect on the aspiration level of the opponent and is at the same time a reflection of the negotiator's own resolve to meet his objectives. The amount, the rate of change of concessions are critical factors. One should never compromise on any point without thought of future consequences.
- Questions and answers: From the viewpoint of the person who answers a question, the following thoughts may be useful.

First, not all questions need to be answered. There are no possible answers to many of the questions posed; others are asked without expectation of reply. The correct answer is one that is related to the strategic plan and not to the questioner's purpose. A negotiation conference is not a classroom, nor is it a place to please the other party by being accommodating.

Second, a negotiator should frame his answers as a politician does. The wise politician is aware of his party's platform and knows how to integrate the needs of local constituents to the overall program. Bargainers who do not have a clearly defined strategic plan will find themselves in the embarrassing position of providing answers that violate their long-range objectives.

- Threats: by its very nature, negotiations involve a degree of threat. The central question that confronts the bargainer is not whether threat will be used as a tactic, but whether an emphasis on open threat is beneficial. The answer depends on two factors:
 - o strategic plan: the use of threat should be geared to strategic needs;
 - o relative ability to punish: can the negotiating party really obtain much from the bidder by threatening to walk away from the negotiating table?

Threat is a dangerous technique because one may be forced to inflict greater punishment than the issues warrant. Danger to both sides may be reduced if the threat is implied rather than stated, mild rather than aggressive and rational rather than emotional.

- Deadlock: the possibility of deadlock is one of the elements that lends excitement to the negotiation process. The utility of a deadlock in negotiations depends to a great extent on the alternatives available to the participants.
- Place of negotiations: if possible, the company should have the negotiations, or at least a discussion of the important issues, take place on its own premises.
- Time: time can be a powerful weapon in the negotiator's arsenal of techniques. Time is the common denominator by which the various techniques discussed above can be integrated. Concessions can be combined with threats; moves with commitments; questions with caucus; informal discussions with trial balloons. There is a right time to commence negotiations and to introduce issues.

The timing of a final commitment can contribute to its credibility. A commitment made early in the process may look like a bluff, but a lesser final offer presented on the last day of negotiations can be received with enthusiasm. Conversely a caucus immediately after some insignificant point is raised can give that point disproportionate weight. A long-distance telephone call or a well-timed telegram heighten the opponent's tension during the crisis phase. The replacement of a negotiator after a concession can be viewed as a signal that future concessions should not be expected.

C. Negotiating the terms of sale

When the appropriate buyer is located and an acceptable price has either been agreed upon, or seems to be feasible to obtain, the terms of sale need to be negotiated.

A sale does not always imply that the buyer wants to buy at the lowest possible price and the seller wants to sell at the highest possible price.

Equally important in determining how much the buyer will pay for a business is determining what the buyer is buying. The buyer has the choice of purchasing either the assets or stock of the enterprise. The seller usually prefers to sell stock since the buyer thus acquires all liabilities associated with the company and its operations. The buyer, on the other hand, usually prefers to buy assets. As a result, difficult negotiations may center around and sometimes stall over what appears to be a very simple issue.

Sometimes, the relative inexperience of government negotiators, coupled with pressures to close the sale quickly, may cause the government to make undue concessions to a seasoned and tough buyer.

There are a variety of concerns which the government and the potential buyer bring to the table.

Government concerns:

- displacement of employees;
- continuation of company as a going concern;
- investment commitments (new buyer has sufficient funds?)

Buyer concerns:

- freedom to manage the acquired enterprise;
- hidden liabilities;
- freedom to remit dividends (in case of foreign investors);
- obtaining preferential tax and payment terms and conditions.

Given the above scenario, it is not difficult to see how some SOE divestitures actually result in a company which

may technically be under private ownership, but in reality continues to operate much as it was prior to privatization, i.e. as an inefficient and protected enterprise. In exchange for buyer concessions concerning employment and provisions of services, the government provides insulation from competition and/or highly preferential tax and financial assistance. This need not, and for the goals of privatization to be fully realized, must not be the case. Sometimes, the relative inexperience of government negotiators, coupled with pressure to close the sale quickly, may cause the government to make undue concessions to a seasoned and tough buyer. Not only is this detrimental to the specific sale in question, but it also raises the expectations of future SOE buyers who might come to expect similar concessions.

The following is a compilation of some typically common concerns for both government and buyers and some possible approaches to negotiations which seek to respond to these issues:

a. Government Concerns

1. Displacement of Employees

Possible Approach: The government can develop a program to terminate excess labor in a gradual and controlled manner prior to the sale of the SOE. Alternatively, the government can allow the new owner to terminate employees, while itself taking the responsibility to absorb the termination, pension, and possible retraining obligations. It is highly undesirable in most cases to reduce the price of the SOE in exchange for guarantees of full workforce retention.

2. Continuation of Company Operations as a Going Concern

Possible Approach: The government can hold some type of forfeitable note or deposit (performance bond) from the buyer which would become payable in the event that pre-specified conditions are not met, such as failing to continue to operate part of an operation, the parent company charging the acquired enterprise exorbitant fees or royalties, etc. Alternatively, the government can retain a special class of stock which gives it a "veto right" over certain decisions the company may make. An increasing number of investors consider Poland to be a politically unstable environment with a considerable degree of risk exposure resulting from an investment decision. As a result, the last option of government participation may be difficult to implement in Poland.

3. New Buyer has Sufficient Resources

Possible Approach: The terms of sale can explicitly require that the buyer invest or retain a certain amount of capital in the enterprise within a specified period of time. Alternatively, the company's financial condition can be set within specific parameters relating to the debt to equity ratio, current ration, etc. Once again, as in the case of maintaining the former SOE's production profile, a form of performance bond can be used to ensure that the investor fulfills his commitments.

b. **Buyer Concerns**

1. Freedom to Manage

Possible Approach: This set of issues covers a wide variety of concerns, all of which relate to the ability of new owners to operate the enterprise as a private company with no ties to the government. Included in this category are hiring/firing procedures, cost of labor and having total control over pricing of the final product, production and sales decisions. Clearly, the terms of each sale regarding these issues will depend on the specifics of each SOE.

As was stated above, it is usually best to structure the newly privatized company in as free-market and entrepreneurial a fashion as possible, providing maximum opportunity for the new owners to operate the enterprise profitably and with minimal government assistance. Whatever the eventual terms are, the government should specifically commit to the buyer's freedom to manage the enterprise. Any pre-conditions which limit the new owner's freedom of operation should be definitely expressed, including any contingencies for penalizing the new owners for non-compliance.

2. Hidden Liabilities

Possible Approach: This category of concerns would include any obligations for past payables, pension obligations, etc. Also included are assurance that the current receivables are collectable, inventory is saleable, there are no past liens on the property, etc.

All of these issues should have been addressed in the pre-divestiture process and valuation. The government, therefore, should be confident at this final stage of the process that there are no "surprises" in store for the new owners, and be willing to warrant the condition of the enterprise accordingly. This requires that a full and complete due diligence review of the SOE has taken

place.

3. Freedom to Remit Dividends

Possible Approach: The conditions for remittance of dividends should be formally addressed in the terms of sale. As this is often a critical factor if the buyer is a foreign investor, the government needs to be quite specific about any limitations, and may also use the remittance allowance level as an incentive for superior performance of the enterprise. In view of the liberal Polish foreign investment law, it is not possible to use repatriation or remittance levels as bargaining point during the negotiations (to obtain specific employment levels, production or share distribution, for example). The Founding Body should, however, point out to the investor the comparative advantage of investing in a market which permits 100% repatriation of profits (in comparison to some of the countries in Eastern Europe).

4. Obtain Preferential Tax and Payment and Conditions

Possible Approach: The government should keep special terms and conditions to a minimum when negotiating these aspects of the sale. Clearly there are cases when the enterprise is unattractive to all but one or two buyers, and the bargaining strength of the government therefore is not strong. However, it will usually be preferable to keep tax holidays and financial assistance to a minimum, even if this reduces the price received for the SOE. Requests for tax holidays should be limited to a specific time and/or terms given to any new investment in the country.

Concerning financial assistance, it is generally preferable for the government to minimize its role in financing and to act only as a guarantor of part of the investment. The buyer should use conventional commercial channels as a source of financing the purchase in order to ensure that the investor has a substantial and genuine risk associated with purchasing the enterprise. It can also eliminate unqualified or undercapitalized buyers who may not be prepared to commit to operating the business properly for the long-term. This does not apply to non-traditional investors or employees under ESOP programs for whom assistance programs can be specifically developed.

How and in what order should these different key issues be brought to the negotiating table? Should they be discussed separately or bundled together? In the case of the latter, which are the topics that can be matched up for discussion?

D. Procedural arrangements

The negotiation process should be seen as part of the overall divestiture process.

The divestiture process can be divided into three major periods: preceding the negotiations, the negotiations themselves and closing.

a. Following is the list of the major steps preceding the meeting with investor at the negotiation table:

- * exploratory contact with target clients: in some cases this is done concurrently with preparatory work on the SOE such as discussions with SOE management or government officials;
- * implementation of business/legal restructuring of the SOE if appropriate;
- * implementation of financial/debt restructuring if appropriate;
- * preparation of information memorandum:

Information Memorandum: a typical Information Memorandum should be brief and to the point, but well documented. It should be very balanced, but presented the SOE in the best possible light.

Typical Table of Contents:

Privatization environment for the SOE (in case of foreign investors)

- country summary;
- legal and political environment;
- business environment;

The SOE

- prospects for the industry;
- company review:
 - a. company history;
 - b. legal elements/issues of the SOE and its shares;
 - c. organization and management;
 - d. key product and production features;
 - e. facilities and processes;
 - f. markets and marketing;

g. financial history and performance

- key strengths of the enterprise;
- future prospects and potential
- * preparation of documentation for invitation to negotiate
- * publicizing invitation to negotiate in the media;
- * candidate identification.

b. Chronology of the negotiation process.

- * Due diligence investigation: as discussed in Section VII of the Vademecum (Investor Verification), it is important for the Founding Body to establish the credibility of the potential investor. The Founding Body's investigation of the buyer is particularly important if the ultimate terms of sale call for some form of seller financing, requiring the seller to take part of the purchase price as a promissory note.
- * nondisclosure statement: once the buyer's credentials have been thoroughly researched and the Founding Body is satisfied with the buyer's ability to buy the business, the seller is free to disclose additional information about the firm's financial condition, customers, suppliers, patents and various other important details about the company. Typically, in a market economy, the seller requires the buyer to sign a nondisclosure statement legally binding the buyer from disclosing any information about the seller's company, **before** additional information is provided.

If the buyer is a current or potential competitor, the nondisclosure statement should also contain a provision which requires the buyer to use the confidential information only to evaluate the potential acquisition and not for competitive purposes. The nondisclosure statement often provides that certain key people in the buyer's organization (e.g., the buyer's marketing department personnel), be prohibited from reviewing any of the confidential information. Another approach is to specifically identify the people in the buyer's organization who may review the confidential information.

In some acquisitions the nondisclosure agreement stands alone. In other acquisitions, the nondisclosure agreement is part of a larger document - the letter of

intent. An overview of the SOE's facilities and a general review of key corporate information is often conducted prior to the execution of a letter of intent, on-site visits to the firm's operation, detailed review of the books, records, and legal contracts. The development of financial projections, however, usually does not occur until after a letter of intent is signed.

As a result of the need for transaction transparency in a nascent market economy such as Poland's, the negotiation process cannot remain secret from the public. The Founding Body should, however, protect the SOE from unnecessary public scrutiny by carefully screening potential investors and insisting on preparation of nondisclosure agreements.

During most negotiation in a market economy, it is usually in the best interest of the seller to keep initial negotiations secret. This conviction is based on the fact that public knowledge of the upcoming sale may negatively affect employee morale and relations with suppliers, and even hamper the collection of accounts receivable. Announcement of the sale could adversely affect the seller's bargaining ability.

- * negotiations: The purchase price and additional terms of trade are determined by negotiation.
- * letter of intent: once a general agreement is reached in a negotiated sale, a letter of intent is signed by both parties. Drafted by the buyer's attorney, the letter of intent simply evidences a serious mutual intent to go forward with the negotiation process. The letter of intent commits to writing the major terms of the sale, such as the agreed-upon or approximate price, form of consideration (i.e., cash, stock, debt or property), continued employment arrangements, non-compete covenants and nondisclosure requirements. It also lists matters that must be accomplished before the purchase agreement is signed, for example, a due diligence investigation, appraisals and assignment of leases and contracts.

While optional, buyers and sellers like to use letters of intent for three primary reasons:

First, it eliminates "window-shoppers" from the process. Drafting a letter of intent costs time and money. The buyer who is willing to expend these resources usually is serious about the proposed acquisition;

Second, it sets a time frame for the acquisition and usually signals the beginning of more intense activity;

Finally, the letter of intent often uncovers key problems

which the parties find unresolvable, thereby saving everyone additional time and expense.

A letter of intent should expressly state that it is not legally binding. Such a statement does not, however, prohibit the other side from trying to enforce the letter of intent or from saying that an oral agreement that may be binding had been reached in the negotiations.

The following two provisions should be expressly identified as legally binding in the letter of intent:

- nondisclosure: the buyer obligates not to disclose to anyone any information learned about the SOE;
 - shopping: the seller obligates not to solicit other potential buyers within a fixed time frame, usually a 90-day period. In the case of the fast track - auction program, this provision could be applied once the final investor is chosen by the negotiation commission.
- * the acquisition timetable: after the buyer and seller have signed the letter of intent, a timetable for the transaction should be prepared. The acquisition timetable helps establish deadlines and set priorities.

The acquisition timetable should allow for an "investigation period" when the buyer is provided with final time to review all issues relating to the acquired enterprise. During this time, the buyer should be provided with unlimited access to the enterprise and its records: the end result of the investigation process is the purchase agreement (detailed discussion of the purchase agreement can be found in Section IX - Legal Issues of the Vademecum).

E. Participants' expectations

When negotiating with potential investors, it is important to keep in mind the expectations of various participants in the process.

What good does it do to understand and anticipate these expectations?

For the Founding Body: The Founding Body would like to transfer the ownership of the enterprise to an investor who will at least provide enough capital to pay off the outstanding debts of the SOE and, in addition, provide some compensation to the State Treasury. It would also like to ensure that the ownership transfer produces certain non-

monetary gains for the workforce of the enterprise and the local community in general. This is especially important to the vovoidship council (as the Founding Body), as no portion of the monies raised by the sale of the SOE remains in that vovoidship.

For the potential buyer: The potential investor stresses the need for a transparent negotiation process where both sides clearly state their objectives. From the outset, these objectives should be presented in order of priority. It is important for the negotiations to be conducted by a clearly identified group of people representing the Founding Body. With the passage of time, a rapport is developed between the negotiating parties. Frequent staff changes might inspire a sense of uncertainty about the competence of individuals negotiating on behalf of the enterprise owner.

The potential investor is willing to concede certain issues if he feels he is being compensated by concessions from the negotiating commission representing the Founding Body. As a result, it is important to address the various points of the investor proposal on a point-by-point basis. The investor proposal should not be rejected in its entirety. Rather, it should be discussed and negotiated to highlight the specific issues that the Founding Body finds unacceptable.

For the employees of the enterprise: To most employees of an enterprise, privatization implies a change of management, possible change of the production profile and an inevitable loss of jobs. As a result, privatization initiative at the enterprise level meets with considerable opposition from the work force. During the negotiations, it is important to remember this reaction. It can serve as an indicator of the relative weight that should be attached by the negotiators to employment in comparison to the sale price and investment commitments by the investor.

By being aware of each others' expectations, participants in the negotiation process may be able to create the understanding necessary for obtaining a parieto optimal conclusion to the negotiations. All sides believe they have realized their intended objectives at acceptable cost. Both sides thus succeed in achieving the mark of a successful negotiation: reducing the opponent's level of aspiration while raising his satisfaction level.

SECTION NINE

LEGAL ISSUES

PURCHASE AGREEMENT

VOIVOD OF _____
acting on behalf of the
STATE TREASURY OF THE REPUBLIC OF POLAND

represented by: _____

hereinafter referred to as "Seller"

and

[name of Purchaser]

represented by: _____

hereinafter referred to as "Purchaser"

and

[name of Guarantor]

represented by: _____
hereafter referred to as "Guarantor"

Dated _____

Prepared By:

WHITE & CASE

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TABLE OF CONTENTS

	<u>Page</u>
I. DEFINITIONS.....	
II. THE TRANSACTION.....	
2.1 Purchase and Sale of the Enterprise Assets and Assignment and Assumption of the Enterprise Liabilities.....	
2.2 Purchase Price; Mode of Payment.....	
2.3 Simultaneous Actions.....	
2.4 Additional Actions.....	
III. COMMITMENTS OF GUARANTOR AND PURCHASER.....	
3.1 Conduct of Enterprise Business.....	
(a) Enterprise Business.....	
(b) Investment Program.....	
(c) Conduct of the Enterprise Business.....	
(d) Employment Matters.....	
(e) Technical and Local Assistance.....	
(f) Trademarks.....	
(g) Transfer Pricing.....	
(h) Working Environment.....	
(i) Employee Training.....	
(j) Labor Agreement.....	
(k) Global Systems.....	
(l) Compliance Certificate.....	
3.2 Support.....	
3.3 Transfer of Assets.....	
3.4 Transfer of Shares.....	
3.5 Closedown.....	
3.6 Conduct of the Enterprise Business.....	
IV. REPRESENTATIONS AND WARRANTIES OF SELLER.....	
4.1 Authorization; Due Execution.....	
4.2 No Violation.....	
4.3 No Litigation.....	
4.4 Enterprise Assets.....	
4.5 Patents, Trademarks, etc.....	
4.6 Taxes.....	
4.7 Authorizations.....	

- 4.8 Labor Matters.....
- 4.9 Access to Information.....

V. REPRESENTATIONS AND WARRANTIES
OF GUARANTOR AND PURCHASER.....

- 5.1 Authorization; Due Execution.....
- 5.2 No Violation.....
- 5.3 No Litigation.....
- 5.4 Financing.....
- 5.5 No Conflicts.....
- 5.6 Broker's or Finder's Fees.....
- 5.7 Investigation.....

VI. MISCELLANEOUS.....

- 6.1 Conflicts of Interest.....
- 6.2 Counterparts.....
- 6.3 Entire Agreement.....
- 6.4 Assignment; Successors and Assigns.....
- 6.5 Waivers and Amendments.....
- 6.6 Expenses of the Parties.....
- 6.7 Notices.....
- 6.8 Governing Law; Dispute Resolution.....
- 6.9 Severability.....
- 6.10 Force Majeure.....
- 6.11 Due Diligence.....
- 6.12 Section Headings.....
- 6.13 Languages.....

THIS PURCHASE AND SALE AGREEMENT (hereinafter referred to as the "Agreement"), dated _____, among [name of Purchaser], a corporation organized and existing under the laws of [country] (hereinafter referred to as the "Purchaser"), [name of Guarantor], a corporation organized and existing under the laws of [country] (hereinafter referred to as the "Guarantor"), and VOIVOD OF _____, acting on behalf of the State Treasury of the Republic of Poland (hereinafter referred to as the "Seller").

W I T N E S S E T H:

WHEREAS, [name of the Enterprise], a Polish state-owned enterprise (hereinafter referred to as the "Enterprise"), is engaged in [insert scope of activities of the Enterprise];

WHEREAS, Seller owns and wishes to sell all of the assets, subject to all of the liabilities, of the Enterprise, and Purchaser wishes to purchase such assets and to assume such liabilities;

WHEREAS, in consideration of the purchase and sale of the Enterprise Assets (as hereinafter defined) and the assumption of the Enterprise Liabilities (as hereinafter defined), Purchaser and Seller wish to enter into this agreement concerning the future operation of the Enterprise Business (as hereinafter defined) and Guarantor wishes to guaranty the financial and technical assistance commitments of Purchaser herein.

NOW, THEREFORE, it is agreed as follows:

ARTICLE I

DEFINITIONS

For purposes of this Agreement, the following terms shall have the following definitions:

"Affiliate" shall mean, with respect to any Person, any other Person which, directly or indirectly, owns more than fifty percent (50%) of the voting securities or partnership interests of, or controls, or is owned or controlled by, or is under common control

with, the specified Person. For purposes of this definition, the term "control" as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Person, whether through ownership of voting securities or otherwise.

"Agreement" shall have the meaning set forth in the preamble.

"Asset Purchase" shall have the meaning set forth in Section 2.1.

"Assigned Contracts" shall have the meaning set forth in Section 2.1.

"Enterprise" shall have the meaning set forth in the preamble.

"Enterprise Assets" shall have the meaning set forth in Section 2.1.

"Enterprise Business" shall mean [insert scope of activities of the Enterprise].

"Enterprise Liabilities" shall have the meaning set forth in Section 2.1.

"Government Designee" shall mean any agency or instrumentality designated from time to time by the Government of the Republic of Poland.

"Guarantor" shall have the meaning set forth in the preamble.

"Hazardous Substances" shall mean all hazardous, toxic or polluting substances or wastes, including, but not limited to, petroleum products and radioactive materials.

"ICC" shall mean the International Chamber of Commerce.

"Permitted Encumbrances" shall mean all (i) laws, ordinances, government regulations, rights of utilities to maintain wires, lines, cables and other facilities and equipment, easements or rights of way which would not in the aggregate materially interfere with or impair the use of the property affected thereby, (ii) liens or encumbrances arising by operation of law and (iii) liens or encumbrances which do not materially adversely affect the operation of the Enterprise Business.

"Person" shall mean any individual, partnership, firm, trust, association, corporation, joint venture, unincorporated organization or other business entity.

"Purchaser" shall have the meaning set forth in the preamble.

"Seller" shall have the meaning set forth in the preamble.

"Transfer" shall mean sell, redeem, transfer, convey, assign, deliver or otherwise dispose of.

"Zł" shall mean Polish zlotys.

ARTICLE II

THE TRANSACTION

2.1. Purchase and Sale of the Enterprise Assets and Assignment and Assumption of the Enterprise Liabilities. Simultaneous with the execution of this Agreement by all of the parties hereto, (a) Purchaser shall purchase the Enterprise Assets from Seller and Seller shall Transfer the Enterprise Assets, or cause the Enterprise Assets to be Transferred, to Purchaser and (b) Purchaser shall assume the Enterprise Liabilities and Seller shall Transfer the Enterprise Liabilities, or cause the Enterprise Liabilities to be Transferred, to Purchaser (collectively, the "Asset Purchase"). Purchaser hereby assumes and agrees to pay, perform, and discharge, in a timely manner, in accordance with the terms thereof, and without recourse of any kind or nature to Seller or any other branch, department or representative of the Republic of Poland except as may be specifically provided in this Agreement, all of the Enterprise Liabilities.

"Enterprise Assets" means all of the assets and property, including land, whether real, personal, mixed, tangible or intangible, which are owned by Seller and which are used by the Enterprise in, or which are owned or leased by the Enterprise or which are otherwise used by the Enterprise in, and which in each case are material to, the Enterprise Business as of the date of this Agreement. The tangible Enterprise Assets with a book value greater than [amount] are set forth on Schedule _____. The Enterprise Assets include, but are not limited to, the following categories of assets:

(a) all accounts receivable, inventory, prepaid expenses, and advances to suppliers;

(b) all cash, cash equivalents, deposits, funds, securities, letters of credit naming the Enterprise as an account party, certificates of deposit, notes, drafts, checks and similar instruments;

(c) leases of vehicles to which the Enterprise is a party which relate to the Enterprise Business;

(d) real property together with all buildings, facilities, fixtures and other improvements thereon and all easements, rights of way, licenses (except for non-transferable licenses set forth on Schedule _____ and permits) and other appurtenances thereto;

(e) plant, machinery, equipment, tools, supplies, furniture, furnishings and other fixed assets;

(f) the full benefit of all contracts, commitments, leases, purchase orders, contracts to purchase raw materials, contracts for services and supplies, contracts to sell products and all other agreements (whether written or oral) to which the Enterprise is a party, including, without limitation, forward currency contracts, forward currency options and any and all construction contracts;

(g) licenses (except non-transferable licenses set forth on Schedule _____) and permits (including, without limitation, registrations or authorizations from or with regulatory authorities with respect to the Enterprise Business), proprietary information, methods, designs, processes, manufacturing methods, procedures, improvements thereon, refinements thereof and know-how relating thereto transferred according to a separate Assignment of Intellectual Property Rights, Permits and Licenses Agreement;

(h) all books and records relating to the Enterprise Business except for those that Seller is required to retain pursuant to any statute, rule or regulation;

(i) all computers and related software used in the Enterprise Business;

(j) the Enterprise Business as a going concern and goodwill, if any;

(k) any rights of the Enterprise pertaining to any counterclaims, set-offs or defenses it may have with respect to any of the Enterprise Liabilities; and

(l) all the intangible rights, including any trademarks, trademark applications and patents, owned by and or registered in the name or in favor of the Enterprise, as well as know-how relating to the Enterprise Business.

The Enterprise Assets shall not include the following:

(a) all cash and marketable securities;

(b) all insurance policies of Seller pertaining to the Enterprise Business and all rights of the Seller of every nature and description under or arising out of such insurance policies;

(c) the name "[name of the Enterprise]" or any derivative thereof or the Enterprise logo;

(d) claims for refunds of taxes paid by Seller imposed on property, income or payrolls arising prior to the date of this Agreement; and

(e) all rights of Seller under this Agreement and the agreements and instruments delivered to Seller on the date of this Agreement.

"Enterprise Liabilities" means all of the liabilities and obligations of the Enterprise arising out of or relating to the Enterprise or the Enterprise Business of whatever kind and nature, whether contingent or absolute, whether accrued or arising before, on or after the date of this Agreement, whether or not arising in the ordinary course of business, and whether or not specifically referred to in this Agreement, excluding any taxes with respect to the Enterprise Business accrued or payable up to the date of this Agreement [date], whether or not due and payable prior to the date of this Agreement, and including, but not limited to, the following categories of liabilities and obligations:

(a) accounts payable, accrued expenses and vacation pay;

(b) liabilities and obligations under licenses, permits, contracts, commitments, leases, purchase orders, contracts to purchase raw materials, contracts for services and supplies, agreements to sell materials, collective bargaining agreements and any and all other agreements, including, without limitation, forward currency contracts, forward currency options and any and all construction contracts (such liabilities and obligations being assigned hereunder collectively, the "Assigned Contracts"), to which the Enterprise is a party or by which the Enterprise is otherwise bound;

(c) liabilities and obligations with respect to the preparation, negotiation, execution and completion of this Agreement;

(d) liabilities and obligations with respect to past and present employees of the Enterprise, including but not limited to, any liabilities and obligations arising out of the collective bargaining agreement of the Enterprise attached hereto as Schedule _____;

(e) liabilities and obligations under any express warranties or warranties arising by operation of law with respect to goods or products sold or services provided by the Enterprise, whenever they may have been produced, manufactured, assembled, sold, leased or furnished; and

(f) except as specified herein, all personal injury product liability claims, claims of environmental damage (whether by generation, ownership, treatment, storage, disposal, discharge or any other action or inaction), claims of hazards to health, enforcement proceedings, cleanup orders and other similar actions or claims instituted by private parties or governmental authorities with respect to the Enterprise Assets or arising out of the conduct of the Enterprise Business or with respect to goods or products sold or leased or services provided by the Enterprise, whenever they may have been produced, manufactured, assembled, sold, leased or furnished.

The Enterprise Liabilities do not include any liabilities for taxes accrued or payable prior to the date of this Agreement.

On or after the date of this Agreement, if Seller has not obtained any written consent necessary to convey to Purchaser the benefit of any Assigned Contract

which is not by its terms assignable, Purchaser shall use its best efforts to enter into a novation agreement to remove the Enterprise from all obligations and liabilities (whether primary or secondary) under such Assigned Contract not assigned as of the date of this Agreement. If Purchaser is unable to enter into a novation agreement to remove the Enterprise from all obligations and liabilities under any Assigned Contract not assigned as of the date of this Agreement, then for the remaining term of such Assigned Contract, Purchaser shall act on behalf of Seller in the performance of all obligations and liabilities under such Assigned Contract and Seller shall act on behalf of Purchaser in the receipt of any benefits, rights or interests which inure to Seller under such Assigned Contract.

2.2. Purchase Price; Mode of Payment.

(a) The purchase price for the Enterprise Assets and Enterprise Liabilities shall be _____ (the "Purchase Price").

(b) Simultaneous with the execution of this Agreement, Purchaser shall pay to Seller the Purchase Price by wire transfer of immediately available funds to such account of Seller as shall be designated by Seller.

2.3. Simultaneous Actions. Simultaneous with the execution of this Agreement, Seller shall deliver such bills of sale, endorsements, deeds and other instruments and documents, in form and substance reasonably satisfactory to Purchaser, as shall be effective to Transfer all right, title and interest in and to and all benefits of the Enterprise Assets and to Transfer all obligations and liabilities under and with respect to the Enterprise Liabilities to Purchaser.

2.4. Additional Actions. From time to time, at Purchaser's, Guarantor's or Seller's request, whether at or after the execution of this Agreement, and without further consideration, Purchaser, Guarantor or Seller, as the case may be, shall execute and deliver such further instruments of Transfer and take such other actions as Purchaser, Guarantor or Seller may reasonably require of such other party or parties to Transfer more effectively the Enterprise Assets, the Enterprise Liabilities and the Enterprise Business, as the case may be, as contemplated by this Agreement.

ARTICLE III

COMMITMENTS OF Guarantor AND Purchaser

3.1. Conduct of Enterprise Business. To induce Seller to enter into the transactions contemplated by this Agreement, Guarantor shall, and shall cause Purchaser to, and Purchaser shall, undertake the following from and after the date of this Agreement:

(a) Enterprise Business. Purchaser shall operate the Enterprise Business, without interruption (except with regard to the application of Section 7.10 below), in substantially the same manner as it was conducted prior to the execution of this Agreement, with the addition of capital, technology and trademarks to be invested in or licensed to Purchaser by Guarantor as required by the terms of this Agreement and otherwise as and when deemed advantageous by Purchaser's management and shareholders.

(b) Investment Program. Guarantor will invest _____, or the Polish zloty equivalent at the time of investment, in the Enterprise Business for the purposes of (i) payment or satisfaction of certain of the Enterprise Liabilities; (ii) training and retraining of employees of the Enterprise Business and the provision of Guarantor management know-how and licenses; and (iii) [list specific tasks to be undertaken by Purchaser]. Guarantor's investment shall be made according to the following timetable:

(y) within [period of time] after the date of this Agreement _____ to be used primarily for [indicate investment purpose]; and

(z) an additional _____ in accordance with a business plan to be developed and periodically modified by the management of Purchaser and which shall, among other things, take into account investments in the areas set forth in clauses (i), (ii) and (iii) above and, otherwise, as soon as economically justifiable investments and expenditures are approved by the Board of Directors of Purchaser, but in any event no later than _____ years after the date of this Agreement.

(c) Conduct of the Enterprise Business. The Enterprise Business shall be conducted by Purchaser in accordance with present and future Polish laws, including, without limitation, laws relating to privatization, taxation, employment, environmental, labor relations and state social security matters.

(d) Employment Matters. For a period of _____ months following the date of this Agreement, Purchaser will refrain from terminating employment arrangements with any employee of the Enterprise Business who satisfactorily fulfills the requirements of his job.

During the period from [date] until [date], Purchaser will maintain an overall level of at least _____ full-time employees in the Enterprise Business.

If during the initial _____ month period following the date of this Agreement, an employee is terminated as a result of the elimination of the employee's job, Purchaser shall offer the employee the option of accepting a different job within the Enterprise Business or training for a new job.

The value of indirect compensation to Purchaser employees in the Enterprise Business (for example, housing and recreational facilities) will be maintained for at least a period of _____ years from the date of this Agreement at a value per employee at least equal to that maintained in the year _____, which equalled _____ zlotys per year. Purchaser will engage future employees (both management and non-management) primarily from among Polish nationals.

(e) Technical and Local Assistance. Guarantor shall make available to Purchaser technical assistance, technology, skills and other expertise (including, but not limited to, its currently existing and newly developed patented technologies in the areas of [list relevant areas]) necessary for the conduct of the Enterprise Business on terms and conditions to be agreed separately between the applicable parties.

(f) Trademarks. Guarantor shall make available to Purchaser its intellectual property for the manufacture and distribution of products of the Enterprise Business in the Republic of Poland. Guarantor will use its best efforts to maintain the continued registration of the intellectual property licensed or sublicensed by Guarantor to Purchaser. Guarantor shall not Transfer or otherwise alienate to non-affiliated third parties in the Republic of Poland any of the intellectual property licensed to Purchaser.

(g) Transfer Pricing. All transfer pricing and terms for products and services sold by or to Purchaser to or by Guarantor or its Affiliates, including, without limitation, all ongoing and "special project" assistance, shall in all cases be "fair" and determined on an "arm's length" basis, but, in any

event, shall not be substantially less favorable than the transfer pricing practices prevailing from time to time between Guarantor and its Affiliates.

(h) Working Environment. Purchaser shall provide a safe working environment for its employees in accordance with applicable laws and regulations.

(i) Employee Training. Purchaser and its Affiliates shall undertake to train employees of the Enterprise Business with emphasis on the following areas: (i) general management, strategic direction and decision making systems; (ii) technical, manufacturing, production and research and development; (iii) marketing, selling and procurement; (iv) planning, inventory and accounting systems; (v) quality control; and (vi) study of languages.

(j) Labor Agreement. Purchaser shall assume the collective labor agreement of the Enterprise attached hereto as Schedule _____. Purchaser further acknowledges that it shall be the legal successor to the Enterprise with respect to matters of employment, including, without limitation, tenure, pension and other benefits.

(k) Global Systems. Guarantor shall incorporate Purchaser into its global systems in the areas of marketing and selling, distribution, new products, management information systems, procurement, research and development, planning and strategy, working capital and cash management.

(l) Compliance Certificate. For a period of five (5) years after the date of this Agreement, Purchaser shall file with Seller each year within thirty (30) days following the anniversary of the execution of this Agreement a certificate certifying as to each of Guarantor's and Purchaser's compliance with their respective commitments in subsections 3.1(a), (b), (d) and (g) hereunder and each of Guarantor's and Purchaser's substantial compliance with their respective commitments in subsections 3.1(c), (e), (f), (h), (i), (j) and (k) hereunder; provided, however, that the failure by Purchaser to file such compliance certificate shall not excuse either Guarantor or Purchaser from performing its obligations or commitments pursuant to this Agreement and that each of Guarantor and Purchaser shall be required to continue to perform its obligations and commitments pursuant to this Agreement after Purchaser's obligation to file such compliance certificate has terminated.

3.2. Support. Guarantor undertakes and agrees that it will provide sufficient financial resources to Purchaser, or otherwise ensure that Purchaser has available to it such financial resources, as are necessary to enable Purchaser to fulfill its obligations under this Agreement.

3.3. Transfer of Assets. Purchaser shall not Transfer, and Purchaser shall not permit any of its Affiliates to Transfer, all or a substantial portion of the Enterprise Assets in one or more transactions to any Person or Persons other than any Affiliate of Purchaser for a period of _____ years from the date of this Agreement. Any permitted Transfer of any of the Enterprise Assets shall be conditional upon the written agreement of the Purchaser, assignee or other transferee to be bound by the terms of this Agreement and upon the Purchaser, assignee or other transferee entering into a direct covenant with Seller to observe and perform the covenants, conditions and other obligations of Purchaser contained in this Agreement.

3.4. Transfer of Shares. Guarantor shall not Transfer, and Purchaser shall not permit any of its Affiliates to Transfer, all or any part of its shares in Purchaser in one or more transactions to any Person or Persons other than any Affiliate of Guarantor for a period of _____ years from the date of this Agreement. Any permitted Transfer shall be conditional upon the written agreement of the Purchaser, assignee or other transferee to be bound by the terms of this Agreement and upon the Purchaser, assignee or other transferee entering into a direct covenant with Seller to observe and perform the covenants, conditions and other obligations of Guarantor contained in this Agreement.

3.5. Closedown. To induce Seller to enter into the transactions contemplated by this Agreement, Guarantor and Purchaser agree that Guarantor and Purchaser shall not, and shall cause each of their respective Affiliates (or permitted transferees) not to, determine to cease the operation of the Enterprise Business, or any substantial portion thereof, at any time during the first _____ years from and after the date of this Agreement.

3.6. Conduct of the Enterprise Business. Purchaser shall conduct all aspects of the Enterprise Business itself or through one or more wholly-owned

subsidiaries established under the laws of the Republic of Poland.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF Seller

Seller hereby represents and warrants to, and agrees with, Purchaser as follows:

4.1. Authorization; Due Execution. Seller has the power and authority to execute and deliver this Agreement and to perform its obligations hereunder, including, without limitation, to Transfer the Enterprise Assets and the Enterprise Liabilities. This Agreement has been duly authorized, executed and delivered by Seller, and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

4.2. No Violation. Neither the execution nor delivery by Seller of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) violate any material agreement, commitment, judgment or order to which the Enterprise or Seller is a party or by which its property is bound, (ii) contravene any law or regulation by which Seller or the Enterprise may be bound or (iii) result in or require the creation or imposition of any encumbrance of any nature upon, or with respect to, any of the Enterprise Assets.

4.3. No Litigation. Except as indicated on Schedule _____, there are no lawsuits, claims, proceedings or investigations pending, or, to the best knowledge of Seller (based on consultations with the senior management of the Enterprise), threatened, by or against the Enterprise, the Enterprise Business or the Enterprise Assets which if adversely determined would materially and adversely affect the Enterprise Business. Except as indicated on Schedule _____, neither the Enterprise, the Enterprise Business nor the Enterprise Assets are subject to or in default under any judgment, order or decree of any court, administrative agency, commission or other governmental authority or instrumentality, domestic or foreign, applicable to them or the operations of the Enterprise Business.

4.4. Enterprise Assets. The Enterprise Assets are owned by Seller free and clear of all liens or encumbrances other than Permitted Encumbrances or such liens and encumbrances as are listed on Schedule _____. Upon completion of the Asset Purchase, Purchaser shall have good and marketable title to the Enterprise Assets.

4.5. Patents, Trademarks, etc. To the best knowledge of Seller (based on consultations with the senior management of the Enterprise), the registered patents, trademarks or other intellectual property rights owned by the Enterprise in the conduct of the Enterprise Business are listed on Schedule _____ attached hereto.

4.6. Taxes. The Enterprise has filed all tax and social security returns which it is required to file by law or otherwise and such returns are correct and complete. The Enterprise has paid all other applicable taxes and social security charges imposed or levied on it or its activities, except those listed on Schedule _____ attached hereto.

4.7. Authorizations. (a) Except as disclosed in Schedule _____, to the best knowledge of Seller (based on consultations with senior management of the Enterprise), the Enterprise has all permits, licenses and other authorizations required to conduct its business under applicable laws, and such permits, licenses and other authorizations are in full force and effect.

4.8. Labor Matters. The Enterprise is not involved in any labor issues or disputes which have resulted or are likely to result in work stoppages or strikes of any nature. All employees are retained by the Enterprise for an indefinite period of time (except for the employees retained for a definite period of time set forth in Schedule _____ on the basis of a collective bargaining agreement (a copy of which has been provided to Purchaser as Schedule _____) and no extraordinary rights or privileges have been granted to any employee or groups of employees with the exception of the collective bargaining agreement.

4.9. Access to Information. Purchaser has been given all reasonable access to the Enterprise and

to all available information material to the Enterprise Business.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF Guarantor AND Purchaser

Guarantor, with respect to itself, and each of Guarantor and Purchaser, jointly and severally, with respect to Purchaser, hereby represents and warrants to, and agrees with, Seller as follows:

5.1. Authorization; Due Execution. Guarantor is a corporation duly organized, validly existing and in good standing under the laws of [country]. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of [country]. Each of Guarantor and Purchaser has the requisite corporate power and authority to (a) own or lease its properties and assets and to conduct its business as now being conducted, (b) execute and deliver this Agreement and (c) perform its obligations hereunder. This Agreement has been duly authorized, executed and delivered by each of Guarantor and Purchaser, and constitutes the legal, valid and binding obligation of each of Guarantor and Purchaser, enforceable against each of Guarantor and Purchaser in accordance with its terms.

5.2. No Violation. The execution and delivery by each of Guarantor and Purchaser of this Agreement, and the consummation of the Asset Purchase and the other transactions contemplated by this Agreement, will not (i) violate any material agreement, commitment, judgment or order to which either of Guarantor or Purchaser is party or by which any of its or their property is bound, (ii) contravene any law or regulation by which either Guarantor or Purchaser is bound or (iii) result in or require the creation or imposition of any encumbrance of any nature upon, or with respect to, any properties or assets now owned or hereafter acquired by either of Guarantor or Purchaser.

5.3. No Litigation. There is no pending or, to the best of the knowledge of any of Guarantor, Purchaser and their respective Affiliates, threatened action, proceeding, or investigation affecting any of

Guarantor, Purchaser or their respective Affiliates before any court, arbitrator or governmental body, which, if adversely determined, would materially and adversely affect (i) the financial condition or operations of Guarantor or Purchaser or (ii) the ability of Guarantor or Purchaser to perform its obligations under this Agreement, including, without limitation, the ability of Purchaser to consummate the Asset Purchase.

5.4. Financing. Purchaser has, and will at all times have, sufficient funds available to it to consummate the Asset Purchase and to perform its other capital obligations under this Agreement, including, without limitation, its investment obligations under subsection 3.1(b) of this Agreement.

5.5. No Conflicts. The execution and delivery by the Purchaser of this Agreement and the Ancillary Agreements to which it is or is to become a party and the consummation by it of the transactions contemplated hereby and thereby (a) will not violate any provision of the certificate of incorporation or by-laws of Purchaser, (b) will not violate any statute, rule, regulation, order or decree of any public body or authority by which Purchaser or any of its subsidiaries is a party or by which it or their respective properties or assets are bound and (c) will not result in a violation or breach of, or constitute a default under, any material license, franchise, permit, indenture, agreement or other instrument to which Purchaser or any of its subsidiaries is a party or by which it or their respective properties or assets is bound.

5.6 Broker's or Finder's Fees. No broker, finder or investment banker acting on behalf of Purchaser is, or will be, entitled to any commission or broker's or finder's fees from any of the parties hereto, or from any Person controlling, controlled by or under common control with any of the parties hereto, in connection with any of the transactions contemplated hereby [, except for _____, whose fees and expenses will be paid by Purchaser].

5.7 Investigation. Purchaser acknowledges and agrees that it (i) has made its own inquiry and investigation into, and based thereon has formed an independent judgment concerning, the Enterprise Business, the Enterprise Assets, the Enterprise Liabilities and the employees of the Enterprise and (ii) has been furnished with or given adequate access to such

information about the Enterprise Business, the Enterprise Assets, the Enterprise Liabilities and the employees of the Enterprise as it has requested and (iii) will not assert any claim against Seller or the Enterprise or any of their respective officers, employees, agents, stockholders, affiliates, consultants, investment bankers or representatives, or hold Seller or any such other Persons liable, for any inaccuracies, misstatements or omissions with respect to any information furnished by Seller or any such other Persons concerning the Enterprise Business, the Enterprise Assets, the Enterprise Liabilities and the employees of the Enterprise, other than, with respect to Seller, the representations and warranties of Seller contained in this Agreement.

ARTICLE VI

MISCELLANEOUS

6.1. Conflicts of Interest.

(a) Seller shall be entitled to own or otherwise hold, directly or indirectly, shares of any Polish company or enterprise whose business may compete with the Enterprise Business as long as such company was established or such shares are or were acquired as of the date of this Agreement.

(b) Purchaser agrees that the Enterprise Business shall constitute the principal platform on which Purchaser and its Affiliates shall conduct all business of a similar nature to the Enterprise Business in the Republic of Poland. Purchaser further agrees that Purchaser and its Affiliates shall not distribute, market, promote or sell in the Republic of Poland any product that is competitive with any part of the Enterprise Business if and so long as the Enterprise Business is operating with any spare or unutilized operating capacity; provided, however, that Purchaser and its Affiliates may own, acquire or establish any other company in the Republic of Poland that distributes, markets and sells products that are competitive with a part of the Enterprise Business that are produced by such company in the Republic of Poland.

6.2. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6.3. Entire Agreement. This Agreement, and the Exhibits and Schedules attached hereto, supersedes and replaces any and all agreements, understandings or declarations of intent among the parties hereto and embodies all of the agreements of the parties hereto as of the date hereof.

6.4. Assignment; Successors and Assigns. This Agreement may not be assigned by either party hereto without the written consent of the other party except as provided in this Section. This Agreement may be assigned by Seller to any agency or instrumentality of the Republic of Poland. This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and permitted assigns.

6.5. Waivers and Amendments. All amendments and other modifications hereof shall be in writing and signed by each of the parties hereto. Any party may by written instrument (a) waive any inaccuracies in any of the representations or warranties made to it by any other party contained in this Agreement or in any instruments or documents delivered to it pursuant to this Agreement, (b) waive compliance by any other party with, or modify, any of the covenants or agreements made to it by any other party in this Agreement or (c) waive or modify performance of any of the other acts of any of the other parties hereto. The delay or failure by any party to insist, in any one instance or more, upon strict performance of any term or condition of this Agreement, or to exercise any right or privilege herein conferred, shall not be construed as a waiver of such term, condition, right or privilege, but the same shall continue and remain in full force and effect. All rights and remedies are cumulative.

6.6. Expenses of the Parties. The parties hereto agree that the legal, financial and accounting advisors engaged by the Enterprise for the purposes of the preparation of this Agreement and the consummation of the transactions contemplated herein will invoice the Enterprise for their respective fees and expenses and that such fees and expenses will, to the extent not paid by the Enterprise, constitute the Enterprise Liabilities, and that the legal, financial and accounting advisors of Purchaser or its Affiliates will invoice Purchaser or its Affiliates for their respective fees and expenses, in each case incurred in connection with the transactions contemplated by this Agreement.

6.7. Notices. All notices, consents and other communications under this Agreement shall be in writing in the English and the Polish languages and delivered in person or sent by telefax or by reputable air courier, charges prepaid. Any notice given hereunder shall be deemed to be received and effective (i) on the date of receipt of confirmation by answerback, in the case of telefax, (ii) on the third day following the day on which it is deposited with a reputable air courier and (iii) in all other cases, on the day received by the addressee as evidenced by the receipt by the sender of confirmation of receipt; in each case to the appropriate address or telefax number set forth below (or to such other address or telefax number as a party may designate as to itself by notice to the other parties):

If to Seller:

[name and address of Voivod]

with copies to:

[name and address of law firm of Voivod]

If to Guarantor

[name and address of Guarantor]

If to Purchaser:

[name and address of Purchaser]

with copies to:

[name and address of law firm of Purchaser]

6.8. Governing Law; Dispute Resolution. This Agreement and (unless otherwise provided) any amendment hereof and any waiver or consent hereunder shall be governed by and interpreted and construed in accordance with the laws of the Republic of Poland, without reference to provisions of conflict of laws.

The parties shall attempt to resolve any dispute under this Agreement amicably by mutual agreement. Any such dispute which cannot be resolved by agreement within a period of sixty (60) days following the receipt of written notice from one party hereto to

the other party hereto shall be finally resolved by arbitration in accordance with the Rules of Conciliation and Arbitration of the ICC by three arbitrators, one to be appointed by each of Purchaser and Seller, and the third by the first two. If either party fails to appoint its arbitrator, or the two arbitrators fail to agree on the choice of the third within thirty (30) days after their respective appointments become effective, the third arbitrator shall be appointed by the Court of Arbitration of the ICC. The place of arbitration shall be Vienna, Austria. The language to be used in the arbitral proceeding shall be Polish. The decision and award of the arbitral tribunal shall be final and binding and shall deal with the question of the cost of the arbitration and all matters related thereto.

6.9. Severability. The unenforceability or invalidity of any article, section, subsection or provision of this Agreement shall not affect the enforceability or validity of the balance of this Agreement. In the event that any such article, section, subsection or provision should be or become invalid for any reason (including, without limitation, inconsistency with mandatory applicable provisions of Polish law), the parties hereto will consult and agree on a legally acceptable manner of giving effect to the commercial objectives contained in such invalidated article, section, subsection or provision.

6.10. Force Majeure. Failure on the part of any party to perform any of its obligations set forth in this Agreement because of a force majeure will not give the other party to this Agreement any claim against the other party or be deemed to be a breach of this Agreement. Any party failing to perform its obligations under this Agreement in the event of a force majeure shall give notice in writing of such force majeure as soon as possible after the occurrence to the other party. For the purposes of this Agreement, force majeure shall mean any war, economic or political upheaval in the current free market system in the Republic of Poland, strike or lock out involving third parties, accident or act of God, which affects the ability of any party hereto to perform its obligations hereunder and which is beyond the control of such party.

6.11. Due Diligence. Prior to the date of this Agreement, Purchaser shall have completed a due diligence study of the Enterprise.

6.12. Section Headings. The section and clause headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

6.13. Languages. This Agreement is executed in the English and Polish languages. In the event of a conflict between the English language and the Polish language versions of this Agreement, the Polish language version shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year above first written.

[name of Guarantor]

By: _____

[name of Purchaser]

By: _____

By: _____

[name of Seller]

By: _____

By: _____

SECTION TEN

CONTACT LIST

NARODOWY BANK POLSKI
00-950 WARSZAWA
ul.Świętokrzyska 11/21

POWSZECHNA KASA OSZCZĘDNOŚCI
00-950 WARSZAWA
ul.Świętokrzyska 11/21

BANK GDAŃSKI
w Gdańsku
80-958 GDAŃSK
ul.Targ Drzewny 1

BANK ŚLĄSKI
w Katowicach
40-950 KATOWICE
ul.Warszawska 14

BANK PRZEMYSŁOWO-HANDLOWY
w Krakowie
31-027 KRAKÓW
ul.Świętego Tomasza 43

BANK DEPOZYTOWO-KREDYTOWY
w Lublinie
20-928 LUBLIN
ul.Chopina 6

POWSZECHNY BANK GOSPODARCZY
w Łodzi
90-950 ŁÓDŹ
ul.Roosevelta 15

WIELKOPOLSKI BANK KREDYTOWY
w Poznaniu
60-967 POZNAŃ
Pl.Wolności 15

POMORSKI BANK KREDYTOWY
w Szczecinie
70-952 SZCZECIN
Pl.Zołnierza 16

PAŃSTWOWY BANK KREDYTOWY
w Warszawie
00-950 WARSZAWA
ul.Nowogrodzka 33/41

BANK ZACHODNI
we Wrocławiu
50-950 WROCŁAW
ul.Ofiar Oświęcimskich 41/43

BANK GOSPODARSTWA KRAJOWEGO
00-901 WARSZAWA
Pl.Defilad 1 PKiN 11p.

BANK GOSPODARKI ŻYWNOŚCIOWEJ
00-916 WARSZAWA
ul.Świętokrzyska 12

BANK HANDLOWY w Warszawie S.A.
00-950 WARSZAWA
ul.Chatbińskiego 8

BANK POLSKA KASA OPIEKI S.A.
00-950 WARSZAWA
ul.Traugutta 7/9

BANK ROZWOJU EKSPORTU S.A.
00-950 WARSZAWA
Al.Jerozolimskie 65/79

ŁÓDZKI BANK ROZWOJU S.A.
90-950 ŁÓDŹ
ul.Piotrowska 173

BANK INICJATYW GOSPODARCZYCH
"BIG" S.A.
00-950 WARSZAWA
Al.Jerozolimskie 44

BYDGOSKI BANK KOMUNALNY S.A.
w Bydgoszczy
85-066 BYDGOSZCZ
ul.Jagiellońska 34

BANK ROZWOJU RZEMIOSŁA, HANDLU
I PRZEMYSŁU "MARKET" S.A.
w Poznaniu
61-722 POZNAŃ
Stary Rynek 73/74

"SAVIM" BANK DEPOZYTOWO-
KREDYTOWY S.A. w Warszawie
01-745 WARSZAWA
ul.Jasnodworska 5

BANK HANDLOWO-KREDYTOWY S.A.
40-163 KATOWICE
Plac Gwarków 1

BANK ROZWOJU ROLNICTWA S.A.
w Poznaniu
61-715 POZNAŃ
ul.Kościuszki 80/A

BANK "AGROBANK" S.A.
w Warszawie
04-398 WARSZAWA
ul.Grochowska 262

WARSZAWSKI BANK ZACHODNI S.A.
w Warszawie
00-511 WARSZAWA
ul.Nowogrodzka 22

BANK AMERYKANSKI W POLSCE S.A.
- AMERICAN BANK IN POLAND INC.
00-950 WARSZAWA
ul.Krucza 6/14

BANK KOMERCYJNY "PRIVAT" S.A.
w Poznaniu
60-783 POZNAŃ
ul.Grunwaldzka 21

SPÓŁDZIELCZY BANK ROZWOJU
w Katowicach
40-002 KATOWICE
ul.Pocztowa 8

BANK ZIEMSKI S.A.
w Warszawie
02-088 WARSZAWA
ul.Batorego 16

BANK ROZWOJU ENERGETYKI
I OCHRONY ŚRODOWISKA S.A.
w Warszawie
01-625 WARSZAWA
ul.Mickiewicza 63

"PROSPER BANK" S.A.
w Krakowie
31-027 KRAKÓW
ul.Świętego Tomasza 43

BANK BUDOWNICTWA S.A.
w Szczecinie
71-617 SZCZECIN
ul.Zubrów 3

BANK TURYSTYKI S.A.
w Warszawie
00-030 WARSZAWA
Pl.Powstańców Warszawy 2

SOPOCKI BANK INICJATYW
GOSPODARCZYCH "SOPOT-BANK" S.A.
w Sopocie
81-950 SOPOT
Al.Niepodległości 764

BANK POCZTOWY S.A.
w Bydgoszczy
85-001 BYDGOSZCZ
ul.Jagiellońska 17

BANK POZNAŃSKI "AG" S.A.
w Poznaniu
61-737 POZNAŃ
ul.27 Grudnia 15

BANK "SPOŁEM" S.A.
w Warszawie
02-548 WARSZAWA
ul.Grażyny 13/15

PRYWATNY BANK KOMERCYJNY
"LEONARD" S.A.
w Zielonce k/W-wy
05-220 ZIELONKA
ul.Przylesie 2

BANK INICJATYW
SPOŁECZNO-EKONOMICZNYCH S.A.
w Warszawie
00-054 WARSZAWA
ul.Jasna 22

KRAKOWSKI BANK MIESZKANIOWY
"INTERKRAKBANK" S.A.w Krakowie
30-133 KRAKÓW
ul.J.Lea 112

GŁOGOWSKI BANK GOSPODARCZY SA.
w Głogowie
67-200 GŁOGÓW
ul.Galileusza 12

GLIWICKI BANK HANDLOWY S.A.
w Gliwicach
44-101 GLIWICE
ul.Zygmunta Starego 13

BANK ROZWOJU
BUDOWNICTWA
MIESZKANIOWEGO w Warszawie
00-099 WARSZAWA
ul.Senatorska 29/31

BANK WŁASNOŚCI
PRACOWNICZEJ S.A.
w Gdańsku
80-958 GDANSK
ul.Na Ostrowiu 1

BANK ZIEMI RADOMSKIEJ S.A.
w Radomiu
26-600 RADOM
ul.Zeromskiego 75

BANK ROZWOJU CUKROWNICTWA S.A.
w Poznaniu
60-959 POZNAŃ
ul.Mickiewicza 35

PRYWATNY BANK "EL-GAZ" S.A.
w Gdyni
81-029 GDYNIA
ul.Północna 9 A

BANK KOMUNALNY S.A.
w Gdyni
81-364 GDYNIA
ul.3 Maja 27/31

BANK MORSKI S.A.
w Szczecinie
70-100 SZCZECIN
ul.Generała Dąbrowskiego 38

WSCHODNI BANK CUKROWNICTWA SA.
w Lublinie
20-022 LUBLIN
ul.Okopowa 1

BANK CUKROWNICTWA
"CUKROBANK" S.A.
we Wrocławiu
50-973 WROCŁAW
ul.Supińskiego 3

BANK DEPOZYTOWO-POWIERNICZY
"GLOB" S.A.w Warszawie
00-372 WARSZAWA
ul.Foksał 16

KREDYT BANK S.A.
w Warszawie
01-211 WARSZAWA
ul.Kasprzaka 22

POLSKI BANK ROZWOJU S.A.
w Warszawie
00-680 WARSZAWA
ul.Zurawia 47/49

BANK PRZEMYSŁOWY S.A.
w Łodzi
93-590 ŁÓDŹ
ul.Politechniki 22/24

BANK STAROPOLSKI S.A.
w Poznaniu
61-840 POZNAŃ
ul.Świętosławska 7

BANK OCHRONY ŚRODOWISKA S.A.
w Warszawie
00-034 WARSZAWA
ul.Warecka 11A

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KREDYTOWE BANK S.A.
w Łodzi
90-063 ŁÓDŹ
ul.Piotrowska 148/150

GÓRNOŚLĄSKI BANK
GOSPODARCZY S.A.
w Katowicach
40-006 KATOWICE
ul.Warszawska 4

DOLNOŚLĄSKI BANK
GOSPODARCZY S.A.
we Wrocławiu
50-061 WROCŁAW
Plac Solny 13

KRAKOWSKIE TOWARZYSTWO
BANKOWE S.A.
w Krakowie
31-045 KRAKÓW
ul.Kordylewskiego 11

D.E.G. BANK SECESYJNY S.A.
w Katowicach
40-123 KATOWICE
ul.Czerwińskiego 6

RAIFFEISEN-CENTROBANK S.A.
w Warszawie
00-695 WARSZAWA
ul.Nowogrodzka 50

BYDGOSKI BANK BUDOWNICTWA S.A.
w Bydgoszczy
85-099 BYDGOSZCZ
ul.Powstańców Wlk.26

GOSPODARCZY BANK
WIELKOPOLSKI S.A
w Poznaniu
61-725 POZNAN
ul.Mielżyńskiego 22

BANK WSCHODNI S.A.
w Białymstoku
15-206 BIAŁYSTOK
ul.Krakowska 9

BANK CZĘSTOCHOWA S.A.
w Częstochowie
42-200 CZĘSTOCHOWA
ul.Dekabrystów 41

BANK REGIONALNY S.A.
w Rybniku
44-200 RYBNIK
ul.3 Maja 30

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00-193 WARSZAWA
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635-66-17
tlx. 81-27-48

SOCIETE GENERALE-PARYZ
ul. Stawki 2, Intraco 21p.
00-193 WARSZAWA
Tel. 635-74-12
fax. 635-87-92
tlx. 81-27-17

PEKAO TRADING
CORPORATION Nowy Jork
ul. E.M. Malinowskiego 5
02-776 WARSZAWA
Tel. 641-27-28
fax. 641-27-38
tlx. 81-68-31

MITTELEUROPAISCHE HANDELSBANK
AG.
Frankfurt n/Menem
ul. Nowogrodzka 50
00-695 WARSZAWA
tel. 28-94-11
28-64-71/75
fax. 625-19-28
tlx. 81-38-27

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w Warszawie
ul. Krakowskie Przedmieście 11
skr. pocztowa 159
00-950 WARSZAWA
tel. 635-20-02

CENTRO INTERNATIONALE
HANDELSBANK AG-Wiedeń
ul. Chałubińskiego 8 p.481
00-950 WARSZAWA
tel. 30-01-06
fax. 30-31-34
tlx. 81-48-11

DEUTSCHE BANK AG
Frankfurt n/Menem
Al. Jerozolimskie 51
01-697 WARSZAWA
tel. 628-02-05
fax. 628-58-25
tlx. 81-62-32

DRESDNER BANK AG
Frankfurt n/Menem
Al. Jerozolimskie 65/79
Hotel Marriot
00-697 WARSZAWA
tel. 630-68-37
fax. 21-12-90
tlx. 81-65-15

NMB BANK WARSAW
Al. Niepodległości 177
02-669 WARSZAWA
tel. 25-25-88

CREDIT INDUSTRIEL ET
COMMERCIAL DE PARIS
BANQUE DE L'UNION
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tel. 635-55-32
tlx. 81-22-90

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w Warszawie
ul. Nowogrodzka 50
00-695 WARSZAWA
tel. 29-46-71
fax. 628-20-97

MIĘDZYNARODOWY BANK
w Polsce S.A
Pl. Bankowy 2 p. 18
00-950 WARSZAWA
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fax. 263-54-500
391-21-083
tlx. 82-42-91
82-42-92

BANK CREDITANSALT S.A
ul. Nowy Świat 6/12
00-400 WARSZAWA
tel. 625-23-00
26-70-70
fax. 26-51-10

CITY BANK (POLAND) S.A
ul. Senatorska 12
00-082 WARSZAWA
tel. 635-81-16
635-55-27
fax. 635-52-78

Center for Export Promotion
28, rue de Ghandi
1000 Tunis
tel. (1) 350043, 350344
fax. (1) 353683
tlx. 14 716 Tn

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Amerykańska Izba Handlowa w Polsce
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00-490 Warszawa
c/o US Trade Development Center
tel. 214515
fax. 216327

FOREIGN INVESTORS CHAMBER OF INDUSTRY AND COMMERCE
Izba Przemysłowo-Handlowa Inwestorów Zagranicznych
ul. Krakowskie Przedmieście 64
00-325 Warszawa
tel. 263201
tlx. 817105

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ul. Kruca 36
00-582 Warszawa
tel. 290652
fax. 219945
tlx. 814739

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ARGENTINE INDUSTRIAL UNION
Av. L.N. Alem 1067
Capital Federal
Argentina
tel. 313-2012

SOCIEDAD RURAL ARGENTINA
Florida 460
Capital Federal
Argentina
tel. 3223431

ARGENTINE-POLISH CHAMBER OF COMMERCE
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Cordoba 632
Op 1054
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PO Box 2800
Station "D"
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OF CANADA (IDAC)
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tel. 416 822 9771

CONFEDERATION OF IRISH INDUSTRY
Confederation House
Kildare Street
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7 Clare Street
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tlx. 817504

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00-950 Warszawa
tel. 6300758, 6300949
fax. 6300759

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tel. 6358506

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Al. Niepodległości 186
Warszawa, 00-608
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tlx.81-44-49 ofiwa pl.

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